

## **2.0 TENDER DOCUMENTS AND DEFINITIONS**

- 2.1 The policy set out hereunder is general in nature. The tender documents will elaborate on the principles.
- 2.2 The words and expressions set out hereunder shall have the meaning hereby assigned to them unless such meanings are clearly inconsistent with the context of a particular tender, contract or paragraph.

### **2.2.1 CONTROL**

The possession and exercise of legal authority and power to manage the assets, goodwill and daily operations of a business and the active and continuous exercise of appropriate managerial authority and power in determining the policies of the business and directing the operations of the business.

### **2.2.2 COMMERCIALLY USEFUL FUNCTION**

The performance of real and actual work, or the provision of actual services, in the discharge of any contractual obligation which shall include but not be limited to the performance of a distinct element of work which the business has the skill and expertise to undertake and the responsibility for management and supervision.

### **2.2.3 EQUITY OWNERSHIP**

Equity ownership shall be equated to the percentage of an enterprise which is owned by individuals, or in the case of a company, the percentage shares that are owned by individuals who are actively involved in the management and daily business operations of the enterprise and exercise control over the enterprise, commensurate with their degree of ownership.

**2.2.4 OWNED**

Having all the customary incidents of ownership, including the right of disposition and the sharing of all the risks and profits commensurate with the degree of ownership interests as demonstrated by an examination of the substance rather than the form of ownership arrangements.

**2.2.5 LOCAL SUPPLIER : A Local Enterprise that :**

- a. owns, operates or maintains a store, warehouse or other establishment within the boundaries of Buffalo City, in which materials or supplies required for the performance of the contract are brought, kept in stock and regularly sold to the public in the usual course of business; and
- b. engages as its principle business, and in its own name, in the purchase and sale of the products in question, or the provision of a professional service or the execution of works.

**2.2.6 LOCAL LABOURERS/LABOUR ONLY SUB-CONTRACTORS**

Individuals employed by the Contractor in the performance of the Contract, who permanently reside in the area of the Buffalo City Council

**2.2.7 HISTORICALLY DISADVANTAGED INDIVIDUALS (HDIs)**

“Historically Disadvantaged Individual (HDI)” means a South African citizen -

- (1) who, due to the apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No. 110 of 1983) or the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993) (“the Interim Constitution”); and/or
- (2) who is a female; and/or

(3) who has a disability:

Provided that a person who obtained South African citizenship on or after the coming into effect of the Interim Constitution, is deemed not to be an HDI;

#### **2.2.8 AGENTS**

“Agent” means a person mandated by another person (“the principal”) to do business for and on behalf of, or to represent in a business transaction, the principal, and thereby acquire rights for the principal against an organ of state and incur obligations binding the principal in favour of an organ of state

#### **2.2.9 BUSINESS ENTERPRISE**

A business which adheres to statutory labour practices, is a legal entity, registered with the South African Revenue Service and a continuing and independent enterprise for profit providing a Commercially useful function.

#### **2.2.10 JOINT VENTURE**

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;

#### **2.2.11 MANAGEMENT**

In relation to an enterprise or business, means an activity inclusive of control and performed on a daily basis, by any person who is a principal executive officer of the company, by whatever name that person may be designated, and whether or not that person is a director.

#### **2.2.12 SUB-CONTRACTING**

Means the primary contractor’s assigning or leasing or making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;