



PIKITUP JOHANNESBURG SOC LIMITED

REQUEST FOR QUOTATION:

APPOINTMENT OF A SERVICE PROVIDER FOR SUPPLY, OPERATION AND MAINTENANCE OF PLANT AND EQUIPMENT AT DESIGNATED LANDFILL SITES (INCLUSIVE OF FUEL AND OPERATING STAFF FOR A PERIOD NINE (7) MONTHS

PIK: 073/ 2019-20

CLOSING DATE: 30 JANUARY 2020

CLOSING TIME: 11:00AM

BIDDER NAME:

QUOTATION AMOUNT:

THIS DOCUMENT IS COMPILED FOR:

Pikitup Johannesburg SOC Ltd
66 Jorissen Street,
Braamfontein, JHB

CONTACT DETAILS:

Susan Lehola
E-MAIL: susanlehola@pikitup.co.za
[Mobile Number: 073 188 0709](tel:0731880709)

QUOTATION SUBMISSION:

The Pikitup Tender Box situated at Pikitup Head Office, Tender Office, Ground Floor, East Wing, Jorissen Place, 66 Jorissen Street, Braamfontein, JHB before the closing date and time.

No briefing or information session will be held for this RFQ.

Please report fraud and corruption at the City of Johannesburg Anti-Fraud Hotline: 0800 002 587 or National Treasury Anti-Corruption Hotline: 0800 701 701

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INVITATION TO QUOTATION

YOU ARE HEREBY INVITED TO QUOTATION FOR REQUIREMENTS OF THE (NAME OF MUNICIPALITY/ MUNICIPAL ENTITY)			
RFQ NUMBER:	PIK 073/ 2019-20	CLOSING DATE:	30 JANUARY 2020
		CLOSING TIME:	11:00 AM
DESCRIPTION	APPOINTMENT OF A SERVICE PROVIDER FOR SUPPLY, OPERATION AND MAINTENANCE OF PLANT AND EQUIPMENT AT DESIGNATED LANDFILL SITES (INCLUSIVE OF FUEL AND OPERATING STAFF FOR A PERIOD NINE (7) MONTHS		

THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (MBD7).

QUOTATION RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE QUOTATION BOX SITUATED AT (STREET ADDRESS)

PIKITUP TENDER BOX
SITUATED AT PIKITUP JOHANNESBURG (SOC) LIMITED
JORISSEN PLACE
TENDER OFFICE
EAST WING
GROUND FLOOR
66 JORISSEN STREET
BRAAMFONTEIN
JOHANNESBURG
2000

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:		OR CSD No:
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]	<input type="checkbox"/> Yes <input type="checkbox"/> No	B-BBEE STATUS LEVEL SWORN AFFIDAVIT	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

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

QUOTATIONING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:		TECHNICAL INFORMATION MAY BE DIRECTED TO:	
DEPARTMENT	SUPPLY CHAIN	CONTACT PERSON	SAME
CONTACT PERSON		TELEPHONE NUMBER	SAME
TELEPHONE NUMBER		FACSIMILE NUMBER	SAME
FACSIMILE NUMBER	NOT APPLICABLE	E-MAIL ADDRESS	SAME
E-MAIL ADDRESS			

RFQ 072/2019-20_ Appoint a service provider to supply, operate and maintain landfill equipment For various landfill sites. 3

**PART B
TERMS AND CONDITIONS FOR QUOTATION**

1. QUOTATION SUBMISSION:	
1.1.	QUOTATIONS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE QUOTATIONS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2.	ALL QUOTATIONS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED-(NOT TO BE RE-TYPED) OR ONLINE
1.3.	THIS QUOTATION IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
2. TAX COMPLIANCE REQUIREMENTS	
2.1	BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2.2	BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.
2.3	APPLICATION FOR THE TAX COMPLIANCE STATUS (TCS) CERTIFICATE OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.
2.4	BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE QUOTATION.
2.5	IN QUOTATIONS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.

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

SIGNATURE OF BIDDER:

CAPACITY UNDER WHICH THIS QUOTATION IS SIGNED:

DATE:

ANNEXURE 1.2

AUTHORITY TO SIGN QUOTATION DOCUMENTS

AUTHORITY TO SIGN A QUOTATION

1. <u>Sole Proprietor (Single Owner Business) and Natural Person</u>			
1.1 I, the undersigned, hereby confirm that I am the sole owner of the business trading as OR			
1.2 I....., the undersigned, hereby confirm that I am submitting this tender in my capacity as natural person.			
SIGNATURE		DATE	
PRINT NAME			
WITNESS 1		WITNESS 2	

<u>Companies and Close Corporations</u>			
2.1 If a Bidder is a Company, a certified copy of the resolution by the board of directors, duly signed, authorising the person who signs this quotation to do so, as well as to sign any contract resulting from this quotation and any other documents and correspondence in connection with this quotation and/or contract on behalf of the company must be submitted with this quotation, that is, before the closing time and date of the quotation.			
2.2 In the case of a Close Corporation (CC) submitting a quotation, a resolution by its members authorising a member or other official of the corporation to sign the documents on their behalf, shall be included with the quotation.			
Date Resolution was taken			
Resolution signed by (name and surname)			
Capacity			
Name and surname of delegated Authorised Signatory			
Capacity			
Specimen Signature			
Full name and surname of all Director(s) / Member (s)			
1.		2.	
3.		4.	
5.		6.	
7.		8.	
9.		10.	
Is a certified copy of the resolution attached?			YES
SIGNED ON BEHALF OF COMPANY / CC			NO
PRINT NAME		DATE	
WITNESS 1		WITNESS 2	

3. Partnership

We the undersigned partners in the business trading as hereby authorise Mr/Mrs to sign this quotation as well as any contract resulting from the quotation and any other documents and correspondence in connection with this quotation and/or contract for and on behalf of the above mentioned partnership.

The following particulars in respect of every partner must be furnished and signed by every partner:

Full name of partner		Signature	
SIGNED ON BEHALF OF PARTNERSHIP		DATE	
PRINT NAME			
WITNESS 1		WITNESS 2	

4. Consortium

We the undersigned consortium partners, hereby authorise (Name of entity) to act as lead consortium partner and further authorise Mr/Ms to sign this offer as well as any contract resulting from this tender and any other documents and correspondence in connection with this tender and / or contract for and on behalf of the consortium.

The following particulars in respect of each consortium member must be provided and signed by each member.

Full name of Consortium Member	Role of Consortium Member	% Participation	Signature
SIGNED ON BEHALF OF CONSORTIUM		DATE	
PRINT NAME			
WITNESS 1		WITNESS 2	

5. JOINT VENTURE

We, the undersigned, are submitting this quotation offer in joint venture and hereby authorize Mr / Ms

 Authorized signatory of the Company / Close Corporation / Partnership (name)

 Acting in the capacity of lead partner, to sign all documents in connection with the quotation offer and any contract resulting from it on our behalf.

LEAD PARTNER (Whom the Pikitup shall hold liable for the purpose of the tender)			
NAME OF FIRM			
ADDRESS			TEL. NO.
SIGNATURE		DESIGNATION	

2nd PARTNER			
NAME OF FIRM			
ADDRESS			TEL. NO.
SIGNATURE		DESIGNATION	

3rd PARTNER			
NAME OF FIRM			
ADDRESS:			TEL. NO.
SIGNATURE		DESIGNATION	

4th PARTNER			
NAME OF FIRM			
ADDRESS:			TEL. NO.
SIGNATURE		DESIGNATION	

NOTE: A copy of the Joint Venture Agreement indicating clearly the percentage contribution of each partner to the Joint Venture, is to be submitted with the quotation.

A board resolution, authorising each signatory who signed above to do so, is to be submitted with the quotation.

ANNEXURE 1.3

CERTIFICATE FOR PAYMENT OF MUNICIPAL SERVICES

CERTIFICATE FOR PAYMENT OF MUNICIPAL SERVICES

DECLARATION IN TERMS OF MUNICIPAL SCM REGULATIONS 21(d) (ii)

I, (full name) and (ID no.), hereby acknowledge that the Pikitup may reject the tender of the tenderer if any municipal rates and taxes or municipal service charges owed by the bidder or any of its directors/members/partners to the City of Johannesburg, or to any other municipality or municipal entity, are in arrears for more than 3 (three) months.

I declare that I am duly authorised to act on behalf of (name of the firm) and hereby declare, that to the best of my personal knowledge, neither the firm nor any director/member/partner of said firm is in arrears on any of its municipal accounts with any municipality in the Republic of South Africa, for a period longer than 3 (three) months.

I further hereby certify that the information set out in this schedule and/or attachment(s) hereto is true and correct. The bidder acknowledges that failure to properly and truthfully complete this schedule may result in the tender being disqualified, and/or in the event that the tenderer is successful, the cancellation of the contract.

PHYSICAL BUSINESS ADDRESS(ES) OF THE TENDERER	MUNICIPAL ACCOUNT NUMBER

Further details of the bidder’s director(s) / shareholder(s) / partner(s) / member(s), etc.:

Director / partner / member	Physical residential address of the director / partner / member	Municipal account number(s)

PLEASE NOTE:

1. Copies of all municipal accounts, not older than 3 months, to be submitted with the quotation.
2. If the entity or any of its directors/shareholders/partners/members, etc. rents/leases premises a copy of the rental/lease agreement is to be submitted with this quotation.

Signature	Position	Date

ANNEXURE 1.4

CONDITIONS OF TENDER

CONDITIONS OF TENDER

RETURN OF QUOTATIONS

This QUOTATION closes as indicated on the cover page of this tender document. Late quotations will not be accepted or considered and quotations delivered to any other address besides the address stated above will not be considered.

Neither PIKITUP nor any of its employees shall be liable in any way whatsoever for QUOTATIONS that are not placed in the quotation box by the closing date and time.

No QUOTATION shall be considered unless it is accompanied by sufficient information to show that the goods offered comply with the specification.

Bidders must state the country of origin and the name of the manufacturer of the goods offered. Documentary proof must be produced, if required.

Quotationing documents must be completed properly in permanent black ink, and no correction fluid (Tippex) may be used on the quotation document. If the bidder wishes to make a change, the bidder must draw a line through the incorrect wording, write the correct wording next to the change, and also initial next to the change.

VALIDITY PERIOD

Your quotation submission must remain valid for a period of **90 days** from the closing date of this quotation. It will constitute an offer which remains open for acceptance during the validity period.

INFORMATION MEETING

The **compulsory or non-compulsory (delete which are not applicable)** information meeting will be held as per the details provided on the cover page of this tender document. You are advised to please attend this meeting as important information pertaining to the quotation will be discussed. None attendance to the meeting will result in your quotation being disqualified from evaluation.

ADJUDICATION OF QUOTATIONS

Quotations submitted in response to this invitation will be adjudicated by PIKITUP in terms of the Supply Chain Management Policy and Procedure Manual developed in accordance with the requirements of the Municipal Finance Management Act 56 of 2003, the Preferential Procurement Policy Framework Act # 5 of 2000, and the Preferential Procurement Regulations of 2017. Enquiries in respect of the policy should be addressed to PIKITUP's General Manager: Supply Chain Management – tshidimema@pikitup.co.za

CONTRACT

The terms of the proposed contract with PIKITUP are contained in the General Conditions of Contract, the Special Conditions of Contract and any of the sections of these quotation documents in which the bidder makes an undertaking as to its performance. You must read and understand the terms before you submit your QUOTATION as you will be bound by the Contract (as described) if your QUOTATION is successful.

ADMINISTRATIVE JUSTICE

In adjudicating quotations, PIKITUP shall comply with the requirements of the Promotion of Administrative Justice Act 3 of 2000 and the Promotion of Access to Information Act 2 of 2000, to the extent that these Acts apply to the adjudication by a municipal entity of quotations in response to a quotation invitation.

INTERNAL APPEAL PROCESS

Following the evaluation of tender and selection of a preferred bidder, and provided that a procurement contract has not already entered into force, any bidder may submit a complaint in writing to the chairperson of the PIKITUP Board of Directors (“the Board”) or the Managing Director that PIKITUP has not complied with the requirements of the PIKITUP Supply Chain Management Policy or the PIKITUP Code of Ethics, or has in any respect acted in a way that is irregular. The Chairperson of the Board or Managing Director shall not entertain a complaint unless it was submitted within 20 calendar days of when the supplier or contractor submitting it became aware of the circumstances giving rise to the complaint or of when that supplier or contractor should have become aware of those circumstances, whichever is earlier; or entertain a complaint after the procurement contract has entered into force.

Unless the complaint is resolved by mutual agreement of the bidder and the Chairperson of the Board or Managing Director, the Chairperson of the Board shall, within 30 calendar days after the submission of the complaint, issue a written decision. The decision shall state the reasons for the decision; and if the complaint is upheld in whole or in part, indicate the corrective measures that are to be taken.

The decision of the Chair of the Board shall, subject to the review powers of any competent court, be final.

PROVISO

In evaluating quotations received and adjudicating the award of this tender, Pikitup Johannesburg (SOC) Limited will, in addition to the pre-compliance and functionality criteria included in the specifications and irrespective of the capital, pricing and black economic empowerment structures of the bidder, take into account as objective criteria (1) the desirability of rotating the work amongst service providers, (2) the past bidding practices of any bidder in relation to evidence and/or reports of combative practices including conduct reported, amongst others, in terms of the Prevention and Combatting of Corrupt Activities Act, 2004, (3) the past contractual performance of any bidder and (4) the nature and extent of disputes involving the bidder in relation to past and/or current contracts. Note that as a result of the application of these objective criteria, the highest scoring bidder(s) will not necessarily be selected as a preferred bidder(s).

In line with the provisions of Supply Chain Management Policy, Pikitup reserves the right to:

- request for a validity extension if necessary,
- apply pre-qualification criteria to advance designated groups in terms of the PPPFA of 2000: Preferential Procurement Regulations of 2017
- award the quotation in whole, or award the quotation in parts, or not to award the quotation at all,
- award the quotation to one or more than one bidder(s)
- negotiate the quotation price offered, and / or any other terms and conditions of this requirement with the preferred bidder(s), before the final award of the quotation.

Pikitup further retain the right to:

veto or conduct a due diligence on any bidder, and / or any of their sub-contractors or sub-service providers;
request for samples, demonstrations, site visits or further information relating to the offered goods, services or works
evaluate, review, test, inspect any of the products and / or staff offered for the tender, at Pikitup's sole discretion accept or
reject such.

As per section 2(1)(f) of the PPPFA, one or more of the follow "objective criteria" may be considered for final selection of
quotation(s):

- The spread of business amongst suppliers and / or rotation of contracts amongst suppliers,
- The protection of the environment or sustainability considerations,
- The geographical origin of resources utilised as inputs for the execution of the proposed contract,
- The development and / or impact on the local community,
- Considerations of after purchase costs, such as maintenance cost, operational costs, licence costs, or life cycle cost,
- Variants from the original scope of requirements,
- Financial stability and commercial status of the bidder(s),
- The receipt of an abnormally low quotation amount, provided that the bidder in question is allowed an opportunity to justify its
quotation.

DECLARATION BY BIDDER:

I the undersigned, (Name and Surname), being the duly
authorised undersigned representative of the Bidder and its associates hereby grant Pikitup Johannesburg (SOC) Limited
the required consent in terms of the Protection of Personal Information (POPI) Act, 2013 for the use of the personal
information relating to the Bidder (i.e. the company, its owner(s), employees and/or any associated persons' BEE credentials,
demographic / ownership profile, location etc.) for the legitimate purposes relating to this quotation submission, its evaluation
and adjudication.

I FURTHER DECLARE THAT I/WE HAVE READ THE CLAUSES SET OUT ABOVE IN THIS OF THE QUOTATION
DOCUMENTS AND ACCEPT THEIR CONTENTS, SUBJECT TO ANY DECLARATION, WE HEREBY OFFER TO CONTRACT
WITH PIKITUP ON THE TERMS SET OUT IN THE QUOTATION DOCUMENTS SHOULD WE BE APPOINTED AS THE
SUCCESSFUL BIDDER.

WITNESSES:

1.
2.

AUTHORISED SIGNATURE

CAPACITY OF SIGNATORY :

DATE :

ANNEXURE 2.

TERMS OF REFERENCE / SPECIFICATION OF REQUIREMENTS

SCHEDULE 1

SCOPE OF SERVICES

1. Pikitup requires the supply and operation of the landfill equipment on a rental basis for a period of 7 months;
 - 1.1. The supplier must supply landfill equipment as indicated in the table 1 below within seven (7) days of the commencement of the contract together with the fuel enough to operate for 8 hours a day non- stop including a qualified personnel who will operate the equipment for a contract period.
 - 1.2. All personnel operating the landfill equipment must be South African citizens and must have certificate of fitness, drivers licence and certificate of personnel registered with the department of Labour and all certified copies mentioned in this clause 1.2 must be submitted to Pikitup within 5 days of the commencement date.
 - 1.3. The supplier shall develop and maintain an updated database of all authorised drivers/operators and submit report Pikitup of the validity of the driver's licenses/ operator certificate or Professional Driving Permit of any driver/operator that will use a landfill equipment within 5 days before the commencement of the contract.
 - 1.4. The log book facility for recording hours of each equipment must be kept at respective landfill sites.
 - 1.5. The supplier must remove any of its unused landfill equipment within 2 days from the date which the equipment became redundant from Pikitup Landfill sites.
 - 1.6. The supplier must ensure that the supply and operation of all landfill equipment is at 98% of scheduled operating hours per month and which is determined as follows:
 - 1.6.1. The percentage equipment availability shall be calculated per landfill equipment and expressed as percentage of the equipment available hours per Standard Operation Hours for each month, whereby;
 - 1.6.2. The Standard Operation Hours shall be expressed as 8 hours per day, excluding 30 minutes lunch time; and
 - 1.6.3. The Percentage Equipment Available Hours shall be calculated based on the verifiable operated hours per day of the landfill equipment.
 - 1.7. The supplier must manage the logistics, value chain for the landfill equipment, including production schedules, licencing and registration, visible identification sticker, cleaning,

securing the relevant warranties and/ or plans, as well as the delivery of each landfill equipment.

- 1.8. **Only bidders supplying the landfill equipment as per schedule 2 below will be considered for evaluation.**
- 1.9. **Bidders will also be considered tendering on either or all of the landfill sites provided that full equipment complement of the respectively landfill site is priced and any tender document compiled not in accordance with this requirement will not be considered.**
- 1.10. **Back Hoe Loader (TLB) and Grader as per schedule 2 below are required to operate rotationally amongst the four (4) landfill sites on a biweekly basis. The successful bidder must ensure that arrangements are in place to transport the abovementioned equipment.**

SCHEDULE 2

SUMMARY OF ALL REQUIRED EQUIPMENT

Equipment	Capacity	Equipment/Landfill site				Total Required
		Robinson Deep	Marie Louise	Goudkoppies	Ennerdale	
Landfill Compactor	32 ton / Not less than 260kw	3	1	1	1	6
Bull Dozer	18ton / Not less than 140kw	3	1	1	1	6
Excavator Trax	20 ton/Not less than 105kw	4	1	1	1	7
Front end Loader	16ton/ Not less than 140kw/3m ³ bucket	0	0	0	1	1
Articulated Dump Truck	10m ³ Truck /Not less than 200kw/ton	2	1	1	1	5
Grader	8tons/Not less than 70kw/1m ³ bucket	1	0	0	0	1
Back Hoe Loader (TLB)	8tons/Not less than 70kw/1m ³ bucket	1	0	0	0	1
Water Tanker	10m ³ Truck /Not less than 200kw/30ton	1	1	1	1	4
Tipper Truck	10m ³ Truck /Not less than 200kw/30ton	3	1	1	1	6

Equipment Costs (This page should reflect a summary of all 4 landfill sites costs) _for evaluation purposes

Equipment	Capacity	Equipment/Landfill site				Total Required
		Robinson Deep	Marie Louise	Goudkoppies	Ennerdale	
Landfill Compactor	32 ton / Not less than 260kw	3	1	1	1	6
Bull Dozer	18ton / Not less than 140kw	3	1	1	1	6
Excavator Trax	20 ton/Not less than 105kw	4	1	1	1	7
Front end Loader	16ton/ Not less than 140kw/3m ³ bucket	0	0	0	1	1
Articulated Dump Truck	10m ³ Truck /Not less than 200kw/ton	2	1	1	1	5
Grader	8tons/Not less than 70kw/1m ³ bucket	1	0	0	0	1
Back Hoe Loader (TLB)	8tons/Not less than 70kw/1m ³ bucket	1	0	0	0	1
Water Tanker	10m ³ Truck /Not less than 200kw/30ton	1	1	1	1	4
Tipper Truck	10m ³ Truck /Not less than 200kw/30ton	3	1	1	1	6
Total for 7 months		R (A)	R (B)	R (C)	R (D)	
Grand Total	(A-D)	R				

SERVICES FEE AND PAYMENT

SCHEDULE 3

The Service Provider shall be paid as per the attached pricing schedule.

Six (7) months Period:

ROBINSON DEEP LANDFILL SITE

Equipment	Capacity	Equipment Quantity (PEQ)	Hourly Rate (Mon-Sun and Public Holiday) per Unit (Excl VAT)	Daily (Mon- Sun and Public Holiday) Rate = (Hourly rate x PEQ x 8 hours) (Excl VAT)	Monthly Rate = (Daily rate x 30,41668 days) (Excl VAT)	Total Cost = (Monthly rate per unit x Equipment Quantity x 7 months) (Excl VAT)
Landfill Compactor	32 ton / Not less than 260kw	3				
Bull Dozer	18ton / Not less than 140kw	3				
Excavator Trax	20 ton/Not less than 105kw	3				
Articulated Dump Truck	10m ³ Truck /Not less than 200kw/ton	2				
Grader	8tons/Not less than 70kw and 1,5 m blade length	1				

Back Hoe Loader (TLB)	8tons/Not less than 70kw/1m ³ bucket	1				
Water Tanker Truck	16000L /Not less than 200kw/30ton	1				
Tipper Truck	10m ³ Truck /Not less than 200kw/30ton	2				
Total price for 7 months (VAT inclusive) <u>ROBINSON DEEP</u>						(A)

GOUDKOPPIES LANDFILL SITE

Equipment	Capacity	Equipment Quantity (PEQ)	Hourly Rate (Mon-Sun and Public Holiday) per Unit (Excl VAT)	Daily (Mon- Sun and Public Holiday) Rate = (Hourly rate x PEQ x 8 hours) (Excl VAT)	Monthly Rate = (Daily rate x 30,41668 days) (Excl VAT)	Total Cost = (Monthly rate per unit x Equipment Quantity x 7 months) (Excl VAT)
Landfill Compactor	32 ton / Not less than 260kw	1				
Bull Dozer	18ton / Not less than 140kw	1				
Excavator Trax	20 ton/Not less than 105kw	1				
Articulated Dump Truck	10m ³ Truck /Not less than 200kw/ton	1				
Water Tanker Truck	16000L /Not less than 200kw/30ton	1				
Tipper Truck	10m ³ Truck /Not less than 200kw/30ton	1				
Total price for 7 months (VAT inclusive)						(B)

<u>GOUDKOPPIES</u>					
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MARIE LOUISE LANDFILL SITE

Equipment	Capacity	Equipment Quantity (PEQ)	Hourly Rate (Mon-Sun and Public Holiday) per Unit (Excl VAT)	Daily (Mon- Sun and Public Holiday) Rate = (Hourly rate x PEQ x 8 hours) (Excl VAT)	Monthly Rate = (Daily rate x 30,41668 days) (Excl VAT)	Total Cost = (Monthly rate per unit x Equipment Quantity x 7 months) (Excl VAT)
Landfill Compactor	32 ton / Not less than 260kw	1				
Bull Dozer	18ton / Not less than 140kw	1				
Excavator Trax	20 ton/Not less than 105kw	1				
Articulated Dump Truck	10m ³ Truck /Not less than 200kw/ton	1				
Water Tanker Truck	16000L /Not less than 200kw/30ton	1				
Tipper Truck	10m ³ Truck /Not less than 200kw/30ton	1				
Total price for 7 months (VAT inclusive)						(C)

<u>MARIE LOUISE</u>					
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ENNERDALE LANDFILL SITE

Equipment	Capacity	Equipment Quantity (PEQ)	Hourly Rate (Mon-Sun and Public Holiday) per Unit (Excl VAT)	Daily (Mon- Sun and Public Holiday) Rate = (Hourly rate x PEQ x 8 hours) (Excl VAT)	Monthly Rate = (Daily rate x 30,41668 days) (Excl VAT)	Total Cost = (Monthly rate per unit x Equipment Quantity x 7 months) (Excl VAT)
Landfill Compactor	32 ton / Not less than 260kw	1				
Bull Dozer	18ton / Not less than 140kw	1				
Front end Loader	16ton/ Not less than 140kw/3m ³ bucket	1				
Articulated Dump Truck	10m ³ Truck /Not less than 200kw/ton	1				
Water Tanker Truck	16000L /Not less than 200kw/30ton	1				
Total price for 7 months (VAT inclusive) <u>ENNERDALE</u>						(D)

SITE RULES

1. LANDFILL SITE SAFETY RULES

ITEM	SAFETY RULES
1.	The speed limit for all landfill site access roads is 15km/hr.
2.	All personnel and visitors entering the landfill site must wear the safety reflector vest.
3.	No Alcohol is permitted on the landfill site.
4.	No fire arms are permitted on the landfill site.
5.	No overtaking is permitted on the landfill site access roads.
6.	When fuel is decanted on the landfill site a spill pan must be used at all times.
7.	Only the driver and his attendant will be allowed access to the landfill site.
8.	All visitors to the landfill site must report to the landfill site supervisor's office.
9.	All personnel entering the landfill site must wear the required PPE at all times: <ol style="list-style-type: none"> 1. Safety boots 2. Overall 3. Dust Mask

SITE INFORMATION

- 1.1. Pikitup is presently operating four landfill sites. Two other landfill sites have been closed. Table 1 below provides details of the Landfill sites.

Item	Robinson Deep	Marie Louise	Goudkoppies	Ennerdale
Classification	GLB	GLB	GLB	GMB
Average Daily Tonnages	1793	631	985	282

Night Shift (tons)		822	0	0	0
Dayshift	AM	7:30	7:30	7:30	7:30
	PM	16:00	16:00	16:00	16:00
Nightshift (1)	PM	16h00			
	PM	00h30			
Cover Cycle Time		Daily	Daily	Daily	Daily
Number of Waste Pickers		84	700	1800	25
Waste Gradient/Slope		1:3	1:3	1:3	1:3
Compaction Density		1 ton/m ³	1 ton/m ³	1 ton/m ³	1 ton/m ³

SCHEDULE 6

PENALTIES

1. TABLE OF PENALTIES

Item	Description	Penalty
1	Failure to adhere to Pikitup's Health and Safety Requirements rules and regulations. Service personnel working without safety clothing/equipment	5% of the monthly invoice

Item	Description	Penalty
2	Failure to keep history of equipment records	5% of the monthly invoice
3	Stopping of landfill operations due to service provider negligence (not within the 12 and 24 hr. period)	20% of the monthly invoice
4	Failure to provide a replacement of landfill equipment to achieve the 98 PEA	
4.1	90 to 97 PEA	5% of the monthly invoice
4.2	85 to 89 PEA	10% of the monthly invoice
4.3	80 to 85 PEA	20% of the monthly invoice
4.4	Less than 80 PEA (Non achievement)	Contract gets terminated on condition that this none achievement occurs 3 times in that year

2. DELIVERY TIMEFRAME

The delivery of the landfill equipment to all respective must be within seven (7) days of acceptance of the contract. Bidders will be required to indicate the delivery schedule in relation to the estimate quantities indicated on the pricing schedule.

REFER TO SCHEDULE 3. ABOVE FOR PRICING

3. EVALUATION CRITERIA

- a) Pikitup will establish a Bid Evaluation Committee (BEC) whose responsibility is to make recommendations to the Bid Adjudication Committee (BAC). Short listed companies may be required to make a presentation to Pikitup's BEC, if Pikitup deems necessary. The BEC will short list and evaluate the BID in accordance with the criteria below and make recommendations to the BAC. Compulsory site visits may be undertaken as part of the evaluation process to confirm the equipment and infrastructure that supports their bid.
- b) Bidders will be evaluated on the information as contained in their submissions, and this may further be supplemented by presentations and clarification information as may be requested from the bidders.
- c) Evaluations will as far as possible be based on evaluation templates and must be in line with the evaluation criteria as established by the Bid Specification Committee. The criteria set out in the document shall be applicable and may not be altered after the submissions have been opened unless it is clear that such alterations will not disadvantage any Bidder or give an unfair advantage to any particular bidder/s
- d) Submissions will be adjudicated and the Contract awarded in accordance with the SCM regulations, MFMA, other applicable legislation.
- e) The evaluation of bids shall be based firstly on pre-compliance and functionality, including site visits (where applicable) then price and preference points in accordance with Revised Preferential Procurement Regulations of 2017 issued by National Treasury on the evaluation of bids.
- f) The assessment of functionality shall be done in terms of the evaluation criteria and the minimum threshold stipulated in the bid document. Only those bidders that meet the minimum threshold shall be considered for the subsequent stages of the evaluation process and all bidders who did not meet the minimum threshold shall not be considered for further evaluation.

A bid that scored less than 60 points out of 100 allocated for functionality shall be regarded as non-responsive.

4. PRE-COMPLIANCE CRITERIA

- a. Bidders will further be eliminated for not submitting compulsory returnable documents as stated below

Table 2: Pre-compliance Schedule

Compulsory Returnable Documentation (Submission of these are compulsory)	Submitted (YES or NO)	Checklist (Guide for Bidder and the Bid Evaluation Committee)
<p>a) To enable Pikitup to verify the bidder's tax compliance status, the bidder must provide;</p> <ul style="list-style-type: none"> • A copy of a valid Tax Clearance Certificate (TCS); • or a copy of their Central Supplier Database (CSD) registration; • or indicate their Master Registration Number / CSD Number; • or indicate their tax compliance status PIN. <p>(Note: Refer to MDB 1)</p>		<p>TCS / CSD must be in the same business name as the bidding company? TCS / CSD must be valid? Tax status must be compliant?</p>
<p>B1) Confirmation that the bidding company's municipal accounts are up to date:</p> <ul style="list-style-type: none"> • Original or copy of Municipal Account Statement of the Bidder (bidding company) not older than 3 months and account must not be in arrears for more than ninety (90) days; or • Letter or Statement or Affidavit from landlord confirming that the Bidder (bidding company) has no disputed account(s) and the account is not in arrears for more than ninety (90) days. Where possible, the landlord letter, landlord statement or landlord affidavit should be accompanied with a signed lease agreement. • Bidders operating from home must submit affidavit to that effect 		<p>Was a Municipal Account Statement or landlord letter provided for the bidding company? The name and / or addresses of the bidder's statement correspond with CIPC document? Are correspondence recent (not older than 3 months)? Are all payment(s) up to date (i.e. not in arrears for more than 90 days)?</p>

Compulsory Returnable Documentation (Submission of these are compulsory)	Submitted (YES or NO)	Checklist (Guide for Bidder and the Bid Evaluation Committee)
<p>b2) In addition to the above, confirmation that all the bidding company's <u>owners / members / directors / major shareholders</u> municipal accounts are up to date:</p> <ul style="list-style-type: none"> • Original or copy of Municipal Account Statement of all the South African based <u>owners / members / directors / major shareholders</u> not older than 3 months and the account/s may not be in arrears for more than ninety (90) days; or • Letter or Statement or Affidavit (correspondence should be dated and not older than 3 months) for all the South African based <u>owners / members / directors / major shareholders</u> from their respective landlord/s confirming that the <u>owners / members / directors / major shareholders of the bidding company</u> has no disputed account(s) and the account is not in arrears for more than ninety (90) days. Where possible, the landlord letter, landlord statement or landlord affidavit should be accompanied with a signed lease agreement. 		<p>Was a Municipal Account Statement(s) or landlord letter(s) provided for ALL the bidding company's (SA based) directors?</p> <p>The names and/or addresses of all directors on statement correspond with CIPC document?</p> <p>Are correspondence recent (not older than 3 months)?</p> <p>Are all payments up to date (i.e. not in arrears for more than 90 days)?</p>
<p>c) Duly Signed and completed MBD forms (MBD 1, 4, 5, 8 and 9)</p> <p>The person signing the bid documentation must be authorized to sign on behalf of the bidder. Where the signatory is not a Director / Member / Owner / Shareholder of the company, an official letter of authorization or delegation of authority should be submitted with the bid document.</p>		<p>All documents fully completed (i.e. no blank spaces)?</p> <p>All documents fully signed?</p> <p>Signature authorised (any director / member / trustee as indicated on the CIPC document, alternatively a delegation of authority would be required)?</p> <p>Documents completed in black ink (i.e. no "Tippex" corrections, no pencil, no other colour ink, will be considered)?</p>
<p>d) Audited Financial Statements for the past three (3) years or financial statements from date of existence for companies less than three years.</p>	<p><i>(Applicable for tenders above R10m in</i></p>	<p><u>Audited</u> financials provided (Audited financials must be signed by auditor)?</p>

Compulsory Returnable Documentation (Submission of these are compulsory)	Submitted (YES or NO)	Checklist (Guide for Bidder and the Bid Evaluation Committee)
<p>NB: The bidder must submit signed audited annual financial statements for the past 3 years, or if established for a shorter period, submit audited annual financial statements from date of establishment.</p> <p>If the bidder is not obliged by law to prepare signed annual financial statements for auditing purposes, then the bidder must submit annual financial statements for the past 3 years in accordance with any applicable law, or if established for a shorter period, submit annual financial statements from date of establishment. Where a bidder is established or operational for less than 3 years, documented proof must be provided to confirm the date of establishment or date of operational commencement.</p> <p>If the bidder is not obliged by law to prepare annual financial statements for auditing purposes they must submit their Public Interest Score (PIS) declaration to confirm that Audited Financial Statements are not a requirement, together with their Financial Statements for the previous three financial years or since establishment.</p> <p>PIS are as follows:</p> <ul style="list-style-type: none"> - Above 350, Financial Statement to be audited - 100 – 349, Financial Statement must have an independent review. - Less than 100, Financial Statement do not require to be audited nor an independent reviewed. 	<p><i>conjunction with MBD 5)</i></p>	<p>If not, did the bidder provide proof by means of PIS score that financials must be either independently reviewed or no review required? In PIS score was provided, was the relevant financial statements provided (i.e. independently reviewed or where no review is required)?</p> <p>Where supplier is in existence for less than 3 years, the financial statements for the most recent operational years must be provided, and proof what date the company was registered must be provided, or proof of operational commencement.</p> <p>Where the company was registered but dormant for a period of time, a certified affidavit is required from the managing director or principal member / trustee.</p>
<p>e) Pre-qualification criteria to advance designated groups in terms of the PPPFA of 2000: Preferential Procurement Regulations of 2017)</p> <p>Minimum B-BBEE status level 2</p>		<p>Only minimum <u>level 2</u> will be considered.</p>

Compulsory Returnable Documentation (Submission of these are compulsory)	Submitted (YES or NO)	Checklist (Guide for Bidder and the Bid Evaluation Committee)
Original or certified copy of BBEE Scorecard, or affidavit where applicable		
<p>f) Joint Ventures (JV) – (Only applicable when the bidder tender as a joint venture)</p> <ul style="list-style-type: none"> • Where the bidder bid as a Joint Ventures (JV), the required or relevant documents as per (a) to I above must be provided for all (each one of the parties) JV parties. • In addition to the above the bidder must submit a Joint Venture (JV) agreement signed by the relevant parties. • Note: It is a condition of this bid that the successful bidder will continue with same Joint Venture (JV) for the duration of the contract, unless prior approval is obtained from Pikitup. 		<p>If applicable.</p> <p>JV agreement provided?</p> <p>JV agreement complete and relevant?</p> <p>Agreement signed by all parties?</p> <p>All required documents as per (i.e. a to e) must be provided for all partners of the JV.</p>

5. TABLE OF OTHER RETURNABLE DOCUMENTS TO BE USED IN THE EVALUATION PROCESS:

Table 3: Other Returnable Documentation

Other Returnable Documentation	Submitted (YES or NO)
a) Proof of Company Registration	
b) Proof of registration with Central Supplier Database established by National Treasury	
c) Certified Copies of ID Documents of all owners/members/shareholders/directors	
d) Original or certified copy of BBBEE Scorecard or Affidavit	
e) Company Profile	
f) CV of Site supervisor indicating previous experience of similar nature	
g) Copies of operators certificates	
h) Letter of Good Standing – Workman’s Compensation (COID)	
i) Proof of current stock of landfill equipment as per schedule 2, that will be available at the time of award as stipulated in scope of services	
j) Proof of ownership of landfill equipment listed or evidence of rental capacity from suppliers in the form of registration documents, asset register or letter of confirmation of landfill equipment hire or lease agreements with suppliers.	
k) All other MBD Forms attached on the tender document	
l) Health and Safety Plan (NB bidders are expected to develop their own plan)	

6. FUNCTIONALITY CRITERIA

The following criteria will be applicable and the maximum weights of each criterion will be as indicated in the document.

Table 4: Functionality Criteria

CRITERION	CRITERION DETAILS	POINTS
	<p><u>Liquidity Ratios = (2)</u> Current Assets divided by Current Liability If assets is greater than liabilities by</p> <ul style="list-style-type: none"> • Above 2 = 5 • Above 1.5 but less than/equal to 2 = 4 • Above 1 but less than/equal to 1.5 = 3 • Below 1 = 0 <p><u>Interest Cover Ratio (1)</u> Earnings before Interest and Taxes divided by Interest</p> <ul style="list-style-type: none"> • Above 5 = 5 • Above 4 but less than/equal to 5 = 4 • Above 3 but less than/equal to 4 = 3 • Above 2 but less than/equal to 3 = 2 • Above 1 but less than/equal to 2 = 1 • 1 or less = 0 <p><u>Asset Turnover Ratio (1)</u> Net Sales divided by Ave Total Assets</p> <ul style="list-style-type: none"> • Above 2 = 5 • Above 1.5 but less than/equal to 2 = 4 • Above 1 but less than/equal to 1.5 = 3 • 1 or less = 0 <p><u>Return on Assets Ratio (1)</u> Net Income divided by Ave Total Assets</p> <ul style="list-style-type: none"> • Above 100% = 5 • Above 75% but less than/equal to 100% = 4 • Above 50% but less than/equal to 75%% = 3 • Above 25% but less than/equal to 50 = 2 • Above 0% but less than/equal to 25% = 1 • Less than 0 = 0 	5

CRITERION	CRITERION DETAILS		POINTS	
TECHNICAL CAPABILITY AND INFRASTRUCTURE	Experience of the key personnel (CV's detailing experience in contract/project management for project/contract manager and supervision experience in the supply and operation of landfill equipment)			
	Project/Contract Manager Experience in supply and operation of landfill equipment (10)		15	
	Guideline	Rating 0-5		
	Below 1 year experience	0		
	One (1) year – Under 2 years experience	1		
	Two (2) years – Under 3 years experience	2		
	Three (3) years - Under 4 years experience	3		
	Four (4) years - Under 5 years experience	4		
	Over 5 years experience	5		
	Operations Supervisor (5)			
	Guideline	Rating 0-5		
	Below 1 year experience	0		
	One (1) year – Under 2 years experience	1		
	Two (2) years – Under 3 years experience	2		
	Three (3) years - Under 4 years experience	3		
	Four (4) years - Under 5 years experience	4		
	Over 5 years experience	5		
	Company experience in the supply and operation of landfill equipment			
	Track record (Company Profile or schedule of project undertaken) of experience in the supply and operation of landfill equipment		10	
	Guideline	Rating 0-5		
	>5 years	5		
	>4 to 5 years	4		
	>3 to 4 years	3		
>2 to 3 years	2			
1 to 2 years	1			
Below 1 year/ no submission / no contract start and end dates	0			

Number of relevant project (s) undertaken		
Letter of appointment with contactable references from different companies/ government institutions for the supply and operation of landfill equipment		
Guideline	Rating 0-5	
0 Appointment letter with reference	0	15
1 Appointment letter with reference	1	
2 Appointment letters with references	2	
3 Appointment letters with references	3	
4 Appointment letters with references	4	
5 Appointment letters with references	5	
Note: Only signed appointment and reference letters on official letterheads, and contactable references will be accepted		
Average age (Kilometres/ Hours) of all landfill equipment supplied as per schedule 2		
Guideline	Rating 0.-5	
100% of equipment with more than 90 000 Km or 10 000 hours	0	30
> or = 80% and < 99% of equipment with more than 90 000 Km and 10 000 hours	1	
> or = 60% and < 79% of equipment with more than 90 000 Km and 10 000 hours	2	
> or = 40% and < 59% of equipment with more than 90 000 Km and 10 000 hours	3	
> or = 30% and < 39% of equipment with more than 90 000 Km and 10 000 hours	4	
< or = 29% of equipment with more than 90 000 Km and 10 000 hours	5	
Proof of equipment hours or kilometres recorded in a service book from a certified dealer or workshop must be supplied for each equipment.		

**RESOURCES:
EQUIPMENT**

METHODOLOGY AND MANAGEMENT PLAN	Implementation Plan with firm timelines clearly demarcating lead time to deliver equipment :		
	Bidder to develop and provide a project implementation plan which must be detailed, relevant and practical for delivery on the scope of work. NB: (Please submit a letter signed by the Accounting Officer indicating the delivery lead times)		15
	Guideline	Rating 0-5	
	No Submission	0	
	Supply within 7 days from award	5	
LOCALITY	Locality		
	The address where the business premises are located or is operating from.		10
	Guideline	Rating 0-5	
	Outside RSA	0	
	Outside Gauteng within RSA	2	
	Within Gauteng but Outside COJ area	3	
Within COJ area	5		
Subtotal (In office functionality evaluation)			100
Bidders must score 70 of 100 points to qualify for the next evaluation stage			

THE MINIMUM REQUIRED THRESHOLD/SCORE FOR FUNCTIONALITY IS 60% OR 60 POINTS OUT OF 100.

NB: In accordance with the above requirements all Suppliers are required to submit proof/ evidence of the portfolio for functionality separately and it must be clearly marked as evidence portfolio.

7. PRICE AND PREFERENCE CRITERIA

Bidders will be evaluated on the 90/10 Preference Point System.

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

90/10 formula

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

Where

P_s = Points scored for comparative price of bid under consideration

P_t = Comparative price of bid under consideration

P_{\min} = Comparative price of lowest acceptable bid

Therefore

Price Points	90
Preference Points ((Points scored by the bidder in terms of B-BBEE contribution level as per the DTI Codes of Good Practice)	10
<i>(See Preference Points Table below)</i>	<hr/>
Total points for Price and Preference	100

Important Note:

In terms of the Legislative framework, the B-BBEE Act no. 53 of 2003 and the Codes of Good Practice for BBEE 2013, implemented with effect from 1 May 2015, Service Providers with annual total revenue of R10 million or less qualify as Exempted Micro Enterprises (EMEs), and must submit **sworn affidavit or a Certificate issued by Companies and Intellectual Property Commission (CIPC)** confirming their annual turnover of R10 million or less. **(Annexure 14)**. A Consolidated BBEE scorecard must be submitted for joint ventures to claim preference points.

Service Providers other than Exempted Micro Enterprises (EMEs) must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating.

Failure to do so may result in the points for Preference not being awarded to the Service Provider.

Preference Points table for 90/10 points system:

B-BBEE Status Level Contributor	Number of Points
1	10
2	9
3	8
4	5
5	4
6	3
7	2
8	1
Non-Compliant Contributor	0

Note: The National Treasury General Conditions of Contract 2010 as well as specific conditions of contract for this bid. This is available on www.nationaltreasury.gov.za. Any additional terms, conditions, and service levels will form part of special conditions of contract to be agreed and signed upon award of the bid. This will have to be signed by the successful bidder before the commencement of the project.

APPENDIX “A”

SCHEDULE OF PROJECT UNDERTAKEN BY BIDDER

Provide the following information on **relevant previous experience**. Indicate comparable projects of similar or larger size. This information is material to the award of the Contract.

NAME OF ORGANIZATION/CLIENT	DESCRIPTION OF THE CONTRACT	START DATE	END DATE	CONTACT PERSON (NAME & SURNAME)

Signature:.....

ANNEXURE 3.1

MBD 3.1

+

PRICING SCHEDULE

PRICING SCHEDULE – FIRM PRICES**(PURCHASES)**

NOTE: ONLY FIRM PRICES WILL BE ACCEPTED. NON-FIRM PRICES (INCLUDING PRICES SUBJECT TO RATES OF EXCHANGE VARIATIONS) WILL NOT BE CONSIDERED

IN CASES WHERE DIFFERENT DELIVERY POINTS INFLUENCE THE PRICING, A SEPARATE PRICING SCHEDULE MUST BE SUBMITTED FOR EACH DELIVERY POINT

Name of Bidder: _____

.....
Bid Number: PIK 073/ 2019-20
Closing Time: 11:00 AM
Closing Date: 30 JANUARY 2020

OFFER TO BE VALID FOR 90 DAYS FROM THE CLOSING DATE OF QUOTATION

ITEM NO.	QUANTITY	DESCRIPTION	BID PRICE IN RSA CURRENCY ** (ALL APPLICABLE TAXES INCLUDED)
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Details to be completed on the attached pricing schedule

- Required by Pikitup Johannesburg SOC Limited
- At various sites in and around the City of Johannesburg area as specified in the
- Brand and Model To be completed in a separate schedule
- Country of Origin To be completed in a separate schedule
- Does the offer comply with the specification(s)? *YES/NO
- If not to specification, indicate deviation(s)
- Period required for delivery As specified in the TOR
*Delivery: Firm/Not firm
- Delivery basis As specified in the TOR

Note: All delivery costs must be included in the bid price, for delivery at the prescribed destination.

** "all applicable taxes" includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies.

*Delete if not applicable

Except if indicated differently in the pricing schedule, the bid price will remain fixed for the proposed contract period.

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ANNEXURE 4

MBD 4

DECLARATION OF INTEREST

MBD 4

DECLARATION OF INTEREST

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

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

3.2 Identity Number:

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

3.4 Company Registration Number:

3.5 Tax Reference Number:.....

3.6 VAT Registration Number:

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

3.8 Are you presently in the service of the state?
(Circle the applicable answer) YES / NO

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

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

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

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

3.9 Have you been in the service of the state for the past twelve months?
(Circle the applicable answer)... YES / NO

3.9.1 If yes, furnish particulars.....

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.....

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?

(Circle the applicable answer) 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?

(Circle the applicable answer)...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?

(Circle the applicable answer)...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?

(Circle the applicable answer)...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?

(Circle the applicable answer)...YES / NO

3.14.1 If yes, furnish particulars:

.....

.....

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

Full Name	Identity Number	State Employee Number

.....
Signature

.....
Date

.....
Capacity

.....
Name of Bidder

ANNEXURE 6

MBD 6.1 - PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS

MBD 6.1

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

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

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

EME's / QSE's without a BBEE certificate may complete a SWORN AFFIDAVIT FOR BBEE-EXEMPT MICRO ENTERPRISE. Download affidavit at http://www.dti.gov.za/economic_empowerment/bee_codes.jsp

1. GENERAL CONDITIONS

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

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

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

1.3 Points for this bid shall be awarded for:

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

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

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

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

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

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2. DEFINITIONS

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

3. POINTS AWARDED FOR PRICE

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

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

80/20

or

90/10

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

Where

P_s = Points scored for price of bid under consideration

P_t = Price of bid under consideration

P_{\min} = Price of lowest acceptable bid

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

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

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

5. BID DECLARATION

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

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

6.1 B-BBEE Status Level of Contributor: . =(maximum of 10 or 20 points)
 (Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

7. SUB-CONTRACTING

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

(Tick applicable box)

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

7.1.1 If yes, indicate:

- i) What percentage of the contract will be subcontracted.....%
- ii) The name of the sub-contractor.....
- iii) The B-BBEE status level of the sub-contractor.....
- iv) Whether the sub-contractor is an EME or QSE

(Tick applicable box)

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

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

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

8. DECLARATION WITH REGARD TO COMPANY/FIRM

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

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

8.6 COMPANY CLASSIFICATION

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

[TICK APPLICABLE BOX]

8.7 MUNICIPAL INFORMATION

Municipality where business is situated:

Registered Account Number:

Stand Number:

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

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

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

<p>WITNESSES</p> <p>1.</p> <p>2.</p>
--

<p>.....</p> <p>SIGNATURE(S) OF BIDDERS(S)</p>
<p>DATE:</p> <p>ADDRESS</p> <p>.....</p> <p>.....</p>

ANNEXURE 7

CONTRACT FORM

MBD 7.2 – RENDERING OF SERVICES

**MBD 7.2
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 **PIKITUP JOHANNESBURG SOC LTD** in accordance with the requirements and task directives / proposals specifications stipulated in Bid Number **PU060/2018** at the price/s quoted. My offer/s remain 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;
 - Tax clearance certificate;
 - Pricing schedule(s);
 - Filled in task directive/proposal;
 - Preference claims for Broad Based Black Economic Empowerment Status Level of Contribution in terms of the Preferential Procurement Regulations 2011;
 - 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 fulfilment 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.
7. 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 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	B-BBEE STATUS LEVEL OF CONTRIBUTION	MINIMUM THRESHOLD FOR LOCAL PRODUCTION AND CONTENT (if applicable)

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

SIGNED AT:

NAME (PRINT):

SIGNATURE:

DATE:

Witness: 1.

Witness: 2.

ANNEXURE 8

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

MBD 8

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

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

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

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

CERTIFICATION

**I, THE UNDERSIGNED (FULL NAME)
CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM ARE
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

ANNEXURE 9

CERTIFICATE OF INDEPENDENT BID DETERMINATION

MBD 9**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

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

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

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

CERTIFICATE OF INDEPENDENT BID DETERMINATION MBD 9

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 _____ (Name of Bidder) that:

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign, the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit, a bid;

- (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
- (f) bidding with the intention not to win the bid.

8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
10. 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

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

ANNEXURE 10

CORPORATE GOVERNANCE BREACH CLAUSE

CORPORATE GOVERNANCE BREACH CLAUSE

1. PIKITUP Johannesburg (SOC) LTD (“PIKITUP”) requires (“the Company”) to comply, *mutatis mutandis* with the Code contained in the King II Report and Code of Good Corporate Governance (below “the Code”) for the term of this Agreement and any extension thereof.
2. The Company irrevocably undertakes and agrees that it will, *mutatis mutandis*, comply with the Code for the term of this Agreement and any extensions thereof.
3. The Company acknowledges and agrees that:
 - 3.1 It is essential that the Company complies with the Code, in order to discharge all of its obligations under and in terms of the Agreement in a proper, efficient and professional manner, and
 - 3.2 PIKITUP will be prejudiced and may suffer damages in the event of the Company failing to comply with the Code.
4. The Company shall be required, within seven (7) days of the end of each calendar month during the term of this Agreement (and any extensions thereof), to furnish PIKITUP with a written certificate, signed by the directors of the Company [**alternatively members of the Close Corporation**], certifying that the Company has complied with the provisions of the Code during the preceding months.
5. PIKITUP shall have the right, without assigning any reason therefore and at any time, to appoint either the Institute of Directors of South Africa or a firm of chartered accountants or attorneys, to conduct an audit of the business and affairs of the Company in order to ascertain whether the Company is indeed complying with the terms of the Code. To this end, the Company irrevocably undertakes and agrees to co-operate fully with the party conducting such investigation for and on behalf of PIKITUP and to make available to such party all such documentation and all such information as the investigation party may require to fully discharge its obligations under and in terms hereof and to report fully to PIKITUP.

In the event of it being found that the Company is not complying with the Code, then PIKITUP shall be entitled to (a) regard this as a breach of the agreement and (b) recover the costs of the investigation, on an attorney and client basis, from the Company. In the event of it being found that the Company is, in fact, discharging its obligations under and in terms of the Code, then

PIKITUP shall bear the costs incurred in such investigation. In either of the foregoing events, the Company shall be entitled to receive a copy of the written report once same has been concluded by the investigating party.

6. In the event of the Code being replaced with another Code (or similar document), then such replacement document shall replace the Code and a reference to the Code shall be deemed to be a reference to such replacement document. The reference to the Code shall be deemed to include any statutory codification of directors' obligations and duties which may be enacted in the Republic of South Africa at any time in the future.
7. In entering into this Agreement, the Company represents and warrants to PIKITUP that it is familiar with the Code, that it fully understands and appreciates the rights, obligations and recommendations therein contained and agrees to be bound thereby as herein recorded.

ANNEXURE 11

The National Treasury General Conditions of Contract 2010 as well as specific conditions of contract for this bid will apply. The GCC is available on www.nationaltreasury.gov.za. Any additional terms and conditions will form part of special conditions of contract to be agreed and signed upon award of the bid. The contract will have to be signed by the successful bidder before the project commence. A service level agreement must be entered into by the awarded bidder and PIKITUP within 30 days of award of contract.

The following agreement is a draft agreement (indicating the specific conditions of contract) and will be concluded at bid award with the successful bidder/s.

(DRAFT)

AGREEMENT

AGREEMENT FOR THE SUPPLY AND OPERATION OF LANDFILL EQUIPMENT ON RENTAL BASIS

between

PIKITUP JOHANNESBURG (SOC) LIMITED
("the Employer" or "Employer")

and

("the Service Provider")

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PARTIES:

This Agreement is made between:

- (i) **PIKITUP JOHANNESBURG (SOC) LIMITED** a wholly owned municipal entity of the City of Johannesburg incorporated under the Companies Act (71 Of 2008), read with the Municipal Systems Act (32 of 2000), with registration number 2000/029899/07 (the **“Employer”**); and
- (ii) a company registered in accordance with the laws of the Republic of South Africa under registration number (the **“Service Provider”**).

WHEREAS

- A. The Employer is a company mandated in terms of the Municipal Systems Act (32 of 2000) to provide municipal waste management and minimisation services in the Johannesburg Metropolitan area.
- B. The Service Provider is in the business of supplying and operating landfill equipment.
- C. The Employer requires the supply of the landfill equipment with fuel and the operator on a rental basis.
- D. The Service Provider is willing and able to provide these services to the Employer.
- E. The Parties therefore enter into this Agreement to regulate their relationship and matters ancillary thereto.

IT IS AGREED AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

For the purposes of this Agreement and the preamble above, unless the context requires otherwise:

- 1.1.1 **“Affiliate”** means any other entity that directly or indirectly through one or more intermediaries, controls or is controlled by, or is under the common control with the Party in question. For the purpose hereof “control” means the beneficial ownership of the majority in number of the issued equity of any entity (or the whole or majority of the entity’s assets), and/or the right or ability to directly or otherwise control the entity or the votes attaching to the majority of the entity’s issued share capital and, “controlled” or “under common control” shall have a similar meaning;
- 1.1.2 **“Agreement”** means, collectively, this agreement, all schedules hereto and any documents referenced in this Agreement that are binding on the Service Provider in terms of this Agreement;
- 1.1.3 **“Law”** means the Constitution of the Republic of South Africa, 1996, all national (or state) legislation, statutes, ordinances and other laws, regulations and by-laws of any legally constituted public Authority, norms and standards that have the force of law, and the common law;
- 1.1.4 **“Business Day”** means a calendar day, other than a Saturday, Sunday, or public holiday in South Africa;
- 1.1.5 **“Collusive Practice”** means any agreement (which includes without limitation a contract, arrangement or understanding, whether or not legally enforceable) or concerted practice (being co-operative, or coordinated conduct between firms, achieved through direct or indirect contact, that replaces their independent action, but which does not amount to an agreement) between two or more persons (other than between the Service Provider and its Affiliates), regardless of any technological, efficiency or other pro-competitive gains, involving any of the following:

- a) the direct or indirect fixing of a purchase or selling price or any other trading condition;
- b) the division of markets by allocating customers, Service Providers, territories, or specific types of goods or services; or
- c) collusive tendering;

- 1.1.6 **“Commencement Date”** means the date of the party signing last in time.
- 1.1.7 **“Commercially Reasonable Efforts”** means taking such steps and performing in such a manner as a well-managed company would undertake where such company was acting in a prudent and reasonable manner to achieve the particular result for its own benefit provided always that such steps are within the reasonable control of the Party;
- 1.1.8 **“Confidential Information”** means all information relating to the Project and the Employer (including all information relating to the Employer’s business, products, services, affairs and/or finances which is not readily available, in the ordinary course of business, to third parties) and any other information which, by its nature, would reasonably be considered to be confidential;
- 1.1.9 **“Service Provider’s Representative”** is the Service Provider’s Representative or any replacement appointed in writing by the Service Provider within 5 days of the Commencement Date.
- 1.1.10 **“Corrupt Act”** means any offence in respect of corruption or corrupt activities contemplated in the Prevention and Combating of Corrupt Activities Act No. 12 of 2004;
- 1.1.11 **“Dispute”** means any dispute or difference between the Parties in connection with or arising from this Agreement in the widest sense, including any dispute or difference in connection with or in respect of the conclusion or existence of this Agreement, the carrying into effect of this Agreement, the interpretation or application of the provisions of this Agreement, the Parties’ respective rights and/or obligations in terms of and/or arising out of this Agreement and/or the validity, enforceability, rectification,

termination or cancellation, whether in whole or in part, of this Agreement;

- 1.1.12 **“Equipment”** means the items of equipment listed in Schedule 2 *[Equipment]*, all substitutions, replacements or renewals of such equipment and all related accessories, manuals and instructions provided for it;
- 1.1.13 **“Employer’s Personnel”** means the Employer’s Representative and all other staff, labour and other employees of the Employer’s Representative and of the Employer; and any other personnel notified to the Service Provider, by the Employer or the Employer’s Representative, as Employer’s Personnel;
- 1.1.14 **“Employer’s Representative”** is the Employer’s Representative or any replacement appointed in writing by the Employer and may be an individual or the holder of particular office in the employ of the Employer.
- 1.1.15 **“Force Majeure Event”** shall have the meaning ascribed thereto in clause 21;
- 1.1.16 **“Insolvent”** means with respect to a Party, that:
- 1.1.16.1 the total of that Party’s assets at a fair valuation is less than the total amount of liabilities, including without limitation, contingent liabilities;
- 1.1.16.2 that Party is not able to pay its debts and other liabilities, contingent obligations and other commitments as they fall due in the normal course of business;
- 1.1.16.3 an application has been made or a resolution has been passed for the winding-up, liquidation, business rescue of the party or for a provisional or final liquidator, business rescue practitioner to be appointed in respect of the Party or a meeting has been convened for the purposes of passing a resolution to wind up;
- 1.1.16.4 it is in receivership, in business rescue, in liquidation, in provisional liquidation, under administration or wound up or has had a receiver appointed to any part of its property;

- 1.1.16.5 it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any Law or dissolved (other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other Party to this Agreement); or
- 1.1.16.6 an application or order has been made (and, in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), a resolution passed, a proposal put forward, or any other action taken, in each case in connection with that Party, which is preparatory to or could result in any of the circumstances in any of paragraphs 1.1.16.1, 1.1.16.2, 1.1.16.3, or 1.1.16.4 above;
- 1.1.17** “**Licences**” means the licences, registrations, permissions, authorisations, concessions, consents, notifications, agreements and permits required in terms of the Law;
- 1.1.18** “**Normal Working Hours**” shall mean the hours in respect of the various sites as set out in Schedule 3.
- 1.1.19 “**Parties**” means the Employer and the Service Provider and **Party** shall mean either of them as the context requires;
- 1.1.20 “**Penalties**” means the penalties payable by the Service Provider, as set out in Schedule 6 [*Penalties*];
- 1.1.21 “**Performance Standards**” means the performance and service levels, as set out in Schedule 1 [*Scope of Service*] and as may be amended by agreement between the Parties from time to time;
- 1.1.22 “**Scope of Services**” shall mean the scope of Services set out in Schedule 1 [*Scope of Services*];
- 1.1.23 “**Services**” means the Services as they are described in this Agreement and Schedule 1 [*Scope of Services*];
- 1.1.24 “**Services Fee**” is the fee payable by the Employer to the Service Provider for the

performance of the Services calculated in accordance with Schedule 3 [*Service Fee and Payment*];

1.1.25 “**Site(s)**” means the areas provided by the Employer for carrying out the Services as identified in Schedule 5 [*Site Information*];

1.1.26 “**Site Rules**” means all the **standard operating procedures**, rules and/or regulations applicable to all third parties that enter upon any of the Employer’s Sites and which are attached as Schedule 4 [*Site Rules*];

1.1.27 “**Term**” shall be a period of 7 months from the Commencement Date;

1.1.28 “**VAT**” means value-added tax as may be levied in terms of the Value-Added Tax Act, No. 89 of 1991, to the extent applicable;

1.2 Interpretation

In addition to the definitions in clause 1.1, unless the context requires otherwise:

1.2.1 the singular shall include the plural and vice versa;

1.2.2 a reference to any one gender, whether masculine, feminine or neuter, includes the other two;

1.2.3 all the headings and sub-headings in this Agreement are for convenience only and are not to be taken into account for the purposes of interpreting it;

1.2.4 when any number of days is prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day is not a Business Day, in which case the last day shall be the next succeeding day which is a Business Day;

1.2.5 expressions defined in this Agreement shall bear the same meanings in the schedules and annexures to this Agreement which do not themselves contain their own conflicting definitions;

- 1.2.6 if any term is defined within the context of any particular clause in this Agreement, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this Agreement, notwithstanding that that term has not been defined in this interpretation clause;
- 1.2.7 the rule of construction that a contract shall be interpreted against the Party responsible for the drafting or preparation of the contract, shall not apply;
- 1.2.8 the words “include”, “including” and “in particular” shall be construed as being by way of example or emphasis only and shall not be construed, nor shall they take effect, as limiting the generality of any preceding word/s; and
- 1.2.9 The term “recognized good practice”, whenever used in this Agreement (unless the context indicates a different intention), means the skill, care and diligence of a Service Provider seeking in good faith to perform its contractual obligations and in so doing and in the general conduct of its undertakings, observing and/or exercising the degree of skill, care, diligence, prudence and foresight which would reasonably and ordinarily be exercised by a skilled and experienced Service Provider in relation to his practices, methods, techniques, specifications and/or standards (whether in respect of design, workmanship or otherwise) engaged in the same type of undertaking under the same or similar circumstances and conditions as this Agreement.

2. APPOINTMENT

The Employer hereby appoints the Service Provider to provide the Services at the Site(s) for the Term of this Agreement on a non-exclusive basis, and the Service Provider hereby accepts such appointment on the terms and conditions set out herein.

3. RELATIONSHIP OF THE PARTIES

- 3.1 For the avoidance of any doubt, the Parties record and agree that, pursuant to the implementation of this Agreement, the Parties shall at all times act as independent business

concerns in relation to the other. Neither Party is an agent of the other or has any authority to represent the other as to any matters, except as expressly authorised in this Agreement.

3.2 Nothing contained in this Agreement shall be construed as creating a company, close corporation, joint venture, partnership or association of any kind between the Parties; nor is anything contained in this Agreement to be construed as creating or requiring any continuing relationship or commitment on a Party's or its affiliates' behalf with regard to the other Party and its affiliates other than as specifically set out herein.

3.3 Unless expressly authorised by this Agreement, neither of the Parties (nor their respective agents) shall have the authority or right, nor shall any Party hold itself out as having the authority or right, to assume, create or undertake any obligation of any kind whatsoever, express or implied, on behalf of or in the name of the other Party.

4. COMMENCEMENT & DURATION

4.1 Subject to clause 4.2 below, this Agreement shall commence on the Commencement Date and shall endure for the Term until (7) seven months when it shall terminate automatically.

4.2 Notwithstanding the provisions of clause 4.1 above, this Agreement may be terminated at any time during the Term by either Party in accordance with the provisions of this Agreement.

5. THE SERVICES

5.1 The Service Provider shall be responsible for providing the Services to the Employer:

5.1.1 as defined and set out in the Scope of Works and in accordance with this Agreement and the Performance Standards detailed in Schedule 1 [*Scope of Service*]. The Service Provider undertakes that, in providing the Services, it will employ the necessary diligence, skill and expertise to comply with such Performance Standards;

5.1.2 to the satisfaction of the Employer's Representative;

- 5.1.3 in accordance with all applicable Law; and
- 5.1.4 in accordance with industry the standards, due care and diligence of a Service Provider in the same position and performing the same or similar services to the Services.
- 5.2 The Service Provider shall further:
- 5.2.1 comply with Client's Site Rules;
- 5.2.2 comply with all reasonable instructions given by the Employer or the Employer's Representative at any time;
- 5.2.3 participate in all meetings and service review sessions reasonably requested by the Employer upon reasonable notice to address performance issues related to this Agreement.
- 5.3 The Service Provider acknowledges that the Services includes all work specifically referred to in this Agreement, and which is otherwise necessary or desirable for the proper execution and completion of the Services and for the proper performance of the Service Provider's obligations under this Agreement.

6. THE EQUIPMENT

- 6.1 The Service Provider shall provide:
- 6.1.1 all Equipment required for the performance of the Services and not make use of the Employer's tools and/or equipment;
- 6.1.2 the Equipment in good working order and ready to operate;
- 6.1.3 sufficient, suitably skilled and qualified personnel to operate and maintain the Equipment; and
- 6.1.4 sufficient fuel and resources (oil, lubricants, spares and consumables) to operate the Equipment to ensure that at all times the Performance Standards are met.
- 6.2 The Service Provider shall further:

- 6.2.1 take such steps as may be necessary to ensure, so far as is reasonably practicable, that the Equipment is at all times safe and without risk to health when it is being set, used, cleaned or maintained by a person at work;
- 6.2.2 maintain at its own expense the Equipment in good and substantial repair including replacement of worn, damaged and lost parts, and shall make good any damage to the Equipment to ensure that the Performance Standards are met at all times;
- 6.2.3 maintain operating and maintenance records of the Equipment and make copies of such records readily available to the Employer, together with such additional information as the Employer may reasonably require.
- 6.3 The Equipment shall satisfy, comply with and meet, as the case may be, any technical standards stated in the Scope of Services and the Performance Standards.
- 6.4 The Service Provider's Equipment shall at all times remain the property of the Service Provider.
- 6.5 The risk of loss, theft, damage or destruction of the Equipment shall remain at the sole risk of the Service Provider during the Term.
- 6.6 The Service Provider shall, at its own expense, obtain and maintain the following insurances:
- 6.6.1 insurance of the Equipment to a value not less than its full replacement value comprehensively against all usual risks of loss, damage or destruction by fire, theft or accident, and such other risks as the Employer may from time to time nominate in writing;
- 6.6.2 insurance for such amounts as a prudent owner or operator of the Equipment would insure for, or such amount as the Employer may from time to time reasonably require, to cover any third party or public liability risks of whatever nature and however arising in connection with the Equipment; and
- 6.6.3 insurance against such other or further risks relating to the Equipment as may be required by law, together with such other insurance as the Employer may from time to time consider reasonably necessary and advise to the Service Provider.

7. STATUTORY AND OTHER OBLIGATIONS

- 7.1 At all times, including any period of time subsequent to the termination of this Agreement for whatsoever reason, the Service Provider shall conform in all respects with the provisions of any Law which may be applicable to the performance of the Services and the Service Provider's obligations under this Agreement (including any Law relating to the prevention of nuisances and pollution; waste recycling, management, transport and disposal; the environment; health and safety, social and labour matters; and security matters).
- 7.2 The Service Provider shall, and shall procure that its employees and its subcontractors and their employees and other agents of the Service Provider, acquaint it/themselves with all relevant Laws (including any Law relating to the prevention of nuisances and pollution; waste recycling, management, transport and disposal; the environment; health and safety, social and labour matters; and security matters) and provides the Services in a manner that fully complies with the Law.
- 7.3 The Service Provider shall ensure that it obtains all requisite Licences necessary to carry out the Services and its obligations under this Agreement.
- 7.4 The Service Provider shall ensure that it complies in all respects with the conditions and requirements of the Licences.
- 7.5 The Service Provider shall be responsible for the payment of all costs, taxes, duties, levies and waste management and other charges payable under any Law applicable to the performance of the Services and its obligations under this Agreement.
- 7.6 The Service Provider shall indemnify and keep indemnified the Employer and its directors, officers, employees and representatives against all losses, damages, costs or expenses (whether direct or indirect) which they may suffer or incur; all and any claims which may be brought against them by any authority or other third party in respect of any loss, liability (whether actual, contingent, or otherwise), damage, costs and expenses; any orders or actions by authorities; and all legal costs on the attorney and client scale which may be payable as a result of any claims or proceedings in respect of this Agreement, as a consequence of or which may arise from or be attributable to a breach of clauses 7.1 to 7.5 or otherwise arising out of the Service Provider's non-compliance with any Law applicable to the execution of this Agreement.

8. SAFETY PROCEDURES

8.1 General

8.1.1 The Service Provider shall, and shall procure that all of its employees, representatives and subcontractors shall, at all times whilst performing the Services and/or whilst on Site, adhere strictly to the terms of the Site Rules. In addition the Service Provider must provide safe working conditions for all persons carrying out the Services for or on behalf of the Service Provider and at all times comply with the Employer's Site Rules.

8.1.2 The Employer's Representative may direct the Service Provider to permanently remove any person from the Site if, in the opinion of the Employer's Representative, the person:

8.1.2.1 is guilty of misconduct or is incompetent or negligent; or

8.1.2.2 has contravened any applicable rules of the Employer or an authority on safety or safe working procedures.

8.2 Occupational Health and Safety Plan

8.2.1 The Service Provider acknowledges that its appointment constitutes an agreement in terms of Section 37(2) of the OHS Act, whereby all responsibility for health and safety matters relating to the Services that the Service Provider are to perform at the Sites, shall be the obligation of the Service Provider.

8.2.2 The Service Provider shall be deemed to be an employer in its own right whilst working on the Sites. In terms of Section 16(1) of the OHS Act, the Service Provider shall accordingly ensure that the requirements of the OHS Act are complied with by it and by its Chief Executive Officer.

8.2.3 The Service Provider warrants that it has familiarised itself with the hazards associated with the work being carried out on the Sites. The Service Provider shall ensure that its

employees and/or sub-contractors are trained on the health and safety aspects relating to the work and that they understand the hazards associated with such work being carried out on the Sites.

8.2.4 The Service Provider shall be required to submit to the Employer, for approval, a health and safety plan in relation to the performance of the Services on the Site. The safety plan shall comply with all applicable Law.

8.2.5 The safety plan must be submitted to the Employer for the Employer's approval prior to the Commencement Date.

8.2.6 The Service Provider shall ensure that the Service Provider's Personnel have received health and safety training and are familiar with the approved health and safety plan.

8.3 Security

The Service Provider shall at all times remain responsible for the security of its own Equipment and assets on the Site/s. The Service Provider shall also fully acquaint itself and undertakes to comply with all of the Employer's security regulations (which are included in the Site Rules) particularly those pertaining to personnel, plant, material and equipment entering or leaving the Site.

9. **SERVICE PROVIDER'S REPRESENTATIVE AND PERSONNEL**

9.1 The Service Provider hereby appoints the Service Provider's Representative(s) as its representative and as the supervisor of the Services under this Agreement.

9.2 The Service Provider shall be entitled to appoint a substitute representative, or change the contact details of its representative, on written notice to the Employer from time to time (which written notice shall include contact details or substitute contact details of such representative, as the case may be). The change shall become effective on the first day succeeding the date of receipt of the notice.

9.3 Subject to clauses 9.4 and 9.5, the Service Provider's Representative shall have full authority to act on behalf of the Service Provider under this Agreement, including for purposes of granting

any approvals or reaching agreement on any matter.

9.4 Except to the extent specifically otherwise authorised by the Service Provider from time to time, the Service Provider's Representative shall not have the authority to amend or terminate this Agreement.

9.5 The Service Provider shall be entitled, on written notice to the Employer, to limit the authority of its representative under this clause 9.5 from time to time; provided, however, that the Service Provider's Representative shall at all times at least be authorised:

9.5.1 to receive notices and other communications under this Agreement; and

9.5.2 for purposes of seeking and granting approvals.

9.6 The Service Provider's Representative may delegate any of his or her functions under this Agreement to a nominee approved by the Employer's Representative. The Service Provider must promptly inform the Employer's Representative in writing of:

9.6.1 any appointment or replacement of the Service Provider's Representative; and

9.6.2 any delegation by the Service Provider's Representative of all or any of his or her functions under this Agreement to a nominee, and the extent and the scope of that delegation.

9.7 The Service Provider must ensure that the Service Provider's Representative and any delegate notified to the Employer's Representative under clause 9.2 are not replaced without the approval of the Employer's Representative.

9.8 The Service Provider shall ensure the availability of a sufficient and appropriate number of personnel who shall be properly qualified (and, if required, appropriately registered), with the necessary skills and experience as may be required for the performance of the Services.

10. WARRANTIES, REPRESENTATIONS AND UNDERTAKINGS

10.1 The Service Provider represents and warrants that:

- 10.1.1 it has the requisite expertise and sufficiently skilled manpower, personnel and resources (including the necessary supervision and support services) to provide the Services and satisfy its obligations under this Agreement for the Term;
- 10.1.2 it has the necessary licenses and approvals as may be required to provide the Services efficiently and expeditiously;
- 10.1.3 it has the necessary power and legal capacity to enter into and perform its obligations under this Agreement and all matters contemplated herein;
- 10.1.4 it has taken all necessary corporate and/or internal action to authorise the execution and performance of this Agreement;
- 10.1.5 it has the capacity and power to provide the representations, warranties and undertakings contained in this Agreement;
- 10.1.6 the execution of this Agreement and performance of its obligations hereunder does not and shall not, to the best of its knowledge:
- 10.1.6.1 contravene any applicable Law; or
- 10.1.6.2 contravene any provision of its constitutional documents,
- 10.1.6.3 so as to prevent it from performing its obligations under this Agreement.

11. SERVICE PROVIDER'S WARRANTY ON ADHERENCE TO ANTI-BRIBERY AND SANCTIONS LAWS OR POLICIES

- 11.1 The Service Provider hereby represents and warrants that:
- 11.1.1 all information disclosed by or on behalf of the Service Provider to the Employer at any time up to the Commencement Date and, in particular, during any bid process

preceding the award of the Agreement to the Service Provider, is true, complete and accurate in all material respects and the Service Provider is not aware of any material facts or circumstances not disclosed to the Employer which would, if disclosed, be likely to have an adverse effect on the Employer's decision (acting reasonably) to enter into this Agreement with the Service Provider;

11.1.2 it has not committed any Corrupt Acts in relation to negotiating and entering into this Agreement.

11.1.3 for the duration of this Agreement, it will comply (and will procure that all its employees, directors, officers or agents comply) with all international laws and regulations relating to economic sanctions, trade sanctions and/or export controls and the prevention and combating of bribery, corruption and money laundering, to which it is subject.

11.1.4 it has, and will for the duration of this Agreement have, an adequate anti-corruption programme in place to enable compliance with any anti-corruption Law applicable to it.

11.2 Each Party undertakes not to, and will procure that all its employees, directors, officers or agents, do not:

11.2.1 pay, promise to pay or offer to pay, or authorise the payment of any commission, success fee, bribe, pay off or kickback related to the Services that violates any anti-corruption Law or enter into any agreement pursuant to which any such commission, success fee, bribe, pay off or kickback may or will at any time be paid; or

11.2.2 offer, promise or give any undue pecuniary or other advantage, whether directly or indirectly to any public official, with the intent of influencing the actions or decisions of such official in performance of his/her official duties, with the purpose of obtaining or retaining business or other improper benefit or advantage.

11.3 Any breach by a Party of the provisions of this clause 11 will be a material breach of this Agreement and entitle the innocent Party to cancel this Agreement immediately on notice to the guilty Party.

11.4 The Service Provider warrants that neither it nor any of its affiliates has engaged, and undertakes that it and its affiliates will not engage, in any Collusive Practice in connection with the matters contemplated in this Agreement.

12. PENALTIES

12.1 If the Service Provider fails to achieve the Performance Standards specified in Schedule 1 [*Scope of Service*] then the Employer shall, without prejudice to its other remedies under the Agreement, deduct from any invoiced amount a sum, as a penalty, calculated in accordance with Schedule 6 [Penalties Schedule].

12.2 The Service Provider shall not be liable for a penalty if and to the extent that a Performance Standard is not met due to any delay, impediment or prevention caused by or attributable to the Employer, the Employer's Personnel, or the Employer's other contractors on the Site(s).

12.3 This clause 12 does not prevent the Employer from claiming damages and the Employer hereby reserves its right to claim damages in lieu of penalties should it so elect.

13. GENERAL OBLIGATIONS OF THE EMPLOYER

13.1 The Employer shall, for the duration of this Agreement:

13.1.1 provide the Service Provider with access to the Sites to allow the Service Provider to provide the Services;

13.1.2 provide such information and documentation as reasonably requested by the Service Provider so as to allow the Service Provider to fulfil its obligations in terms of this Agreement; and

13.1.3 co-operate with the Service Provider in all matters relating to the Services.

13.2 In addition, the Employer shall be responsible for and undertakes to pay the Services Fee as set out in Schedule 3 [*Services Fee and Payment*].

14. GENERAL OBLIGATIONS OF THE SERVICE PROVIDER

14.1 The Service Provider shall:

14.1.1 Provide the Services with due care, skill, professionalism, and diligence as would be expected of a reasonable service provider in the position of the Service Provider;

14.1.2 meet the Performance Standards. If the Service Provider fails to do so, the Employer may (without prejudice to its right to claim Penalties or any other rights it may have):

- a) terminate this Agreement in whole or in part without liability to the Service Provider;
- b) refuse to accept any subsequent performance of the Services which the Service Provider attempts to make;
- c) purchase substitute services from elsewhere;
- d) hold the Service Provider accountable for any loss and additional costs incurred.

14.1.3 co-operate with the Employer in all matters relating to the Services;

14.1.4 strictly and punctually comply with all reasonable requests submitted by the Employer's Representative at any time;

14.1.5 comply with all applicable Laws in relation to the provision of the Services and conduct itself in a courteous and business-like manner always considering the image and reputation of the Employer; and

14.1.6 respect the confidentiality of the Employer.

15. TIME SHEETS

15.1 The Service Provider shall be required to keep and provide the Employer with daily time sheets which shall record the operating time of each item of Equipment on Site and utilized for the provision of the Services per day ("Time Sheets"). The Time Sheets shall include, inter alia, the

following information:

- 15.1.1 the Service Providers name;
 - 15.1.2 driver's/operator's name;
 - 15.1.3 date;
 - 15.1.4 vehicle registration number/ Equipment serial number;
 - 15.1.5 vehicle/equipment description;
 - 15.1.6 hours worked;
 - 15.1.7 start and finish times per day;
 - 15.1.8 stoppages (if any) and reasons for stoppage;
 - 15.1.9 signature of driver/operator of Equipment;
 - 15.1.10 signature of the Service Provider's Representative;
 - 15.1.11 signature of the Employer's Site manager or the Employer's Representative.
- 15.2 The information contained in the Time Sheet shall be accurate and must be signed by the Employer's Site manager or Employer's Representative and submitted daily. Should the Service Provider fail to comply with clause 15.1 and/or clause 15.2 the Time Sheet and related invoice shall be rejected by the Employer and deemed to be null and void.

16. PAYMENT

- 16.1 As consideration for the provision of the Services, the Service Provider shall be entitled to the Services Fee which shall be calculated in accordance with Schedule 3 [*Services Fee and Payment*]. The Services Fee shall be calculated on the basis of hourly rates and Time Sheets submitted by the Service Provider.
- 16.2 Subject to clause 16.3, the rates in Schedule 3 [*Services Fee and Payment*] are fixed and firm

and shall not be adjusted during the Term.

16.3 The price of fuel, as included in the rates set out in Schedule 3, shall be fixed and shall not be subject to any adjustment during the Term.

16.4 Within 10 (ten) Business Days after the end of each calendar month, the Service Provider shall deliver its invoices in respect of the Services Fee to the Employer, which invoices shall set out in sufficient detail what services were provided in any given month and the amount charged for each. Within 30 (thirty) days of receipt of such invoice, the Employer shall make payment of the amount specified therein to the Service Provider, subject to clause 16.5.

16.5 If the Employer disputes any specific item or items of remuneration claimed for payment or invoiced to it by the Service Provider, the Employer shall continue to pay all undisputed amounts. The Service provider shall nevertheless continue to provide the Services pending resolution of such dispute. In order to facilitate payment of undisputed amounts, if the Employer disputes any specific item or items of remuneration claimed for payment or invoiced to it by the Service Provider:

16.5.1 the Employer shall promptly notify the Service Provider accordingly in writing, identifying the disputed item or items claimed (“**Invoice Dispute Notice**”) and setting out its reasons; and

16.5.2 the Service Provider shall, within 3 (three) Business Days of receipt of the Invoice Dispute Notice either issue a credit note for the disputed amount or issue a substituted invoice for the undisputed amount. Unless otherwise expressly stated by the Service Provider in writing, such credit note or substituted invoice shall not be considered to be a waiver of the Service Provider’s right to claim payment of the disputed item or items in accordance with this Agreement.

16.6 All payments shall be made by electronic transfer into the Service Provider’s bank account as notified to the Employer in writing.

17. CHANGES TO THE SERVICES

17.1 The Employer may at any time, in writing, via the Employer’s Representative instruct a change

to the Services by way of a Variation Order. The Variation may involve increases in or additions to, reductions in or omissions from, or changes in the character or the quality of the Services. If the Variation requires the omission of work, the Employer may, if it so wishes have the omitted work carried out by itself or others as it sees fit.

- 17.2 A Variation Order will include inter alia the valuation of the change to the Services and the Services Fee (if applicable and relevant in the circumstances).
- 17.3 Before issuing a Variation Order, the Employer's Representative may issue to the Service Provider (if applicable and relevant in the circumstances) a written form expressly identified as a "Request for Variation" or similar advising the Service Provider of the scope of the proposed change to the Services and requiring the Service Provider to, within the period of time stated in the form provide an estimate of the valuation of the proposed Variation.
- 17.4 Within the period of time stipulated in the Request for Variation, the Service Provider must provide to the Employer's Representative a written response containing the information required by the Request for Variation.
- 17.5 If the Employer's Representative and the Service Provider's Representative are unable to agree on an adjustment to the Services Fee in respect of a change to the Services the subject of a Variation, the Employer's Representative must determine the amount of the adjustment (if any) that is appropriate. The Employer shall make a fair and reasonable determination in accordance with the Agreement, taking due regard of all the relevant circumstances. The Employer shall give notice to the Service Provider of the determination which shall be binding and given effect to by the Parties unless and until set aside by agreement or dispute resolution in terms of this Agreement.

18. ANNOUNCEMENTS AND CONFIDENTIALITY

- 18.1 Neither Party shall make any announcement or statement about this Agreement nor its contents without first having obtained the other Party's prior written consent to the announcement or statement and to its contents, provided that such consent may not be unreasonably withheld.
- 18.2 The Service Provider agrees and undertakes to use the Confidential Information only for the

purpose of providing the Services and for no other purpose whatsoever and not to disclose such Confidential Information to any third party without the consent of the Employer. To this end the Service Provider shall be entitled to disclose the Confidential Information to its employees, directors or subcontractors to the extent necessary for the provision of the Services, provided such persons are subject to confidentiality undertakings which are no less stringent than those applicable to the Service Provider under this Agreement.

18.3 The rights and obligations contained in this clause shall endure for the duration of this Agreement and after the termination and/or expiration of the Term.

19. INDEMNITIES

The Service Provider hereby indemnifies and holds the Employer harmless against and for any direct damages, claims, losses or costs (including costs on an attorney and own client scale) arising out of or in connection with the performance of the Services.

20. LIABILITIES

20.1 Nothing in this Agreement shall limit or exclude a Party's liability for deliberate default, fraud, fraudulent misrepresentation or reckless misconduct.

20.2 Subject to clause 20.1, under no circumstances shall a Party be liable to the other for any of the following, whether in contract, delict (including negligence) or otherwise:

20.2.1 loss of revenue or anticipated revenue;

20.2.2 loss of use;

20.2.3 loss of production;

20.2.4 loss of business opportunity;

20.2.5 loss of profits or anticipated profits;

20.2.6 wasted expenditure; or

20.2.7 any indirect or consequential losses.

20.3 The maximum amount of compensation payable by either Party to the other in respect of liability under this Agreement is limited to the amount of **10%** of the contract price.

21. FORCE MAJEURE

21.1 Neither Party shall be liable for any default or delay in the performance of its obligations under this Agreement if and to the extent that a Force Majeure Event occurs. In such event, subject to the provisions of this clause the non-performing Party is excused from further performance for as long as such circumstances prevail and the Party continues to use its Commercially Reasonable Efforts to mitigate the effect of the Force Majeure Event and recommence performance of its obligations in terms of the Agreement, as soon as possible.

21.2 A **Force Majeure Event** is any event or circumstance or combination of events and circumstances which fulfils all of the following 3 (three) criteria:

21.2.1 is beyond the reasonable control of the Party affected by that event or circumstance or both;

21.2.2 wholly or partially prevents the performance by the affected Party of any of its obligations under this Agreement; and

21.2.3 cannot be prevented, overcome or remedied by the exercise by the affected Party of a standard of care and diligence consistent with that of a Service Provider experienced in projects or activities of a similar nature to the Service Provider's Works (as the case may be).

21.3 If a Force Majeure Event occurs, in relation to the Service Provider's obligations to provide the Services, the Service Provider must immediately notify the Employer in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the Agreement.

22. INDEPENDENT AUDIT

22.1 The Service Provider shall maintain up-to-date records which clearly identify relevant time and expense and shall make these available to the Employer on reasonable request.

23. TERMINATION

23.1 Termination for Convenience

23.1.1 The Employer shall have the right at any time due to the changes in operational requirements terminate this Agreement by giving the Service Provider 30 (thirty) calendar days prior written notice to that effect.

23.1.2 The Employer shall not be entitled to terminate this Agreement in terms of this clause 23.1 within the first month of the Commencement Date.

23.1.3 The Service Provider is not entitled to any compensation as a result of this clause 23, including any consequential costs, losses or damages.

23.1.4 Upon receipt of a written notice pursuant to clause 23.1.1, the Service Provider shall forthwith discontinue the Services.

23.2 Termination for Corrupt Acts and Collusion

23.2.1 If the Service Provider, any shareholder, any Affiliate of any one of them (or anyone employed by or acting on behalf of any of them) admits to or is convicted of having committed any Corrupt Act or collusive practices in relation to the Services then the Employer may terminate this Agreement with immediate effect by giving written notice to the Service Provider.

23.2.2 Without prejudice to its other rights or remedies under this clause, the Employer shall be entitled to recover from the Service Provider, the greater of:

23.2.2.1 the amount or value of the gift, consideration or commission which is the subject of the Corrupt Act or collusive practice; and

23.2.2.2 any damages sustained by the Employer in consequence of any breach of clause 11 by the Service Provider and the resultant termination.

- 23.2.3 Nothing contained in this clause or clause 11 shall prevent the Service Provider, shareholder, Affiliate or subcontractor from paying any proper commission or bonus to its employees within the agreed terms of their employment.
- 23.3 Default
- 23.3.1 If either Party (“the **Instructing Party**”) considers that the other (“the **Defaulting Party**”) is in breach of this Agreement, the Instructing Party may give the Defaulting Party:
- 23.3.1.1 a written notice specifying the date by which the Defaulting Party must rectify the breach to the extent that the breach is capable of rectification; or
- 23.3.1.2 if the breach is incapable of rectification, a written notice specifying the Instructing Party’s requirements to mitigate the effects of that breach.
- 23.3.2 If the Instructing Party gives the Defaulting Party a written notice referred to in clause 23.3.1 the Defaulting Party must comply with the written notice.
- 23.3.3 If the Defaulting Party fails to rectify the breach or overcome or mitigate the effects of the breach, as the case may be, in accordance with the terms of a written notice referred to in clause 23.3.1:
- 23.3.3.1 the Instructing Party may take any action it considers appropriate to:
- a. rectify that breach; or
 - b. mitigate the effects of the breach; and
 - c. in either event claim damages that it may have suffered as a result of the breach; and
- 23.3.3.2 the Defaulting Party must indemnify the Instructing Party against any damage, expense, loss or liability it suffers or incurs in respect of that action, unless that damage, expense, loss or liability arises from the negligence or wilful default of the Instructing Party.

23.3.4 The Instructing Party may terminate this Agreement by giving the Defaulting Party 7 (seven) days' written notice if the Defaulting Party has not complied with a written notice given under clause 23.3.1.

23.4 Insolvency

To the extent permitted by law, either Party may terminate this Agreement, with immediate effect, by written notice to the other Party if the other Party is Insolvent.

24. **DISPUTE RESOLUTION**

24.1 Unless otherwise expressly provided for in this Agreement or otherwise agreed by the Parties in writing, Disputes shall be submitted for resolution and determined in accordance with the terms and procedures set out below, which shall apply to and govern all Disputes.

24.2 If a Dispute arises between the Parties then such Dispute shall be submitted, in accordance with this clause 24:

24.2.1 in the first instance, to the Managing Director or Chief Operating Officer of the Parties (or person in the equivalent position), as appropriate, for resolution; and

24.2.2 failing resolution by the Managing Directors or Chief Operating Officers, to arbitration.

24.3 Either Party, or its Managing Director or Chief Operating Officer (as the case may be), may by written notice to the other Party (hereinafter "the **Dispute Referral Notice**") refer a Dispute for resolution. The Dispute Referral Notice shall state that it is given in terms of this clause 24.3.

24.4 The Dispute Referral Notice shall identify the Dispute and the result sought.

24.5 Any resolution of a Dispute in terms of clause 24.2 referred to by written notice as contemplated in clause 24.3 shall (unless expressly otherwise stated therein) be final and binding on the Parties when reduced to writing and signed by the respective Parties' Managing Directors or Chief Operating Officers, or Chief Executive Officers, as the case may be. To this end, the Parties respectively agree and warrant to each other that the Managing Directors or Chief Operating Officers, as the case may be, have full authority to so bind them.

- 24.6 If the Managing Directors or Chief Operating Officers (as the case may be) fail to resolve the Dispute within 14 (fourteen) days of such Dispute having been referred to them, or such longer period as the Parties may agree in writing, either Party (hereinafter “the **Referring Party**”) shall be entitled, via its Managing Director or Chief Operating Officer, as appropriate, to refer that Dispute to arbitration, by a single arbitrator by notifying the other Party in writing of its intention to refer such Dispute to arbitration (hereinafter “the **Arbitration Notice**”). The Arbitration Notice shall state that it is given in terms of this clause 24.6.
- 24.7 Should the Parties fail to agree on the arbitrator within 7 (seven) days of the Arbitration Notice, the arbitrator shall be appointed, at the written request of either Party (which request shall be copied to the other Party and which shall emphasise the agreed expedited nature of such request), by the Chairman for the time being of Association of Arbitrators (Southern Africa) (or its successor) or its nominee.
- 24.8 Unless otherwise expressly agreed by the Parties in writing:
- 24.8.1 the arbitration proceedings shall be held at Johannesburg and shall be conducted under the Standard Procedure Rules of the Association of Arbitrators (“the **Rules**”);
- 24.8.2 the arbitrator is empowered to decide upon the arbitrator’s own jurisdiction, and the scope of any Dispute referred to the arbitrator and may decide on provisional or interim relief;
- 24.8.3 the arbitration proceedings shall be conducted as expeditiously as possible; and
- 24.8.4 the award of the arbitrator shall be final and binding and not subject to appeal.
- 24.9 The provisions of this clause 24 shall prevail to the extent of there being any conflict between the Rules and this clause 24.
- 24.10 The provisions of this clause 24:
- 24.10.1 constitute an irrevocable consent by the Parties to the arbitration and other proceedings contemplated in terms hereof and neither of the Parties shall be entitled

to withdraw from the provisions of this clause 24 or claim at any arbitration or other proceedings contemplated herein that it is not bound by these dispute resolution terms and procedures or such proceedings;

24.10.2 are severable from the rest of the Agreement and shall remain in effect despite the termination, cancellation, invalidity or alleged invalidity of the Agreement for any reason whatsoever; and

24.10.3 shall be governed by the laws of the Republic of South Africa (in respect of both substantive and procedural law).

24.11 Nothing in this clause 24 shall preclude either Party from seeking urgent interim relief, not otherwise provided for herein, from a Court of competent jurisdiction and to this end the Parties hereby consent to the jurisdiction of the High Court of South Africa, Gauteng Local Division: Johannesburg.

25. GENERAL

25.1 Nature of the relationship

Nothing in this Agreement constitutes a joint venture, agency, partnership or other fiduciary relationship between the Parties, or between either of them and the employees, subcontractors or consultants of the other. Save to the extent expressly otherwise provided for in this Agreement neither Party shall have any authority or power to bind the other or to contract in the name of or create a liability against the other in any way or for any purpose.

25.2 Communications between the Parties

All notices, demands and other oral or written communications given or made by or on behalf of either of the Parties to the other Party shall be in English or accompanied by a certified translation into English.

25.3 Remedies

Subject to the provisions of clause 23.3 above, no remedy conferred by this Agreement is

intended to be exclusive of any other remedy which is otherwise available at law, by statute or otherwise. Each remedy is cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law, by statute or otherwise. The election of any one or more remedies by either of the Parties does not constitute a waiver by such Party of the right to pursue any other remedy.

25.4 Entire Agreement

This Agreement constitutes the entire agreement between the Parties in regard to its subject matter. Neither of the Parties shall have any claim or right of action arising from any undertaking, representation or warranty not included in this Agreement.

25.5 Variations

No agreement to vary, add to or cancel this Agreement shall be of any force or effect unless recorded in writing and signed by or on behalf of both the Parties.

25.6 No Waiver

A waiver of any right or remedy under this Agreement or by law is only effective if given in writing and is not deemed a waiver of any subsequent breach or default. A failure to exercise or a delay by a Party in exercising any right or remedy provided under this Agreement or by law does not constitute a waiver of that or any other right or remedy, nor does it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this Agreement or by law prevents or restricts the further exercise of that or any other right or remedy.

25.7 Survival of Rights, Duties and Obligations

Termination or expiry of this Agreement for any cause does not release either Party from any liability which at the time of termination or expiry has already accrued to such Party or which thereafter may accrue in respect of any act or omission prior to such termination or expiry.

25.8 Severance

If any provision of this Agreement that is not material to its efficacy as a whole is rendered void, illegal or unenforceable in any respect under any law of any jurisdiction, the validity, legality and enforceability of the remaining provisions are not in any way affected or impaired thereby and the legality, validity and unenforceability of such provision under the law of any other jurisdiction are not in any way affected or impaired.

25.9 Assignment and Sub-contractors

25.9.1 Save as permitted by the provisions of this Agreement, neither Party may cede any of its rights or delegate any of its obligations under this Agreement without the prior written consent of either party, which consent shall not be unreasonably withheld.

25.9.2 The Service Provider may not sub-contract any of the Services to a third party without the prior written consent of the Employer. Any consent to such sub-contracting if given shall not relieve the Service Provider from any of its liability or obligation under this Agreement and the Service Provider shall be responsible for the acts, defaults and neglects of any sub-contractor as fully as if they were acts, defaults or neglects of the Service Provider.

25.10 Counterparts

This Agreement may be signed in any number of counterparts. Each counterpart is an original and all counterparts taken together constitute one and the same instrument. Any Party may enter into this Agreement by signing any such counterpart.

25.11 Applicable law

25.11.1 This Agreement is governed by and shall be construed in accordance with the laws of South Africa.

25.11.2 Subject to the provisions of this Agreement, the Parties consent and submit to the non-exclusive jurisdiction of the High Court of South Africa, Gauteng Local Division, Johannesburg in any dispute arising from or in connection with this Agreement.

26. ADDRESSES FOR LEGAL PROCESSES AND NOTICES

- 26.1 The parties choose for the purposes of this Agreement the addresses and email addresses specified below:
- 26.1.1 The Employer :
Pikitup Johannesburg (SOC) LTD
66 Jorissen Street
Braamfontein
- 26.1.2 Service Provider:
- 26.2 Any legal process to be served on either of the Parties may be served on it at the address specified for it in clause 26.1 and it chooses that address as its *domicilium citandi et executandi* for all purposes under this Agreement.
- 26.3 Any notice or other communication to be given to either of the Parties in terms of this Agreement is valid and effective only if it is given in writing, provided that any notice given by email is regarded for this purpose as having been given in writing.
- 26.4 Notwithstanding anything to the contrary in this clause 26, a written notice or other communication actually received by any Party is adequate written notice or communication to it notwithstanding that the notice was not sent to or delivered at its chosen address.
- 26.5 Any Party may by written notice to the other Party change its address or telefax number or email address for the purposes of clause 26.1 to any other address (other than a post office box number) provided that the change will become effective on the day following receipt of the notice.

27. COSTS

Each Party is responsible for its own costs, legal fees and other expenses incurred in the negotiation, preparation and execution of this Agreement.

SIGNED at _____ on this the _____ day of _____ 2020.

For and on behalf of
PIKITUP JOHANNESBURG (SOC) LIMITED

Signatory:
Capacity:

SIGNED at _____ on this the _____ day of _____ 2020.

For and on behalf of

Signatory:
Capacity:

ANNEXURE 12

**ALL COMPULSORY RETURNABLE DOCUMENTS
AND OTHER RETURNABLE DOCUMENTS TO BE
ATTACHED**

FORM	DESCRIPTION	YES	NO
Form 1	MBD1 - Invitation to Bid		
Form 2	Conditions of Tender		
Form 3	Pricing Schedule on Terms of Reference		
Form 4	MBD 3.1 - Pricing Schedule – firm prices		
Form 5	MBD 4 - Declaration of Interest		
Form 6	MBD 6.1 - Preference Points Claim Form		
Form 7	MBD 7.2 - Contract form : Rendering of Services		
Form 8	MBD 8 – Declaration of Bidders Past Supply Chain Management Practices		
Form 9	MBD 9 - Certificate of Independent Bid Determination		
Form 10	Certificate for Payment of Municipal Services		
Form 11	Authority to Sign a Bid		
Form 12	Corporate Governance Breach Clause		
Form 13	GCC and Draft Service Level Agreement		
Form 14	Tax Clearance Certificate (refer to TOR's)		
Form 15	Proof of Company Registration Documents (CIPC)		
Form 16	Proof of registration with Central Supplier Database established by National Treasury		
Form 17	Municipal Statements for Company and all Directors (refer to TOR's)		
Form 18	Certified Copies of ID Documents of all owners/members/shareholders/directors		
Form 19	Original or certified copy of BBBEE Scorecard or Affidavit (refer to TOR's)		
Form 20	Company Profile (refer to TOR's)		
Form 21	Qualifications of the project leader and Supervisor		
Form 22	Experience of the company (refer to TOR's)		

Form 23	References (refer to TOR's)		
Form 24	Joint Venture Agreement (only applicable if tendering as a Joint Venture)		