



**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
IT-OP-037-2022/2023	Request for proposals for the provision of a Central Trading System for the Joburg Market and including a maintenance plan for a period of 36 months	80/20 - 80 points for price and 20 points for Specific Goals	<b>20/07/2023</b> at 11H00 at the ground floor boardroom	<b>25/08/2023</b> at 11H00

The bid document can be downloaded for **free** on the National Treasury website at [www.etenders.gov.za](http://www.etenders.gov.za) or the Joburg Market website [www.joburgmarket.co.za](http://www.joburgmarket.co.za)

Sealed documents individually marked with the abovementioned RFP 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](mailto: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 2022, MFMA, Act 56 of 2003, as well as the Broad Based Black Economic Empowerment Act, Act 53 of 2003 and/or the White Paper on Reconstruction and Development, Notice No. 1954 of 1994.



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](mailto: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 the bid may be rejected due to non-compliance or being invalid.
7. Failure to complete and return forms the bid may be rejected due to non-compliance or being invalid.
8. Failure to attend the compulsory briefing session (if applicable to the bid ) 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. 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 subcontractor 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.

**THE BID MAY BE REJECTED**

- 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 or a B-BBEE Certificate generated through the Department of Trade, Industry and Competition.

**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																										
<b>2 NB</b>	<b>Completed and signed MBD 1,4,5,6.1,7.2,8, 9, Failure to fully complete all sections may lead to a disqualification of the bid.</b>																										
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 B-BBEE certificate (where applicable)																										
7	Initial / sign for all alterations in the tender document																										
8	Registration with CIDB (where applicable)																										
9	<p><b><u>SPECIFIC GOALS AND MEANS OF VERIFICATION</u></b></p> <p><b>The table below serves as a guide on the allocation and verification of specific points under goal 1:</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"><b>SPECIFIC GOAL 1: HDI</b></th> <th style="text-align: left;"><b>MEANS OF VERIFICATION</b></th> <th style="text-align: center;"><b>80/20</b></th> <th style="text-align: center;"><b>90/10</b></th> </tr> </thead> <tbody> <tr> <td>Business owned by 51% or more by <b>Black People</b></td> <td>CSD, Valid B-BBEE Certificate/Affidavit Sworn under oath, ID copy of owner/s of the business and Shareholder's certificate</td> <td style="text-align: center;">10</td> <td style="text-align: center;">5</td> </tr> <tr> <td>Business owned by 51% or more by <b>Women</b></td> <td>CSD, ID copy of owner/s of the business and Shareholder's certificate</td> <td style="text-align: center;">5</td> <td style="text-align: center;">2</td> </tr> <tr> <td>Business owned by 51% or more by <b>Black Youth</b></td> <td>CSD, Valid B-BBEE Certificate/Affidavit Sworn under oath, ID copy of owner/s of the business and Shareholder's certificate</td> <td style="text-align: center;">10</td> <td style="text-align: center;">3</td> </tr> <tr> <td>Business owned by 51% or more by <b>Black People with Disabilities</b></td> <td>CSD, ID copy of owner/s of the business and Shareholder's certificate</td> <td style="text-align: center;">2</td> <td style="text-align: center;">1</td> </tr> <tr> <td>Business owned by 51% or more by <b>Black People who are Military</b></td> <td>CSD, registration with military veteran's database (stamped printout from military veterans'</td> <td style="text-align: center;">5</td> <td style="text-align: center;">1</td> </tr> </tbody> </table>	<b>SPECIFIC GOAL 1: HDI</b>	<b>MEANS OF VERIFICATION</b>	<b>80/20</b>	<b>90/10</b>	Business owned by 51% or more by <b>Black People</b>	CSD, Valid B-BBEE Certificate/Affidavit Sworn under oath, ID copy of owner/s of the business and Shareholder's certificate	10	5	Business owned by 51% or more by <b>Women</b>	CSD, ID copy of owner/s of the business and Shareholder's certificate	5	2	Business owned by 51% or more by <b>Black Youth</b>	CSD, Valid B-BBEE Certificate/Affidavit Sworn under oath, ID copy of owner/s of the business and Shareholder's certificate	10	3	Business owned by 51% or more by <b>Black People with Disabilities</b>	CSD, ID copy of owner/s of the business and Shareholder's certificate	2	1	Business owned by 51% or more by <b>Black People who are Military</b>	CSD, registration with military veteran's database (stamped printout from military veterans'	5	1		
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<b>Veterans</b>	office showing the principal member with the ID number, and Valid B-BBEE Certificate/ Affidavit Sworn under oath		
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**The table below serves as a guide on the allocation and verification of specific points under goal 2:**

<b>SPECIFIC GOAL 2: PROMOTION OF LOCAL ECONOMY</b>	<b>MEANS OF VERIFICATION</b>	<b>80/20</b>	<b>90/10</b>
SMMEs (An EME or QSE)	CSD, and B-BBEE Certificate/ Affidavit Sworn under oath	5	1
Enterprises located within the City of Johannesburg Metropolitan Municipality	CSD and proof of municipal account	10	5
Enterprises located in a specific region within the City of Johannesburg Metropolitan Municipality for work to be done or services to be rendered in that region	CSD and proof of municipal account /letter from the Ward Council confirming the business address	5	5
Enterprises located in Townships	CSD and proof of municipal account /letter from the Ward Council confirming the business address	4	1
Upliftment of communities through, but not limited to, housing, transport, schools, infrastructure donations, and charity organisations	CSIR Policy, list of organisations assisted in the current financial year and reference/acceptance letters from those organisations	4	3
Subcontracting to business owned by designated groups (up to 30%)	Draft subcontracting agreement to the designated groups, and Valid B-BBEE Certificate/ Sworn Affidavit of the subcontracted business	5	5

## PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE JOBURG MARKET					
<b>BID NUMBER:</b>	IT-OP-037-2022/2023	<b>CLOSING DATE:</b>	25 August 2023	<b>CLOSING TIME:</b>	11H00
<b>DESCRIPTION</b>	Request for proposals for the provision of a central trading system for the Joburg Market and including a maintenance plan for a period of 36 months				
<b>COMPULSORY BRIEFING SESSION</b>	<b>20/07/2023 at 11H00</b> At the ground floor boardroom PLEASE REPORT TO THE AREA ON TIME.				
<b>THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (MBD 7).</b>					

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

**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					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
TAX COMPLIANCE STATUS	TCS PIN:		<b>OR</b>	CSD No:	

**IT-OP-037-2022/2023:** Request for proposals for the provision of a Central Trading System for the Joburg Market and including a maintenance plan for a period of 36 months



ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER PART B:3 ]
<b>TOTAL NUMBER OF ITEMS OFFERED</b>		<b>TOTAL BID PRICE</b>	<b>Pricing proposal to be submitted separately</b>
<b>SIGNATURE OF BIDDER</b>	.....	<b>DATE</b>	
<b>CAPACITY UNDER WHICH THIS BID IS SIGNED</b>			
<b>BIDDING PROCEDURE AND TECHNICAL INFORMATION ENQUIRIES MAY BE DIRECTED TO:</b>			
DEPARTMENT	<b>SUPPLY CHAIN MANAGEMENT</b>		
CONTACT PERSON	<b>tenders@joburgmarket.co.za</b>		

**All enquiries must be send 48 hours before the closing date - week days**

**PART B**  
**TERMS AND CONDITIONS FOR BIDDING**

<b>1. BID SUBMISSION:</b>
<p>1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.</p> <p>1.2. <b>ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR ONLINE</b></p> <p>1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.</p>
<b>2. TAX COMPLIANCE REQUIREMENTS</b>
<p>2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.</p> <p>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.</p> <p>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.</p> <p>2.4 FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART B:3.</p> <p>2.5 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.</p> <p>2.6 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.</p> <p>2.7 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.</p>
<b>3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>
<p>3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? <span style="float: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</span></p> <p>3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA? <span style="float: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</span></p> <p>3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? <span style="float: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</span></p> <p>3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? <span style="float: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</span></p> <p>3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? <span style="float: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</span></p> <p><b>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.</b></p>

**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 state<sup>1</sup>.
2. Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to persons in service of the state, it is required that the bidder or their authorised representative declare their position in relation to the evaluating/adjudicating authority.
3. In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

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

3.2. Identity Number: .....

3.3. Position occupied in the Company (director, trustee, shareholder<sup>2</sup>):.....

3.4. Company Registration Number: .....

3.5. Tax Reference Number:.....

3.6. VAT Registration Number: .....

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

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

YES	NO
-----	----

3.8.1. If yes, furnish particulars. ....

<sup>1</sup>MSCM Regulations: “in the service of the state” means to be –

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

(f) an employee of Parliament or a provincial legislature.

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

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

YES	NO
-----	----

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

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

YES	NO
-----	----

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

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

YES	NO
-----	----

3.11.1. If yes, furnish particulars ....

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

YES	NO
-----	----

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

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

YES	NO
-----	----

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

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

YES	NO
-----	----

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

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

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

.....  
**Signature**

.....  
**Date**

.....  
**Capacity**

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

**DECLARATION FOR PROCUREMENT ABOVE R10 MILLION (VAT INCLUDED)**

For all procurement expected to exceed R10 million (VAT included), bidders must complete the following questionnaire:

1 Are you by law required to prepare annual financial statements for auditing? 

YES	NO
-----	----

1.1 If yes, submit audited annual financial statements for the past three years or since the date of establishment if established during the past three years.

.....  
.....

2 Do you have any outstanding undisputed commitments for municipal services towards a municipality or any other service provider in respect of which payment is overdue for more than 30 days? 

YES	NO
-----	----

2.1 If no, this serves to certify that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days.

2.2 If yes, provide particulars.  
.....  
.....

3 Has any contract been awarded to you by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract? 

YES	NO
-----	----

3.1 If yes, furnish particulars  
.....  
.....

4. Will any portion of goods or services be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality / municipal entity is expected to be transferred out of the Republic?

YES	NO
-----	----

4.1 If yes, furnish particulars

.....  
.....

**CERTIFICATION**

**I, THE UNDERSIGNED (NAME)** .....

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

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

.....  
**Signature**

.....  
**Date**

.....  
**Position**

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

## 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. \_\_\_\_\_



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

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

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

**1. GENERAL CONDITIONS**

- 1.1 The following preference point systems are applicable to invitations to tender:
  - the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
  - the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).
- 1.2 The applicable preference point system for this tender is the 80/20 preference point system.
- 1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:
  - (a) Price; and
  - (b) Specific Goals.
- 1.4 The maximum points for this tender are allocated as follows:

	<b>POINTS</b>
<b>PRICE</b>	80
<b>SPECIFIC GOALS</b>	20
<b>Total points for Price and SPECIFIC GOALS</b>	<b>100</b>

- 1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.
- 1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

## 2. DEFINITIONS

- (a) **“tender”** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- (b) **“price”** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (c) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (d) **“tender for income-generating contracts”** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
- (e) **“the Act”** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

## 3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

### 3.1. POINTS AWARDED FOR PRICE

#### 3.1.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

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

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

Where

$P_s$  = Points scored for price of tender under consideration

$P_t$  = Price of tender under consideration

$P_{min}$  = Price of lowest acceptable tender

### 3.2. FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT

#### 3.2.1. POINTS AWARDED FOR PRICE

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

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmax = Price of highest acceptable tender

#### **4. POINTS AWARDED FOR SPECIFIC GOALS**

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

4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—

(a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or

(b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,

then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

**Table 1: Specific goals for the tender and points claimed are indicated per the table below.**

**Note to tenderers: The tenderer must indicate how they claim points for each preference point system.)**

The specific goals allocated points in terms of this tender	Means of verification	Number of points allocated (80/20 system as)	Number of points claimed (80/20 system) (To be completed by the tenderer )
Business Owned by 51% or more – <b>Black People</b>	CSD, Valid B-BBEE Certificate/Affidavit Sworn under oath, ID copy of owner/s of the business and Shareholder’s certificate	5	
Business Owned by 51% or more – <b>Women</b>	CSD, ID copy of owner/s of the business and Shareholder’s certificate	5	
Upliftment of communities through but not limited to housing, transport, schools, infrastructure donations and charity organisations	CSIR Policy, list of organisations assisted in the current financial year and reference/acceptance letters from those organisations	4	
Enterprise located within the City of Johannesburg Metropolitan Municipality	CSD and proof of municipal account	6	

**DECLARATION WITH REGARD TO COMPANY/FIRM**

4.3. Name of company/firm.....

4.4. Company registration number: .....

4.5. TYPE OF COMPANY/ FIRM

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

- Non-Profit Company
  - State Owned Company
- [TICK APPLICABLE BOX]

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

- 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 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
  - (a) disqualify the person from the tendering process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person’s conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
  - (e) forward the matter for criminal prosecution, if deemed necessary.

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

CONTRACT FORM - RENDERING OF SERVICES

THIS FORM MUST BE FILLED IN DUPLICATE BY BOTH THE SERVICE PROVIDER (PART 1) AND THE PURCHASER (PART 2). BOTH FORMS MUST BE SIGNED IN THE ORIGINAL SO THAT THE SERVICE PROVIDER AND THE PURCHASER WOULD BE IN POSSESSION OF ORIGINALLY SIGNED CONTRACTS FOR THEIR RESPECTIVE RECORDS.

PART 1 (TO BE FILLED IN BY THE SERVICE PROVIDER)

- 1. I hereby undertake to render services described in the attached bidding documents to (name of the institution)..... in accordance with the requirements and task directives / proposals specifications stipulated in Bid Number..... at the price/s quoted. My offer/s remains binding upon me and open for acceptance by the Purchaser during the validity period indicated and calculated from the closing date of the bid.
- 2. The following documents shall be deemed to form and be read and construed as part of this agreement:
  - (i) Bidding documents, viz
    - Invitation to bid;
    - Proof of tax compliance status;
    - Pricing schedule(s);
    - Filled in task directive/proposal;
    - Preference claim form for Preferential Procurement in terms of the Preferential Procurement Regulations;
    - Declaration of interest;
    - Declaration of Bidder's past SCM practices;
    - Certificate of Independent Bid Determination;
    - Special Conditions of Contract;
  - (ii) General Conditions of Contract; and
  - (iii) Other (specify)
- 3. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the services specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
- 4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfillment of this contract.
- 5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
- 6. I confirm that I am duly authorised to sign this contract.

NAME (PRINT) .....

CAPACITY .....

SIGNATURE .....

NAME OF FIRM .....

DATE .....

WITNESSES	
1	.....
2	.....
DATE:.....	

CONTRACT FORM - RENDERING OF SERVICES

PART 2 (TO BE FILLED IN BY THE PURCHASER)

- 1. I..... in my capacity as..... accept your bid under reference number **IT-OP-037-2022/2023**: dated.....for the rendering of services indicated hereunder and/or further specified in the annexure(s).
- 2. An official order indicating service delivery instructions is forthcoming.
- 3. I undertake to make payment for the services rendered in accordance with the terms and conditions of the contract, within 30 (thirty) days after receipt of an invoice.

DESCRIPTION OF SERVICE	PRICE (ALL APPLICABLE TAXES INCLUDED)	COMPLETION DATE	TOTAL PREFERENCE POINTS CLAIMED	POINTS CLAIMED FOR EACH SPECIFIC GOAL

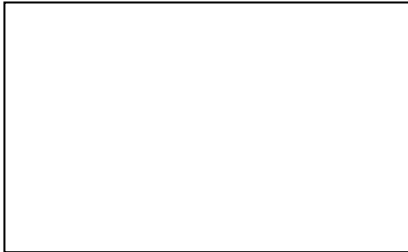
4. I confirm that I am duly authorised to sign this contract.

SIGNED AT ..... ON .....

NAME (PRINT) .....

SIGNATURE .....

OFFICIAL STAMP



**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	<ul style="list-style-type: none"> <li>• 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?</li> </ul> <hr/> <ul style="list-style-type: none"> <li>• (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). <b>The Database of Restricted Suppliers now resides on the National Treasury’s website(<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) and can be accessed by clicking on its link at the bottom of the home page.</b></li> </ul>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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)? <b>The Register for Tender Defaulters can be accessed on the National Treasury’s website(<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) by clicking on its link at the bottom of the home page.</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>



4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
<b>Item</b>	<b>Question</b>	<b>Yes</b>	<b>No</b>
4.4	Does the bidder or any of its directors owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		
4.5	Was any contract between the bidder and the municipality / municipal entity or any other organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.5.1	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 bids<sup>1</sup> 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).<sup>2</sup> 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:

**<sup>1</sup> Includes price quotations, advertised competitive bids, limited bids and proposals.**

**<sup>2</sup> 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 consortium<sup>3</sup> 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.

**<sup>3</sup> 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

## **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.

<p><b>Name:</b> _____</p> <p><b>Signature:</b> _____</p>	<p><b>Date:</b></p>
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## GENERAL CONDITIONS OF CONTRACT

### LEGISLATIVE FRAMEWORK.....

1. Principal Framework .....
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- Organ of State .....
- Municipal Finance Management Act .....
- Consumer Protection .....
- Tender Defaulters .....
- Corrupt Activities.....

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3. Definitions.....

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5. Good Faith and Commitment to Ethical Conduct .....
6. Commencement, Duration and Renewal .....
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- Incidental Product / Services .....
8. Product Guarantee .....
9. Contractor Personnel.....
- Personnel Schedule.....
10. Payment and Pricing.....
- Increases.....
- Taxes and Duties.....
- Withholding and Set-Off.....
11. Performance Security .....
12. Performance Review and Contractual Penalties .....
13. Inspections, Tests and Analyses.....
14. Limited Exclusivity .....
15. Intellectual and Property Rights .....
16. Confidentiality, Non-Disclosure and Use of Contract Documents.....
17. Restraint .....
18. Cession and Assignment .....
19. National Industrial Participation (NIP) Programme .....
20. Indemnity and Insurance.....
21. Impossibility of Performance .....
22. Breach and Early Termination.....
23. Dispute Resolution.....



	Mediation.....
	Prescription.....
	Arbitrator.....
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24.	Notices and <i>Domicilia</i> .....
25.	Counterparts.....
26.	Legal Advice and Costs .....
27.	General.....

## 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 un-incorporate) 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, 3<sup>rd</sup> 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 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 or 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, lightning 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**

## **SECTION 1: BID SPECIFICATIONS/TERMS OF REFERENCE**

### **1. BACKGROUND**

The Joburg Market is a commission market in the fresh produce industry in South Africa. It is the largest of its kind on the African Continent.

The Joburg Market uses a bespoke IT system to control stock, cash handling, sales transactions and Producer Payments.

Turnover of fresh produce sold is in excess of R10 Billion, and 1, 4 Million tons over the last 12 months. This equates to an average of R100 000 sales value per minute during peak trading hours.

The Joburg Market wishes to request for proposals on alternative solution to the existing system and explore what is available in the market place.

The objective is to source an online, real-time, electronic system for the fresh produce market trading that is available 24/7 to users.

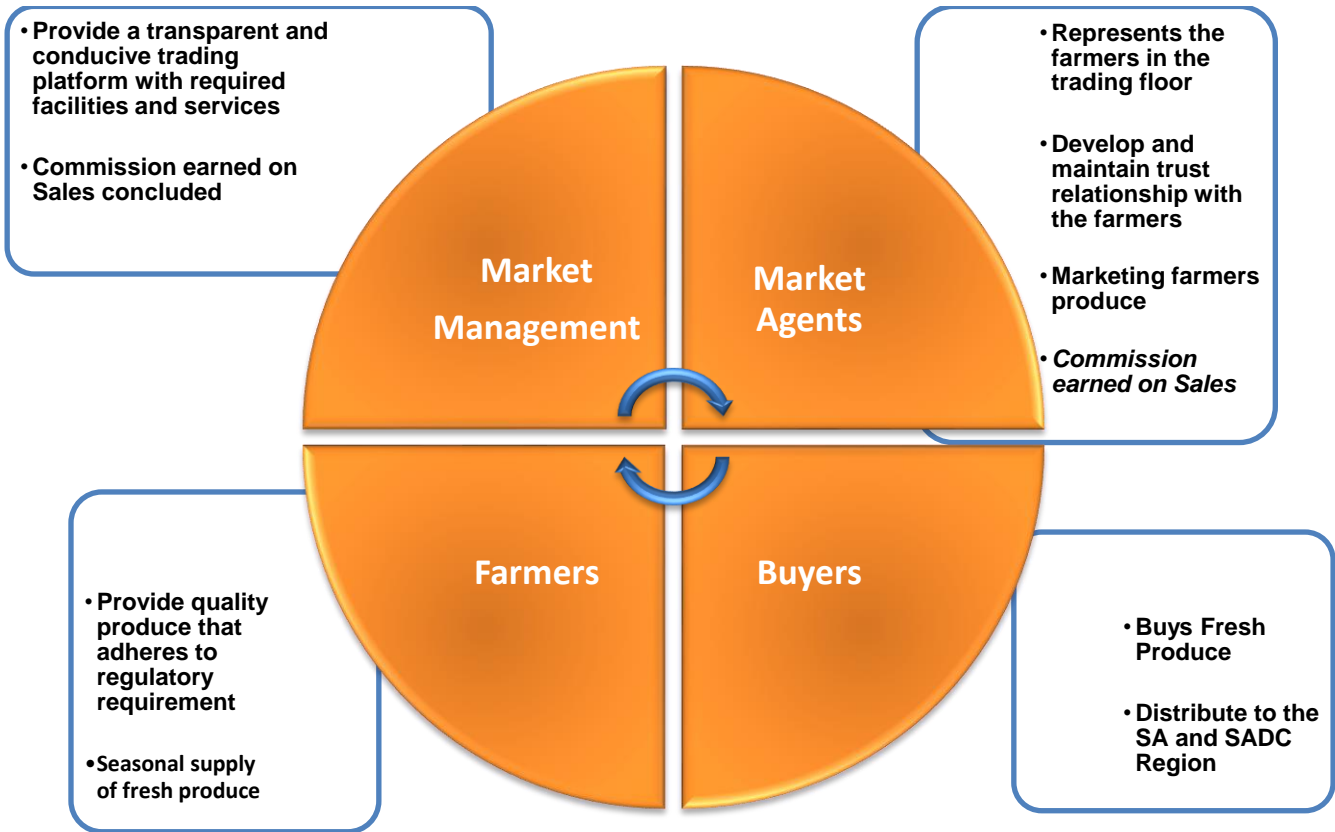
### **2. BUSINESS MODEL**

The Joburg Market is a commission market (Commission Business Model) that is open to all the producers in the country and abroad.

- The central trading system serves as a key price barometer for fresh Produce Industry in South Africa;
- The price of produce sold is determined by free market forces of demand and supply, through negotiations on the floor between the sales agent and buyers.
- The Market receives a fixed commission for managing and maintaining a competitive marketing system and infrastructure;
- The Market Agents receives commission on the gross value of products sold on behalf of the Producer;
- All trading transactions are conducted on a central Sales Processing System which controls all Stock Control and all Sales Transactions, cash handling and Producer Payments.
- Producers are paid daily via Market Agents.

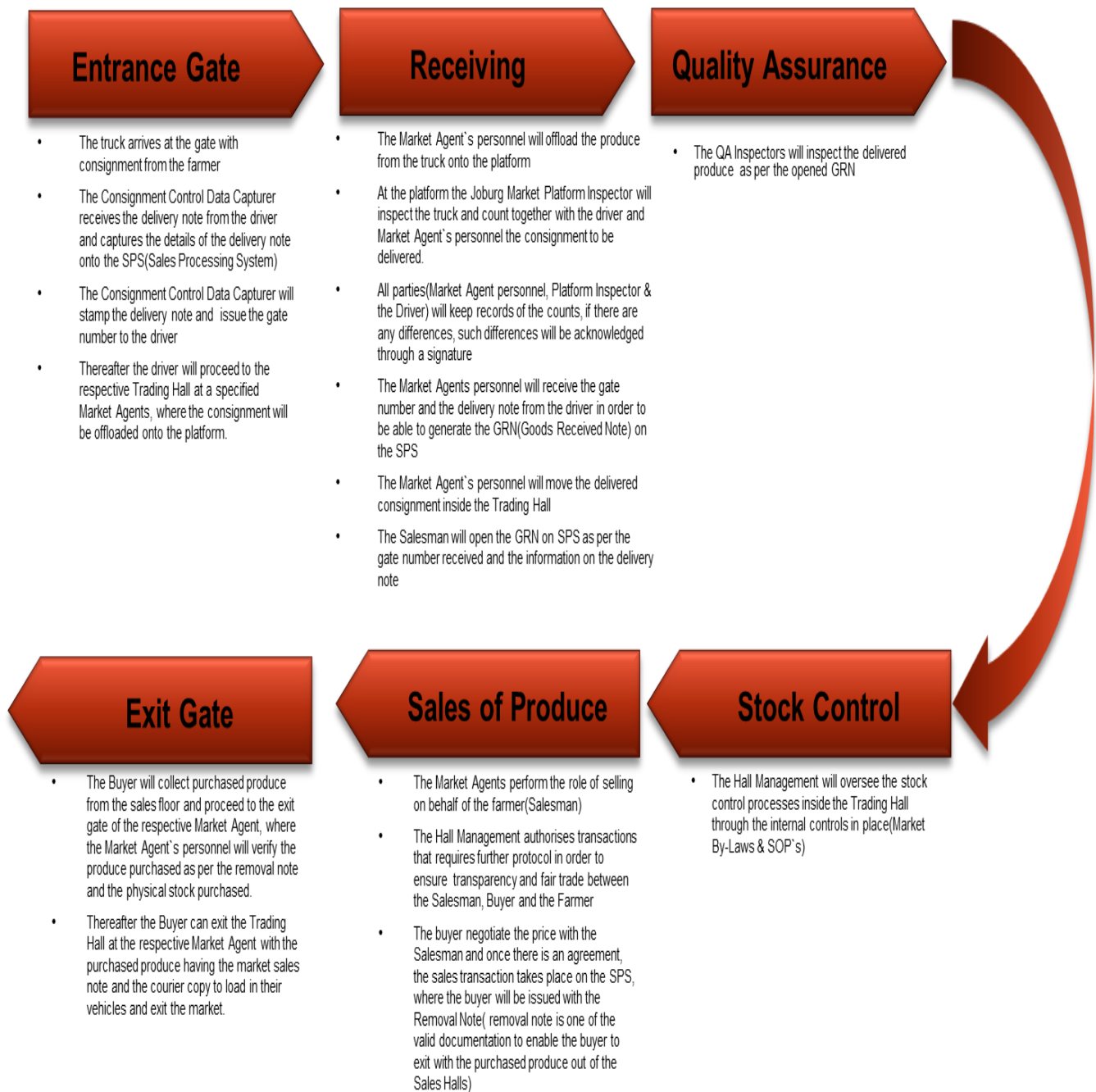
- A commission produce market in South Africa is regulated by various pieces of legislation, mainly, Agriculture Produce Agent Council Act (Act 12 of 1992) and Local Municipal by-laws. The role-players consist of Producers, Agents Representing the Producer, The Market Authority, Buyers of produce and produce associations.
- Produce is sent to the market by producers on a consignment basis. The market receives the produce and is then sold by Market Agents to Buyers. The produce remains the property of the Producer and ownership only changes when it is sold. The price paid by the Buyer is negotiated and every sales transaction can have a different price structure. Price or value of the produce is only determined at the end of the process and is unique to every transaction.
- All Agents trade on a central trading system. All moneys are received centrally and distributed at the end of every sales day per market agent.
- A commission market receives a commission on every sale concluded.
- Stock is controlled from entrance gate to exit gate.
- New Producers are registered at the gate as they arrive in order not to delay perishables to the sales floor. Volumes of supply is not prescribed or controlled by the Market Authority.

### 3. ROLE-PLAYERS



All trading transaction are conducted on a Centralized Trading System

### 4. ENTRANCE GATE TO EXIT GATE PROCESS



## 5. GENERAL BACKGROUND TO TRADING SYSTEM REQUIREMENTS

User Count: Currently 650

Producers registered: 48 488

Buyers Registered: 124 798

### 5.1. **Transaction Counts**

Sales: An average of 23 635 transactions per trading day

Stock movements: An average of 4 755 transactions per day

No of GRNs received: An average of 2500 -3000 consignments received per day dependent on seasonality

Cashier transactions: An average of 3 941 per day

No of GRNs for sale: An average of 5000 - 6000 per day dependent on seasonality

At all times, as much data as is pertinent is captured at transaction level in order to speed up end of day system activities and producer payments.

Cash handling, stock control and movements, sales control and producer payments are to be integrated into one system.

### 5.2. **Disaster Recovery**

The Joburg Market requires 2 identical systems deployed on-site with database replication. The second system is to act as a “warm standby” for the “live system”

Failovers testing between systems is to be performed quarterly and results made available to the Joburg Market.

The Joburg Market has to have the ability to perform system failovers themselves in emergency situations.

The standby system is to be partitioned so that a development environment is created for testing of system changes and training purposes.

### 5.3. **Access**

The Joburg market does not allow access to its trading environment from outside the Joburg Market (agents, buyers and farmers).

User access is controlled by roles and responsibilities corresponding to a secure access card assigned to a user.

Users can only access devices assigned to them on the trading floor. These devices are Windows based desktop PCs and Point of Sales printers that are provided and controlled by the Joburg Market. Agents add own printers to devices.

#### 5.3.1. **Current Server Hardware**

The current system runs on 2 x Oracle Miniclusters.

Programming language is Oracle Forms

Database is Oracle 12C+



Database size currently is 730 026 MB

Data-Warehouse size for BI 141 594 MB

The capacity of the hardware is not limited to the existing, the SP can always propose different capacity level depending on the solution being deployed.

### 5.3.2. Business Processes

Producer delivery

A Producer sends produce to the market. The produce is to be classified according to the following attributes:

- Product e.g. Tomato
- Variety e.g. Romanito
- Class e.g. Class 1
- Size e.g. Medium
- Count e.g. 100
- Colour e.g. Champagne
- Packaging e.g. Box / punnet/ Bag
- Weight e.g. 7KG

The delivery is recognized on the system by the Market Authority by entering Delivery Note details and produce is delivered to a receiving Agent who receives the produce via a GRN process in order to be able to sell. At this point the produce delivered is verified in terms of product attributes and count delivered.

Every delivery has a unique GRN against which stock is controlled. No extra delivery can be added to the GRN. Every delivery has a unique GRN.

### 5.4. Market Agents

Market Agents take responsibility for stock once delivered and GRN process completed. The stock can be sent to different locations:

- Cold Stores (3 different types)
- Ripening facilities
- Re-Packaging
- Returned to Farmer
- Quarantine / Sorting
- Destroyed

- Sales Floor – available for sale.

If produce is partially spoiled it is sent to re-packaging, where produce is sorted according to fitness for sale. Spoiled produce is sent for destruction against the original GRN.

All stock is received into the Sales Floor Location or Ripening Facilities and transferred to another location if necessary.

All stock movements between locations are recorded and follow a logistical process defined in the system e.g. movement from a cold store to sales floor will have the following transactions:

- Request to Deposit / Withdraw
- Withdrawal – stock moves into “Transit”
- Deposit to sales floor – stock moves from “Transit” to Agent Sales Location.

## 5.5. Produce Sales

Produce on the Sales Floor is sold to Buyers via a cashless card system. Money is received centrally in the form of cash or EFT transfer and loaded onto the Buyer card.

All sales transactions have 4 role players defined at all times:

- Market
- Agent
- Producer
- Buyer

At time of transaction, real time account balance adjustment and stock adjustment is effected

Where applicable levies are calculated at point of sale for producer organisations.

The system should allow for charges to be recorded at transactional level to enable reporting to various stakeholders.

Ownership only changes after a sale has been concluded.

The Market authority can place limitations on sale transactions that vary too far away from the market average price for the day. This is to be set on the trading system. This must be possible for every product on commodity level. Should a price be too far away from the weighted average pricing, the system must not allow the sale without a market inspector who will either not allow the transaction, or alternatively will approve the transaction with the reason for price variation recorded on the system.

## 6. THE DIFFERENT TYPES OF SALES TRANSACTIONS ARE:

- **Cash Sale**

A sale linked to the amount of cash loaded onto the Buyer card.

- **Proxy Sale**

A sale where an Agent buys on behalf of a Buyer, this transaction is validated to a contract embedded in the system between Agent & Buyer. The Agent then prints a “proxy” invoice from the system to the buyer.

- **Overdraft Sale**

A sale linked to a contract with the producer who is the owner of the produce and the only body that can extend credit to a buyer. The contract is recorded in the system in order to validate the sale. Settlement for this transaction is validated to a contract embedded in the system. The system will automatically (Auto Recover) the debt within 48 hours from the Buyer account. If the debt can't be settled from the buyer, the debt is automatically settled against the Agency.

- **Return from Buyer (Sales Cancellation)**

A buyer can return produce if the Agent agrees to it. This can only happen if the transaction value has not been paid to the Producer.

- **Salvage Sale**

A sale used by Market Agents, at their discretion, to compensate Producers should the produce be destroyed. This can only be done against produce destroyed.

- **Reservation Sale**

A transaction where a Buyer requests that certain produce is reserved for him. A reservation sale carries a validity period of 24 hours and is automatically cancelled on expiry, placing the produce available for normal sales.

- **Shortage Sale**

A sale where stock verification has established stock shortages, the transaction occurs at the weighted average price for the specific GRN, or alternatively at the market average price for the commodity should a GRN average not be available.

At point of sale a separate transactions are recorded for containers that carry value such as pallets, bins, crates, cages etc.

The system must be able to integrate to CHEP or similar systems for Agencies that are CHEP partners.

The system needs to cater for a central return location for CHEP containers.

With all sales, removal notes, sales slips, pallet deposit slips are printed, except removal notes are not printed for Reservation and Salvage sales.

At transaction level the particular trading day of the transaction is to be recorded.

At transaction level all pertinent data for the financial system interface is to be recorded. The financial system used by the Joburg Market is JDEdwards.

On certain products VAT is applicable and must be charged at point of sale.

## **7. QUALITY ASSURANCE**

The Joburg Market has a Quality Assurance team active on the sales floor with a residue testing laboratory on site. The QA team has the authority to perform the following:

- Condemn the product and order it be destroyed.
- Place product in Quarantine before destroying or awaiting test outcomes
- Re-classify or downgrade the class of product. If this happens a new GRN is generated.
- Remove samples for laboratory testing.
- Record test results performed.

All of the above are to be transacted on the Sales System.

## **8. SYSTEM REPORTS REQUIRED**

- Daily Buyer Balances
- Claimed Sundry Deductions
- Claimed Transport Deductions
- Claimed Transport Deductions by Transporter
- Deductions Listing
- Detail Commission Report
- Outstanding Loans
- Payment Batch Details
- Payment Listing Details

- Payment Listing Details by Producer
- Rollup Process - Proposed Payment Schedule
- Sales and Deductions for Selected Period
- Salesman Commission Report
- Totals for General Ledger
- Trust Breakdown
- Unclaimed Sundry Deductions
- Unclaimed Transport Deductions
- Cold Store Charges
- Daily Cold Store Charges per Cold Store
- Cold Store Deposits
- Cold Stores Stock Take Report
- Stock in Transit
- Account Payments (Sundry)
- Agent Cold Store Charges
- Agent Performance per Commodity
- Salesman Turnover per Producer/Product
- Agent Statement Sales
- Agent-Producer Agreements
- APAC Producer Overdraft Sales Summary
- APAC Proxy Summary
- Buyer Daily Summary
- Buyer Movement <Amount>
- Buyer Statement
- Buyer Statement - GRN
- Buyers History
- Buyers Turnover Direct
- Card Re-issue Expense
- Cash Balancing Details
- Cash Fee Report
- Cash Over/Under
- Cashier Balancing Comparison
- Cashier Daily Bank Summary
- Cashier Daily Transaction Summary
- Cashier Monthly Transaction Summary
- Cashier Notes

- Cashier Over/Under Monthly Summary
- Cashier Sundry Payments
- Cashier Transaction Listing
- Cashier Transaction Summary
- Cashier Tray
- Cashier Turnaround Time Average Matrix
- Cashier Turnaround Time Average per Day
- Cashier Turnaround Time Average per Year, Day
- Cashier Turnaround Time between Transactions
- Pallet CHEP In/Out
- CHEP Producer deliveries with no CHEP pallets
- Cheque Payment Report
- Cold Store Charges - Accounts
- Cold Store Charges Agent Only
- Cold Store Charges per Agent
- Commission Report
- Commodities per Commodity Class
- Commodity Classes per Production Area
- Comparative Statistics - Weekly
- Stock Take Consignment Report
- Labels - Container
- Daily Delivery Note Exceptions
- Daily Guarantee Buyer Audit Trail
- Daily Levies
- Daily Market Averages - Value Sold and Tonnage
- Daily MSN Transfer Listing
- Daily Reservations
- Daily Sales Listing
- Day End Deposit Records Interfaced to JD Edwards
- Day End Electronic Funds Records Interfaced to JD Edwards
- Delivery Note Modifications
- Delivery Notes with No Associated GRNs <Delivery Type>
- Delivery Notes with No Associated GRNs All Deliveries
- Destroyals>Returns/Downgrades
- Direct Commission Transactions
- Direct Delivery Booking Confirmation
- Direct Delivery Listing
- Duplicate Delivery
- Entity List
- Events Listing
- Finance: Bad Debts to Write Off
- Finance: Registered Buyer Daily Summary

- Floor Balance
- Floor Storage Charges
- Floor Storage Charges - History
- Floor Storage Charges per Agent
- Floor Storage Charges per Agent and Producer
- Goods Received Note Listing
- Goods Received Note Temperature Checks
- Goods Received Notes Opened in Incorrect Location
- GRN History Report
- GRN Modifications
- GRN Enquiry
- Guarantee Buyer Age Analysis
- Guarantee Buyer Interest
- Income Tax Return (IT3)
- Inspector Event Details
- Inspector Summary Events
- JDE Interface Control
- JDE Interface Detail
- JDE Interface Summary
- Last Logon Report
- Last User Activity
- Levy Board Statement
- Logon Details
- Lost Card Transactions
- MSN Cancellations Report
- Market Sales Note Reference Listing
- Mass of Produce Destroyed and Returned
- Mass of Produce Downgraded
- Monthly Levies
- Monthly List of Cancelled GRNs
- Monthly Market Averages - Value Sold and Tonnage
- Outstanding Late Sales
- Outstanding Pallet Deposits
- Overdraft Sales <trading location> <delivery type>
- Overdraft Sales by Day
- Pallet Buyer Transaction Summary
- Pallet Deposits and Refunds
- Pallet Deposits due to Buyers
- Pallet Fees
- Labels - Pallet Market (A4)
- Pallet Rental
- Pallet Transaction Detail

- Pallet Transaction Summary
- Pallets Received
- Payment Details for period <from> and
- Permanent Buyers - Monthly Performance
- Potatoes to Sell: Age Analysis per Agent
- PPS Account Sales <detail>
- PPS Account Sales <summary>
- PPS Account Sales E-mail
- PPS Cold Store Charges
- PPS: Bank Payment Details Listing
- PPS: Financial File Dump
- PPS: Producer Cold Store Recoveries
- PPS: Producer Floor Storage Recoveries
- Price Variances
- Producer Changes/New Records
- Producer Cold Store Charges
- Producer Daily
- Producer Daily Sales Report
- GRN Summary Producer
- Producer Listing
- Producer Registration Form
- Producer Statement <from> and
- Producer Statement E-mailed Log
- Producer VAT on Sales Summary
- Producers Outstanding GRN Listing
- Product Combination List
- Product Comparison - Year/Week
- Products Available Details
- Proxy Invoice
- Proxy Sales
- Quality Assurance for Buyers
- Quality Assurance Report
- Quality Assurance Summary
- Quantity of Stock Rejected per Agent
- Queue Summary
- Queue Transactions
- Reservation Cancellations
- Sales Agreements
- Sales per Area
- Salesman Daily Summary for <agent>
- Salesman Producer Management Report for <date>
- Salvage Sales



- Shortage Sales
- Smart Card Deposits and Refunds
- Statistics of Buyers and Sales
- Stock Age
- Stock Track Report
- Summary of Guarantee Buyers Statements
- Sundry Deductions <Before><After> Export
- Tax Invoice
- Totals for General Ledger for period <from> and <to>
- Tracked Report Runs
- Trading Entity to Account Creation Time Lapse
- Transport Deductions <Before><After> Export
- Unpaid PPS
- User Roles
- Value of Stock per Agent and Commodity
- Weekly Market Averages - Value Sold and Tonnage
- Weekly Sales per Area

All reports will only report pertinent data to report requestors through their sign on credentials defined in the system roles and responsibilities and certain reports will have restrictions as to who can run them.

End users are able to run reports to different formats and in certain cases instruct the sales system to e-mail reports.

## **9. HISTORICAL DATA**

Historical data is available down to transaction level. Any new system will have to accommodate historical data to the same level. Data transfer will from the current system to a different system will have to be accommodated.

## **10. BUSINESS INTELLIGENCE**

The market Authority has to be able to run historical data through an intuitive, easy to use manner for historical statistics defined by Business. This is used for data analysis or investigations.

## **11. SYSTEM SECURITY / ROLES & RESPONSIBILITY**

All users are required to log on to the system with secure Mi-Fare smartcards that defines roles and responsibilities of users.

The card is unique to every user and defines the transactions that can be performed by the user.

Every Agency is defined as a “Trading Entity”

Trading entities are allocated devices that will only accept a user belonging to that entity. This means no trading entity can log on to a device allocated to a different entity.

Buyers are provided with the same card with only a buyer role. Buyer’s cards link to a unique buyer account. An account can have multiple cards linked to it. Buyers can have multiple accounts, but a buyer card can only link to one of the accounts.

## 12. TARIFFS AND CHARGES

Charges are calculated based on locations and transaction types.

12.2 12.1. Sales Transaction charges recorded in every transaction:

- Market Commission
- Agent Commission (Variable according to agreement between Agent and Producer and recorded on GRN level))
- Voluntary and statutory levies if applicable (Levies defined Producer Associations)
- Pallet / Container fees. Buyers pay a deposit at point of sale. The deposit minus a market fee is returned to the buyer account on return of the pallet within a specified time. Deposit and fee variable according to container type.
- Additional functionality is required for 3<sup>rd</sup> party container providers e.g. CHEP

12.3 Location Charges

- Agent Assigned / Hired Cold Stores. Cold Store controlled by Agency. Monthly charge to Agents whether room was utilized or not. Agent has choice to charge Producer or not.
- Market Cold Store. Multiple Agencies make use of cold store simultaneously. Charges are calculated at withdrawal time of produce linked to a specific GRN. Charges are calculated per pallet space utilized. Agent and producer charges are calculated at withdrawal time.
- Agent Floor Cold store. Producer charges are calculated at withdrawal time.
- Interim charges. Used in the event of market wide tariff increases or financial year end. This applies to all types of market owned cold stores.
- Floor Storage Charges. Calculated daily for space utilized by unsold stock that is not sold within a specified time. The time is specified per commodity according to perishability.

12.4 Ripening Charges

Similar to Market Cold Stores, Charges calculated at withdrawal time.

Ripening Rooms are the only locations except for the Sales Floor that can receive stock directly upon delivery.

#### 12.5 Producer Association Charges

A transaction, fee calculated monthly, for collection of moneys on behalf of Producer Associations.

### 13. STOCK VERIFICATION

Performed by Agency and / or Market Authority.

The system must be able to provide stock counts at any location at any point in time.

Stock counts are to be entered into the system as and when required and a stock discrepancy calculated. Stock adjustments are made on stock variances through shortage sales and a GRN modification processes.

### 14. BUYER SPECIFIC TRANSACTIONS

A Buyer can at any time request a Buyer Statement from the Market Authority. This statement can be printed for the Buyer and / or E-Mailed from the sales system.

At the end of day, the system must E-Mail all buyer statements containing all Buyer transactions for the trading day.

A buyer can only transact if funds are available in his account. Two types of Buyers are catered for:

- Guarantee Buyers – where a buyer has lodged a bank guarantee with the market against which he can transact. The limit of funds available is set at a % of the guarantee value.
- Cash Buyers – A buyer who has deposited funds into his account. Deposits can be physical cash or EFT transactions
- Cash handling fees are deducted on all physical cash deposits.

### 15. CASHIERING

Transactions recorded by the cashiering function are:

- Receipting of cash
- Refunding of cash. The system must be able to set daily and monthly limits to refunds.
- EFT – Electronic receipting of EFT transactions via transaction files electronically received from bank. If a transaction received does not tie to a valid Buyer account, it is to be flagged and not interfaced to the sales system as it requires manual interventions.
- Cash Balancing at cashier level

- Cashier balancing to bank level to determine over or under balances for interface to financial system.
- Cashier reversals. These can be partial or full reversals against original deposit transactions. Reversals include cash handling fee reversals if applicable.
- Receipt of Sundry Payments. These are transactions stakeholders can use to pay rent, pre-paid electricity, pallet runners etc.
- Cash handling fees are automatically deducted from physical cash paid in. This fee is determined by the bank the Joburg Market utilizes.

## **16. END OF TRADING DAY SYSTEM ACTIVITIES.**

The Joburg Market considers 1 pm (13H00) as the end of a trading day. The system provided has to record any transaction after this time as a transaction for the following trading day.

After the trading day has ended the system must provide for:

- Daily Average pricing detail is verified and published. Daily averages are calculated as transactions occur.
- Daily GRN audits are performed for stock verification.
- Daily Buyer Account Audits are performed to verify buyer account closing balances.
- GRN and Buyer history for the day is summarized and reported.
- Levies are summarized per commodity per GRN per Producer Association.
- At Month end monthly charges and tariffs are calculated.
- Agent Summary performed to determine Agent Moneys due.
- Distribution of statistics to various stakeholders. These include Producer Associations, Government Department and 3<sup>rd</sup> Party organisations. Some stakeholders receive interim statistics during the trading day.
- Overdraft Sales recovery is performed
- Reservation Sale cancellations
- Pallet deposit transfers where pallet has not been returned to owner.
- Interest charges are calculated on overdue guarantee buyer accounts
- Trading System Financial Day end
- Interface to Financial System.

At all times when day end runs are taking place, the system must be available for normal transactional trading recorded for the next trading day that starts at 1 pm (13H00) In other words the system use must not be suspended or interrupted by day end runs.

At all times statistics and information is “pushed” to 3<sup>rd</sup> parties. No 3<sup>rd</sup> party access to the trading is allowed.

## **17. AUTOMATED DAILY INTERFACE TO FINANCIAL SYSTEM**

Financial day end to be run on the trading system.

The system must include various audits on transaction categories to ensure all financial transactions are catered for in the financial day end. For example all buyer transactions are balanced up and verified against buyer closing balances. In the case of an imbalance, an audit failure is to be forced and manual intervention is required to identify and rectify the cause of the audit failure. The interface to the financial system is not initiated if audit failures exist.

All financial transactions to be summarized according to various transaction categories and to enable creditor, debtor, general ledger and invoice transaction mapping.

These transactions are placed in an interface table.

The Financial system accesses the interface table and marks the transactions as “interfaced” if successful. The financial system processes the transaction summaries according its own mapping rules. The interface runs daily after sales system day end processes are complete. Various reports are available from the sales system to enable balancing of the financial system. These reports are available to transaction level where required. These reports from the sales system are used by the Auditor General when verifying financial data received on the financial system.

In order to prepare for producer / Agency payments, this typically does not run later than 3 pm (15H00) daily.

## **18. PRODUCER PAYMENTS**

The system must have an integrated ability to facilitate Producer payments by Agencies. Agents perform a “roll up” of transactions to be paid. This “roll up” results in a batch to be processed for payment.

As Agents select transactions to be rolled up, these transactions are to be flagged as selected. If roll up is complete, the transactions are marked as “rolled up”

At any time before actual payment is processed the Agent must be able to reverse his decision and the transaction flags are removed.

The following is required:

As payments are processed, sales charges are to be processed in order for the end user to at all times know which sales and charges have been processed/recovered up to transaction level detail.

Payments are processed in batch mode, i.e. a batch is created against which sales, charges, and deductions are loaded. This ensures that agents have an audit trail of payments which get reported to APAC (Agricultural Produce Agents Council) which is a statutory body overseeing producer payments. Due to the fact that agents are selling produce on behalf of a buyer, the system must allow for agents to create Payment Invoices on behalf of a producer.

Payment settings are management by the agent on a producer/agent agreement which is created on trading system level when a producer for the first time sends produce to an agent. **A unique** agreement exists per producer and agent. The following information must be maintained at producer/agent agreement level:

- Default commission % the agent charges on sales for the producer. This commission can be further be detailed to a commission % on a commodity, e.g. APPLES, POTATOES, etc.
- Days of week's producer will be paid, i.e. Monday, Tuesday, etc.
- Set if the producer will be paid a consolidated amount (i.e. summed net amount of all deliveries processed in a batch OR an amount per consignment)
- Marking if floor storage charges should be recovered from a producer
- Marking if cold storage charges should be recovered from a producer
- Indicating if payment should only be processed on complete (i.e. sold out) consignments

### **18.1. Producer Payment agent-wide settings**

The agent requires the ability to set settings for the trading system that is applied / utilised for payment. These include:

- E-mail address to be displayed on invoices generated for producers
- Agent bank EFT code for payment processing
- Various bank charge settings
- The Agent's banking details
- Financial Dump File Codes, i.e. mapping to a file generated that an agent can upload to their financial system
- EFT payment file details

### **18.2 Capturing of transport and sundry deductions**

The agents have to be able to capture transport and other sundry deductions against a delivery received on the system

The agent has to be able to review the deductions before exporting it for final processing

Transport and sundry deductions are processed at batch level per producer

### **18.3 Capturing of loans/advances**

The agent must be able to capture or manage a loan/advancement to a producer. This is done at agent/producer level and a batch does not need to exist to capture the loan/advancement.

This functionality is utilized when an agent has advanced money to a producer and wants to recover the monies during the payment process

The loan/advancement can be recovered various ways:

- Recover x amount at next account sale
- Recover % of amount at next account sale
- Fixed amount per week
- Fixed amount per month
- Fixed amount per consignment
- Fixed amount per agreement run, i.e. if a producer is marked to be paid on a Monday and Wednesday, an x amount will be recovered per Monday & Wednesday that a payment is processed.

The agent must be able to determine the start date to recover the loan/advancement. The system updates the next loan/advance recovery date as payment processing and recovery is processed.

Where minus account sales have been created after a payment roll-up and processing, the Agent must be able to convert this minus account sale to a loan.

Any increases/decreases in loans have to be approved by an authorised person in the Agency.

### **18.4 Loading and processing of sales/charges**

Once the agent is ready, the agent can roll-up (load) unpaid charges and sales against a created batch. The agent has to have various options to determine what gets rolled up:

Roll up all sales based on:

- All unpaid sales based on the producer/agent agreement: Example: If you perform a payment run on a Monday, only producers marked to be paid on Monday's sales will be uploaded
- Complete Consignments: All GRNs have that been fully sold out
- All producers with unpaid sales: All sales and charges that have not been processed for payment on the SPS are loaded
- Individual Producer Selection
- The agent has to option to limit transactions to up to a specific trading day, i.e. the agent can set the trading day up to which sales have to loaded to the previous trading day

All sales and charges uploaded in a roll-up has to be marked as rolled up in the trading system so that that agents at all times on the trading floor are aware of the status of a delivery, GRN, and sale

The agent has to be able to review transactions in the roll-up. The agent has to have the ability to drill down from delivery to GRN to sales/charges level to view data down to transactional detail

Agents must have the ability to exclude transactions from payment on the roll-up from delivery to GRN down to transactional level detail. This includes transactions such as:

- Sales
- Cold Store Charges
- Floor Storage Charges
- Excluding payment on deliver note level
- Excluding payment on GRN level
- Excluding payment on MSN level
- Excluding Cold Store and Floor Charges on delivery note and GRN level
- Exclude one or multiple Producers for payment

Agents must also have the ability to add multiple individual producers to a new roll-up process. The following options are available:

- Based on the producer/agent payment agreement
- Based on complete consignments
- Based on all unpaid MSNs (Market Sales Number) with an optional trading day selection

The roll-up will indicate in red if a producer payment will go into a minus, i.e. the producer “owes” money to the agent.

The agent has to have the option to back out of the roll-up process before processing payments

After the agent has determined that all data is ready for payment, the agent will process all data rolled up to a batch for payment. After this has been performed all sales, deliveries, and GRNs, charges are to be marked as paid on the trading system, where required. The following rules apply in addition:

- If a GRN is fully sold out and paid it is marked as paid, i.e. no further adjustments can be made on the GRN on the system
- If all GRNs are sold out and paid on a delivery, the delivery is marked as paid, i.e. no further adjustments can be made on the delivery on the system
- If a sale and/or charge has been paid, it is marked as paid on the system, i.e. no further adjustments can be made to the sale/charge on the system



## 18.5 Post payment batch processing

The agent has to be able to generate and print and/or e-mail Tax Invoices (Account Sales) to the producer. E-Mail is sent by the system and not from Agent devices.

The agent has to be able to process payments creating of EFT files

The agent needs to be able to run various audit trail reports and process:

General Ledger Totals: This is utilised for the balancing up of the Agent Trust account as well as for reporting purposes to APAC

- Transport Deductions
- Sundry Deductions
- Detailed Commission
- Salesperson Commission
- Payment Batch Details
- Unclaimed Transport, Sundry and Other Deductions

The agent can create Cash Book files to be uploaded to their financial system

The agent can e-mail daily producer stock reports to the producer from the system.

## 19. GENERAL REQUIREMENTS

Proposals must indicate the abilities of systems proposed.

- A gap analysis between systems will have to be undertaken where after development costs and timelines are to be estimated.
- Data transfer of historical data will have to be catered for.
- Estimated timelines for implementations are required.
- Details of hardware requirements and software licenses

## 20. SUBMISSION REQUIREMENTS

Proposals should be submitted in **two separate clearly marked envelopes** as follows;

- 1<sup>st</sup> envelope containing the technical proposal as well as this document as issued.
- 2<sup>nd</sup> envelope containing the financial proposal for the assignment

## 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:

### 2.1 ADMINISTRATIVE REQUIREMENTS (RETURNABLES)

- a) Completed and signed MBD 1,4, 6.1,7.2,8 and 9
- b) Completed and signed MBD 5 and a copy of the latest three (3) year audited Financial Statements (if required by law)
- c) General Condition of Contract (GCC) must be signed
- d) All pages of the document must be initialled
- e) Consent and acknowledgments form in terms of the protection of personal information act
- f) Rates and taxes account not older than three months or signed lease agreement
- g) Proof of JV bank account (if applicable)
- h) Copies of share certificates (if applicable)

### 2.2. 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) Attendance of the compulsory briefing sessions
- c) Technical proposal
- d) Financial proposal
- e) 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)
- f) In case of Joint Venture, Consortium, Trust, or Partnership, a signed teaming agreement must be submitted.
- g) In case of Joint Venture, Consortium, Trust, or Partnership a Consolidated B-BBEE certificate for all members is required.
- h) In case of Joint Venture, Consortium, Trust, or Partnership a Consolidated Central Supplier Database Registration (CSD) is required.

## 3. FUNCTIONALITY CRITERIA

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. Bidders that are qualified pre-evaluation in terms of the functionality cut-off points of 80 points will then be evaluated in terms of price and specific goals.

The functionality evaluation criteria to assess the ability of the bidders to execute the project as follows:  
**The technical proposal will be evaluated as follows;**

	CRITERIA	Weight
1	Application and change control Development in-house  <i>Bidders to indicate a description of capabilities</i>  No application and change control development in-house	30  0
2	Database design and development in-house  <i>Bidders to indicate a description of capabilities</i>  No Database design and development in-house	30  0
3	System has full audit trails on all transactions No audit trails	25 0
4	Demonstrate the ability to support the JM on a 24/7 basis  Not demonstrated the ability to support the JM on a 24/7 basis	10  0
5	Bidder has developed a system in a fresh produce trading environment that can be demonstrated  Bidder has not developed a system in a fresh produce trading environment that can be demonstrated	5  0

Bidders who obtain less than threshold of **80 points** will be declared non-responsive and will be eliminated from further evaluation

**NB! The maximum cut off points for functionality is 80 points and any bidder scoring less than 80 points will not be considered for further evaluation.**

Bidder/s that meets the minimum required percentage or minimum points will be subjected to price and specific goal evaluation as per the PPPFA Act, No.5 of 2000 as amended and its associated Regulations, 2022 issued by the National Treasury.

#### 4. FINANCIAL PROPOSAL

**Bidders MUST submit a Financial Proposal in a separate envelope, clearly marked with the following:**

- Tender number and the description
- The bidder's name
- The closing date and time of the bid

## 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 **one hundred and twenty (120) days** from the date they are lodged.
7. Tax clearance certificates, Master Registration Number or pin issued by SARS will be accepted. Tax clearance certificates must be valid on the official closing date of the bid.
8. In bids where Consortia / Joint Ventures / Sub-contractors are involved, **each party must submit a separate Tax Clearance Certificate.**
9. The following information / documentation must be attached to every bid document:
  - **Registration on the Central Supplier Database.**
  - **Valid Tax Compliance Status Certificate, Master Registration Number or pin/access**
  - **Proof of applicable company registration documents with proof of shareholding**
  - **Completed and signed MBD 1, 4, 5, 6.1, 7.2, 8 and 9**
  - **B-BBEE Verification Certificate or Sworn Affidavit, or any proof as per claimed Specific Goal; in order for claimed points to be awarded**
  - **Municipal Rates and Taxes account, not older than 3 months**
  - **JV agreement for Joint Venture companies**
10. Any other relevant information related to this BID/PROPOSAL
11. 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.
12. 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.
13. Bids will be received until **11H00 on 25/08/2023**, and must be enclosed in sealed envelopes, bearing the bid reference number and due date
14. 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
15. Bidders must note that Joburg Market may on request order more than what is stipulated in the Specification / pricing schedule
16. Queries in relation to this bid should be lodged at [tenders@joburgmarket.co.za](mailto:tenders@joburgmarket.co.za) at least two (2) working days before the closing date, which is on **22 August 2023**.