



# REQUEST FOR PROPOSAL/QUOTE (RFP/Q)

RFP/Q NUMBER	: EWM2024/21
DESCRIPTION OF SERVICE	: THE PROVISION OF ASSESSORS AND MODERATORS NATIONALLY
RFP/Q SUBMISSION DETAILS	: via e-mail <b>(NO HAND DELIVERIES WILL BE ACCEPTED)</b>
CLOSING DATE	: 06 December 2024
TIME	: 16H00 (Late applications will not be accepted)
WEBSITE	: <a href="http://www.enviroserv.co.za">www.enviroserv.co.za</a> , <b>TENDERS</b>
E-MAIL	: <a href="mailto:Sebuwa.kgatla@enviroserv.co.za">Sebuwa.kgatla@enviroserv.co.za</a>

Company Name: \_\_\_\_\_

Representative Name: \_\_\_\_\_

Representative Signature: \_\_\_\_\_

Date: \_\_\_\_\_

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# **SECTION 1**

## **1.1 ABBREVIATIONS**

- a. RFP/Q - Request for Proposal or Quote
- b. BBEE - Broad Based Black Economic Empowerment
- c. EWM - EnviroServ Waste Management (Ltd)
- d. CPA - Consumer Protection Act 68 of 2008
- e. OSHA - Occupational Health and Safety Act 85 of 1993
- f. SLA - Service Level Agreement
- g. FML - Full Maintenance Lease

## **1.2 DEFINITIONS**

- a. "The Contract" means the agreement entered into between the EnviroServ and the awarded Supplier, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein. A contract will stem from this RFP/Q.
- b. "The Contract Price" means the price payable to the Supplier under the Contract for the full and proper performance of its contractual obligations.
- c. "The Goods" means all of the equipment, services, works and/or other materials, which the Supplier is required to supply to the Procuring entity under the Contract.
- d. "EnviroServ" means the organization or procuring entity purchasing the goods under this Contract i.e ENVIROSERV WASTE MANAGEMENT (PTY) LIMITED.
- e. "The Supplier" means the individual or firm supplying the goods under this Contract.
- f. "Ex-Stock" means a product or service can supplied immediately without any delay manufacturing lead time.

## **1.3 SCOPE OF WORK**

### **a. Purpose**

EnviroServ invites suppliers to respond to the RFP/Q for the Provision of Assessors and Moderators Nationally This service will be awarded to one or more capable suppliers with the best price, best service and BEE accreditation i.e: highest percentage black ownership and black woman ownership. This service will be required for a period of 12/24 Months from date of award with an option to renew before expiry date as and when required. It is expected that the contract requirements will fluctuate according to business requirements.

Shortlisted bidders will be required to submit a SHEQ Questionnaire to be SHEQ evaluated.

Likely impacts are as follows:

- Organic growth of existing work
- Increase / decrease in contracts awarded
- Changes in Legislation

Qualification ID	Qualification Title	NQF Level	Credits	Quality Assurance
64829	National Certificate: Lifting Machine Operations	3	122	TETA
733201	Occupational Certificate: Truck Driver	3	140	QCTO

#### 1.4 RFP PROCESS

The following timeline table outlines the milestones and their respective due dates:

Milestone	Date
Advertisement period of RFP	22 November 2024 – 06 December 2024
Response submitted by	06 December 2024
Adjudication	09 December 2024 – 20 December 2024
Extend offer/s and sign Contract/s / SLA	To be confirmed
New Contract effective date	To be confirmed

#### 1.5 SUBMISSION REQUIREMENTS

All Suppliers shall include the following information and documentation with their offer and where copies are attached they are to be certified:

- a. Completed RFP/Q document
- b. Code of Good Practice – Suppliers (As attached in Annexure A)
- c. Supplier Questionnaire (As attached in Annexure B)
- d. Written Power of Attorney of the signatory of the offer to commit the Supplier
- e. Proof of business address
- f. Accredited BBBEE status documentation
- g. Tax clearance certificate
- h. Price Schedule (As attached in Annexure C)
- i. Terms and Conditions of Trade (As attached in Annexure E)
- j. Company Registration Documents
- k. Tender Submission Form (As attached in Annexure D)
- l. COID Letter of good standing
- m. Complany Profile

#### 1.6 RULES AND REGULATIONS

- a. All documents relating to the offer will be in the English Language;
- b. The Supplier is expected to examine all instructions, forms, terms, and specifications in the tender documents. Failure to furnish all information required by the RFP/Q documents or to submit an offer not substantially responsive to the RFP/Q documents in every respect will be at the Bidder's risk and may result in the rejection of its offer;
- c. The Bidder shall prepare one (1) original set of documents and clearly mark these as "ORIGINAL". **Not applicable if submission is done online.**

- d. **This ORIGINAL documentation shall be typed/written in indelible ink (black) and shall be signed by a person (or persons) duly authorised to sign on behalf of the Supplier. All pages of the tender where entries or amendments have been made shall be initialed by the person (or persons) signing it.**
- e. This ORIGINAL bid documentation shall be sealed in an envelope.**(If Applicable)**
- f. This sealed envelope will be addressed to EnviroServ's address provided in this document with the Bidder's name and RFP/Q reference number reflected. The envelope must also be marked with a clear warning NOT TO OPEN before the specified date and time;**(If Applicable)**
- g. The tender shall contain no alterations or additions, except those who comply with instructions by EnviroServ, or as necessary to correct errors by the bidder in which case such corrections shall be initialed by the person (or persons) signing the tender;
- h. EnviroServ may extend the deadline of submission of offers by issuing an amendment in which case all rights and obligations of EnviroServ and the bidders previously subject to the original deadline, will then be subject to the new deadline;
- i. NO LATE submissions will be accepted;
- j. Suppliers may modify or withdraw their submission by giving notice in writing before the deadline;
- k. Offers shall remain valid for 30 days or more after date of opening; Offers valid for a shorter period will be rejected and considered non responsive.
- l. No information shall be disclosed to Suppliers or any other persons prior to official adjudication process. Any effort by a bidder to influence EnviroServ's process of bid-awarding decisions may result in the rejection of his bid;
- m. The Supplier shall bear all costs associated with the preparation and submission of its offer, and the procuring entity, will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the RFP/Q process;
- n. EnviroServ will determine the substantial responsiveness of each offer to the RFP/Q documents, substantially responsive tender is one, which conforms to all the terms and conditions of the RFP/Q documents without material deviations. There is no recourse should an offer be disqualified.
- o. EnviroServ will determine to its satisfaction whether a Supplier is qualified to perform the work satisfactorily. The determination will take into account the Supplier's financial, technical, and contractual capabilities. It will be based upon an examination of the documentary evidence submitted.
- p. EnviroServ reserves the right to accept or reject any offer, lowest quote or otherwise, and to annul the RFP/Q process and reject all offers at any time prior to contract award, without thereby incurring any liability to the affected Supplier on the grounds for the procuring entity's action. EnviroServ reserves it right to annul the procurement process an anytime.
- q. The bidder must reveal it's national foot print in South Africa by naming each branch/depot in every province and/or other national representation agencies, etc.;
- r. EnviroServ will notify the successful Supplier in writing that it's offer has been accepted. The notification of award will signify the formation of the Contract but will have to wait until the

contract is finally signed by both parties. Simultaneously other Suppliers shall be notified that their offers have not been successful.

- s. There is NO APPEAL process and EnviroServ's decision will be final.
- t. This RFP/Q trading terms and conditions supercedes the Suppliers trading terms and conditions.

## **1.7 EQUIPMENT ORIGIN, SPECIFICATIONS AND DRAWINGS (IF APPLICABLE)**

- a. All equipment to be supplied and installed under the contract shall have their origin in eligible source countries.
- b. For purposes of this clause, "origin" means the place where the equipment(s) are produced. Goods are produced when, through manufacturing, processing, or substantial and major assembly of components, a commercially-recognized product results that is substantially different in basic characteristics or in purpose or utility from its components.
- c. The origin of equipment is distinct from the nationality of the Supplier and shall be treated thus in the evaluation of the RFP/Q.
- d. Suppliers are requested to submit with their offers the detailed specifications, drawings, catalogues, etc for the products they intend to supply.
- e. Suppliers must indicate on the specifications sheets whether the equipment offered comply with each specific requirement.
- f. A clause-by-clause commentary on EnviroServ's Technical Specifications demonstrating substantial responsiveness of the goods and service to those specifications, or a statement of deviations and exceptions to the provisions of the Technical Specifications and an explanation of how any such deviation from provided specifications will still satisfy the requirements as set.
- g. All the dimensions and capacities of the equipment to be supplied shall not be less than those required in these specifications. Deviations from the basic requirements, if any, shall be explained in detail in writing with the offer, with supporting data such as calculation sheets, etc. and an explanation whether the equipment can meet stated requirements even with such deviations. EnviroServ reserves the right to reject the equipment, if such deviations shall be found critical to the use and operation of the equipment and hence making the equipment to not meet requirements.

## **1.8 GENERAL TERMS AND CONDITIONS OF CONTRACT**

### **a. Application**

These General Conditions shall apply in all Contracts made by EnviroServ.

### **b. Standards**

The Goods supplied under this RFP/Q shall conform to the standards mentioned in the Technical Specifications as per Annexure.

### **c. Use of Documents and Information**

The Supplier shall not, without EnviroServ's prior written consent, make use or distribute any document or information in this RFP/Q. All documents, other than the Supplier Questionnaire itself, shall remain the property of EnviroServ.

### **d. Patent Rights**

The Supplier shall indemnify EnviroServ against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or services supplied.

### **e. Inspection and Tests**

EnviroServ or its representative shall have the right to inspect and/or to test the equipment to confirm their conformity to the technical specifications. EnviroServ shall notify the Supplier in writing in a timely manner, of the identity of any representatives retained for these purposes. The inspections and tests may be conducted on the premises of the Supplier or even at EnviroServ's premises.

Should any inspected or tested equipment fail to conform to the specifications, the EnviroServ may reject the equipment, and the Supplier shall either replace the rejected equipment or make alterations necessary to make specification requirements free of costs to EnviroServ. This rejection may happen any time before expiry of the warranty offered by the Supplier of the goods.

EnviroServ's right to inspect, test and where necessary, reject the equipment after the equipment arrival and installation shall in no way be limited or waived by reason of the equipment having previously been inspected, tested and passed by EnviroServ or its representative prior to or after the equipment delivery.

### **f. Delivery and Documents**

Delivery of the equipment, documents, installation and maintenance of the same shall be made by the Supplier in accordance with the terms specified by EnviroServ.

Suppliers must ensure the shortest possible delivery period of the equipment. Delivery period will be an important evaluation criterion and the responsive firm offering shortest delivery period will gain an advantage.

### **g. Pricing and Payment**

Prices quoted by the Supplier shall remain fixed during the Supplier's performance of the contract. An offer submitted with an adjustable price quotation will be treated as non-responsive and will be rejected unless otherwise agreed by the parties. Prices indicated on the Price

Schedule shall be the cost of the goods and any incidental works/services including all duties, VAT and other taxes. Payment of goods and services will be 45 days from statement. Suppliers are encouraged to offer payment terms up to 60 days from statement.

**h. Termination for Default**

EnviroServ may, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, terminate the contract in whole or in part:

- if the Supplier fails to deliver any or all of the equipment within the period specified in the Contract, or within any extension thereof granted by EnviroServ
- if the Supplier fails to perform any other obligation(s)
- if the Supplier, in the judgment of the EnviroServ has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

**In the event that EnviroServ terminates the Contract in whole or in part, it may procure, upon such terms and in such manner as it deems appropriate, equipment, works and services similar to those undelivered, and the Supplier shall be liable for any excess costs for such similar equipment.**

**i. Termination for convenience**

EnviroServ by way of written notice may terminate the contract in whole or in part, at any time for its convenience. The notice of termination shall specify that the termination is for the EnviroServ convenience, the extent to which performance of the Supplier of the contract is terminated and the date on which such termination becomes effective. No compensation will be payable for termination of contract.

**j. Delivery terms**

Goods and services must delivered or performed at EnviroServ sites.. EnviroServ prefers Suppliers to supply all regions. EnviroServ may elect split the contract to satisfy it needs.(If Applicable)

**k. Commissioning**

Test runs and eventual equipment commissioning (if applicable) will be done by the Supplier and a commissioning certificate signed by both parties on agreement between the two parties that the equipment has performed to expectations

**l. Warranty**

A warranty declaration of at least 1 year must be included **(if applicable)**

**m. Technical support**

Suppliers must include the after sales service arrangement, including technical support services, availability of spare parts, etc.

**n. Agency**

The Supplier shall attach documentary proof of appointment as an agent of the original equipment manufacturer through the manufacturer's authorization form duly signed by the manufacturer and on manufacturer's letterhead. The Supplier shall also elect its own agent however, they shall remain liable for all duties and obligations according the contract.

## **1.9 GENERAL ENQUIRIES**

**ANY ENQUIRIES REGARDING THE BIDDING PROCEDURE MAY BE DIRECTED TO:**

<b>DEPARTMENT</b>	<b>PROCUREMENT</b>
<b>DESIGNATION</b>	<b>PROCUREMENT SUPERVISOR</b>
<b>CONTACT PERSON</b>	<b>SEBUWA KGATLA</b>
<b>TELEPHONE</b>	<b>011 456 5632</b>

## **1.10 TECHNICAL ENQUIRIES**

**ANY ENQUIRIES REGARDING THE BIDDING PROCEDURE MAY BE DIRECTED TO:**

<b>DEPARTMENT</b>	<b>GROUP HR</b>
<b>DESIGNATION</b>	<b>TRAINING INSTRUCTOR</b>
<b>CONTACT PERSON</b>	<b>THEMBINKOSI TSEBANDE</b>
<b>TELEPHONE</b>	<b>011 456 5198</b>

## **SECTION 2**

### **2.1. ELIGIBILITY OF SUPPLIERS**

- a. All eligible Suppliers are requested to sign the DECLARATION OF INTEREST and CODE OF CONDUCT attached in Annexure A stating any relationships with EnviroServ employees, or members of consortiums, or joint ventures and/or sub-Suppliers, either in the past or currently. Should this Declaration be proven to be false, the Supplier's offer will be rejected.
- b. Suppliers shall not be under administration.
- c. Suppliers shall not be under a declaration of ineligibility for corruption and fraudulent practices.
- d. EnviroServ's employees, committee members, board members and their relatives (spouse and children) are not eligible to participate in this RFP/Q.
- e. Suppliers must be in good standing with the South African Revenue Service.
- f. Suppliers must have a proven track record in the supply of the service on offer.
- g. Suppliers must have the ability to supply good and services on time and in full.
- h. A Suppliers poor service deliver record will adversely affect a Suppliers ability to be awarded this RFP/Q.

### **2.2. SUPPLIER DETAILS**

Company name \_\_\_\_\_

Physical Address \_\_\_\_\_

\_\_\_\_\_

Postal Address \_\_\_\_\_

\_\_\_\_\_

Landline Number \_\_\_\_\_

E-mail Address \_\_\_\_\_

**2.3. DECLARATION**

I.....confirm that the information given this ..... day of ..... 2024 is correct, accurate and I understand that any false information will lead to automatic disqualification without any further notice. I also understand that EnviroServ Waste Management (Pty) Limited will confirm with my previous clients that my company has dealt with if need be. We also declare that we have not engaged in any fraudulent practice or offered inducement to any member of procuring entity for purpose of this RFP.

Authorized signature..... Date.....

Name of signatory.....

	Compiled by: Rakesh Seetal
	Approved by: LEADERSHIP
	Revisions: REV 2
<b>NATIONAL PROCUREMENT</b>	Date of approval: 1 July 2021
<b>POLICIES AND PROCEDURES</b>	Page: 12 of 6
<b>TITLE: CODE OF CONDUCT AND ACKNOWLEDGEMENT – SUPPLIERS</b>	

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## 1. PURPOSE

This code commits EnviroServ's suppliers to maintain the highest standards of professional and personal conduct whilst conforming to the EnviroServ Values:

### *Diversity*

We believe that our diversity is the key to our success. Our team boasts a mix of skill, style, gender, race and age – ensuring that we are able to deliver the best possible solution to our customers.

### *Integrity*

Making promises that they can keep – always being honest, ethical and respectful – promoting solution driven actions. Uncompromising on environmental standards. Taking ownership and being accountable.

### *Innovation*

Believe that all have good ideas – encourage and harness them. The responsibility to access and share great ideas lies with us all. Be passionate for improvement and love creativity, growth, vitality and momentum.

### *Quality*

Everyone is responsible for delivering value. Service excellence is a given. We are uncompromising on standards and dissatisfied with the status quo. Continually raising standards. Being professional.

### *Collaboration*

Working together to achieve shared goals, doing what it takes to succeed, never compromising the greater team. Creating positive energy and valuing diversity.

### *Passion*

Willing to always go the extra mile to make things happen. Being proactive. Radiating positive energy in other. Looking for solutions and expressing opinions.

Suppliers shall commit to the following principles:

1. Comply with all applicable laws and regulations
2. Adhere to high ethical standards and respecting the rights and dignity of all persons dealt with
3. Not accepting illicit benefits nor extending such benefits to other persons
4. Be environmentally responsible
5. Not compete in any way with EnviroServ business and avoid conflict of interest to the detriment of EnviroServ
6. Keep EnviroServ's business, financial and technical data as well as internal business documents confidential and not misappropriate EnviroServ's or other company's tangible or intellectual property
7. Actively help EnviroServ in achieving compliance with this Code of Conduct

Adherence of this Code of Conduct will be monitored and violations properly sanctioned.

This Code of Conduct is applicable to the EnviroServ Group of Companies including subsidiaries and joint venture companies.

## 2. GENERAL GUIDELINES

These guidelines are an integral part of the Code of Conduct, and helps in understanding what the Code means in daily business practice. The Guidelines have been prepared taking into account differences in local laws and practices. They are not to be and cannot be exhaustive. Furthermore, applicable laws and regulations can change. These Guidelines are to be used as an important compass, keeping in mind that daily business judgments often require additional thorough analysis of their legal and ethical ramifications.

Questions regarding the Code of Conduct or these Guidelines or a situation which causes uncertainty about the implications of the Code or the Guidelines (e.g. because of conflicting requirements), should be addressed with EnviroServ's Head of Procurement.

## 3. PRINCIPLES

Principle 1:

### **Complying with all applicable laws and regulations**

Complying with the legal order is a fundamental principle of EnviroServ's business philosophy. It is also an important part of EnviroServ's risk policy. Laws from jurisdiction to jurisdiction and may change over time. The commitment of the Group to stay within applicable laws and regulations, however, remains always the same. These Guidelines cannot specify nor even list all the laws that govern daily business. It is therefore each person's personal responsibility to be knowledgeable about the legal requirements and restrictions governing daily work.

Particular attention is paid to the following areas of law.

### **Health and Safety**

The safety of services rendered by suppliers is usually dealt with in general or industry-specific regulations. In addition, civil and criminal laws set certain standards that have to be complied with.

### **Competition law**

The following practices are prohibited:-

- agreements amongst competitors on costs or selling prices
- agreements amongst competitors on the allocations of market shares
- agreements amongst competitors on the allocation of territories and customers
- the orchestration among competitors of offers submitted to EnviroServ ("bid rigging")
- paying bribes, kickbacks or other benefits to employees

### **Tax law**

Tax laws include income taxes, sales taxes, withholding taxes and deductions. They differ between jurisdictions. Tax laws do not only have to be complied with by persons directly dealing with taxes, they also have to be taken into consideration by suppliers. Over-invoicing or under-invoicing for goods or services may violate tax laws if they result in the avoidance of taxes.

### **Privacy law**

Comply with Protection of Personal Information (POPI) Act 4 of 2013.

## **Access to Information law**

Comply with Promotion of Access to Information (PAIA) Act 2 of 2000.

## **Other laws**

Various other laws (e.g. corporate laws and security regulations, environmental, employment laws, including working place safety regulations, public laws etc.) govern EnviroServ's business. These must be complied with in personal spheres of activity.

Principle 2:

### **Adhering to high ethical standards, Respecting the rights and dignity of all persons dealt with and by not accepting illicit benefits nor extending such benefits to other persons**

Respect of the rights and dignity of other persons, be they customers, fellow employees, suppliers, competitors or government officials is an absolute must. The high ethical standards maintained by EnviroServ furthermore requires that employees of the Group do not accept illicit benefits which might be offered to them by customers, suppliers or other persons. This does not mean that every customary present has to be refused. If the value of such a present is (as a rule of thumb) above R1000, the gift should be declared to the superior. Likewise extending personal benefits to employees or other persons if such benefits are outside the usual business practices or if they violate applicable laws, is not allowed.

Principle 3:

### **Being Environmentally Responsible**

As a minimum EnviroServ ensures compliance with applicable environmental legislation and in many cases, through the use of latest technologies and best practices, go beyond compliance. Our suppliers are encouraged to take a proactive stance in this regard and generate innovative solutions to environmental projects.

Principle 4:

### **Not competing in any way with EnviroServ's business and avoiding conflicts of interest to the detriment of EnviroServ**

Suppliers have a fiduciary duty to their employer. This means, inter alia, a supplier is not allowed to actively engage in business directly competing with the EnviroServ Group.

If the supplier is engaged in potential conflicts of interest, these are required to be disclosed to EnviroServ's Head of Procurement. Principle 5:

### **Keeping business, financial and technical data as well as internal business documents confidential and not misappropriating the organization's intellectual property.**

Another aspect of the fiduciary duty that suppliers owe to EnviroServ is the obligation to keep all business, financial and technical data as well as internal business documents confidential. Such information may only be disclosed to persons outside the Group if and to the extent that this is required in the course of business transactions on behalf of EnviroServ or as required by the law. It is an obligation to safeguard EnviroServ's tangible and intellectual property. It is ethical also to respect the property of other companies, including the property of competitors (e.g. trademarks, software or other intellectual property protected by applicable laws).

Principle 6:

### **Actively help EnviroServ in achieving compliance with this Code of Conduct and related Policies**

In addition to the requirement to abide by EnviroServ's Code of Conduct and Policies, each of EnviroServ's suppliers is likewise expected to disclose violations of this Code. Management, in turn, will monitor adherence to the Code of Conduct and will investigate alleged violations. In such an investigation every supplier is required to fully disclose all pertinent facts known to him/her. Non-disclosure in such investigation as well as violations of the Code of Conduct (incl. the acquiescence in violations by subordinates) may result in being removed from the vendor list.

**Related Policies** (attached and also available on EnviroServ's Website)

1. Procurement Policy dated 1 July 2021
2. Fraud, Anti-Bribery and Corruption Policy dated 10 May 2018

Suppliers who report potential Code of Conduct violations in good faith are protected against possible retaliation as follows:

- **anonymous reporting violations**

In principle suppliers may report possible Code of Conduct violations anonymously by means of calling Tip-Offs Anonymous on 0800 00 11 24. EnviroServ however encourages suppliers to voluntarily indicate their name, allowing them to be contacted in order to verify the issue;

- **non- discrimination**

Discriminatory actions (e.g. sanctions, suspension, threats, harassment) against these suppliers are in violation of the Code of Conduct and treated accordingly. Adequate measures shall be taken to avoid discriminatory actions against such known or perceived supplier who has reported a violation.

## **ENVIROSERV WASTE MANAGEMENT (PTY) LIMITED**

### **CODE OF CONDUCT: SUPPLIERS ACKNOWLEDGEMENT FORM**

I hereby acknowledge that I have received and reviewed a copy of the Code of Conduct and its guidelines. I further agree to abide by the spirit of the code and guidelines, particularly regarding my ongoing obligation and audit regarding such activities. I accept that violations of the Code and guidelines may lead to be removed from the vendor list.

**With regards to Principal 5 of the Code and Guidelines I confirm the following:**

I have read the EnviroServ's Procurement Policy and Fraud, Anti-Bribery and Corruption Policy.

I have currently no conflict of interest in my activities and will use my best efforts to prevent such conflicts from arising in the future.

If actual or potential conflicts of interest should arise, I will immediately inform EnviroServ and act in accordance with its instruction.

**With regard to Principle 6 of the Code and Guidelines I confirm the following:**

I agree to promptly submit written disclosure of all inventions, improvements, copyrights and trade secrets, whether or not patentable.

I agree that all such intellectual property within the existing or contemplated scope of business shall be the property of EnviroServ and I hereby assign the title to such intellectual property to EnviroServ.

COMPANY NAME : \_\_\_\_\_

NAME AND SURNAME : \_\_\_\_\_

DESIGNATION : \_\_\_\_\_

SIGNATURE : \_\_\_\_\_

DATE : \_\_\_\_\_

## **3.2 ANNEXURE B – SUPPLIER QUESTIONNAIRE**

<b>SUPPLIER NAME</b>			
<b>CONTACT PERSON</b>			
<b>CELLPHONE / LANDLINE</b>			
<b>RFP/Q DESCRIPTION</b>	<b>For the Provision of assessors and Moderators Nationally - EWM2024/21</b>		
	<b>NB : please tick appropriate box</b>		
<b>Technical</b>			
Does your services meet EnviroServ's specification?	Yes	No	
<b>Price</b>			
Is your price fixed for the contract period?	Yes	No	
Are your prices VAT exclusive?	Yes	No	
<b>Payment</b>	<b>From Statement:</b>		
What payment terms do you offer? (Please tick)	30 Days	45 Days	60 Days
<b>General</b>			
Do you agree to the terms and condition of the RFP/Q?	Yes	No	
Do you agree that this RFP/Q falls under the Consumer Protection Act?	Yes	No	
Do you have a national footprint?	Yes	No	
<b>Documentation</b>			
Have you submitted the following documents?			
• Completed RFP/Q document	Yes	No	
• Code of Good Practice – Suppliers (As attached in Annexure A)	Yes	No	
• Supplier Questionnaire (As attached in Annexure B)	Yes	No	
• Written Power of Attorney of the signatory of the offer to commit the Supplier	Yes	No	
• Proof of business address	Yes	No	
• Accredited BBBEE status documentation	Yes	No	
• Tax clearance certificate	Yes	No	
• Price Schedule (As attached in Annexure C)	Yes	No	
• Pictures, technical specifications, performance and relevant data of goods and services supplied (if applicable)	Yes	No	
• Terms and Conditions of Trade	Yes	No	
• Company Registration Documents	Yes	No	
• Certificate of attendance (if applicable)	Yes	No	
• COID Letter of Good Standing	Yes	No	
• Tender Submission Form (As attached in Annexure D)	Yes	No	
• Company Profile	Yes	No	

### **3.3 ANNEXURE C – PRICING SCHEDULE VAT EXCLUSIVE**

<b>Description</b>	<b>No of Days</b>	<b>No of Months</b>	<b>Price per POE per Learner</b>
Assessing Learners POE's	On Going	12	R
Moderating Learners POE's	On Going	12	R

#### **Roles and responsibilities:**

##### **1.1.1 Assessor:**

- Assess the learners POE's as per the TETA's assessment processes.
- Assess the POE's within 48hrs after receipt and return no later than three days after assessments.
- Invoice Enviroserv Waste Management for the number of assessed POE's no later than 7 days after assessments.
- Complete a Request for internal moderation report

##### **1.1.2 Moderator**

- Moderate learners POE's as per the relevant TETA's assessment processes.
- Moderate POE's within 72hrs after receipt and return no later than three days after moderation.
- Invoice Enviroserv Waste Management for the number of moderated POE's no later than 7 days.
- Complete all relevant documentation.

##### **1.1.3 Documents required:**

- CV
- Proof of accreditation with TETA
- Certified ID copies
- Qualifications
- Confirmation of bank account
- Letter of reference were assessments and moderations were carried out.

## D – TENDER SUBMISSION FORM

# TENDER SUBMISSION FORM

DESCRIPTION OF SERVICE : THE PROVISION OF  
ASSESSORS AND  
MODERATORS NATIONALLY

TENDER NUMBER : EWM2024/21

TENDER CLOSING DATE : 06 DECEMBER 2024

BIDDER INFORMATION	
COMPANY NAME	
NAME OF REPRESENTATIVE	
DESIGNATION OF REPRESENTATIVE	
SIGNATURE	
DATE OF SUBMISSION	
METHOD OF SUBMISSION (PLEASE TICK UNDERNEATH METHOD OF DELIVERY)	
EMAIL	WEBSITE
RECEIVED BY (NAME & SURNAME)	
DATE RECEIVED	
SIGNATURE	
DESIGNATION	

RAISING THE WASTE GAME



Customer Care Line 0800 192 783 clientservices@enviroserv.co.za Tel +2711 456 5660 www.enviroserv.co.za  
Registered Address EnviroServ Waste Management (Pty) Ltd Brickfield Road, Meadowdale, Germiston PO Box 1547, Bedfordview, 2008  
Gauteng Regional Office +2711 456 5400 / +2787 086 8400 KwaZulu Natal Regional Office +2787 086 8401 Western Cape Regional Office +2787 086 8402 Eastern Cape Regional Office +2711 456 5497 / +2787 086 8403  
Directors C.L.A. Coppings, E. Gombault, S. Jwili, D.F.N. Krugel, D. Lavarinhas, D.L. Thompson (CEO), N.S. Vermeulen, C.L.A. Coppings (Company Secretary) Reg No 2008/021152/07

## **3.5. ANNEXURE E – TERMS AND CONDITIONS OF TRADE**

### **SUPPLIER TERMS AND CONDITIONS**

#### **1. RECITAL**

- 1.1. Whereas EnviroServ wishes to procure certain Services and/or Goods from the Supplier as set out herein.
- 1.2. The Supplier is in the business of and/or an expert related to the Services and/or Goods; and
- 1.3. The Parties hereby enter into this Agreement, in terms of which the Supplier shall render the Services and/or supply the Goods to EnviroServ for the period stipulated in any applicable Purchase Order, unless terminated in accordance with the provisions of this Agreement.
- 1.4. The Agreement shall automatically apply to the procurement of all Goods and Services to EnviroServ, irrespective of whether it is signed by the Parties or not, and shall take the order of preference as stipulated in clause 3.6. below.

#### **2. DEFINITIONS**

- 2.1. **“Affiliate/s”** shall mean any Company, Holding or Subsidiary of either Party, current or future and/or any entity which holds a controlling interest in such Party, whether by majority shareholding or effective influence in the management of the Company or any other criteria of beneficial ownership as listed in the Companies Act;
- 2.2. **“Agreement”** shall mean these Supplier Terms and Conditions, together with any EnviroServ Purchase Order or document referenced herein as intended to be incorporated hereto;
- 2.3. **“Applicable laws”** shall mean any and all acts, regulations, treaties, rules, directives, codes, guidelines, permit, licensing and/or other administrative requirements promulgated by government, regulatory and/or other competent authorities and which would have application to the Services rendered in terms of this Agreement;
- 2.4. **“BB-BEE”** shall mean Broad-Based Black Economic Empowerment as stipulated in terms of the Broad-Based Black Economic Empowerment Act 53 of 2003, as amended, together with its applicable regulations and Codes of good practice (**“BB-BEE Act”**)
- 2.5. **“Business day”** shall mean any day other than a Saturday, Sunday or other day proclaimed as a public holiday in the Republic of South Africa;
- 2.6. **“Calendar day”** shall mean any day, including Saturdays, Sundays and other days proclaimed as public holidays in the Republic of South Africa
- 2.7. **“Commencement date”** shall mean the date of last signature of this Agreement;
- 2.8. **“Confidential Information”** shall mean information of a confidential nature and/or of which either Party is the owner or has any rights to, which may include but not be limited to, intellectual property, customer information, supplier information, pricing, financial information, personal financial information, engineering data, manufacturing data and technical, commercial, marketing, industrial or scientific information, know-how, trade secrets, processes, machinery, designs, drawings, technical specifications, terms of agreements, details of investment strategies, organisational strategies or structure of either party, business plans, inventions, algorithms, methods, processes, databases, source codes, computer program objects, schematics of any kind, products or services offered by either party or any other matter which relates to the business of either party in respect of which information is not readily available in the normal course of business which may come to the knowledge of the other party in whatever form, disclosed to or assessed by either party during the course of this agreement or otherwise in terms of the relationship between the Parties, whether such information is marked confidential or not and includes oral, written, visual or other digital forms of communication.
- 2.9. **“EnviroServ”** shall mean **ENVIROSERV WASTE MANAGEMENT (PTY) LTD**, a private Company, bearing Registration Number 2008/021152/07, duly incorporated in terms of the Company Laws of South Africa, with its registered address being 1-3 Brickfield Road, Meadowdale, Germiston;
- 2.10. **“Force Majeure”** shall mean shall mean any unforeseen event, which occurs and is outside the reasonable control of either Party and constitutes an Act of God which renders such Party unable to perform its obligations in terms of this Agreement. A Force Majeure Event shall therefore include but not necessarily be limited to war, warlike activities, insurrection, civil commotion, riots, any act or regulation of civil or military authority, changes to the Applicable Laws within the Republic of South Africa, pandemic, epidemic and/or any cause similar to a foregoing with is beyond the reasonable control of such Party but the Supplier shall specifically be excluded from reliance on any financial hardships suffered, load-shedding, strike, riot or

industrial action by the Supplier staff and/or any electrical or water cuts imposed as a ground for Force Majeure.

- 2.11. **“Intellectual Property”** shall mean without limitation, any Intellectual Property rights of either Party, including but not limited to any trademarks, logo, patents, copyright, design, invention, process, methodology, know-how and/or other or similar intellectual property or any items recognised as such, whether registered or not and which may exist in any part of the world.
- 2.12. **“KPI”** shall mean any key performance indicators and/or specification or other standards against which the Supplier is to deliver the Goods or Services as agreed to between EnviroServ and the Supplier in writing from time to time.
- 2.13. **“Party”** shall mean either EnviroServ or the Supplier as the context may indicate and **“Parties”** shall mean both EnviroServ and the Supplier jointly;
- 2.14. **“POPIA”** shall mean, the Protection of Personal Information Act 4 of 2013;
- 2.15. **“Purchase Order”** shall mean the relevant works order issued by EnviroServ from time to time against which the Supplier shall render the Services;
- 2.16. **“Rate/s”** shall mean the agreed monetary amount payable by EnviroServ to the Supplier for the Services rendered in terms of the provisions of this Agreement, Annexure B hereto and any applicable Purchase Order;
- 2.17. **“Services or Goods”** shall mean the supply of services or goods as stipulated in the Purchase Order issued by EnviroServ to the Supplier
- 2.18. **“Supplier”** shall mean \_\_\_\_\_, a (Private Company, Close Corporation, Trust, Individual) duly registered in terms of the laws of South Africa and bearing identity/registration/trust deed number: \_\_\_\_\_, with its registered office/place \_\_\_\_\_ of \_\_\_\_\_ residence \_\_\_\_\_ situated at \_\_\_\_\_
- 2.19. **Term** shall mean a period of \_\_\_\_\_ from the Commencement Date, which shall expire on \_\_\_\_\_, unless otherwise terminated in accordance herewith.

### 3. SUPPLY OF GOODS AND/OR SERVICES

- 3.1. The Parties agree that, unless otherwise advised by the Head of Procurement of EnviroServ in writing, EnviroServ shall issue a Purchase Order to the Supplier, which Purchase order shall:
  - 3.1.1. reflect the scope of works for the Services and/or specification of Goods required by the Supplier;
  - 3.1.2. set out the quantity and type of Goods or Services to be supplied;
  - 3.1.3. include the date and location for delivery of Goods by the Supplier or at which the Supplier will perform the Services. Any early/delayed performance by the Supplier must be communicated in advance to EnviroServ who, in its sole and absolute discretion, shall be entitled to accept or reject such early or delayed performance without prejudice to any of its rights as contained in this Agreement.
- 3.2. The Supplier shall not perform any of the Services or supply any Goods without receipt of the aforementioned Purchase Order, unless written approval has been received from the EnviroServ Head of Procurement to do so. In the event that the Supplier elects to render the Services or supply the Goods and/or any part thereof without a Purchase Order issued or the written approval by the Head of Procurement referred to in clauses 3.1. and 3.2. above, it shall do so at its own risk and EnviroServ shall be under no obligation to pay for the Services and/or Goods rendered on such basis.
- 3.3. EnviroServ shall be entitled to cancel any Purchase Order at any time by providing the Supplier with seven (7) Business days’ emailed notice and in such instances, shall only be liable for services rendered up to the expiration of the seven (7) days and/or Goods supplied on or before such expiration date. In the event that the Purchase Order is cancelled in terms hereof, the Supplier shall take any and all reasonable endeavours to mitigate any damages sustained.
- 3.4. The Supplier shall render the Services and/or supply the Goods in accordance with the provisions of Annexure A hereto and the provisions of the applicable Purchase Order issued by EnviroServ.
- 3.5. The Supplier shall, in the performance of the Services and/or supply of the Goods, at all times act lawfully and in accordance with the relevant industry or other best practice and in terms of the applicable timelines, service levels, specifications and applicable EnviroServ policies from time to time.
- 3.6. EnviroServ shall be entitled to, without prejudice to any other rights in terms of this Agreement, charge and the Supplier agrees that it shall be liable to pay, a penalty of \_\_\_\_% of per day for any delays and/or non-conformance, which amount shall be set-off from any amount which

EnviroServ is liable to pay the Supplier. Any penalty charges raised in terms of this Agreement shall be capped at a maximum of \_\_\_\_\_% of the total [purchase order/contract fee] charged.

- 3.7. The Parties specifically agree that the Supplier terms and conditions applicable to any quotation, whether issued prior to or subsequent to this document, shall be of no force and effect, unless agreed to in writing and signed by an authorised EnviroServ representative.
- 3.8. The order of preference of the applicable documents concluded between the Parties shall be as follows, in so far as they are inconsistent with one another:
  - 3.8.1. Any Service Level Agreement or Master Agreement concluded between the Parties;
  - 3.8.2. This Agreement and the Annexures hereto;
  - 3.8.3. The applicable EnviroServ Purchase Order;
  - 3.8.4. Any Supplier Terms and Conditions, where agreed to in terms of 3.7. above.
- 3.9. The Parties agree that risk shall pass from the Supplier to EnviroServ, by way of a duly signed delivery note/installation certificate/certificate of acceptance or conformance and/or any other signed acceptance by EnviroServ of such Goods and Service as at agreed timelines and KPIs, as may be applicable. In relation to Goods, if EnviroServ collects the Goods, then risk shall pass on collection of the Goods;
- 3.10. Ownership shall pass once payment has been made in full by EnviroServ to the Supplier.
- 3.11. EnviroServ shall be entitled to, at any time, inspect any Goods delivered and assess the compliance and progress in relation to any of the Services rendered by the Supplier and shall be entitled to reject any Goods and/or Services which do not comply with this Agreement, notwithstanding whether payment has been made in respect thereof or not. The Supplier shall, however remain liable for its own inspections, testing and/or quality control obligations agreed to and expected of a reasonable Supplier and any inspections and/or tests performed by EnviroServ for its own verification, shall not relieve the Supplier of this obligation.
- 3.12. All procurement related communication with EnviroServ is to be made in writing and addressed to an individual or sent to [enviroservprocurement@enviroserv.co.za](mailto:enviroservprocurement@enviroserv.co.za) in order for it to be attended to.

#### **4. SUPPLIER WARRANTIES AND UNDERTAKINGS**

- 4.1. The Supplier warrants and undertakes that:
  - 4.1.1. It will perform the Services and/or supply the Goods and/or work incidental hereto diligently, timeously and in terms of industry best practice.
  - 4.1.2. It will perform the Services and/or supply the Goods in a professional and workmanlike manner and shall at all times perform in compliance with Applicable Laws, the terms of this Agreement.
  - 4.1.3. It has (at its own cost) and complies with all the required permits and/or licenses and/or approvals from relevant authorities to perform its obligations in terms hereof lawfully and will advise EnviroServ immediately should such permit and/or license and/or approval lapse, be revoked or in any other way terminate or expire and EnviroServ shall be entitled to, in its sole and absolute discretion immediately cancel the Agreement and recover any damages from the Supplier resulting from same. The Supplier shall provide EnviroServ with copies of such permit, on written demand.
  - 4.1.4. It will comply with any and all EnviroServ policies, procedures, directives and/or other instructions which EnviroServ requires for the performance of the Services and/or supply of Goods, including but not limited to the EnviroServ Supplier Policy, Ethics Policies, Health and Safety Policies, Codes of Conduct, and/or Procedures applicable, which may include *inter alia* ensuring that every member of their staff/sub-contractors/agents and/or other representative undergoes a medical examination as required by law and/or as may be required by EnviroServ from time to time and wears the required personal protective equipment, as mandated and/or directed by EnviroServ. The procurement of such personal protective equipment, shall, unless otherwise agreed to in writing between the Parties, be for the Suppliers cost;
  - 4.1.5. It shall ensure that the Goods and/or Services are new, merchantable, fit for purpose and shall comply with the required and agreed descriptions, timelines, specifications, scope of works and/or applicable KPI's related thereto. The Supplier shall be liable for any and all penalties, late fees, contractual damages, fines and/or any other expense incurred by EnviroServ due non-adherence by the Supplier to the terms of this Agreement.
  - 4.1.6. It shall specifically comply with any and all applicable import or export laws and regulations related to or incidental to the provision of the Goods and/or Services as set out herein.
  - 4.1.7. The Goods and/or Services shall not be subject to any liens, encumbrances and/or any other third-party prohibition for the Supplier to lawfully transfer the Goods and/or any rights to the Services to EnviroServ, as envisioned herein.

- 4.1.8. Any and all manufacturer warranties applicable and related to the Goods and/or Services shall continue to have application and where it is not the original manufacturer of Goods, including but not limited to any parts, software or other installations or components of same, it shall ensure that any original manufacturer warranties, authorizations and/or certifications are extended and/or transferable, as may be applicable, to the benefit of EnviroServ.
- 4.1.9. It shall ensure that, in terms of the Health and Safety Act 85 of 1993, as amended, it and its staff and/or any subcontractors appointed by the Supplier, comply with the provisions of the aforementioned Act and shall be solely responsible for health and safety related obligations in providing the Services and/or Goods, as required in terms of the Act. The Supplier shall conclude any additional Agreements pertaining to the Act, such as a s37(2) agreement if so required in the sole discretion of EnviroServ and shall ensure that neither EnviroServ staff, nor its own nor any other third party shall be at risk of harm or placed in danger in the rendering of such services and/or due to the use of the Goods and shall indemnify EnviroServ against any and all loss, claims, damages of whatsoever nature, howsoever caused to EnviroServ as a result of the Supplier's breach of this obligation;
- 4.1.10. It shall comply with POPIA and the obligations imposed on it in terms of *inter alia* the collection, processing and storing of EnviroServ information and shall ensure that any of its systems have the appropriate technology and safety mechanisms in place. The Supplier shall in addition, procure the consent of its staff and/or subcontractors, on request by EnviroServ and/or where otherwise required in terms of the POPIA, not limited to but including instances where medical information for the purposes of assessing and reporting whether any such staff member or subcontractor is fit to perform the Services and/or the provision of information in relation to the Ethics assessment criteria and/or any additional requirements in terms of this Agreement.
- 4.1.11. It shall perform the Services and/or supply the Goods in compliance with all Applicable Laws;
- 4.1.12. The Supplier confirms that as at the time of concluding this Agreement, it is a level \_\_\_\_\_ BB-BEE contributor in terms of the BB-BEE Act. It shall, for the duration of this Agreement maintain or improve its BB-BEE contribution status, as comparable to the Supplier's BB-BEE contribution status as at commencement of this Agreement. The Supplier shall within 7 (seven) calendar days inform EnviroServ of any adverse impact to its rating. In such event, EnviroServ may, agree to an improvement plan for the Supplier BB-BEE levels to return to the minimum rating as stipulated herein or terminate the Agreement between the Parties at its sole and absolute discretion and the Supplier shall be in breach of this Agreement should EnviroServ elect to terminate the Agreement for this reason.
- 4.1.13. The Supplier shall keep all information shared with it pursuant to this Agreement as Confidential Information and shall not disclose or use any Confidential Information without EnviroServ's express written consent and shall solely use such Confidential Information to perform its obligations in terms of this Agreement and the EnviroServ Purchase Order issued to the Supplier.
- 4.1.14. The Supplier shall not make any announcements related to the terms this Agreement or otherwise associated herewith for any reason, whatsoever, without the prior written consent of EnviroServ.
- 4.1.15. It shall not conduct itself in a manner which negatively affects the brand or reputation of EnviroServ in any way, whether such conduct occurred within the scope or duration of this Agreement or not. EnviroServ shall be entitled to (in its sole and absolute discretion) terminate this Agreement forthwith, without penalty or liability or any limitation to its rights herein should the Supplier breach the provisions of this clause.

## **5. PAYMENT**

- 5.1. EnviroServ shall pay the Supplier the rate agreed to and set out in Annexure B hereto.
- 5.2. The rate payable by EnviroServ shall be fixed and inclusive of all charges, fees, disbursements etc. for the Services and/or Goods and/or any matter related or incidental thereto and shall be incapable of adjustment, unless agreed otherwise by EnviroServ in writing and shall be as reflected in the applicable Purchase Order;
- 5.3. Payment shall be made into the banking account nominated by Supplier and EnviroServ shall have no liability if incorrect details are provided to it. The Supplier shall provide to EnviroServ any and all verification documents required by EnviroServ in this regard, including bank statements, not older than three (3) months and a bank confirmation letter and/or any other documents EnviroServ may reasonably require;
- 5.4. The Supplier shall render an invoice to EnviroServ, which invoice shall contain any and all information required by EnviroServ and all supporting documents required by EnviroServ to verify and effect such payment.

- 5.5. EnviroServ shall process and effect payment to the Supplier on all undisputed invoices within \_\_\_\_\_ (\_\_\_\_) days from date of statement submitted to EnviroServ and emailed to the address set out in clause 5.6. below. In respect of the months of June and December, payments will be effected on the 1st working day of the month following the \_\_\_\_\_ (\_\_\_\_) day period set out herein. The statement issued by the Supplier shall reconcile all invoices issued to EnviroServ in terms of the applicable Purchase Order. Statements reflecting invoices where goods and services have not been rendered or where no Purchase Order was issued shall not be paid, unless agreed to in writing by the EnviroServ Head of Procurement.
- 5.6. Invoices for services rendered/good supplied shall reflect the correct order number(s) and VAT number of the Supplier and EnviroServ; invoices shall be signed off by the authorised representative of the Supplier and shall be approved and signed off by a duly authorised representative of EnviroServ and to be valid for payment to be effected thereon. Invoices are to be emailed to [librariangauteng@enviroserv.co.za](mailto:librariangauteng@enviroserv.co.za).
- 5.7. The Supplier shall produce a copy of its VAT registration certificate to EnviroServ, alternatively an affidavit confirming non-VAT registration, if applicable.
- 5.8. EnviroServ may, in the event of any disputed amounts, whether invoiced or any other debt due to EnviroServ, of whatsoever nature, howsoever caused and in EnviroServ's sole discretion, be entitled to defer, withhold or refuse the payment of monies due to Supplier until such debt has been settled in full and/or set-off such monies against any debt due to EnviroServ by the Supplier whether such debt arose terms of this Agreement or not.

## **6. INDEMNITY AND LIMITATION OF LIABILITY**

- 6.1. The Supplier shall indemnify and hold EnviroServ harmless for any and all claims, damage, liability, penalties, fines, costs, expenses and/or any other losses of whatsoever nature, howsoever caused to EnviroServ arising out of or in connection to the Services and/or Goods provided by the Supplier in relation to this Agreement, whether caused due to a breach of this Agreement, any breach of any warranties owing by the Supplier to EnviroServ, any claim brought against EnviroServ by a third-party arising out of or in connection to this Agreement, whether or not such third party is an employee of the Supplier or not, any death, injury or harm caused to any person or damage, loss or destruction caused to any property (moveable or immovable, tangible or incorporeal), any harm caused due to the negligent or willful conduct or omission by the Supplier and/or any other manner whatsoever.
- 6.2. EnviroServ shall under no circumstances of whatsoever nature, howsoever caused by liable for any indirect, special and/or consequential losses arising, in any way, out of this Agreement.
- 6.3. The total cumulative liability of EnviroServ shall not exceed the remuneration paid or payable to the Supplier in terms of any applicable Purchase Order issued in relation to the Services rendered or Goods supplied.

## **7. INSURANCE**

- 7.1. The Supplier shall at all times and for the duration of this Agreement ensure that it has and shall maintain adequate insurance cover with a reputable insurance provider to cover any and all of its obligations and liabilities in terms of this Agreement and at a minimum cover with which EnviroServ may prescribe, if it so wishes. The costs of such Insurance cover shall be borne exclusively by the Supplier.
- 7.2. EnviroServ may request confirmation of such cover from time to time, which the Supplier undertakes to obtain and provide such confirmation to EnviroServ within twenty-four (24) hours of such request being made.

## **8. FORCE MAJEURE**

- 8.1. Should either Party be prevented from performing its obligations due to Force Majeure, then such failure to perform its obligations shall not constitute a breach of this Agreement, provided that:
  - 8.1.1.1. The Party affected by the Force Majeure gives the Other Party prompt notice that a Force Majeure Event has occurred, the nature of such Force Majeure Event and its expected duration;
  - 8.1.1.2. The Party affected by the Force Majeure shall take all reasonable measures to mitigate the effect of the Force Majeure on the performance of its obligations in terms of this Agreement; and
  - 8.1.1.3. Both Parties shall co-operate to reduce the effect of the Force Majeure event and shall work together in terms of any mitigation measures which may be proposed by the Party affected to try and resolve the Force Majeure or mitigate the effect thereof.

- 8.2. In the event that the Force Majeure continues for a period in excess of thirty (30) Days, then the Agreement may be terminated without liability or penalty by or to either Party.

## **9. INTELLECTUAL PROPERTY**

- 9.1. The Supplier shall not acquire any right, title, interest, ownership and/or otherwise use any Intellectual Property belonging to EnviroServ without the express written consent of EnviroServ.
- 9.2. Any Intellectual Property developed, created or otherwise discovered by either or both of the Parties and related to the Goods and/or Services provided herein, shall be disclosed to EnviroServ and shall belong fully and exclusively to EnviroServ.
- 9.3. The Supplier, shall where applicable, grant EnviroServ a non-exclusive, royalty free right and/or license to use any Intellectual Property required for the receipt, ownership and/or transfer of the Goods and/or Services, as may be required in terms of this Agreement. To this end, the Supplier warrants that it is the lawful owner and/or title-holder to any Intellectual Property rights which EnviroServ may acquire pursuant hereto and shall indemnify EnviroServ in full against any third-party claims related to same.

## **10. ANTI-BRIBERY AND CORRUPTION, ETHICS AND SUSTAINABLE DEVELOPMENT**

- 10.1. The Supplier acknowledges that EnviroServ is subject to both local and international anti-bribery laws and agrees that it is and/or will familiarize itself with such laws (including but not limited to the provisions of the Prevention and Combatting of Corrupt Activities Act 12 of 2004 (as amended), Anti-Money Laundering and Combatting of Terror Financing Laws (as amended), the UK Anti-Bribery Act 2010, the US Foreign Corrupt Practices Act of 1977, the French Sapin II Law) and that the Supplier will not, in connection with this Agreement or any transaction pursuant thereto conduct itself in such a way that would constitute a breach of the aforementioned legislation.
- 10.2. The Supplier hereby consents to EnviroServ performing a mandatory ethics integrity assessment and undertakes to co-operate with EnviroServ in this regard, including but not limited to procuring any further consent from its directors and/or shareholders and/or providing any such information which EnviroServ may require in the performance of the assessment and as may be applicable to this Agreement. The Supplier acknowledges that EnviroServ may use any hardcopy and/or digital tools required to perform such assessment and hereby agrees that EnviroServ may share any adverse findings within its Group structure, as may be required from time to time.
- 10.3. EnviroServ is subject to an Ethics Charter, which the Supplier agrees to respect and be bound to. The Ethics Charter and guide is accessible on the following website [www.suez.com](http://www.suez.com) or available on simple request to the address: [ethics@suez.com](mailto:ethics@suez.com).
- 10.4. In the event that the Supplier does not have binding rules reflecting its commitments in terms of ethics and compliance, it acknowledges that it has been duly informed of, and agrees to abide by, the EnviroServ commitments in the area of ethics and sustainable development, as those commitments are set forth in the Ethics Charter and guide.
- 10.5. In the event, however, that the Supplier has binding rules related to its commitments to promote ethics and compliance (namely with regard to respect for human rights, health and safety of employees and third parties, environmental protection, anti-corruption, competition law and economic sanctions) in its professional activities and in its relation with its suppliers, customers and partners, it undertakes to communicate them to EnviroServ on first request and to respect them throughout the duration of this Agreement.
- 10.6. The Supplier warrants that it will comply with international and national law related to Ethics and Sustainable Development, in particular in relation to human rights, health and safety of staff and third parties, protection of the Environment, the fight against corruption, competition law and economic sanctions and undertakes further to comply and ensure that its appointed suppliers, agents, subcontractors and/or representatives comply with these laws in relation to the supply of the Services and/or Goods.

- 10.7. The Supplier shall notify EnviroServ as soon as it becomes aware of any event which may constitute an infringement or violation of the undertakings herein and shall co-operate with any requirements stipulated by EnviroServ related hereto.
- 10.8. The Supplier shall indemnify EnviroServ in full and without limitation (including direct, indirect, special and/or consequential) in respect of any fines, penalties, damages, claims and or losses associated with a breach of this clause 10.
- 10.9. EnviroServ may be entitled to forthwith terminate this Agreement with no liability and/or penalty, in the event that:
- 10.9.1. The information provided is reflected to be inaccurate, false or otherwise misrepresentative;
- 10.9.2. The ethics assessment provides adverse results prohibiting EnviroServ from continuing with the provisions of this Agreement; and/or
- 10.9.3. The Supplier breaches the provisions of this clause 10.

## **11. BREACH AND TERMINATION**

- 11.1. In the event that either Party being in breach of their respective obligations in terms of of this Agreement, then the aggrieved Party shall issue a notice to the Party in breach to remedy the breach within a period of seven (7) days from date of the notice being sent, failing which the aggrieved Party may be entitled to:
- 11.1.1. terminate the Agreement and/or any applicable Purchase Order, without any further notice or liability to the aggrieved Party;
- 11.1.2. claim specific performance;
- 11.1.3. pursue and/or enforce any other right/claim which such Party may have in law.
- 11.2. EnviroServ may be entitled to terminate the Agreement and/or any applicable Purchase order immediately if the Supplier is provisionally or finally wound up, seeks a compromise with its creditors, provisionally or finally liquidated, placed under judicial review and/or management or in business rescue and/or commits a material breach of this Agreement which in EnviroServ's sole and absolute discretion such material breach is incapable of remedy.
- 11.3. EnviroServ, may terminate this Agreement for convenience and without reason or any further liability or obligation to the Supplier, by giving the Supplier thirty (30) days written notice of termination. EnviroServ shall, however remain liable for any Services rendered and/or Goods supplied up to the effective date of termination.

## **12. NOTICES AND DISPUTE RESOLUTION**

- 12.1. The Parties agree that the address reflected in clause 2 above shall be the addresses selected by each Party as their respective *domicilia citandi et executandi*.
- 12.2. Each Party may amend their *domicilia* by way of written notice to the other Party of such changes in address. Notices shall be delivered by hand and deemed to have been received on the date of delivery.
- 12.3. Notwithstanding anything to the contrary herein contained, any written notice or communication in due course proved to have been received by either Party, shall be construed as a valid written notice or communication complying with the terms of the Agreement, notwithstanding that it may not have been sent to or delivered at the addressee's chosen *domicilium*.
- 12.4. The Parties agree to resolve any disputes which may arise pursuant to this Agreement in an amicable, informal, pragmatic and expedited manner as far as possible. In achieving this, the Parties shall each elect representative to meet in an attempt to resolve any dispute which arises on this basis.
- 12.5. In the event, however, that the respective representatives are unable to resolve the said dispute within a period of seven (7) days from the dispute having been referred to it, then the Parties may refer the dispute to Arbitration, in accordance with the expedited commercial rules of the Arbitration Foundation of South Africa ("AFSA"). The Arbitration venue and seat shall be in Johannesburg, South Africa and the arbitral proceedings shall be conducted in the English language. The Parties shall agree to a single Arbitrator to govern the dispute and where no such agreement can be reached within a period of three (3) days from date of which the dispute notice

has been issued, then the Aggrieved Party shall defer the appointment to the Chairperson of AFSA or its successor in time.

- 12.6. Notwithstanding anything to the contrary herein, nothing contained herein shall prohibit either Party from seeking interdictory or any other urgent relief from any court of competent jurisdiction.

### **13. MISCELLANEOUS**

- 13.1. The Parties agree that Supplier shall carry out its obligations in terms of this Agreement as an independent contractor and this Agreement shall not give rise to any relationship of employment, joint venture, agency or partnership of any kind between the Parties.
- 13.2. No failure, delay, relaxation or indulgence on the part of either of the Parties hereto in the exercise of any power of right conferred on it in terms hereof shall operate as a waiver of such power or right, nor shall any single or any partial exercise of any such power or right preclude the other or further exercise thereof or the exercise of any power or right in terms of this Agreement.
- 13.3. The Parties agree that this Agreement constitutes the entire Agreement between the Parties and the Parties acknowledge that there are no understandings, representations, conditions and/or terms which shall apply. No amendments hereto shall be of any force or effect unless reduced to writing and signed by both Parties. Any prior agreements shall be rendered void.
- 13.4. The provisions of this Agreement and any interpretation thereof or dispute arising from it shall be construed and governed in accordance with the law of the Republic of South Africa.
- 13.5. To the extent that any provision of this Agreement is in conflict with any law, regulation, ordinance or directive issued by relevant authorities in the Republic of South Africa and to the extent that such conflict renders the applicable provision void, invalid or unlawful or unenforceable in any way, then the provision itself shall only be deemed void and the remaining provisions of this Agreement shall continue to apply between the Parties as envisioned herein.
- 13.6. The Supplier shall not without the prior written consent, of EnviroServ, be permitted to sub-contract the Services or a portion thereof to a third party.
- 13.7. The Supplier shall not be entitled to cede, assign or transfer any of its rights or obligations in terms of this Agreement without the prior written consent of EnviroServ.
- 13.8. The Supplier agrees and consents to EnviroServ and/or any other Third Party/client appointed by or of EnviroServ to perform an audit on the Suppliers facility and/or offices, books, systems, data to assess the Service Providers compliance with the Provisions of this Agreement. The Service Provider shall co-operate with any such audit request, at a mutually agreed upon time and shall provide EnviroServ with any information so reasonably requested and related to the Agreement.
- 13.9. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which together constitute one and the same Agreement. The Parties agree that this Agreement may be signed by any permitted and recognized digital tool and such signature shall be deemed valid and binding on each entity having so signed.
- 13.10. This Agreement shall be binding and enforceable against the estates, heirs, executors, administrators, trustees, assigns, liquidators, sequestrators, curators and/or any legal representatives of such Parties as fully and effectively as if they had signed the Agreement in first instant and such reference to the Party shall then be deemed to refer to and incorporate such representative inclusively as the case may be;
- 13.11. The Supplier confirms that it has not entered into this Agreement under duress and is free to obtain independent legal advice at its own cost and expense in concluding the Agreement and as such affirms that the rule of construction for the Agreement to be interpreted against the drafting Party is specifically waived.
- 13.12. The Parties each warrant and undertake that the representative accepting the Purchase Order and representing the Supplier in relation to any transaction pertaining to this Agreement, including the signatory hereof is duly authorised to do so on behalf of the Supplier.

### **3.6. ANNEXURE F – EVALUATION CRITERIA**

Evaluation Criteria		Weighted Score
		80/20
<b>OPERATIONAL EFFECTIVENESS (SERVICE DELIVERY)</b>		<b>30</b>
1	Technical Competence / Service: <ul style="list-style-type: none"> <li>• Company Profile: <ul style="list-style-type: none"> <li>- Ability to deliver required services</li> <li>- Expertise</li> <li>- Footprint</li> </ul> </li> </ul>	20
2	Administrative Compliance to Tender requirements <ul style="list-style-type: none"> <li>- All supporting documents have been submitted</li> <li>- Did not submit all the required documents but submitted these documents: Completed RFP Document, All Annexures, Valid BBEEE Certificate/Affidavit, Valid Tax Clearance, Company Document &amp; Company Profile</li> </ul>	10
<b>FINANCIAL IMPACT (COST, FINANCE, WARRANTIES)</b>		<b>50</b>
1	Fee structure	50
<b>ECONOMIC EMPOWERMENT (B-BBEE &amp; strategic partnership)</b>		<b>20</b>
1	B-BBEE Level	10
2	% Black Ownership	5
3	% Black Woman Ownership	5

#### **AGREED METHODOLOGY FOR TENDER EVALUATION CRITERIA (80/20 RULE)**

##### **- 80% CRITERIA**

##### **• 50% FOR PRICE (MAX)**

- Lowest = 50%
- 2<sup>nd</sup> Lowest = 25%
- 3<sup>rd</sup> Lowest = 10%
- Others – 0%

##### **• 20% FOR EXPERIENCE/TECHNICAL COMPETENCE (MAX)**

- Company Profile provided = 20%
  - Ability to deliver required services - 10%
  - Expertise = 5%
  - National Footprint = 5%

##### **• 10% FOR ADMINISTRATIVE COMPLIANCE (MAX)**

- Submitted all required documents = 10%
- Did not submit all the required documents but submitted these documents: Completed RFP Document, All Annexures, BBEEE, Tax Clearance, Company Document & Company Profile = 8%
- Did not submit these documents: Completed RFP Document, All Annexures, BBEEE, Tax Clearance, Company Document & Company Profile = 0%
- Did not submit all the required documents = 0%

##### **- 20% BEE CRITERIA**

##### **• 10% BEE LEVEL**

- Level 1 = 10%
- Level 2 = 7.5%
- Level 3 = 5%
- Level 4 = 2.5%
- Level 5,6,7,8 = 0%

##### **• 5% BO%**

- BO ≥ 51 = 5%
- BO <51 = 0%

##### **• 5% BWO%**

- BWO ≥ 30% = 5%
- BWO <30% = 0%