



INVITATION FOR PROSPECTIVE BIDDERS

Joburg Market hereby invites prospective bidders with proven track record to respond to the following request.

RFB No.	Service Description	Evaluation criteria	Compulsory briefing session	Closing Date
SHE-OP-012-2022/2023	Appointment of a service provider/s to render rodent control and insect and weed control services to Joburg Market for a period of 36 months	80/20 80 points for price and 20 points for BBBEE level	08/12/2022 at 10H30 at Joburg Market ground floor	31/01/2023 at 11H00

The bid document can be downloaded for **free** on the National Treasury website at www.etenders.gov.za or the Joburg Market website www.joburgmarket.co.za

Sealed documents individually marked with the abovementioned RFB and Service Description, must be placed in the Tender box situated at ground floor (right hand side of the entrance just before the security desk), Joburg Market Main Building by the closing date and time as per Joburg Market's clock. All Suppliers are encouraged to make their submission before the closing time. It is the bidders' responsibility to obtain documents in time so as to ensure responses reach Joburg Market timeously.

No tenders will be accepted after the closing date and time. No tender per facsimile or e-mailed will be accepted. Office hours are from 08h00 to 17h00 weekdays for the collection of documents.

Bids will be publicly opened at: Joburg Market, 4 Fortune Road, City Deep on the closing date and time as stipulated above.

All enquiries relating to the bidding procedure should be directed to Supply Chain Management Unit at the following email: tenders@joburgmarket.co.za

only written enquiries will be attended to

Joburg Market is not obliged to appoint the cheapest tenderer and reserves the right not to accept any submission and to re-advertise if it so wishes. Service providers will be adjudicated in terms of the Supply Chain Management Policy using the point system mentioned above, based on the Preferential Procurement Policy Framework Act, Act 5 of 2005, preferential procurement regulations 2017, MFMA, Act 56 of 2003, as well as the Broad Based Black Economic Empowerment Act, Act 53 of 2003.



Over the past months a number of companies have lost tens of thousands of rands due to alleged fraudulent request for “COLD DRINK”, supposedly from government departments.

The fraudsters are currently calling service providers claiming to be Joburg Market officials requesting monies in exchange for an appointment. This normally happens once the tender closing registers have been posted on the website.

Officials from Joburg Market will never be in contact service providers and request any form of compensation in return for an award.

Should you receive such a request, please report it to tenders@joburgmarket.co.za

Companies are therefore advised to verify all the awards by calling the Joburg Market on the landline contact details listed on website to verify authenticity to avoid falling prey to these fraudsters.

IMPORTANT NOTICE

1. The bidder must read this bid document diligently and where possible take advice or refer to the relevant legislation and regulation applicable to procurement.
2. Bidders are reminded that for any and all alterations in the bid document must be initialled / signed in full by the bidder's authorised signatory and or provide an accompanying letter on the bidder's official letterhead will indicate such alterations.
3. Any requirement for signature must be signed at the appropriate space provided. It shall be deemed that the signatory is the bidder or a duly authorized person of the bidder.
4. Information requested must be provided. Such information must be genuine. Should information be a copy of the original, such copy must be commissioned as the true copy of the original in terms of the relevant laws.
5. This bid, correctly endorsed, is to be addressed to the Supply Chain Management and must be deposited into the tender/ bid box at the Ground Floor: Main Entrance, Joburg Market, 04 Fortune Street, City Deep, at the time and date shown herein. Under no circumstance will late tenders be accepted.
6. Failure to fully complete the pricing schedule or to indicate N/A where applicable may lead to a disqualification
7. Failure to complete and return forms may lead to a disqualification
8. Failure to attend the compulsory briefing session (if applicable to the bid I) will result in disqualification of the bid.
9. Failure to submit samples, if requested will result in disqualification of the bid.
10. The bid document is to be completed in ink and in full. It is not to be re-typed at all. Provided that it's not relevant to the bidder, it must be marked "N/A."
11. The bid document is to be submitted in full in the same order as issued, with all the sections attached.
12. The bid may be rejected in the event that the bidder:
 - 12.1 fails to complete fully this bid document or to provide the information requested, or to sign the bid at the appropriate spaces provided or next to errors, his/her/ its bid may be rejected due to non-compliance or being invalid.
 - 12.2 is found to be a role player or commits criminal act/s including fraud, price rigging, corruption, collusion, or forgery, the bidder shall be rejected. In the case of an award already made, the award or contract shall be terminated.
 - 12.3 or any of its directors or those of the sub-contractor or partner:
 - 12.3.1 owe municipal charges and is in arrears for more than three months,
 - 12.3.2 had during the last five years failed to perform satisfactory on previous contract with municipality or municipal entity or organ of the state after written notice given to perform satisfactorily;
 - 12.3.3 abused the supply chain management of the municipality or municipal entity or committed an improper conduct; and
 - 12.3.4 has been listed in the register of tender defaulters, and

12.3.5 if you are in the service of the state.

13. Bidders shall provide full and accurate answers to all (including mandatory) questions posed in this document, and, are required to explicitly indicate either "Comply/Accept or "Do not comply/Do not accept where required in this bid document. Where necessary, the bidder shall substantiate their response to a specific question.
14. An award may be made to more than one bidder
15. Any material submitted by the bidder which it considers confidential must be marked as such by the bidder
16. In bid where Consortiums and Joint Ventures are involved, an agreement endorsed with signatures of all parties involved, must be submitted.
17. Micro Exempted Enterprises (EME's) are required to submit a certificate issued by an Auditor or Accounting Officer on a letter head with a practise number and contact number clearly Specified on the face of the certificate

FAILURE TO COMPLY WITH THE ABOVE REQUIREMENTS MAY DISQUALIFY THE BID

Bidder /s:.....

Street Address:.....

.....

Postal Address :.....

Telephone : **Fax :**

Cell : **E-Mail:**.....

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BID DOCUMENTS CHECK LIST:

A completed and signed BID document must be submitted in a sealed envelope together with the returnables. That is:

Item	Description	Submitted – Indicate YES or NO
1	Completed Registration on the National Treasury Central Supplier Database	
2	Completed and signed MBD 1,4,6.1,8 , 9, and Consent and acknowledgments in terms of the protection of personal information act 2013 (POPI)	
3	General Condition of Contract (GCC) to be signed	
4	Rates and taxes account not older than three months or lease agreement	
5	ID copies of shareholders / directors and share certificates; certification not older than three months	
6	Signed JV agreement for Joint Venture companies. Separate National Treasury Central Supplier Database registration and consolidated BBEE certificate(where applicable)	
7	Initial / sign for all alterations in the tender document	
8	Registration with CIDB (where applicable)	
9	B-BBEE Status Level of Contribution certificate OR SWORN AFFIDAVIT – B-BBEE EXEMPTED MICRO ENTERPRISE OR an Accounting Officer as contemplated in the Close Corporation Act (CCA) in order to claim preference points.	

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE JOBURG MARKET

BID NUMBER:	SHE-OP-012-2022/2023	CLOSING DATE:	31 January 2023	CLOSING TIME:	11:00
DESCRIPTION:	Appointment of a service provider/s to render rodent control and insect and weed control services to Joburg Market for a period of 36 months				
COMPULSORY BRIEFING SESSION	Date: 08 December 2022 at 10H30. Venue: Ground Floor boardroom Please report to the area on time.				

BID RESPONSE DOCUMENTS MUST BE DEPOSITED IN THE BID BOX SITUATED AS FOLLOWS

Attention: Head of Supply Chain Management

DEPOSITED IN THE BID BOX SITUATED AT GROUND FLOOR (right hand side of the entrance just before the security desk), Joburg Market Main Building by the closing date and time as per Joburg Market's clock. All Suppliers are encouraged to make their submission before the closing time.

**4 Fortune Road
City Deep
Johannesburg**

Bidders should ensure that bids are delivered timeously to the correct address. If the bid is late, it will not be accepted for consideration.

The bid box is open 24 hours a day, 7 days a week.

SUPPLIER INFORMATION

NAME OF BIDDER					
POSTAL ADDRESS AND / OR STREET ADDRESS					
TELEPHONE NUMBER AND / OR CELLPHONE NUMBER	CODE		NUMBER		
FACSIMILE NUMBER (If applicable)	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER (If VAT registered)					
TAX COMPLIANCE STATUS	TCS PIN:		OR	CSD No:	
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]	☐ Yes ☐ No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		☐ Yes ☐ No

A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	☐Yes ☐No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	☐Yes ☐No [IF YES, ANSWER PART B:3]
SIGNATURE OF BIDDER		DATE	
BIDDING PROCEDURE ENQUIRIES AND TECHNICAL INFORMATION MAY BE DIRECTED TO:			
E-MAIL ADDRESS	tenders@joburgmarket.co.za		

- Only written enquiries will be attended to.

PART B
TERMS AND CONDITIONS FOR BIDDING

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

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

SIGNATURE OF BIDDER:

CAPACITY UNDER WHICH THIS BID IS SIGNED:

DATE:

DECLARATION OF INTEREST

1. No bid will be accepted from persons in the service of the state¹.
2. Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to persons in service of the state, it is required that the bidder or their authorised representative declare their position in relation to the evaluating/adjudicating authority.
3. In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

3.1. Full Name of bidder or his or her representative:.....

3.2. Identity Number:

3.3. Position occupied in the Company (director, trustee, shareholder²):.....

3.4. Company Registration Number:

3.5. Tax Reference Number:.....

3.6. VAT Registration Number:

3.7. The names of all directors / trustees / shareholders members, their individual identity numbers and state employee numbers must be indicated in paragraph 4 below.

3.8. Are you presently in the service of the state?

YES	NO
-----	----

3.8.1. If yes, furnish particulars.

¹MSCM Regulations: "in the service of the state" means to be –

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

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

3.9 Have you been in the service of the state for the past twelve months?

YES	NO
-----	----

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

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

YES	NO
-----	----

3.10.1. If yes, furnish particulars.

3.11 Are you, aware of any relationship (family, friend, other) between any other bidder and any persons in the service of the state who may be involved with the evaluation and or adjudication of this bid?

YES	NO
-----	----

3.11.1. If yes, furnish particulars

3.12 Are any of the company's directors, trustees, managers, principle shareholders or stakeholders in service of the state?

YES	NO
-----	----

3.12.1. If yes, furnish particulars.

3.13 Are any spouse, child or parent of the company's directors trustees, managers, principle shareholders or stakeholders in service of the state?

YES	NO
-----	----

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

3.14 Do you or any of the directors, trustees, managers, principle shareholders, or stakeholders of this company have any interest in any other related companies or business whether or not they are bidding for this contract.

YES	NO
-----	----

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

4. Full details of directors / trustees / members / shareholders (If employed by the state)

Full Name	Identity Number	State Employee Number (If employed by the state)

.....
Signature

.....
Date

.....
Capacity

.....
Name of Bidder

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

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

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

1. GENERAL CONDITIONS

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

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

1.2 The value of this bid is estimated not to exceed R50 000 000 (all applicable taxes included) and therefore the 80/20 preference point system shall be applicable; or

1.3 Points for this bid shall be awarded for:

- (a) Price; and
- (b) B-BBEE Status Level of Contributor.

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

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

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

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

2. DEFINITIONS

- (a) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (b) **“B-BBEE status level of contributor”** means the B-BBEE status of an entity in terms of a

code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

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

3. POINTS AWARDED FOR PRICE

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

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

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

80/20	or	90/10
$P_s = 80 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$	or	$P_s = 90 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$

Where

Ps = Points scored for price of bid under consideration

Pt = Price of bid under consideration

P_{min} = Price of lowest acceptable bid

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

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

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
------------------------------------	------------------------------------	------------------------------------

1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

5. BID DECLARATION

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

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

6.1 B-BBEE Status Level of Contributor:..... =(maximum 20 points)

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

7. SUB-CONTRACTING

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

(***Tick applicable box***)

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

7.1.1 If yes, indicate:

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

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

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

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

(***Tick applicable box***)

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

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

Designated Group: An EME or QSE which is at last 51% owned by:	EME √	QSE √
Black people		
Black people who are youth		
Black people who are women		
Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		

Cooperative owned by black people		
Black people who are military veterans		
OR		
Any EME		
Any QSE		

8. DECLARATION WITH REGARD TO COMPANY/FIRM

8.1 Name of company/firm:.....

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

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

8.6 COMPANY CLASSIFICATION

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

[TICK APPLICABLE BOX]

8.7 MUNICIPAL INFORMATION

Municipality where business is situated:

Registered Account Number:

Stand Number:.....

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

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

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated

in paragraph 1 of this form;

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

WITNESSES

- 1.
- 2.

.....
SIGNATURE(S) OF BIDDERS(S)

DATE:

ADDRESS

.....

.....

9. AUTHORITY FOR SIGNATORY

Signatories for close corporations and companies shall confirm their authority **by signing or attaching to this form** a duly signed and dated copy of the relevant resolution of their members or their board of directors, as the case may be.

“ By resolution of the board of directors passed on _____20_____

Mr _____ has been duly authorized to
sign all documents in connection with the Tender for Contract _____

No _____ and any Contract, which may arise there from on behalf of

Signed on behalf of the company: _____

In his capacity as: _____

Date: _____

Signature of signatory: _____

As witnesses:

1. _____

2. _____

I/we, the undersigned, who warrants that he/she is duly authorised to do so on behalf of the firm certify that points claimed, based on the equity ownership, indicated in paragraph 8 of the foregoing certificate, qualifies the firm for the preference(s) shown and I / we acknowledge that:

- (i) The information furnished is true and correct.
- (ii) The Equity ownership claimed is in accordance with the General Conditions as indicated in paragraph 1 of this form.
 - In the event of a contract being awarded as a result of points claimed as shown in paragraph 8, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct.

- (iv) If the claims are found to be incorrect, the purchaser may, in addition to any other remedy it may have -
- (a) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct; and
 - (b) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation

WITNESSES:

1. _____

2. _____

SIGNATURE (S) OF BIDDER (S)

DATE: _____

ADDRESS: _____

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

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

Item	Question	Yes	No
4.1	- Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector? (Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied). The Database of Restricted Suppliers now resides on the National Treasury's website(www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.	Yes ☐	No ☐
4.1.1	If so, furnish particulars:		
4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? The Register for Tender Defaulters can be accessed on the National Treasury's website(www.treasury.gov.za) by clicking on its link at the bottom of the home page.	Yes ☐	No ☐
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?	Yes ☐	No ☐

4.3.1	If so, furnish particulars:		
Item	Question	Yes	No
4.4	Does the bidder or any of its directors owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months?	Yes ☐	No ☐
4.4.1	If so, furnish particulars:		
4.5	Was any contract between the bidder and the municipality / municipal entity or any other organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes ☐	No ☐
4.5.1	If so, furnish particulars:		

CERTIFICATION

I, THE UNDERSIGNED (FULL NAME) _____

CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM TRUE AND CORRECT.

I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION MAY BE TAKEN AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

Signature

Date

Position

Name of Bidder

CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Municipal Bidding Document (MBD) must form part of all bids¹ invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).² Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 Municipal Supply Regulation 38 (1) prescribes that a supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer, among others, to:
 - a. take all reasonable steps to prevent such abuse;
 - b. reject the bid of any bidder if that bidder or any of its directors has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system; and
 - c. cancel a contract awarded to a person if the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.
- 4 This MBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (MBD 9) must be completed and submitted with the bid:

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

² Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Municipality / Municipal Entity)

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

I certify, on behalf of: _____ that:

(Name of Bidder)

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

7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
- (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
 - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

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

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

Signature

Date

Position

Name of Bidder

GENERAL CONDITIONS OF CONTRACT

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- Arbitration

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LEGISLATIVE FRAMEWORK

1. Principal Framework

The information contained under this heading summarises certain of the principal statutory provisions applicable to the transaction concluded between the Parties. It is included for information purposes only and should not be regarded as legal advice, it being incumbent upon the Contractor to familiarise itself with the legislative framework. These provisions apply at law and the Parties are not competent to exclude the operation thereof by mutual agreement. As such, no agreement, transaction or series of transactions concluded outside of or in contravention of the legislative framework and the procedures provided for therein shall be binding on the Parties notwithstanding the capacity or office held or undertakings given, in writing or otherwise, by the persons contracting on behalf of either Party.

Municipal Entity

- 1.1 Joburg Market is a municipal entity contemplated in section 1, read with sections 86B(1)(a)(i) and 86D(1)(a), of the Municipal Systems Act (32 of 2000), (“MSA”). It was established as such by the Greater Johannesburg Metropolitan Council (predecessor to the City of Johannesburg Metropolitan Municipality or “COJ”) who procured, by virtue of the provisions of section 17D of the Promotion of Local Government Affairs Act (91 of 1983) the formation, registration and incorporation of its fresh produce market as the Joburg Market (SOC) Limited in terms of the Companies Act, with the COJ as its sole shareholder. Upon the foregoing and as required by the MSA, Joburg Market entered into a Service Delivery Agreement with the COJ in terms of which Joburg Market was appointed as an external mechanism for the delivery of a municipal service with the mandate to manage and operate the business of the fresh produce market and its assets.

Organ of State

- 1.2 As a municipal entity Joburg Market is an “organ of state” as defined in section 239 of the Constitution of South Africa (108 of 1996) read with section 1 of the Institution of Legal Proceedings Against Organs of State Act (40 of 2002).

Municipal Finance Management Act

- 1.3 Contracting with Joburg Market is subject, amongst others, to the Municipal Finance Management Act (56 of 2003) (“MFMA”), the MFMA Supply Chain Management Regulations (GN 868 in GG 27636 of 30 May 2005) (“SCM Regulations”) and, specifically, Joburg Market’s Supply Chain Management Policy made in terms of section 111 of the MFMA and regulation 2 of the SCM Regulations (collectively referred to as the “SCM Regulatory Framework”). In terms of the irregular expenditure provisions of the SCM Regulatory Framework, Joburg Market is prohibited from making any payment in relation to goods or services unlawfully or irregularly procured and/or rendered, notwithstanding that value might have been received.

Consumer Protection

- 1.4 The Consumer Protection Act (68 of 2008) does not, in terms of section 5(2)(a), apply to any transaction in terms of which goods or services are supplied to the State. However, section 5(5) stipulates that notwithstanding the foregoing exemption, those goods, and the importer or producer, distributor and retailer of those goods are nevertheless subject to, amongst others, the provisions of section 61. Section 61 sets out the liability of the producer and/or supplier for any harm caused wholly or partly as a consequence of a product failure, defect or hazard in any goods, irrespective of whether the harm resulted from any negligence on the part of the producer, importer, distributor or retailer, as the case may be. In terms of subsections 61(5)(c) and (d), harm for which the Contractor may be held liable includes any loss of, or physical damage to, any property of Joburg Market irrespective of whether it is movable or immovable including economic loss occasioned by such harm.

Competitive Behaviour

- 1.5 In terms of section 4(1)(b)(iii) of the Competition Act (89 of 1998) 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 bidders was involved in collusive bidding (or bid rigging). If bidders, based on reasonable grounds or evidence obtained by Joburg Market, have engaged such restrictive practices, Joburg Market may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties. If a bidders are found guilty by the Competition Commission Joburg Market may, in addition and without prejudice to any other remedy provided for in this Agreement or at law, invalidate the bid and/or terminate this Agreement in whole or part, and/or restrict the bidders from conducting business with the public sector for a period not exceeding ten (10) years.

Tender Defaulters

- 1.6 Where Joburg Market terminates this Agreement in whole or in part, it may decide to impose a restriction penalty on the Contractor by prohibiting the Contractor from doing business with the public sector for a period not exceeding 10 years. If Joburg Market intends imposing a restriction on a Contractor or any person associated with the Contractor, the Contractor will be allowed a period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the Contractor fail to respond within the stipulated fourteen (14) days, Joburg Market might regard the intended penalty as not objected against and may impose it. Any restriction imposed on any person by the Accounting Officer of Joburg Market will, at the discretion of the Accounting Officer, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises, exercised or may exercise control over the enterprise of the first-mentioned person.
- 1.7 If a restriction is imposed, Joburg Market must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:
- 1.7.1 the name and address of the Contractor and/or person restricted by Joburg Market;
 - 1.7.2 the date of commencement of the restriction;
 - 1.7.3 the period of restriction; and
 - 1.7.4 the reasons for the restriction.
- 1.8 These details will be loaded in the National Treasury's central database of suppliers or persons prohibited from doing business with the public sector.

Corrupt Activities

- 1.9 If a court of law convicts a person of an offence under sections 12 or 13 of the Prevention and Combating of Corrupt Activities 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 not less than five years and not more than 10 years.

INTERPRETATION AND DEFINITIONS

2. Interpretation

This Agreement shall be governed and interpreted in accordance with the laws of the RSA; and

- 2.1 headings shall be read for the purpose of reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this Agreement.
- 2.2 words importing any gender include the others; the singular include the plural and vice versa and natural persons include created entities, other legal *personae* (corporate or unincorporate) and the state and vice versa.
- 2.3 all provisions of this Agreement are severable from each other and any provision which is or may become unenforceable shall be ineffective to the extent of such unenforceability and shall be treated as if not written and severed without invalidating the remaining provisions of this Agreement (or affecting the validity or enforceability of such provision in any other jurisdiction); the Parties who declare their intention that this Agreement would be executed without such unenforceable provision if they were aware of such unenforceability at the time of execution hereof and that this Agreement should be implemented or continue to be implemented, having regard to each Party's rationale and purpose in entering into this Agreement.
- 2.4 when any number of days is prescribed, these shall business days (unless days are described as calendar days in which event Saturdays, Sundays and public holiday's shall be included) reckoned exclusively of the first and inclusively of the last day.
- 2.5 any reference to any statute, regulation or other legislation shall be a reference to that statute, regulation or other legislation as at the Signature Date, and as amended or substituted from time to time thereafter.
- 2.6 the words "include", "including" and "in particular" shall be construed as being by way of example or emphasis and shall not be construed as, nor shall they take effect as, limiting the generality of any preceding words.
- 2.7 the rule of construction that a contract shall be interpreted against the Party principally responsible for the drafting or preparation of the contract, shall not apply.
- 2.8 any annexures, schedules, and/or documents ("appendices") referred to in this Agreement shall be deemed to be incorporated in and form an integral part hereof; in the event of a conflict between any appendices and this Agreement, the provisions of this Agreement shall prevail.
- 2.9 the termination of this Agreement shall not affect those of the provisions which provide that they shall operate after termination or which of necessity must continue to have effect thereafter notwithstanding that specific clauses do not expressly provide for such continuation.

- 2.10 any substantive provision imposing rights or obligations on a Party, notwithstanding that it is only in a definition clause, shall have effect as if it were a substantive provision in the body of this Agreement.
- 2.11 information supplied in the bidding documents shall be construed as material representations made by the Contractor, which induced Joburg Market to enter into this Agreement.

3. Definitions

Unless clearly inconsistent with or otherwise indicated by the context, the following expressions shall bear the meanings assigned to them and cognate expressions shall bear corresponding meanings in this Agreement:

- 3.1 “Agreement” means this Agreement entered into between Joburg Market and the Contractor including the appendices and all documents included therein by reference.
- 3.2 “Annexure A” means the Contractor’s tender to supply the Product or render the Services or works to Joburg Market in terms of the scope of work and on the terms and conditions, pricing and payment terms set out therein.
- 3.3 “Annexure B” means a copy of Joburg Market Supply Chain Management Policy in terms of which this Agreement and the bid was specified, evaluated, adjudicated and awarded.
- 3.4 “Annexure C” means, if applicable to the subject matter of this Agreement and the Contractor’s obligations in terms thereof, the Contractor’s Personnel Schedule.
- 3.5 “Annexure D” means, if applicable to services rendered at Joburg Market’s premises by the Contractor, the Occupational Health and Safety Act Agreement entered into between the Parties in terms of section 37(2) of that Act.
- 3.6 “Annexure E” means, if applicable in terms of the scope of work, the Contractor’s Project Plan delivered to Joburg Market within the time specified therefore.
- 3.7 “Annexure F” means, if applicable to the Product or the subject matter of this Agreement and read conjunctively with the Contractor’s obligations in terms of the Consumer Protection Act, the express warranties provided by the Contractor in relation to the Product.
- 3.8 “Annexure G” means a copy of the regulation 36 deviation approved by the Accounting Officer (Chief Executive Officer) of Joburg Market in the event that in the procurement of this Agreement the official procurement processes was dispensed with based on an exceptional circumstance allowed by the SCM Regulatory Framework.
- 3.9 “Closing Time” means the date and hour specified in the bidding documents for the receipt of bids.
- 3.10 “Commencement Date” means, notwithstanding the Signature Date, the date specified in the Contract Schedule.
- 3.11 “Confidential Information” means including this Agreement, Joburg Market’s trade secrets, processes, techniques, methods, designs, products and organisational and other structures employed in its business, the contractual and financial arrangements with its suppliers, customers, employees, clients and other business associates, its financial details including its results, details of the prospective and existing clients, customers and employees, its business strategies, general modus operandi, client information including its customer lists and customer contact details, price lists, employee remuneration and salary packages, medical and/or patient information, computer programs and information

systems, policies and procedures, diagnostic tools, data, diagrams, reports including incidents, incident reports, electronic and other visual and audio recordings, related statistics, specifications, charts, studies and Intellectual Property, know-how, trade and any other similar information all of which is, by its nature, confidential and/or proprietary to Joburg Market and its business.

- 3.12 “Contractor” means the incorporated entity, consortium, and partnership or individual who is the service provider, supplier or seller in terms of this Agreement, identified as such in the Contract Schedule; howsoever the Contractor may be legally constituted or formed.
- 3.13 “Contract Period” means the period set out in the Contract Schedule.
- 3.14 “Contract Price” means the price payable to the Contractor under this Agreement for the full and proper performance of its contractual obligations specified in the Contract Schedule.
- 3.15 “Corrupt Practice” means the offering, giving, receiving, or soliciting of a thing of value to influence the action of a public official in the procurement process or in the execution of this Agreement.
- 3.16 “Countervailing Duties” are imposed in cases where an enterprise abroad is subsidised by its government and encouraged to market its products internationally.
- 3.17 “Country of Origin” means the place where the Product was mined, grown or produced or from which the services are supplied.
- 3.18 “CPI” means the headline consumer price index (for all urban areas) annual inflation rate, or such amended or replacement index, as published monthly by Statistics South Africa in Statistical Release P0141, available from <<http://www.statssa.gov.za>>.
- 3.19 “Default Interest” means interest chargeable in terms of this Agreement to unpaid amounts or outstanding obligations which interest shall be calculated, from the due date until date of payment, on a daily balance and compounded monthly in arrear at an annual rate of two percent (2%) above the prevailing, variable prime rate publicly quoted by ABSA Bank Limited from time to time.
- 3.20 “Delivery” means delivery of the Product (and a reference to the rendering any service or executing any works) inclusive of necessary clearing, documentation, carriage (through whatsoever mode), insurance, licensing, unloading, installation and commissioning in operational working order at the store, site or premises of Joburg Market (which shall, unless the contrary is agreed in writing, be performed, conducted and/or delivered in accordance with Joburg Market’s usual policies and procedures), the Contractor bearing all the risks and charges in the Product until completion of delivery is confirmed in writing by Joburg Market.
- 3.21 “Delivery Period” means that period agreed in writing between the Parties in relation to Delivery of the Product or parts thereof by the Contractor, any delay in which shall be deemed a breach of this Agreement and entitle Joburg Market to exercise its remedies in terms of this Agreement or at law.
- 3.22 “Dumping” means a private enterprise resident outside of the RSA market its goods on own initiative in the RSA at lower prices than that of the Country of Origin and which have the potential to harm the local industries in the RSA.
- 3.23 “Fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of this Agreement to the detriment of any bidder or Joburg Market, 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.

- 3.24 “Intellectual Property” means collectively, patents, copyright, trademarks, logos, style names, slogans, designs, models, methodologies, inventions, software object code or programme interface and/or structure, and any other type of intellectual property (whether registered or unregistered including applications for and rights to obtain, use or for their protection) which are used or held, whether or not currently, in connection with Joburg Market’s business and includes the Confidential Information and, “know-how” being ideas, designs, documents, diagrams, information, devices, technical data, scientific data, secret and other processes and methods used in connection with Joburg Market’s business, and, all available information regarding marketing and promotion of the goods and services of Joburg Market, and, all and any modifications or improvements to any of them.
- 3.25 “Joburg Market” means Joburg Market (SOC) Limited (trading as Joburg Market), a corporatized municipal entity incorporated in terms of the laws of the RSA under registration number 2000/023383/07 and with VAT registration number 4840195038, with its *domicilium citandi et executandi* situated at The Office of the CEO, 3rd Floor, Main Building, Joburg Market, 4 Fortune Road (off Heidelberg Road), City Deep, 2049, Johannesburg.
- 3.26 “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 Contractor or its 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 RSA place of entry as well as transportation and handling charges to the factory in the RSA where the Product covered by the bid will be manufactured.
- 3.27 “Local Content” means that portion of the bidding price, which is not included in the imported content provided that local manufacture does take place.
- 3.28 “Order” means an official written order or requisition issued for the supply of the Product.
- 3.29 “Parties” mean the Contractor and Joburg Market and “Party” shall mean that one of them be indicated by the context.
- 3.30 “Product” means, depending on the subject matter of this Agreement, either or both of:
- 3.30.1 “Goods” e.g. plant, equipment, machinery, manufactured items and/or other materials or combined works that the Contractor is required to supply to Joburg Market including (where usually, logically or of right or common practice) ancillary services such as installation, commissioning, provision of technical assistance, after sales support, warranty services etc. and/or
- 3.30.2 “Services” e.g. those functional, consulting and/or professional services or combined works the Contractor as service provider is required to render to Joburg Market including (where usually, logically or of right or common practice) ancillary goods such as spare parts, packing, documents, manuals, reports etc.).
- 3.31 “RSA” means the Republic of South Africa as defined in section 1 of the Constitution of the Republic of South Africa (108 of 1996).
- 3.32 “Signature Date” means the date of the on which this Agreement, or any other document in relation thereto, is signed by the Party signing it last in time on the last date in time.
- 3.33 “VAT” means Value-Added Tax defined and levied in terms of the Value-Added Tax Act (89 of 1991) and unless stated to the contrary, all amounts quoted in this Agreement are quoted exclusive of VAT.

TERMS AND CONDITIONS OF SUPPLY AND/OR SERVICE

4. Relationship between the Parties

- 4.1 The Contractor shall fulfil its obligations in terms of this Agreement as an independent contractor to Joburg Market and not as an employee, labour broker, agent, partner (whether in consortium or joint venture) of Joburg Market; and, neither it nor any of its employees shall hold itself/themselves out as being the same.
- 4.2 In addition, save as set out herein, neither Party shall be entitled to bind the other Party to any representation, obligation or promise of any nature whatsoever, pledge the credit of the other or incur any liability on behalf of the other Party or purport to do so.

5. Good Faith and Commitment to Ethical Conduct

- 5.1 The Parties commit to ethical business conduct and undertake to exercise and display the utmost good faith to one another in giving effect to the terms of this Agreement.
- 5.2 Without limiting the generality of the foregoing the Parties undertake not to accept, offer, induce, permit or promote the acceptance or offering of any gratuity, enticement, incentive or gift that could reasonably be regarded as a bribe or an attempt to otherwise exert undue influence over the recipient.
- 5.3 The Parties will use their best endeavours to prevent their officers, employees, agents and contractors from doing any of the foregoing; or, to otherwise act in a manner which a reasonable and informed person would regard as unethical or do anything which could reasonably be expected to damage or diminish the reputation or business image of the other.

6. Commencement, Duration and Renewal

- 6.1 This Agreement shall commence on the Commencement Date and endure for the Contract Period, delimited in terms of time and/or the expenditure of a particular amount, as set out in the Contract Schedule.
- 6.2 In the event that the Contractor's obligations is to be performed in terms of a project plan or in phased or other manner, the same shall be set out in a separate annexure.
- 6.3 Unless provision is made for renewal in the Contract Schedule, this Agreement shall terminate on the expiry of the Contract Period unless terminated earlier in terms of this Agreement or at law. Any renewal shall be conditional upon the subject matter of this Agreement being susceptible for renewal and, the proper performance by the Contractor of its obligations during the initial Contract Period.
- 6.4 However, notwithstanding anything to the contrary contained in this Agreement or any terms contained in any document produced whether in relation to this Agreement of otherwise by Joburg Market or the Contractor, any renewal of this Agreement shall at all times:
 - 6.4.1 remain within the discretion and at the option of Joburg Market,
 - 6.4.2 be express and in writing, and
 - 6.4.3 executed no sooner than three (3) months before and no later than the termination date.

7. Product Scope / Scope of Work

The relevant part of Annexure A shall apply in relation to the description, quality and quantity of the Product (goods, services, works or any combination thereof) to be delivered to Joburg Market in terms of this Agreement.

- 7.1 The Product shall conform to the standards, specifications and/or scope of work set out in the bidding documents and, where applicable, be packed in a manner designed to prevent damage or deterioration during transit to its final destination / Joburg Market, which packing, marking, case size, weights and documentation both inside and outside the packaging shall:
 - 7.1.1 be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage.
 - 7.1.2 take into consideration, where appropriate, the location of the Product's final destination and the absence of heavy handling facilities at all points in transit.
 - 7.1.3 comply strictly with such special requirements expressly provided for in the bidding documents and in any subsequent instructions ordered by Joburg Market.

Incidental Product / Services

- 7.2 The bid documents may require that the Contractor provide any or all of the following incidental Product (services, goods or works including materials, notifications, and information pertaining to spare parts manufactured or distributed by the Contractor or its principal):
 - 7.2.1 performance or supervision of on-site assembly and/or commissioning of the Product.
 - 7.2.2 furnishing of tools required for assembly and/or maintenance of the Product.
 - 7.2.3 furnishing of a detailed operations and maintenance manual for each appropriate unit of the Product.
 - 7.2.4 performance or supervision or maintenance and/or repair of the Product, for a period agreed by the Parties, provided that this shall not relieve the Contractor of any warranty obligations under this Agreement.
 - 7.2.5 training of Joburg Market's personnel, at the Contractor's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the Product.
 - 7.2.6 such spare parts as Joburg Market may elect to purchase from the Contractor, provided that this election shall not relieve the Contractor of any warranty obligations under this Agreement and advance notification to the discontinuation of any particular model of Product, spare parts etc. in sufficient time to permit Joburg Market to procure needed requirements.
- 7.3 Prices charged by the Contractor for incidental Product and/or services, if not included in the Contract Price, 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.

8. Product Guarantee

- 8.1 The Contractor warrants that the Product shall be fit for the intended purpose of use and free of defect, arising from design, materials, or workmanship (except when the design and/or material is required by Joburg Market's specifications) or from any act or omission of the Contractor and that it is new, unused, of the most recent or current model, and incorporates all recent improvements in design and materials unless provided otherwise in the bid documents.
- 8.2 Unless a more favourable Product warranty is offered by the Contractor or warranty terms are expressly agreed between the Parties (refer annexures and Contract Schedule), this warranty shall remain valid for twelve (12) months after the Product have been delivered to Joburg Market or, for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier.
- 8.3 Joburg Market shall notify the Contractor in writing of any claims arising under this warranty. Upon receipt of such notice, the Contractor shall, within the reasonable period specified therein and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to Joburg Market. If the Contractor, having been notified, fails to remedy the defect(s) within the period specified in the notice, Joburg Market may proceed to take such remedial action as may be necessary at the Contractor's risk and expense and without prejudice to any other rights, which Joburg Market may have against the Contractor.

9. Contractor Personnel

The Contractor shall employ and provide all qualified and experienced personnel required to perform the Services and shall take all measures necessary and shall provide all materials and equipment necessary to enable personnel to perform their duties in an efficient, workmanlike and professional manner.

Personnel Schedule

- 9.1 If required in terms of this Agreement, the Contractor shall provide key persons or named personnel listed (including titles, job descriptions, qualifications and estimated periods of engagement) in a Personnel Schedule who will perform specific duties for periods of time indicated therein in the delivery of the Product; and shall forward same to Joburg Market for approval within ten (10) days of the Signature Date or the Commencement Date (whichever is the earlier).
- 9.2 If at any time, a key person cannot be made available, the Contractor may engage a replacement who is equally or better qualified to perform the stated duty. Where the fees for the Product are time-based, the fee payable for a person provided as a replacement to a named key person shall not exceed that which would have been payable to the person replaced and the Contractor shall bear all additional costs arising out of or incidental to replacement of personnel.
- 9.3 Where the Contractor proposes to utilise a person not listed in the Personnel Schedule, it shall submit the name, relevant qualifications and experience of the proposed replacement person to Joburg Market for approval. Should Joburg Market not object in writing within ten (10) days of receipt of such notification, the replacement shall be deemed to have been approved by Joburg Market.

10. Payment and Pricing

The Contract Price shall be fixed and not vary from the Contractor's tendered prices with the exception of variations allowed in the tender document.

- 10.1 The method and conditions of payment (in South African Rand) to be made to the Contractor under this Agreement shall be specified in relevant part of Annexure A. Unless specified to the contrary in Annexure A, payment shall be made thirty (30) days from the end of the month in which the relevant invoice is received.
- 10.2 Notwithstanding the foregoing, payment shall at all times remain subject to such deductions / penalties as may be allowed in terms of this Agreement and the Contractor upon fulfilment of its obligations furnishing Joburg Market with an valid tax invoice accompanied by a copy of the delivery note, completion certificate or such other document as may be prescribed or customary given the subject matter of the Product delivered.

Increases

- 10.3 The Contractor shall not be entitled to increase its rates or prices to Joburg Market; however, in the event of an annual or multi-year agreement, the Contractor shall be entitled, on the anniversary of the Commencement Date, to increase its rate and/or prices to Joburg Market by an amount not exceeding CPI.

Taxes and Duties

- 10.4 The Contractor shall be entirely liable for all taxes, stamp duties, license fees, and other such levies imposed in relation to the Product / this Agreement, whether levied in the RSA or abroad, until the Product is delivered to Joburg Market.

Withholding and Set-Off

- 10.5 The Contractor shall not be entitled because of any (improvement) lien, set-off, counter-claim, abatement or other similar deduction to withhold delivery or hand-over of any of the Product under any circumstances including when same is disputed.

11. Performance Security

If specified in the bid documents, Joburg Market may within thirty (30) days of the Signature Date, require the Contractor to furnish Joburg Market with performance security in the amount specified in the bid documents (refer Contract Schedule), the furnishing of which shall be a resolute condition to the continued operation of this Agreement.

- 11.1 The performance security shall be denominated in South African Rand and shall be a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the RSA.
- 11.2 The bank guarantee shall be payable to Joburg Market on demand, in whole or in part, as either contractual penalties or, as compensation for any loss resulting from the Contractor's failure to comply with its obligations under this Agreement.
- 11.3 The performance security will be discharged by Joburg Market and returned to the Contractor not later than thirty (30) days following the date of completion of the Contractor's obligations under this Agreement, including any warranty obligations, unless otherwise specified.

12. Performance Review and Contractual Penalties

The Contractor's performance of its obligations in terms of this Agreement may be monitored and evaluated by Joburg Market in terms of its performance measurement criteria and contract management systems from time to time against the requirements of this Agreement. In the event that the Contractor's performance is at any time, in Joburg Market's reasonable opinion:

- 12.1 not carried out in accordance with this Agreement and/or any instruction to rectify any performance shortcoming, whether or not the obligation arose as a result of a breach of this Agreement or a performance evaluation, or
- 12.2 of a quality not in conformance with the specifications that places the objectives of this Agreement or Joburg Market's public service delivery mandate at undue risk, or
- 12.3 represents a performance shortcoming or delay or a series or trend of such shortcomings or delays which is likely to continue or recur,

Joburg Market shall at its discretion and with reservation of Joburg Market's rights in terms of this Agreement and its remedies at law to:

- 12.4 suspend the Contractor and at the Contractor's cost take or cause corrective action and/or take over the rendering of the services / supply of the goods in whole or in part (itself or through another party) to the extent and for the time deemed necessary to remedy or rectify the performance shortcomings or delays, or

without prejudice to claim damages in lieu of the following and/or Joburg Market's right to terminate this Agreement, to deduct from any payments due and payable to the Contractor:

- 12.5 a contractual penalty, calculated on the delivered price or Contract Price of the delayed goods or underperformed services, per instance, in an amount equal to the Default Interest pro-rated per day of delay or as a percentage of underperformance, and/or
- 12.6 calculated as the reasonable cost of repair or replacement, any damage to Joburg Market's property, plant, equipment and/or infrastructure attributable to the wilful or negligent actions and/or omissions of the Contractor.

13. Inspections, Tests and Analyses

- 13.1 All pre-bidding testing will be for the account of the bidder / Contractor. If it is a bid condition that Product to be produced or 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 or nominee of Joburg Market.
- 13.2 If there are no inspection requirements indicated in the bidding documents but during the Contract Period Joburg Market in its discretion decide that inspections shall be carried out, the Contractor shall make the necessary arrangements, including payment arrangements with the testing and/or certification authority concerned. If the results of the foregoing inspections, tests and/or analyses reflects that the Product is:
 - 13.2.1 in good order and/or complies with the bid requirements, the cost of the inspections, tests and analyses shall be defrayed by Joburg Market, or
 - 13.2.2 defective and/or does not comply with the bid requirements, tests and analyses shall be defrayed by the Contractor.

- 13.3 Joburg Market shall, irrespective of whether defective and/or non-compliant Product was previously accepted by it, be entitled to reject the same based on the inspections, tests and/or analyses result.
- 13.4 Any Product may on or after (subject to the Product guarantee) Delivery be inspected, tested or analysed and may be rejected if found not to comply with the requirements of this Agreement. Such rejected Product shall be held at the cost and risk of the Contractor who shall, when called upon, remove them immediately at its own cost and forthwith substitute them with Product which do comply with the requirements of this Agreement. Failing such removal, the rejected Product shall be returned at the Contractor's cost and risk. Should the Contractor fail to provide the substitute supplies forthwith, Joburg Market may, without giving the Contractor further opportunity to substitute the rejected Product, purchase such Product as may be necessary at the expense of the Contractor.
- 13.5 Joburg Market's right (whether personally or through a third party) to test, inspect, analyse or certify the Product and the remedies set out above, shall be without prejudice to Joburg Market's right to terminate this Agreement for breach, impose contractual penalties or to claim damages in lieu of the penalty.

14. Limited Exclusivity

The appointment of the Contractor by Joburg Market is on an exclusive basis and Joburg Market shall for the duration of this Agreement obtain all of the Product listed in the scope of work from the Contractor, subject thereto that:

- 14.1 the Contractor is not in default of its obligations in terms of this Agreement, failing which the exclusivity afforded to the Contractor shall end and Joburg Market shall be free to conclude contractual arrangements with third parties.
- 14.2 no provision in this Agreement shall prohibit the procurement of similar Product from a national department, provincial department, or a local authority; or, outside of this Agreement in small quantities or to have minor essential Product executed if an emergency arises which in Joburg Market sole discretion cannot timeously be delivered / rendered by the Contractor.

15. Intellectual and Property Rights

- 15.1 In respect of the Product any of the same that are either transferred or rendered to Joburg Market under this Agreement, including without limitation the items listed in the scope of work (if any) or any part of them, the Contractor warrants, to the best of its knowledge, that it has full clear and unencumbered title to all such items, and that at the date of delivery of such items to Joburg Market it will have full and unrestricted rights to sell and transfer the Product. For the avoidance of doubt, it is recorded that any Intellectual Property Rights created prior to the Commencement Date or the Signature Date (whichever is the earlier), shall vest exclusively with the Party who created same and this Agreement does not transfer to the receiving Party title to any Intellectual Property Rights so vested.
- 15.2 The Contractor hereby indemnifies Joburg Market against losses arising directly out of any claim brought by a third party that operation, possession or use of the Product in accordance with the terms of this Agreement infringes an RSA patent or copyright or is subject to claims of misappropriation of trade secrets protected by RSA law. Where any Product become the subject of any such claims, the Contractor may, in consultation with Joburg Market, choose to either at the Contractor's cost to:

- 15.2.1 obtain the right of use of the Product if commercially practicable, or
- 15.2.2 replace or modify the Product to avoid the claim of infringement, or
- 15.2.3 require that Joburg Market cease use of the item of Product and return it to the Contractor / supplier, in which case the Contractor shall refund Joburg Market the consideration paid by Joburg Market for that item of Product and any additional costs incurred by Joburg Market in relation to such return including the costs of obtaining reasonably similar replacement Product.

15.3 This indemnity shall not apply if such claim is made by a parent, subsidiary or affiliate of Joburg Market or Joburg Market's holding company, or results from any modification, alteration, repair or addition made by Joburg Market to the Product to the extent that if it were removed, the infringement or violation would cease, or arises out of the use by Joburg Market of the Product in combination with any other product, service or materials.

16. Confidentiality, Non-Disclosure and Use of Contract Documents

- 16.1 All of Joburg Market's Confidential Information, Intellectual Property and know-how received by or exchanged with the Contractor, shall be kept confidential and not disclosed by the Contractor to any person other than a person employed by the Contractor in the performance of this Agreement. Disclosure to employed persons shall be made in confidence and shall extend only as far as may be necessary for purposes of such performance and the Contractor shall take all reasonable steps to minimise the risk of disclosure.
- 16.2 Notwithstanding the foregoing, the Contractor may disclose Confidential Information to its own professional advisers and, if required to do so by law or any applicable regulatory requirement or requested to do so by any regulatory body to whose jurisdiction the Contractor is subject or with whose instruction it is customary to comply.
- 16.3 All documents produced in the course of this Agreement or in relation thereto, shall remain or become, as the case may be, the property of Joburg Market and Joburg Market shall be entitled to require the return (all copies) to Joburg Market on completion of the Contractor's performance
- 16.4 The Contractor's confidentiality and non-disclosure obligations shall endure indefinitely beyond the termination of this Agreement until such Confidential Information enters the public domain.

17. Restraint

- 17.1 The Contractor undertakes in favour of Joburg Market that it shall not during the currency of this Agreement nor for a period of one year after its termination (for whatsoever reason) in any manner entice away, offer employment to or employ whether directly or indirectly, alone or jointly any of Joburg Market's employees in any capacity including that of advisor, agent, consultant, director, employee, financier, manager, member of a close corporation, member of a voluntary association, partner, proprietor, or trustee unless the express, prior written consent of Joburg Market is obtained thereto.

18. Cession and Assignment

- 18.1 The Contractor shall not without Joburg Market's prior written consent being obtained, which consent shall not unreasonably be withheld, be entitled to cede, assign, transfer, make over or otherwise part with or encumber its rights and/or obligations under this Agreement. When requesting such consent, or at any time thereafter, the Contractor shall

notify Joburg Market in writing of all subcontracts awarded under this Agreement. Such notification shall not relieve the Contractor from its liability or obligation under this Agreement.

19. National Industrial Participation (NIP) Programme

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

20. Indemnity and Insurance

20.1 The Contractor hereby indemnifies Joburg Market and agrees to keep it indemnified and hold it harmless against any loss or claim, including claims for damage to equipment or property or, personal injury resultant disability or, loss of profit, income or opportunity, howsoever caused and whether general or special, direct or consequential (collectively "any loss"), either on or about the premises of Joburg Market, including by or in relation to third parties arising out of this Agreement or the Product delivered, rendered or manufactured pursuant thereto.

20.2 The Contractor shall maintain a paid up policy of public liability insurance suited to the risks inherent to its business and the possible exposures it may encounter in the execution of this Agreement. The Contractor shall be obliged to notify Joburg Market of any claims made against the said policy.

21. Impossibility of Performance

21.1 No Party shall be responsible to the other for its failure to perform or any delay in performing any obligation under this Agreement in the event and to the extent that such failure or delay is caused by impossibility of performance ("Force Majeure"). For the purposes of this Agreement, Force Majeure shall mean any circumstance which is beyond the reasonable control of the Party giving notice of Force Majeure ("the affected Party"), which may include but will not be limited to war (whether declared or not), revolution, invasion, insurrection, riot, civil commotion, mob violence, sabotage, blockage, embargo, boycott, the exercise of military or usurped power, fire, explosion, theft, storm, flood, drought, wind, lightening or other adverse weather condition, epidemic, quarantine, accident, acts or restraints of government imposition, or restriction of or embargoes in imports or exports.

21.2 Notwithstanding the foregoing, the following shall in no circumstances be treated as an event of Force Majeure:

21.2.1 a labour dispute, strike or lockout that could have been averted had the Contractor reasonably acceded to the demands made of it.

21.2.2 economic distress and/or inability to meet a payment because of a lack of funds or exchange rate fluctuation.

21.2.3 breakdown or damage to Contractor equipment and/or other machinery.

21.3 The affected Party shall give notice to the Party not so affected ("the other Party") immediately upon the occurrence of an event of Force Majeure. If the event that the Force Majeure is of such a nature that it will:

21.3.1 result in impossibility of performance of an obligation going to the root of the agreement, the other Party shall be entitled on receipt of notice of the Force Majeure event to terminate this Agreement upon notice to the Affected Party but

shall not be entitled to recover any damages, which it may suffer as a result of premature termination.

21.3.2 not result in impossibility of performance of the obligation in question but will delay its performance, the affected Party shall be entitled to such extension of time in which to perform that obligation as may be reasonable in the circumstances, taking into account the interests of both Parties, provided that if any Force Majeure event persists for a period in excess of three Months the other Party shall be entitled to terminate this Agreement forthwith but shall not be entitled to recover any damages which it may suffer as a result of such premature termination.

22. Breach and Early Termination

22.1 Should a Party breach any of its obligations in terms of this Agreement and fail to remedy such breach within ten (10) days from receipt of a written notification calling upon such Party to do so, the aggrieved Party shall, without prejudice to any other right or remedies which it may have, be entitled to cancel this Agreement without further notice being required.

22.2 Notwithstanding the foregoing and in addition to any other recourse Joburg Market may have, Joburg Market shall be entitled (without prior notice to remedy any particular breach having been given or being required) to cancel this Agreement forthwith on written notice should any of the following events occur:

22.2.1 The Contractor and/or its officials, employees and/or representatives commit any crime of which dishonesty is an element against Joburg Market or maliciously destroys the property of Joburg Market or take any violent, abusive, coercive or threatening action against any person whilst on the Property or in relation to customers, Contractors or suppliers of Joburg Market or collude in such conduct.

22.2.2 The Contractor repudiates this Agreement by acting, or omitting to act, in a manner that reasonably demonstrates to Joburg Market the Contractor's intention not to be bound by this Agreement.

22.2.3 Any composition, compromise or arrangement with the creditors of the Contractor and/or procedure taken in relation to the suspension of payments, moratorium of any indebtedness, winding-up, dissolution, administration or re-organisation by way of arrangement or otherwise of the Contractor including the appointment of a liquidator, administrator, judicial manager other than where such action is dismissed, withdrawn or discharged within ten (10) days of being brought or, if demonstrated to the satisfaction of Joburg Market, within that ten-day period, that such action is frivolous or vexatious and is being contested by the Contractor.

22.2.4 The Contractor suspends or ceases to carry on, or threatens to suspend or cease to carry on, all or a material part of its business activities or, whether or not it has acted as aforesaid, abandons any works at Joburg Market's premises or the particular site of work.

23. Dispute Resolution

Save in respect of those provisions of this Agreement which provide for their own remedies or disputes which would be incompatible with arbitration, any dispute which arises and cannot be resolved by the operational personnel of the Parties shall be resolved through a process of alternative dispute resolution in accordance with the procedure set out below:

Mediation

- 23.1 In the event that the operational personnel of the Parties, acting within the scope of their (delegated) authority, are unable to resolve a dispute, that dispute shall be referred to a joint committee comprising of the Chief Executive Officer of each of the Parties (or their suitably authorised alternate or nominee) who will use their reasonable commercial endeavours to resolve the dispute within twenty (20) days of the dispute having been referred to them; however, should the joint committee be unable to resolve a dispute within that time period, any Party shall have the right to demand that the dispute be referred for determination by an arbitrator agreed on by the Parties.

Prescription

- 23.2 The Parties agree that upon the failure to reach a mediated resolution that a written demand given by either Party to submit such a dispute in terms of this clause to arbitration is to be deemed a legal process for interrupting extinctive prescription in terms of the Prescription Act (68 of 1969).

Arbitrator

- 23.3 The arbitrator shall be, if the matter in dispute is principally:
- 23.3.1 an accounting matter - independent auditors agreed between the Parties or, failing such agreement within five (5) business days after the arbitration has been demanded, at the request of either of the Parties shall be nominated by the president for the time being of the South African Institute of Chartered Accountants (or its successor body), whereupon the Parties shall forthwith appoint such person as the arbitrator,
 - 23.3.2 any other matter - an impartial attorney or advocate of not less than ten (10) years' standing agreed between the Parties or, failing such agreement within five (5) business days after the arbitration has been demanded, at the request of either of the Parties shall be nominated by the president for the time being of the Law Society of the Northern Provinces (or its successor body), whereupon the Parties shall forthwith appoint such person as the arbitrator,
- 23.4 Should the Parties to the dispute fail to agree whether the dispute is principally an accounting or any other matter within five (5) business days after the arbitration was demanded, the matter shall be deemed to be any other matter and the provisions in relation to "any other matter" shall apply.
- 23.5 Should any person appointed to do so fail or refuse to nominate an arbitrator, either Party may approach any court having jurisdiction to make such appointment and, to the extent necessary, such court is expressly empowered to do so.
- 23.6 The arbitrator shall:
- 23.6.1 have power to open up, and review any certificate, opinion, decision, requisition or notice relating to all matters in dispute submitted to him and to determine all such matters in the same manner as if no such certificate, opinion, decision or notice had been issued.
 - 23.6.2 be obliged to give his award in writing fully supported by reasons and shall have the power to give default judgment if any Party fails to make submissions on due date and/or fails to appear at the arbitration.

Arbitration

- 23.7 The arbitration shall be conducted in accordance with, save as set out herein, the Commercial Rules of the Arbitration Foundation of Southern Africa:
- 23.7.1 held with only the Parties and their representatives present thereat at Johannesburg unless mutual agreement on an alternative place is reached between the Parties; and
- 23.7.2 where possible, be concluded in twenty (20) days after it has been demanded and the Parties shall use their reasonable commercial endeavours to procure the expeditious completion of the arbitration.
- 23.8 The evidence, representations, transcript and information generally made available during the course of the arbitration and/or arbitrator's award constitute Confidential Information and shall be treated as such.
- 23.9 The costs of the arbitrator and the incidental costs of the arbitration shall be borne equally by the Parties to the dispute subject thereto that the arbitrator shall be competent to make any interim and/or final order as to the costs, or parts thereof, as he deems appropriate.
- 23.10 The award of the arbitrator shall be final and binding on the Parties and any Party shall be entitled to apply to a competent court to have the award made an order of court.
- 23.11 Nothing under this heading shall prevent any Party from seeking urgent relief in the High Court of South Africa.

24. Notices and Domicilia

- 24.1 Any notice or communication required or permitted to be given in terms of this Agreement shall be valid and effective only if in writing. The addresses of the Parties set out in the Contract Schedule shall be the Parties' chosen as its *domicilium citandi et executandi*.
- 24.2 A Party may by notice to the other Party change the physical address chosen as its *domicilium citandi et executandi* to another physical address provided that the change shall become effective on the tenth day from the deemed receipt of the notice by the other Party.
- 24.3 Any notice to a Party, and it shall be competent to give notice by fax and email, unless the contrary is proved, deemed to have been received if delivered by:
- 24.3.1 registered post to the Party's postal address, on the tenth (10th) Day after posting;
- 24.3.2 hand to a responsible person during ordinary business hours at the Party's physical address, on the date of delivery; or
- 24.3.3 fax to its usual fax number, on the date of dispatch.
- 24.3.4 email to its usual email address, on the date of dispatch.
- 24.4 Notwithstanding anything to the contrary herein contained a written notice or communication actually received by a Party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen *domicilium citandi et executandi* or its usual fax number or email address.

25. Counterparts

- 25.1 This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute the same agreement as at the Signature Date of the Party last signing one of the counterparts.

26. Legal Advice and Costs

- 26.1 The Parties acknowledge that the provisions of this Agreement are fair and reasonable in the circumstances and in accordance with the Party's intentions and they had been free to secure legal and professional advice as to the nature and effect of the provisions of this Agreement and that it had either taken such advice or dispensed with the necessity of

doing so and, each Party will bear its own costs incidental to the negotiation and preparation of this Agreement

- 26.2 In the event of a dispute arising between the Parties, the guilty Party shall be liable to the innocent Party for any costs, including attorney and client costs, the cost of expert witnesses, advocates costs as on brief and any other professional costs incurred by a Party arising out of the breach by a guilty Party of any of the provisions of this Agreement.

27. General

- 27.1 This Agreement constitutes the whole agreement between the Parties and supersedes any other discussions, agreements and/or understandings regarding the subject matter hereof. To the extent permissible by law no Party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein, whether it induced the contract and/or whether it was negligent or not.
- 27.2 No amendment or consensual cancellation of this Agreement or any provision or term hereof or of any agreement or other document executed pursuant to or in terms of this Agreement and no settlement of any disputes arising under this Agreement and no extension of time, waiver or relaxation or suspension of or agreement not to enforce or to suspend or postpone the enforcement of any of the provisions or terms of this Agreement or of any agreement or other document issued pursuant to or in terms of this Agreement shall be binding unless recorded in a written document signed by the Parties.
- 27.3 No extension of time or waiver or relaxation of any of the provisions or terms of this Agreement or any agreement or other document issued or executed pursuant to or in terms of this Agreement, shall operate as an estoppel against any Party in respect of its rights under this Agreement, nor shall it operate so as to preclude such Party thereafter from exercising its rights strictly in accordance with this Agreement.
- 27.4 The Parties are in express agreement that it is not the intention of any Party to violate any public policy, statutory or common law, and that if any sentence, paragraph, clause or combination of the same is in violation of the law of the RSA, such sentence, paragraph, clause or combination of the same alone shall be void in the jurisdiction where it is unlawful, and the remainder of such clause and this Agreement shall remain binding upon the Parties hereto.

I _____ (full name) the undersigned hereby certify that I've read the content of the general conditions of contract and accept the conditions herein.

Signature

Date

Position

Name of Bidder

CONSENT AND ACKNOWLEDGMENTS IN TERMS OF THE PROTECTION OF PERSONAL INFORMATION ACT 2013 (POPI)

This section sets out how personal information will be collected, used and protected by Joburg Market hereinafter referred to as “JM”, as required by the Protection of Personal Information Act. The use of the words “the individual” for the purposes of this document shall be a reference to any individual (bidder) communicating with JM and/or concluding any agreement, registration or application, with the inclusion of each of those individuals referred to or included in terms of such agreement, registration or application.

1. What is personal information?

The personal information that JM requires relate to names and surnames, birth dates, identity numbers, passport numbers, demographic information, education information, occupation information, health information, addresses, memberships, and personal and work email and contact details.

2. What is the purpose of the collection, use and disclosure (the processing) of personal information?

JM is legally obligated to collect, use and disclose personal information for the purposes of:

- Reporting initiatives to the City of Johannesburg Municipality;
- reporting to National Treasury all contracts awarded;
- obtaining information related to Tax Compliance information from SARS;
- Verifying information on the National Treasury database of defaulters;
- evaluating and processing applications for registration on the database;
- compiling statistics and other reports;
- providing personalised communications;
- complying with the law; and/or
- For a purpose that is ancillary to the above. Personal information will not be processed for a purpose other than what is identified (the purpose) above without obtaining consent beforehand.

3. How will Joburg Market process personal information?

JM will only collect personal information for the purpose as stated above. Information will be collected in the following manner:

- directly from the individual;
- from service providers who provided with services or goods to JM;
- from JM's own records relating to previous supply of services or goods; and/or
- from a relevant public or equivalent entity.

4. To whom will personal information be disclosed?

The personal information may be disclosed to other relevant public or other entities on whose behalf we act as intermediaries, other third parties referred to above in relation to the purpose or who are sources of personal information, service providers such as professional bodies who operate across the borders of this country (trans border flow of information) where personal information must be sent in order to provide the information and/or services and/or benefits requested or applied for. In the event of another party/ies acquiring all of or a portion of JRA's mandate or functions, personal information will be disclosed to that party but they will equally be obliged as we are, to protect personal information in terms of this policy and the law.

5. Consent and Permission to process personal information:

I hereby agree with the policy and provide authorisation to JM to process the personal information provided for the purpose stated:

- I understand that withholding of or failure to disclose personal information will result in JM being unable to perform its functions and/or any services or benefits I may require from JM.
- Where I shared personal information of individuals other than myself with JM I hereby provide consent on their behalf to the collection, use and disclosure of their personal information in terms of this personal information policy and I warrant that I am authorised to give this consent on their behalf.
- To this end, I indemnify and hold JM not responsible in respect of any claims by any other person on whose behalf I have consented, against JM should they claim that I was not so authorised.
- I understand that in terms of POPIA and other laws of the country, there are instances where my express consent is not necessary in order to permit the processing of personal information, which may be related to police investigations, litigation or when personal information is publicly available.
- I will not hold JM responsible for any improper or unauthorised use of personal information that is beyond its reasonable control.

6. Rights regarding the processing of personal information:

- The individual may withdraw consent to the processing of personal information at any time, and should they wish to do so, must provide JM with reasonable notice to this effect. Please note that withdrawal of consent is still subject to the terms and conditions of any contract that is in place. Should the withdrawal of consent result in the interference of legal obligations, then such withdrawal will only be effective if JM agrees to same in writing. JM specifically draws to the attention that the withdrawal of consent may result in it being unable to provide the requested information and/or services and/or financial or other benefits.

- In order to withdraw consent, please contact the JM Information Officer/SCM
- A copy of the full JM policy is available
- Individuals are encouraged to ensure that where personal information has changed in any respect to notify JM so that our records may be updated. JM will largely rely on the individual to ensure that personal information is correct and accurate.
- The individual has the right to access their personal information that JM may have in its possession and are entitled to request the identity of which third parties have received and/or processed personal information for the purpose. Please note however, that any request in this regard may be declined if:
 - the information comes under legal privilege in the course of litigation,
 - the disclosure of personal information in the form that it is processed may result in the disclosure of confidential or proprietary information,
 - giving access may cause a third party to refuse to provide similar information to JM,
 - the information was collected in furtherance of an investigation or legal dispute, instituted or being contemplated,
 - the information as it is disclosed may result in the disclosure of another person's information,
 - the information contains an opinion about another person and that person has not consented, and/or
 - the disclosure is prohibited by law.

7. Queries relating to breach of personal information:

- Please submit queries relating to the breach of personal information to the JM's information officer and SCM in writing as soon as the breach is discovered.

Name: _____ Signature: _____	Date:
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SECTION 1: BID SPECIFICATIONS/TERMS OF REFERENCE

1. BACKGROUND/ TERMS OF REFERENCE

Joburg Market (JM) is, by virtue of being in the food industry and in terms of applicable legislation and industry standards, expected to conduct its business within a hygienic environment without posing a risk to life and the environment.

It is of paramount importance to control pests that can contaminate and damage food products, including damage to fittings and building infrastructure. In addition, pests also present health problems for people due to mosquitoes, cockroaches, bees, wasps, rodents, and feral cats that may infest and breed within buildings and offices.

JM is seeking to appoint two (2) service providers to render specific pest control services for 36 months.

- **Service Provider 1 to render Rodent Control services**
- **Service Provider 2 to render Insect Control (flying and crawling insects) and Weed Control services**

All bidders must be experienced in the field of pest or animal control and must be able to produce references of having provided similar services. The bid should cover all costs, including labour, materials, monthly service, regular pest monitoring and response to pest problems as they arise.

2. SCOPE OF WORK

Pest control services are required for the different types of pests prevalent on the Joburg Market. Each pest shall be separately managed due to their individual behavioural and harbourage activities and trends.

The pests relevant to this Joburg Market site include the following:

- A. Rodents** - rats and mice are prevalent within buildings, drainage and other outdoor areas on the market site ; and damage / contaminate food products, cables and leave their waste excrement in these areas that pose a food safety risk
- B. Insects and Weeds–**
 - i. Flying insects - common flies, specific fruit fly species and vinegar flies, false codling moths, warehouse moths and beetles that are relevant to food damage (i.e. phytosanitary pests of agricultural economic importance) and; bees, wasps and mosquitoes that are relevant to health and safety
 - ii. Crawling insects - cockroaches, ants, spiders, grain weevils, wood borer
 - iii. Weeds - The prolific growth of weeds and undesirable plants is a problem in roadways, paved areas, and platforms and on the walls of some buildings; therefore there is a need

to control such weeds. Where wide use of chemical weedicides / herbicides is used, the person applying such chemicals must be a registered PCO.

The Service providers shall adequately suppress all the identified pests prevalent on the Joburg Market premises (particularly all outdoor areas) and specifically within all Joburg Market managed buildings, i.e. Market Main Building and all other staff offices elsewhere on the market, Halls and Platforms, Market Cold Stores and Ripening Facility, Food Bank, Wellness Centre and Market Workshop, Peoples Market, Unity Market.

2.1. Pest Control Technical Requirements

A. Rodent Control

It is important that the grounds, open areas, roadways, pavements and all other exterior areas on the market are surveyed for conditions and pests, especially rodents to prevent ingress, harbourage and breeding on the site.

Exterior Rodent Control Measures requires that the exterior areas (i.e. outside buildings) of the Joburg Market shall be surveyed for rodents and conditions which may lead to rodent infestation. The following observations must be identified and documented using a diagram and/or note; and corrective action must be taken:

- a) Tall grass and vegetation on property, sidings, and adjacent to buildings
- b) Surrounding properties which may have conditions conducive to infestation e.g. veld next to food bank
- c) Areas of the property conducive to infestation such as cluttered areas, open trash, standing water, potential or confirmed burrowing areas
- d) Areas of rodent infestation based upon sightings, harbourages, or other evidence including all areas of the building and roofs
- e) Doors or gaps in building outer structure which could permit rodent entry

Interior Rodent Control Measures requires that the interior areas (i.e. inside all buildings) of the Joburg Market shall be surveyed for rodents and conditions which may lead to rodent infestation. The following observations must be identified and documented using a diagram and/or note; and corrective action must be taken:

- a) Open doors, gaps beneath doors, or other holes, gaps or cracks which could permit rodent entry
- b) Clutter, debris or other potential rodent harbourage location
- c) Areas of rodent infestation based on sightings, droppings, harbourage or other evidence
- d) Spillage or other potential food sources which could lead to infestation
- e) Storage practices which are conducive to rodent infestation

Recommendations must be provided to reduce the likelihood of future infestations. Rodent management devices shall be mapped and recorded.

Inspection / Service frequencies for rodent activity:

Evaluation of the facility's rodent history and potential for infestation will determine frequency of service conducted on exterior devices. A monthly service is recommended but should rodent activity occur more frequently, the service frequency shall be increased. Results of the rodent history and infestation potential analysis should be reviewed by and accepted by the designated JM contact person and may be reviewed and adjusted as necessary. Interior inspection frequency is based on the evaluation of the facility's rodent history and potential for infestation. Minimum frequency of service on interior rodent monitoring devices shall be weekly unless otherwise the level of infestation is low.

- Types of rodent control / monitoring devices available and suitability for JM site
- Quantity of rodent control devices and the areas of placement
- Measures to be taken when rodent monitoring indicates activity / infestation
- Measures to be taken when products are damaged / contaminated by rodents
- Rodent activity reporting and communication channels

For effective rodent control, scheduled night inspections on a quarterly basis are required as rodents are known to be nocturnal in their activities.

Rodent Bait Stations & Trapping Devices

- a) The market site and buildings shall be evaluated for the identification /type, quantity and placement of rodent bait stations in exterior areas.
- b) Rodent control inside occupied buildings shall be accomplished with trapping devices. All such devices shall be concealed out of the general view and installed in protected areas so as not to be affected by routine cleaning and other operations.
- c) The Service provider shall be responsible for disposing of all trapped rodents and all rodent carcasses in an appropriate and timely manner.
- d) All rodenticides, regardless of packaging, shall be placed either in locations inaccessible to the public in durable tamper-resistant bait boxes.
- e) Frequency of bait box servicing shall depend upon the level of rodent infestation and at least once every month.
- f) The lids of all bait boxes shall be securely locked or fastened shut.
- g) All bait boxes shall be securely attached or anchored to the floor, ground, wall or other surface, so that the box cannot be picked up, moved or tampered with.
- h) In the event of bait stations being removed, stolen or broken/damaged, replacement shall take place as provided for in contingency costing (refer pricing schedule)
- i) All bait boxes shall be numbered per location and labelled with the Service provider's business name and address on the outside. A site drawing and register of all rodent hotspots and rodent bait stations shall be kept and updated.
- j) A service schedule date sticker shall be placed in the inside cover of every rodent bait box in order to prevent falsifying service dates without actually opening the box and checking the bait and this will be inspected by the designated Joburg Market staff.
- k) Only registered rodenticides as per the Fertiliser, Farm Feeds, Agricultural Remedies and Stock Remedies Act, (Act 36 of 1947) must be used in accordance with the manufacturer's instructions; and must only be applied by a registered Pest Control Operator (PCO) that is suitably qualified and trained.

B. 1. Insect Control

The markets' internal and external areas shall be surveyed for flying and crawling insect activity.

- a) Suitable control monitoring and methods and/or materials shall be used to prevent the breeding and harbourage of insects, especially in areas where food is stored and handled.
- b) Regular / periodic fumigation of all kitchens and public ablutions on the market shall be scheduled to control cockroaches and flies.
- c) Suitable and sufficient devices and/or methods of treatment shall be used to control flies of all species (including fruit flies, codling moth and warehouse moth) and spiders in the trading halls
- d) Suitable and sufficient devices and/or methods of treatment shall be used to control mosquitoes, bees and wasps at Consignment Control Offices, gate cubicles and any other building on the market site.
- e) A site drawing and register of all insect hotspots and insect control devices shall be kept and updated.
- f) Insect light traps shall be installed in a draught-free area and not more than 2.2m from the floor. Care shall be taken not to install them where food may be exposed. They shall also be placed away from natural lighting and shall be fitted with a catch tray, which shall be cleaned at appropriate but defined intervals.
- g) Insect light traps may not be installed where there is reason to believe that their presence constitute a fire or dust explosion risk or any other risk identified.
- h) Ultraviolet tubes on insect light traps shall be replaced at least every year and shall be switched on permanently. Records of replacements of ultraviolet tubes shall be kept on file on site.
- i) Only registered pesticides as per the Fertiliser, Farm Feeds, Agricultural Remedies and Stock Remedies Act, (Act 36 of 1947) must be used in accordance with the manufacturer's instructions; and must only be applied by a registered Pest Control Operator (PCO) that is suitably qualified and trained.
- j) Before pesticides can be applied, care shall be taken to safeguard all food products, food packaging material, and food handling equipment and utensils against contamination. Due care shall be taken when using insecticides within halls and where food is stored.
- k) No insecticide materials shall be stored on the Joburg Market premises.

B. 2. Weed Control

- a) Application of herbicides / weedicides on the market premises and grounds shall be performed by a registered Pest Control Operator (PCO) that is suitably qualified and trained.
- b) Only registered herbicides / weedicides as per the Fertiliser, Farm Feeds, Agricultural Remedies and Stock Remedies Act, (Act 36 of 1947) must be used in accordance with the manufacturer's instructions
- c) Weed control shall be spot treated, at all paved, tarred and concrete areas.
- d) Due care shall be taken when using herbicides within halls and where food is stored.
- e) No herbicides shall be stored on the Joburg Market premises.

2.2 Initial Inspections of the site and facilities

- a) The appointed Service providers shall conduct a thorough initial inspection of the market site and each building within 21 days prior to the commencement of the contract, with the

aim of evaluating the pest control needs of all premises and to identify all pests and problem areas (hotspots) and any equipment, structural features or management practices that are contributing to pest infestation; including taking note of the Health, Safety & Environmental requirements of the site.

2.3 Safety, Health & Environment (SHE) File

- a) Prior to the commencement of the contract and within 14 days before the commencement of the contract, the appointed Service providers shall submit a SHE File for the site.
- b) The Joburg Market shall, within 7 days of receiving the SHE File, evaluate the contents. If aspects of the SHE File are incomplete or disapproved, the Service provider shall have three (3) working days to re-submit the file.
- c) The SHE File shall consist of but not be limited to the following:
 - Service provider appointment letter
 - Occupational health and safety management plan
 - Contagious disease prevention plan for pest control staff working on a client's premises
 - Company occupational health and safety policy
 - Letter of good standing
 - Material Safety Data Sheets (MSDS) for poisonous chemicals and materials used
 - Risk assessments
 - Safe work procedures (Site Specific)
 - Incident reporting procedures
 - Incident reports
 - Incident registers
 - First aid documents
 - Induction records
 - Medical surveillance records
 - Safety communication (e.g. Toolbox talks)
 - Minutes of safety meetings
 - Inspection registers

Training standards for technicians

a) PCO certificates

All technicians performing pest control services at Joburg market facilities must be registered Pest Control Operators (PCO) in terms of the Fertiliser, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act 36 of 1947). Proof of registration in compliance with law must be available in the form of PCO certificate issued by Department of Agriculture, Forestry & Fisheries. All certificates must be current and not expired.

b) Food Safety / Hygiene Training

PCOs servicing the food industry shall be trained in basic food safety and hygiene practices. Proof of training by a competent authority or training provider shall be made available.

c) Health, Safety & Environmental Training

PCOs shall be trained in basic health, safety & environmental practices. Proof of training by a competent authority or training provider shall be made available.

2.4 Service Provider Responsibilities

- a) The Service providers shall adhere to the following rules for pesticide selection and use:
 - i. Application of pesticide liquid, aerosol or dust to exposed surfaces and pesticide space sprays (including fogs, mists and ultra-low volume applications), shall be restricted to unique situations where no alternative measures are practical.
 - ii. Where the application of pesticide liquid, aerosol or dust to exposed surfaces and pesticide space sprays (including fogs, mists and ultra-low volume applications) is required, the Service provider shall take all necessary precautions to ensure safety and that all necessary steps are taken to ensure the containment of the pesticide to the site of application
- b) The Service provider shall provide their own equipment for reaching heights (e.g. ladders, scaffolding, cherry picker / sky-jack, etc.), checking storm water and waste water drains and during installation of all rodent control devices.
- c) The Joburg Market shall **not** provide any storage facilities for poisonous and other harmful substances that the Service provider will be using in the control of the identified pests. Special arrangements shall only be made with the Joburg Market in exceptional circumstances that warrant the temporary storage of such toxic substances on the market site, e.g. methyl bromide gassing of infested consignments of products under quarantine.
- d) Only registered Pest Control Operators (PCO) shall conduct pest treatment work on the Joburg Market site. All unregistered technicians and trainees shall strictly work under supervision of a registered PCO.
- e) The Service provider shall ensure that the registrations of PCOs are valid and renewed prior to the expiry date.
- f) The Service Providers shall furnish all supervision, labour, materials and equipment necessary to accomplish the surveillance and control of all identified pests through suitable methods of prevention, trapping, eradication and disposal including pesticide application treatment and methods in line with food industry best practice.
- g) All installed pest control devices shall be maintained by the Service Providers.

- h) The Service Providers shall respond promptly to any pest incident as reported by the Joburg Market and provide appropriate pest control methods and recommendations to remedy and prevent the problem.

3. RECORD KEEPING

- a) The Service providers shall be responsible for maintaining a Pest Control File for the premises that shall be kept updated and on the Joburg Market site for inspection and evaluation by the Joburg Market nominated Contract Manager.
- b) **The file shall include but not be limited to the following:**
- i. Pest Control Plan: A copy of the approved Pest Control Plan which includes integrated pest management approach and methods, which may include environmental control, eradication and disposal methods - both physical and chemical methods as deemed appropriate per pest type per area. Integrated Pest Management (IPM) is the cost-effective implementation of prevention and eradication strategies based on the biology of pests, intended to ensure a pest free food operation. This should include the following elements:
- Early detection and identification of pest species
 - Application of environmental management and building design and maintenance, i.e. improvements in hygiene, access exclusion and proofing in buildings
 - Application of physical control and chemical control – undertaken with due regard to safety and the environment, i.e. the least toxic treatments
 - Development of an effective monitoring strategy that will monitor the progress of all control measures
 - Proposed methods for monitoring and surveillance: The Service provider shall describe methods and procedures to be used for identifying sites of pest access and harbourage; and for making objective assessments of pest population levels.
 - Pest Risk Assessment - Identification of all pests and their harbourage areas, proposed methods and equipment for service: The Service provider shall provide the information of proposed control methods, including but not limited to the pesticides to be used, brand names of pesticide application equipment, rodent bait boxes, insect and rodent trapping devices, pest monitoring devices, pest surveillance and detection equipment and any other pest control devices or equipment that may be used to provide the service.
 - The description of any structural or operational change that would facilitate the pest control effort: The Service provider shall describe site-specific solutions for observed sources of pest harbourage and access, food and water sources.
 - The method for disposing of all trapped rodents and all rodent carcasses and any other waste resulting from the pest control activities.

- ii. Service schedule: The Service provider shall provide complete service schedules that include planned frequency of Service provider visits on at least a monthly basis and as-and-when required. Any other seasonal / sudden infestation is inclusive of the service required.
- iii. Site map with locations of pest management equipment such as placement sites of rodent bait stations, monitoring devices, etc.
- iv. Pest Activity Register: A pest activity register must be kept concerning pest sightings, reports of pest damage to food products and property and subsequent pest treatment measures taken. All pest sightings and treatments at the Joburg Market must be recorded and shall include the following:
 - A pest sighting log or reporting system must be maintained. The log can include dates, times, locations, type of pest, action taken and name of reporting employee. The log must be reviewed by the technician (PCO) at each visit and the actions taken must be recorded. The use of the log should be discussed with market staff during pest management training performed by the pest management professional or an in-house trainer.
 - The assigned market personnel responsible for Pest Control and PCO observations and comments shall review and sign the pest activity reports and treatment records
- v. Service Record Forms: Customer copies of the Service provider's Service Record Form documenting all information on pesticide applications, pest sightings, and building maintenance needs. Copies of service record forms shall be forwarded to the Joburg Market nominated Contract Manager on the scheduled days of the monthly service. Accurate and complete service records shall at least address the following:
 - the materials used (trade and chemical name of pesticide)
 - targeted pests
 - quantity of the pesticide applied
 - specific area(s) where the pesticide was applied
 - method of application of the pesticide and the device used
 - date and time of pest treatment
 - applicators name and signature
- vi. Pest Control Body Registration : Copy of the registration of the company with the South African Pest Control Association (SAPCA)
- vii. Pest Control Operator (PCO) Registration: The Service provider shall provide a current list of names along with photocopies of the technician's registration with the Department of Agriculture, Forestry and Fisheries as a Pest Control Operator (PCO), for every Service provider employee who will be performing on-site services under this contract.
- viii. Pesticide labels or product specifications and Material Safety Data Sheet (MSDS) for each pesticide used
- ix. A letter of good standing with the Compensation Commissioner.

- x. A copy of the Service providers Liability Insurance
- xi. Proof of technician training in all types of pests, pest control methods and responsible & safe use of pesticides
- xii. A copy of SANS 10133 , *The application of pesticides in food-handling, food-processing and catering establishments*

4. MEETINGS, REPORTS AND REVIEWS

Regular communication by the Joburg Market nominated Contract Manager and the Service provider is essential. The following meetings are recommended to ensure implementation according to specifications.

- a) **Call-outs and Ad-hoc Meetings** – The Joburg Market nominated Contract Official will communicate to the Service provider any reported pest sightings, rodent damage incidents and any other urgent pest control matters and complaints for the Service provider to effect immediate remedial action to address the situation at hand.
- b) **Monthly Meetings** – Pest Service provider (Site Supervisor) and Joburg Market nominated Contract Manager shall discuss overall effectiveness of pest control plan and recommendations for improvement. The Service provider shall be available to participate in scheduled joint service provider monthly meetings with other JM Operational managers and other hygiene service providers, namely cleaning and waste which directly impacts on pest activity and infestation.
- c) **Monthly Reports** - The Service provider shall submit monthly reports to the Joburg Market relating to, but not limited to the following:
 - Trend analysis highlighting the extent of pest infestation and activity in relation to the various areas on the site, including identification of pest hotspots
 - Corrective actions taken to eliminate / alleviate pest infestation / populations
 - Number of damaged and/or missing rodent bait stations and their locations thereof
 - Recommendations for preventive action
- d) **Pest Control Audits and Program Review** – An internal audit system shall assess and review the effectiveness of the pest control services rendered on a monthly basis. A review of the Pest Control Program shall be conducted annually and shall include, but is not limited to the following:
 - Thorough inspection of the exterior property
 - Thorough inspection of the interior of the buildings and facilities
 - A summary of pest infestations and conditions conducive to infestation
 - An analysis of pest trend data
 - Results of food safety audit

5. GLOSSARY OF TERMS

- **Pest** means vertebrate or invertebrate organism capable of contaminating food directly or indirectly
- **Pesticide** refers to any insecticide, rodenticide, acaricide, nematocide, or any other poisonous substances used for biocidal purposes
- **SPS** refers to pests deemed as Sanitary and Phyto-Sanitary by Dept of Agriculture in terms of agricultural economic and trade importance, particularly for food export purposes.
- **IPM** means Integrated Pest Management
- **Act 36 of 1947** refers to the Fertiliser, Farm Feeds, Agricultural Remedies and Stock Remedies Act
- **Act 36 of 1983** refers to the Agriculture Pests Act
- **HACCP** means Hazard Analysis and Critical Control Point system for food safety

SECTION 2: EVALUATION REQUIREMENTS

Please note that failure to meet the requirements or to lodge the following documentation and/or proof thereof may lead to an immediate disqualification:

1. ADMINISTRATIVE REQUIREMENTS (RETURNABLES)

- a) Completed and signed MBD 1,4,6.1, 8 and 9
- b) General Condition of Contract (GCC) must be signed
- c) All pages of the document must be initialled
- d) Consent and acknowledgments form in terms of the protection of personal information act
- e) Rates and taxes account not older than three months or signed lease agreement
- f) Proof of JV bank account (if applicable)
- g) Copies of share certificates (if applicable)

2. MANDATORY REQUIREMENTS

An administrative evaluation will be carried out on all the bids received and if the under mentioned documentation is not signed and/or attached such a bid will be eliminated from any further evaluation

- a) Registration on the National Treasury Central Database illustrating required compliance 1,2 and 3 below

Or

- 1. Submission of a compliant Good Standing TCC", or a "Tender TCC or alternatively supply the unique pin number to access the Tax compliance status
- 2. Proof of company registration documents.
- 3. Certified I.D. copies for directors/shareholders, certification not older than three months

- b) Compulsory briefing session attendance
- c) In case of Joint Venture, Consortium, Trust, or Partnership a Consolidated Valid Tax Clearance Certificate and/or SARS issued pin code (which will be verified)
- d) In case of Joint Venture, Consortium, Trust, or Partnership, a signed teaming agreement must be submitted.
- e) In case of Joint Venture, Consortium, Trust, or Partnership a Consolidated B-BBEE certificate for all members is required.
- f) In case of Joint Venture, Consortium, Trust, or Partnership a Consolidated Central Supplier Database Registration (CSD) is required.

3. EVALUATION CRITERIA

The tender document includes functionality as evaluation criteria to assess the ability of the bidders to execute the project as follows:

Functionality broken down as follows: (100 points, minimum 80 points required)

Minimum Required Score for functionality is: 80 points_out of 100 points and any bidder scoring less than 80 points will not be considered for further evaluation. Service Providers that qualified pre-evaluation in terms of the functionality cut-off points of 80 points will then be evaluated in terms of price and preference points.

Functionality comprises **two (2)** x categories of pest control services required, namely:

- 1. Rodent Control services**
- 2. Insect and Weed Control services**

Bidders can complete any of the 2 categories of the required pest control services on condition that supporting documents for each category must be submitted.

Minimum Required Score for functionality is: **80 points out of 100 points and any bidder scoring less than 80 points will not be considered for further evaluation.**

Service Provider 1: Rodent Control Services

Criteria	Points allocated
Attach contactable references for the supply of rodent control services at warehouses, factories, manufacturing plants, commercial business complexes, university campus', airports and other terminals with high traffic volume and similar sites The references can be a list of contactable clients or letters from each client, and must contain the following information • Name of the organisation and contact person • Description of the services provided • Telephone number / email address	60
Site Personnel Experience & Pest Control Operator (PCO) Registration	40
Total points	100

Service Providers that qualified pre-evaluation in terms of the functionality cut-off points of **80 points** will then be evaluated further.

Attach contactable references for the supply of rodent control services at warehouses, factories, manufacturing plants, commercial business complex, university campus, airports and other terminals with high traffic volume and similar sites	Total points – 60 Points
• Three (3) contactable references	60 points
• Two (2) contactable references	40 points
• No relevant experience / No submission	0 points

Site Personnel Experience & Pest Control Operator (PCO) Registration	Total points – 40 Points
Site Supervisor shall be a registered Pest Control Operator (PCO) and shall have at least 5 years relevant experience in rendering rodent control services at warehouses, factories, manufacturing plants, commercial business complexes, university campus', airports and other terminals with high traffic volume and similar sites • Copy of Pest Control Operator (PCO) registration certificate from Department of Agriculture, Forestry & Fisheries (DAFF) in the field of structural and fumigation pest control. • Curriculum Vitae/Resume indicating at least 5 years relevant experience	25 points
Site Technician shall be registered Pest Control Operators (PCOs) and shall have at least 3 years relevant experience in pest control • Copy of Pest Control Operator (PCO) registration certificate from Department of Agriculture, Forestry & Fisheries (DAFF) • Curriculum Vitae indicating at least 3 years relevant experience in pest control.	15 points
TOTAL POINTS	100 POINTS

NB: Samples of rodent bait stations will be requested from qualifying bidders for evaluation of compliance to specifications for quality, durability, tamper-proof safety, ability to contain the bait, ability to secure the bait station and ability to lock the bait station with a key.

Note: A bidder/s that scores less than **80 points** in respect of functionality, or submits solutions that are not according to requirements will be regarded as submitting a non-responsive bid and will be disqualified.

Bidder/s that meets the minimum required percentage or minimum points will be subject to price and preference points evaluation as per the PPPFA Act, No.5 of 2000 as amended and its associated Regulations, 2017 issued by the National Treasury.



Joburg Market (SOC) Ltd

Heidelberg Road
City Deep
Johannesburg
2049

PO Box 86007
City Deep, Johannesburg
South Africa
2049
Tel +27(0) 11 992 8000
+27(0) 11 613 7381
E-mail: info@joburgmarket.co.za

www.joburgmarket.co.za
www.joburg.org.za

4. PRICING SCHEDULE FOR RODENT CONTROL SERVICES

Service Provider 1: Calculation Table for Pricing for Year 1

Description of Services	Locations/Comments	Unit	Qty Req'd.	Unit Price or Hourly Rate	Sub-total Amount	Frequency of Service	Total Price for 12 months
1. Install and maintain High Durability Tamper-Resistant Rodent Bait Station in outer areas and within buildings	High traffic areas (platforms 1-10, Mandela Market, Unity Market) Low traffic areas (main building, wellness, consignment office, workshop, Butchery, Market Cash & Carry, shops external), Market Cold Rooms, Ripening, Main Building Roof.	Number of units	800			Rental & Monthly (X 12)	
2. Replace damaged bait stations (<i>as-and when required basis</i>)	Mainly high traffic areas (platforms 1-10)	Number of units	30			Monthly (X 12)	
3. Install and Maintain Durable Tamper Proof Rodent Bait Boxes	DB Cabinets	Number of units	60			Supply & Monthly (X 12)	
4. Ad-Hoc services : Call-out for rodent investigation and follow-up treatment (<i>on an as-and-when required basis</i>)	All areas on the market	Hours	2			Monthly (X 12)	

5. On-line Pest System / Rodent Activity Trend Reports		Number of units	1			Monthly (X 12)	
7. HACCP & SHE File provision and updating	Submit files prior commencement of contract and monthly regular update as required	Number of units	1			Monthly (X 12)	
NB: *Cost of any other equipment used and all travelling costs must be included in the service price and not be billed separately						TOTAL PRICE FOR YEAR 1	

Pricing Table for 36 months (3 years) - Rodent Control Services

	Price	CPI Escalation %	Sub-Total	VAT	Total Price
Year 1		N/A			
Year 2		6.5%			
Year 3		6.5%			
				GRAND TOTAL FOR 3 YEARS	

SHE-OP-012-2022/2023: Appointment of a service provider/s to render rodent control and insect and weed control services to Joburg Market for a period of 36 months

**Service Provider 2: Insect and Weed Control services**

Criteria	Points allocated
Attach contactable references for the supply of Insect and Weed control services at warehouses, factories, manufacturing plants, commercial business complexes, university campus', airports and other terminals with high traffic volume and similar sites The references can be a list of contactable clients or letters from each client, and must contain the following information - Name of the organisation and contact person - Description of the services provided - Telephone number / email address	60
Site Personnel Experience & Pest Control Operator (PCO) Registration	40
Total points	100

Service Providers that qualified pre-evaluation in terms of the functionality cut-off points of **80 points** will then be evaluated further.

Attach contactable references for the supply of Insect and Weed control services at warehouses, factories, manufacturing plants, commercial business complex, university campus, airports and other terminals with high traffic volume and similar sites	Total points – 60 Points
Three (3) contactable references	60 points
Two (2) contactable references	40 points
No relevant experience / No submission	0 points
Site Personnel Experience & Pest Control Operator (PCO) Registration	Total points – 40 Points
Site Supervisor shall be a registered Pest Control Operator (PCO) and shall have at least 5 years relevant experience in rendering Insect and Weed control services at warehouses, factories, manufacturing plants, commercial business complexes, university campus', airports and other terminals with high traffic volume and similar sites - Copy of Pest Control Operator (PCO) registration certificate from Department of Agriculture, Forestry & Fisheries (DAFF) in the field of structural and fumigation pest control. - Curriculum Vitae/Resume indicating at least 5 years relevant experience	25 points
Site Technician shall be registered Pest Control Operators (PCOs) and shall have at least 3 years relevant experience in pest control Copy of Pest Control Operator (PCO) registration certificate from	15 points

Department of Agriculture, Forestry & Fisheries (DAFF) • Curriculum Vitae indicating at least 3 years relevant experience in pest control.	
TOTAL POINTS	100 POINTS

NB: Samples of insect light traps will be requested from qualifying bidders for evaluation of compliance to specifications for quality and durability of catch tray, bulb and insect glue board; ability to secure the unit and electric appliance safety.

Note: A bidder/s that scores less than **80 points** in respect of functionality, or submits solutions that are not according to requirements will be regarded as submitting a non-responsive bid and will be disqualified.

Bidder/s that meets the minimum required percentage or minimum points will be subject to price and preference points evaluation as per the PPPFA Act, No.5 of 2000 as amended and its associated Regulations, 2017 issued by the National Treasury.



Joburg Market (SOC) Ltd

Heidelberg Road
City Deep
Johannesburg
2049

PO Box 86007 Tel +27(0) 11 992 8000
City Deep, Johannesburg 27(0) 11 613 7381
South Africa E-mail: info@joburgmarket.co.za
2049

www.joburgmarket.co.za
www.joburg.org.za

PRICING SCHEDULE FOR INSECT & WEED CONTROL SERVICES

Service Provider 2: Calculation Table for Pricing for Year 1

Description of Services	Locations/Comments	Unit	Qty Reqd.	Unit Price or Hourly Rate	Sub-total Amount	Frequency of Service	Total Price for 12 months
1. 1 Insect Light Trap with Glue Board VIPER 30 or Equivalent. Install and maintain on monthly basis	1.1 All JM Staff Kitchens - located at Consignment Wellness, Ripening, Food Centre, 3 x Trading Hall Offices, Main Building, Consignment booths, Peoples Market	Number of units	52			Rental & Monthly (X 12)	
1. 2 Insect Light Trap with Glue Board VIPER 60 or Equivalent. Install and maintain on monthly basis	1.2 Trading halls (agents space) and Food Centre food handling areas	Number of units	30			Rental & Monthly (X 12)	
2. Redtop Disposable Fly Traps (or equivalent)	Skip Bin Waste Storage Areas, Consignment Control and surrounding	Number of units	30			Replace Monthly (X 12)	
3.1. Cockroach Treatment - Staff Mini-Kitchens	Food Handling Areas 17 Mini Kitchens – Main Building Office, Trading Hall Staff Office, Ripening, Cold Stores, etc.	Hours	4			Monthly (X 12)	

3.2 Cockroach Treatment – JM Staff Offices	Non-Food Handling Areas Main Building Offices + staff toilets (Ground floor + 6 floors) plus Trading Hall Offices; QA Offices, Lab, Wellness, Security Offices	Hours	4			Every two months (X 6)	
4. Fumigation of all Public Toilets for cockroaches and other crawling insects	22 Male/22 Female ablutions	Hours	4			Quarterly (X 4)	
5. Fumigation of Trading Halls for Spiders	Trading Halls (3)	Hours	4			Quarterly (X 4)	
6. Ant Treatment at Consignment Office	Consignment Control & surrounding	Hours	1			Quarterly (X 4)	
7. Biting Insect Treatment (Mosquitoes, etc.)	Consignment Control and surrounding	Hours	1			Quarterly (X 4)	
8. Herbicide Treatment (Weed Spot Treatment only)	Paved, tarred and concrete areas	Hours	6			Quarterly (X 4)	
9. Ad-hoc Services : Call-out for insect investigation and follow-up treatment (<i>on an as-and-when-required basis</i>)	All areas on the market	Hours	2			Monthly (X 12)	

10. HACCP & SHE File provision and updating	Submit files prior commencement of contract and monthly regular update as required	Number	1			Monthly (X 12)	
NB: *Cost of any other equipment used and all travelling costs must be included in the service price and not be billed separately						TOTAL PRICE FOR YEAR 1	

Pricing Table for 36 months (3 years) - Insect and Weed Control Services

	Price	CPI Escalation %	Sub-Total	VAT	Total Price
Year 1		N/A			
Year 2		6.5%			
Year 3		6.5%			
				GRAND TOTAL FOR 3 YEARS	



SPECIAL TENDER CONDITIONS

1. All bids must be submitted on the official forms and may not be re-typed, copied or scanned.
2. Bid documents must be completed in ink and corrections may not be made by means of a correcting fluid such as Tipp-Ex or a similar product. In the event of a mistake having been made it shall be crossed out in ink and be accompanied by a full signature at each and every alteration. The Joburg Market (SOC) LTD reserves the right to reject the Bid if corrections are not made in accordance with the above.
3. If items are not tendered for a line must be drawn through the space on the pricing schedule in pen.
4. **All bid prices must be in RSA currency and inclusive of VAT.** All prices and details must be legible / readable to ensure the bid will be considered for adjudication.
5. The lowest or any bid will not necessarily be accepted and Joburg Market reserves the right to accept the entire or any portion of a bid.
6. Bids are to remain valid for a period of hundred and twenty (120) days from the date they are lodged. This bid will remain valid until **6 June 2023**.
7. Tax clearance certificates, Master Registration Number or pin issued by SARS will be accepted.
8. The following information / documentation may be attached to every bid document as and when required:
 - **Submission of a compliant Good Standing TCC”, or a “Tender TCC or alternatively supply the unique pin number to access the Tax compliance status**
 - **Proof of applicable company registration documents with proof of shareholding**
 - **Completed and signed MBD 1, 4,6.1,8 and 9**
 - **BBBEE Verification Certificate or Sworn Affidavit;**
 - **Municipal Rates and Taxes account, not older than 3 months**
 - **In case of Joint Venture, Consortium, Trust, or Partnership a Consolidated Valid Tax Clearance Certificate and/or SARS issued pin code (which will be verified)**
 - **In case of Joint Venture, Consortium, Trust, or Partnership, a signed teaming agreement must be submitted.**
 - **In case of Joint Venture, Consortium, Trust, or Partnership a Consolidated B-BBEE certificate for all members is required.**
 - **In case of Joint Venture, Consortium, Trust, or Partnership a Consolidated Central Supplier Database Registration (CSD) is required.**
9. Any other relevant information related to this BID/PROPOSAL
10. Bids will be opened immediately after the closing date and time in a venue to be indicated. Any orders placed within the contract period, will be paid according to the price applicable at the date of order.
11. The supply chain management policy of Joburg Market allow persons aggrieved by decisions or actions taken by the Entity in the implementation of its Supply Chain Management system, to lodge within fourteen (14) days of the decision or action a written objection or complaint to the entity against the decision or action.
12. Bids will be received until **11H00 on 31/01/2023**, and must be enclosed in sealed envelopes, bearing the bid reference number and due date
13. Bidders should ensure that bids are delivered on time to the correct address. If the bid is late, it will be returned unopened to the bidder and will not be accepted for consideration
14. Bidders must note that Joburg Market may on request order more than what is stipulated in the Specification / pricing schedule