



INVITATION TO BID

MBD 1

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE UBUNTU LOCAL MUNICIPALITY.

BID NUMBER: **UB/VW/01/2022** CLOSING DATE: **11 August 2021** CLOSING TIME: **12H00**

DESCRIPTION:

DEVELOPMENT OF AN OFFICIAL WEBSITE OF THE MUNICIPALITY.

The successful bidder will be required to fill in and sign a written Contract Form (MBD 7).

BID DOCUMENTS MUST BE DEPOSITED AT: Ubuntu Local Municipality, brown tender box at the reception of the main entrance, situated at 78 Church Street, Victoria West, 7070.

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

The bid box is generally open during office hours from 07h30 – 16h15

ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS – (NOT TO BE RE-TYPED)

THIS BID IS SUBJECT TO:

- THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS;
- UBUNTU LOCAL MUNICIPALITY SUPPLY CHAIN POLICY; AND
- STANDARD GENERAL CONDITIONS OF CONTRACT.

NB: NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE (As defined in Regulation 1 of the Local Government: Municipal Supply Chain Management Regulations)

**THE FOLLOWING PARTICULARS MUST BE FURNISHED
(FAILURE TO DO SO MAY RESULT IN YOUR BID BEING DISQUALIFIED)**

NAME OF BIDDER :

REPRESENTATIVE :

POSTAL ADDRESS :

STREET ADDRESS :

TELEPHONE NUMBER CODE : NUMBER :

CELLPHONE NUMBER :

FACSIMILE NUMBER : CODE : NUMBER :

E-MAIL ADDRESS :

VAT REGISTRATION NUMBER :

HAS AN ORIGINAL AND VALID TAX CLEARANCE CERTIFICATE BEEN ATTACHED? (MBD 2) YES / NO

HAS A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE BEEN SUBMITTED? (MBD 6.1) YES / NO

IF YES, WHO WAS THE CERTIFICATE ISSUED BY?

AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA)
 A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN NATIONAL ACCREDITATION SYSTEM (SANAS)
 A REGISTERED AUDITOR
 (Tick applicable box)

(AN ORIGINAL OR CERTIFIED B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE).

ARE YOU THE ACCREDITED REPRESENTATIVE
 IN SOUTH AFRICA FOR THE GOODS / SERVICES / WORKS OFFERED? YES / NO
(IF YES ENCLOSE PROOF)

SIGNATURE OF BIDDER :

DATE :

CAPACITY UNDER WHICH THIS BID IS SIGNED :

TOTAL BID PRICE : TOTAL NUMBER OF ITEMS OFFERED :

ANY ENQUIRIES REGARDING THE BIDDING PROCEDURE MAY BE DIRECTED TO:

Municipality / Municipal Entity : UBUNTU LOCAL MUNICIPALITY

Department/ Unit : SUPPLY CHAIN MANAGEMENT

Official : Ms. Delicia Kepi

Work Telephone : (053) 621 0026 (During office hours)

Email Address : suthukepi@gmail.com (SCM), vuyokazifula@gmail.com (ICT)

Ubuntu Municipality



BID NOTICE

ADVERTISED IN : CITY PRESS AND MUNICIPAL WEBSITE
PUBLISHED DATE : 12 July 2021
DEPARTMENT : COMMUNITY SERVICES (PUBLIC SAFETY)
BID NO. : UB/VW/01/2022

Bids are hereby invited from experienced service providers for the development of the official website of the municipality.

The terms of reference are detailed in the Bid document.

A set of tender documents can be downloaded from the municipal website of www.ubuntu.gov.za.

Bid documents will be available as from Monday 12 July 2021.

Acceptable bids will be evaluated and assessed on functionality and further be evaluated using the 80/20 preference point system which awards points on the basis of 80 points for price and 20 points for B-BBEE level of contribution.

Bids are to be completed in accordance with the conditions and bid rules contained in the bid documents and must be placed in a sealed envelope and externally endorsed **WITH THE BID NUMBER, DESCRIPTION AND CLOSING DATE OF THE BID**, and must be deposited in **Brown Box**, situated at the reception of the main entrance of Ubuntu Local Municipality, 78 Church Street, Victoria West, 7070 and is open between 07h30 and 16h15, by not later than **12:00 on Wednesday, 11 August 2021**. Bids will be opened immediately thereafter, in public (Council boardroom: Ubuntu Local Municipality).

BIDDERS SHALL TAKE NOTE OF THE FOLLOWING BID CONDITIONS:

- The Ubuntu Local Municipality Supply Chain Management Policy will apply;
- The Ubuntu Local Municipality does not bind itself to accept the lowest bid or any other bid and reserves the right to accept the whole or part of the bid or to withdraw;
- Bids which are late, incomplete, unsigned, completed in pencil, submitted by facsimile or electronically, will not be accepted;
- Bids submitted are to hold good for a period of 90 days;
- Bids must only be submitted on the documentation provided by the Ubuntu Local Municipality; (original Bid documents)
- Suppliers must be registered on the database;
- **An Original Valid Tax Clearance Certificate of a company (or in the case of a Joint Venture, all the partners in the Joint Venture) must be submitted with the bid document.**
- **An original current account in terms of water & lights/Rates & Taxes obtainable from your Local Municipality must be submitted with the bid document for both business and directors.**
- **Certified copies of Identity Documents (ID's) of all shareholders/owner(s)/partners of bidding companies must be submitted with the bid document;**
- **Failure to comply with these conditions will result in immediate disqualification of your bid.**

.....
Mr. SS Ngwevu
MUNICIPAL MANAGER

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TAX CLEARANCE REQUIREMENTS**IT IS A CONDITION OF BIDDING THAT -**

1. The taxes of the successful bidder must be in order, or that satisfactory arrangements have been made with the Receiver of Revenue to meet his / her tax obligations.
2. The attached form "Application for Tax Clearance Certificate (in respect of bidders)", must be completed in all respects and submitted to the Receiver of Revenue where the bidder is registered for tax purposes. The Receiver of Revenue will then furnish the bidder with a Tax Clearance Certificate that will be valid for a period of twelve (12) months from date of issue. This Tax Clearance Certificate must be submitted in the original together with the bid. Failure to submit the original and valid Tax Clearance Certificate may invalidate the bid.
3. In bids where Consortia / Joint Ventures / Sub-contractors are involved each party must submit a separate Tax Clearance Certificate. Copies of the Application for Tax Clearance Certificates are available at any Receiver's Office.

**APPLICATION FOR TAX CLEARANCE CERTIFICATE
(IN RESPECT OF BIDDERS)**

1. Name of taxpayer / bidder:

2. Trade name:

3. Identification number:

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4. Company / Close Corporation registration number:

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

5. Income tax reference number:

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

6. VAT registration number (if applicable):

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

7. PAYE employer's registration number (if applicable):

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Signature of contact person requiring Tax Clearance Certificate:

Name:

Telephone number: Code:..... Number:

Address:

.....

.....

DATE: 20____ / ____ / ____

PLEASE NOTE THAT THE COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE (SARS) WILL NOT EXERCISE HIS DISCRETIONARY POWERS IN FAVOUR OF ANY PERSON WITH REGARD TO ANY INTEREST, PENALTIES AND / OR ADDITIONAL TAX LEVIABLE DUE TO THE LATE- OR UNDERPAYMENT OF TAXES, DUTIES OR LEVIES OR THE RENDITION RETURNS BY ANY PERSON AS A RESULT OF ANY SYSTEM NOT BEING YEAR 2000 COMPLIANT.

Tender Requirements, Evaluation and Specification

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1. Specifications

2. Responsiveness and Evaluation Criteria

2.1 Examination of Tenders and Determination of Responsiveness

2.2 Adjudication using a Points System

2.2.1 Points Allocation

2.2.2 Weighting on Functionality:

2.2.3 Pricing points

1. Specifications

Ubuntu Municipality wants the new site which should focus on building the organization's brand. This should involve new brand concept to develop an online presence into something fresh, dynamic and professional.

We want the website to place a strong focus on mobile optimization i.e., responsive web design. We build all sites on a responsive framework which offers optimal performance on tablets and mobile devices as currently 50-60% of all website traffic is from mobile devices.

Scope of Work

- Develop a high-end looking, fresh and professional online presence for Ubuntu Municipality.
- Create the overall functionality and user interface to encourage browsing, and repeat visits. Build a latest news/blog section allowing staff members to create regular content.
- Create a content management system that allows the user to add and remove listings, content or images.
- Create custom page layouts as per the client's requests.
- Integrate client's social network profiles such as Facebook and Twitter with the option for Twitter feeds.
- Provide Twitter and Facebook designs matching website branding.
- Build the site using a responsive framework so that it will be fully compatible with all mobiles and tablet devices.
- Complete on-site optimization for relevance and quality with local search results.
- Provide necessary handover documents including all site files and design elements related to the project.
- Build a user-friendly feature that allows the user to specify their requirements.
- Setup multiple CTAs to capture as much leads as possible.
- Implement an effective call to action strategy to maximize conversion rate.
- Skills transfer

Project Description

- Design: Sitemap, Page Planning and Wireframing.
- Design: Photoshop Mock Designs.
- Development: Frontend Development (Mock Designs Coded) Development.
- Back-end Content Management System Development.

2. Responsiveness and Evaluation Criteria based on functionality

2.1 Examination of Tenders and Determination of Responsiveness

No Tender will be considered by the Local Authority unless it meets the following responsiveness criteria:

- 2.1.1 Meet all the Required Specifications;
- 2.1.2 Has been properly signed;
- 2.1.3 Is responsive to the requirements of the procurement documents;
- 2.1.4 Provides any clarification and/or substantiation that the Employer may require;
- 2.1.5 Complies with the Tender submission requirements in all other respects;
- 2.1.6 The completion of the Form of Tender including the signatures of authorized persons;
- 2.1.7 The provision of original/or certified copy of their Municipal account;
- 2.1.8 The provision of a tax clearance certificate issued by the SARS.

2.2 Adjudication using a Points System

2.2.1 Points Allocation

Price	-	80 points
B-BBEE	-	20 points
		<hr/>
		100 points

2.2.2 Weighting on Functionality:

Submissions will be evaluated on functionality based on the following criteria which shall be detailed in the Tenderers submission:

Quality of submission	=	30 points
Relevant experience	=	20 points
Skills Transfer and Quality Assurance	=	20 points
Location	=	30 points
		100 points

FUNCTIONALITY CRITERIA:

The following criteria will be used to calculate points for the quality of Bidders and Bidders must ensure that they submit all information in order to be evaluated in terms of functionality on the criteria mentioned in table 1 below:

Table 1: Functionality criteria breakdown

	<u>CRITERIA</u>	<u>MAXIMUM POINTS</u>
<u>1</u>	<u>Quality of submission</u>	<u>30</u>
<u>2</u>	<u>Relevant experience</u>	<u>20</u>
<u>3</u>	<u>Skills Transfer and Quality Assurance</u>	<u>20</u>
<u>4</u>	<u>Locality</u>	<u>30</u>
	<u>TOTAL</u>	<u>100</u>

Important notes:

- *Bidders that score less than 50 out of 100 points for the functionality criteria will be regarded as submitting a non-responsive Bid and will not be evaluated on (preference points).*
- *Bidders must ensure that all the information requested is provided in detail. Failure on the bidder part to provide the evidence required to award points will result in no points being awarded for that criterion.*
- *Unclear or incomplete information provided will result in no points being allocated.*
- *Bidders must submit applicable information for this tender. Reference to any attached documentation must be clearly indicated.*
- *Points will be allocated in terms of the evidence provided by the bidder. If the information provided during the course of the evaluation of contract are known to be false, the municipality will reserve the right not to award points or cancel the contract.*

BIDDER'S SUBMISSION = 30 points:

- Quality of submission in relation to Knowledge of Fields = max of 30 points

Knowledge of fields = Max 30 pts

WHAT IS EVALUATED: The Bidder's quality of submission in terms of the specialist field.

WHAT MUST BE COMPLETED: A detailed summary list must be provided with the Bid submission, on **Schedule of Work Carried Out by Tenderer**, which must have sufficient detail of similar task undertaken, during the past 7 years.

EVIDENCE REQUIRED: A reference letter in the letterhead of previous clients.

NOTE: Tenderers that do not supply the information in the above prescribed format or omit to provide the required evidence will not be awarded points for this section.

Table 2: Quality of Submission

<u>Description</u>	<u>No of projects</u>	<u>Points awarded</u>
<u>Excellent</u>	<u>Involved and successfully completed 7 or more projects</u>	<u>30</u>
<u>Good</u>	<u>Involved and successfully completed 4 to 6 projects</u>	<u>25</u>
<u>Fair</u>	<u>Involved and successfully completed 2 to 3 projects</u>	<u>18</u>
<u>Weak</u>	<u>Involved and successfully completed 1 project</u>	<u>12</u>
<u>Poor</u>	<u>Involved and successfully completed No project</u>	<u>0</u>

HOW WILL POINTS BE ALLOCATED: Points will be allocated for the Bidder's project experience.

PREVIOUS EXPERIENCE = 20 points

Provide the following information on relevant previous experience (*indicate specifically projects of similar or larger size and/or which is similar with regard to type of work*). In addition to any requirements, bidders must furnish particulars of:

- Only Projects completed during the past 7 years will be considered.
- Bidder must complete and attach a copy of the form below, clearly indicating the project number for each project, for which the bidder intends to tender, in order to claim any points in terms of functionality.
- **Tenderers that do not supply the information in the below prescribed format will not be awarded points for this section.**
- **Bidders that fail to provide the requested evidence will not be awarded points for the criteria.**

This information is material to the award of the Contract. Provide Letters of appointment/completion certificates/contracts from respective institutions

- 4-projects = 20 points
- 3-projects = 15 points
- 2-projects = 10 points
- 1-projects = 05 points

<i>The relevant experience below is with regard to the project no. as indicated above for which the bid is provided</i>						
No	Project name & description	Project value (R, Excl. VAT)	Employer Name:	Completion date:	Contact no:	Contact person:
1						
2						
3						
4						

PROPOSED KEY PERSONNEL FOR SKILL TRANSFER AND QUALITY ASSURANCE = 20 points

The Tenderer shall list below the key person, whom the bidder proposes to employ on the project should his Tender be accepted, for the execution of the work, skills transfer, quality assurance together with a short CV (*1page - qualifications, years' experience, positions held*). Should the proposed key personnel change after the award is made, the onus will be on the bidder to inform the municipality of change in writing together with the proposed change and evidence for approval by the contract's manager.

STAFF AND PERSONNEL = Max 20 points

WHAT IS EVALUATED: The experience of the Bidder's key personnel to be assigned to the specific project. The evaluation will include the proposed qualification, and number of applicable years' experience.

WHAT MUST BE COMPLETED: The qualifications and experience for similar projects for all staff and personnel provided for this tender, must be provided.

EVIDENCE REQUIRED: Proof of qualifications and experience for similar projects must be attached.

NOTE: Only qualification stipulated below will be adjudicated, other qualifications provided will result in 0 points allocated.

HOW WILL POINTS BE ALLOCATED: Points will be allocated for the Bidder's key staff in terms of table 3. Please note that a maximum of 20 points will be awarded per criteria.

Table 3: Professionals	
Years' Experience	Point allocated
>10	20
>7 < 9 yrs	15
>4 < 6 yrs	10
< 4yrs	5

LOCALITY = Max 30 points

WHAT IS EVALUATED: Due to the fact that cost containment measures prescribed by National Treasury dictate that the Municipality must consider and limit the costs related to disbursements. For this reason, locality is regarded as an evaluation criterion as such an element will ensure that travelling costs and related disbursement costs are minimized.

EVIDENCE REQUIRED: The Bidder must attach evidence confirming the residential address from which it will operate during the execution of the project. Proof must be attached.

NOTE: In the event that the Bidder is successful it will be a condition of contract that disbursements may only be claimed using the offered evidence as head office.

HOW WILL POINTS BE ALLOCATED: Points for Locality will be allocated as indicated in the table 4 below.

Table 4: Locality		
No.	LOCALITY	POINTS
1.	Ubuntu Local Municipal Area	30
2.	Pixley Ka Seme District	25
3.	Northern Cape Province	20
4.	Neighboring Provinces (Eastern, Western, Free State and North West)	15
5.	Other Provinces	10
TOTAL		30

2.2.3 Pricing points

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

80/20

$$Ps = 80 \left(1 - \frac{Pt - Pmin}{Pmin} \right)$$

Where

Ps = Points scored for comparative price of bid under consideration.

Pt = Comparative price of bid under consideration.

P min = Comparative price of lowest acceptable bid.

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? **YES / NO**

3.8.1 If yes, furnish particulars.....

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

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

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

3.9 Have you been in the service of the state for the past twelve months? **YES / NO**

3.9.1 If yes, furnish particulars.....

3.10 Do you have any relationship (family, friend, other) with persons in the service of the state and who may be involved with the evaluation and or adjudication of this bid?..... **YES / NO**

3.10.1 If yes, furnish particulars.....

3.11 Are you, aware of any relationship (family, friend, other) between any other bidder and any persons in the service of the state who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

3.11.1 If yes, furnish particulars
.....
.....

3.12 Are any of the company’s directors, trustees, managers, Principle shareholders or stakeholders in service of the state? **YES / NO**

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

3.13 Are any spouse, child or parent of the company’s directors trustees, managers, principle shareholders or stakeholders in service of the state? **YES / NO**

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

3.14 Do you or any of the directors, trustees, managers, principle shareholders, or stakeholders of this company have any interest in any other related companies or business whether or not they are bidding for this contract. **YES / NO**

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

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

Full Name	Identity Number	State Employee Number

.....
Signature

.....
Date

.....
Capacity

.....
Name of Bidder

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2011

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, 2011.

1. GENERAL CONDITIONS

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

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

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

1.3 Preference points for this bid shall be awarded for:

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

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

	POINTS
1.3.1.1 PRICE
1.3.1.2 B-BBEE STATUS LEVEL OF CONTRIBUTION
Total points for Price and B-BBEE must not exceed	100

1.4 Failure on the part of a bidder to fill in and/or to sign this form and submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System (SANAS) or a Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA) or an Accounting Officer as contemplated in the Close Corporation Act (CCA) together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

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

2. DEFINITIONS

2.1 **“all applicable taxes”** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;

2.2 **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;

2.3 **“B-BBEE status level of contributor”** means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on

Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

2.4 **“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 services, works or goods, through price quotations, advertised

competitive bidding processes or proposals;

- 2.5 **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- 2.6 **“comparative price”** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;
- 2.7 **“consortium or 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;
- 2.8 **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;
- 2.9 **“EME”** means any enterprise with an annual total revenue of R5 million or less.
- 2.10 **“Firm price”** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- 2.11 **“functionality”** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
- 2.12 **“non-firm prices”** means all prices other than “firm” prices;
- 2.13 **“person”** includes a juristic person;
- 2.14 **“rand value”** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;
- 2.15 **“sub-contract”** means the primary contractor’s assigning, leasing, 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;
- 2.16 **“total revenue”** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the *Government Gazette* on 9 February 2007;
- 2.17 **“trust”** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
- 2.18 **“trustee”** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

3. ADJUDICATION USING A POINT SYSTEM

- 3.1 The bidder obtaining the highest number of total points will be awarded the contract.
- 3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts;
- 3.3 Points scored must be rounded off to the nearest 2 decimal places.
- 3.4 In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for B-BBEE.
- 3.5 However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal preference points for B-BBEE, the successful bid must be the one scoring the highest score for functionality.

3.6 Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

4. POINTS AWARDED FOR PRICE

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

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

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

Where

P_s = Points scored for comparative price of bid under consideration

P_t = Comparative price of bid under consideration

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

5. Points awarded for B-BBEE Status Level of Contribution

5.1 In terms of Regulation 5 (2) and 6 (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	8	16
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

5.2 Bidders who qualify as EMEs in terms of the B-BBEE Act must submit a certificate issued by an Accounting Officer as contemplated in the CCA or a Verification Agency accredited by SANAS or a Registered Auditor. Registered auditors do not need to meet the prerequisite for IRBA's approval for the purpose of conducting verification and issuing EMEs with B-BBEE Status Level Certificates.

5.3 Bidders other than EMEs must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.

5.4 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.

5.5 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they

were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.

5.6 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.

5.7 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.

5.8 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.

6. BID DECLARATION

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

7. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.3.1.2 AND 5.1

7.1 B-BBEE Status Level of Contribution: =(maximum of 10 or 20 points)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or an Accounting Officer as contemplated in the CCA).

8 SUB-CONTRACTING

8.1 Will any portion of the contract be sub-contracted? YES / NO (delete which is not applicable)

8.1.1 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? YES / NO (delete which is not applicable)

9 DECLARATION WITH REGARD TO COMPANY/FIRM

9.1 Name of firm :

9.2 VAT registration number :

9.3 Company registration number :

:

9.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

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

9.6 COMPANY CLASSIFICATION

- Manufacturer
- Supplier
- Professional service provider
- Other service providers, e.g. transporter, etc.
[TICK APPLICABLE BOX]

9.7 MUNICIPAL INFORMATION

Municipality where business is situated

Registered Account Number

Stand Number

9.8 TOTAL NUMBER OF YEARS THE COMPANY/FIRM HAS BEEN IN BUSINESS?

9.9 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 contribution indicated in paragraph 7 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 paragraph 7, 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 contribution 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) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after the audi alteram partem (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution

WITNESSES:

1.

2.

..... SIGNATURE(S) OF BIDDER(S)

DATE:

ADDRESS:

.....

.....

.....

CONTRACT FORM - PURCHASE OF GOODS/WORKS

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

PART 1 (TO BE FILLED IN BY THE BIDDER)

1. I hereby undertake to supply all or any of the goods and/or works described in the attached bidding documents to (name of institution)..... in accordance with the requirements and specifications stipulated in bid number..... 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 time of 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)
 - Technical Specification(s)
 - Preference claims in terms of the Preferential Procurement Regulations 2001
 - Declaration of interest
 - 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 goods and/or works specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.

4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfillment of this contract.

5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.

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

NAME (PRINT)

CAPACITY

SIGNATURE

NAME OF FIRM

DATE

WITNESSES	
1
2.
- - - -	

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

- a. This Municipal Bidding Document must form part of all bids invited.
- b. 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.
- c. The bid of any bidder may be rejected if that bidder, or any of its directors have:
 - 1. abused the municipality's / municipal entity's supply chain management system or committed any improper conduct in relation to such system;
 - 2. been convicted for fraud or corruption during the past five years;
 - 3. willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - 4. 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).
- d. In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

Item	Question	Yes	No
4.1	Is the bidder or any of its directors listed on the National Treasury's database as a company or person 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 National Treasury after the <i>audi alteram partem</i> rule was applied).	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? (To access this Register enter the National Treasury's website, www.treasury.gov.za , click on the icon "Register for Tender Defaulters" or submit your written request for a hard copy of the Register to facsimile number (012) 3265445).	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 TRUE AND CORRECT.

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

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

CERTIFICATE OF INDEPENDENT BID DETERMINATION

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

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

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

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Merafong City Local)

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

I certify, on behalf of: _____ that:

(Name of Bidder)

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

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

8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.

9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

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

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

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

AUTHORITY OF SIGNATORY

Indicate the status of the bidder by ticking the appropriate box hereunder. The bidder must complete the following:

COMPANY	CLOSE CORPORATION	PARTNERSHIP	JOINT VENTURE	SOLE PROPRIETOR

1. CERTIFICATE FOR COMPANY (CERTIFIED COPY MUST BE ATTACHED)

I,.....,chairperson of the Board of Directors of....., hereby confirm that by resolution of the Board (copy attached) taken on20....., Mr/Ms..... acting in the capacity ofwas authorised to sign all documents in connection with this bid any contract resulting from it on behalf of the company.

Chairperson:

As Witnesses: 1.....

2.....

Date:

2. CERTIFICATE FOR CLOSE CORPORATION (CERTIFIED COPY MUST BE ATTACHED)

We, the undersigned, being the key members in the business trading ashereby authorise Mr/Ms.....

Acting in the capacity ofto sign all documents in connection with the bid for Contract No.....and any contract resulting form it on our behalf.

NAME	ADRESS	SIGNATURE	DATE

3. CERTIFICATE FOR PARTNERSHIP (CERTIFIED CERTIFICATE MUST BE ATTACHED)

We, the undersigned, being the key partners in the business trading as,.....herby authorise Mr/Ms.....

Acting in the capacity of.....to sign all documents in connection with

the bid for Contract No.and any contract resulting form it on our behalf.

NAME	ADRESS	SIGNATURE	DATE

Note: This certificate is to be completed and signed by all the key partners upon whom rests the direction of the affairs of the Partnership as a whole.

4. CERTIFICATE FOR JOINT VENTURE (CERTIFICATE MUST BE ATTACHED)

We, the undersigned, are submitting this bid in Joint Venture and hereby authorise Mr/Ms, authorised signatory of the company,acting in the capacity of lead partner, to sign all documents in connection with the bid offer for Contract No.and any contract resulting from it on our behalf.

This authorisation is evidenced by the attached power of attorney signed by legally authorised signatories of all the partners to the Joint Venture.

NAME OF FIRM	ADDRESS	AUTHORISING SIGNATURE, ANME AND CAPACITY
Lead partner		

NOTE: This certificate is to be completed and signed by all the key partners upon whom rests the direction of the affairs of the Partnership as a whole.

5. CERTIFICATE FOR SOLE PROPRIETOR (CERTIFIED ID DOCUMENT AND ALL NECESSARY DOCUMENTATION MUST BE ATTACHED)

I,.....hereby confirm that I am the sole owner of the business trading as

Signature of Sole owner:.....

As Witnesses: 1.....

2.....

Date:.....

Pricing

Tenderers shall submit their pricing in the following format: -

- i) Design and development fee;
- ii) Skills transfer fee;
- iii) Disbursement fee;
- iv) Any other associated costs.

The abovementioned service fees shall allow for all costs associated with providing the service.

Tenderers shall only submit pricing in this format and no alternative formats will be accepted.

GENERAL CONDITIONS OF CONTRACT

TABLE OF CLAUSES

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1. Definitions

The following terms shall be interpreted as indicated:

“Closing time” means the date and hour specified in the bidding documents for the receipt of bids.

“Contract” means the written agreement entered into between the purchaser and the provider, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.

“Contract price” means the price payable to the provider under the contract for the full and proper performance of his contractual obligations.

“Corrupt practice” means the offering, giving, receiving, or soliciting of any thing of the value to influence the action of a public official in the procurement process or in contract execution.

“Countervailing duties” are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.

“Country of origin” means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.

“Day” means calendar day.

“Delivery” means delivery in compliance of the conditions of the contract or order.

“Delivery ex stock” means immediate delivery directly from stock actually on hand.

“Delivery into consignees store or to his site” means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the provider bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.

“Dumping” occurs when a private enterprise abroad markets its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.

“Force majeure” means an event beyond the control of the provider and not involving the provider’s fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.

“Fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.

“GCC” means the General Conditions of Contract.

“Goods” means all of the equipment, machinery, and/or other materials that the provider is required to supply to the purchaser under the contract.

“Imported content” means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the provider or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as land costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.

“**Local content**” means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.

“**Manufacture**” means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.

“**Order**” means an official written order issued for the supply of goods or works or the rendering of a service.

“**Project site,**” where applicable, means the place indicated in bidding documents.

“**Purchaser**” means the organization purchasing the goods.

“**Republic**” means the Republic of South Africa.

“**SCC**” means the Special Conditions of Contract.

“**Services**” means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the provider covered under the contract.

“**Written**” or “**in writing**” means hand-written in ink or any form of electronic or mechanical writing.

2. Application

- 2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services (excluding professional services related to the building and construction industry), sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise in the bidding documents.
- 2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.
- 2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

3. General

- 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.
- 3.2 Invitations to bid are usually published in locally distributed news media and in the institution’s website.

4. Standards

- 4.1 *The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.*

5. Use of contract documents and information; inspection

- a. *The provider shall not, without the purchaser’s prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than*

a person employed by the provider in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.

- b. The provider shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.
- c. Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the provider's performance under the contract if so required by the purchaser.
- d. The provider shall permit the purchaser to inspect the provider's records relating to the performance of the provider and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

6. Patent rights

6.1 *The provider shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of goods or any part thereof by the purchaser.*

6.2 When a provider developed documentation/projects for the municipality or municipal entity, the intellectual, copy and patent rights or ownership or such documents or projects will vest in the municipality or municipal entity.

7. Performance security

7.1 Within thirty (30) days of receipt of the notification of contract award, the success bidder shall furnish to the purchaser the performance security of the amount specified in SCC.

7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the provider's failure to complete his obligations under the contract.

7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:

(a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or (b)

(b) a cashier's or certified cheque.

7.4 The performance security will be discharged by the purchaser and returned to the provider not later than thirty (30) days following the date of completion of the provider's performance obligations under the contract, including any warranty obligations, unless otherwise specified.

8. Inspections, tests and analyses

8.1 All pre-bidding testing will be for the account of the bidder.

8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the purchaser or an organization acting on behalf of the purchaser.

- 8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4 If the inspections, tests and analyses referred to in clause 8.2 & 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
- 8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the provider.
- 8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.
- 8.7 Any contract supplies may on or after delivery be inspected, tested or analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the provider who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do not comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the providers cost and risk. Should the provider fail to provide the substitute supplies forthwith, the purchaser may, without giving the provider further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the provider.
- 8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of GCC.

9. Packaging

- 9.1 The provider shall provide such packaging of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packaging shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packaging, case size and weights shall take into consideration, where appropriate, the remoteness of the good's final destination and the absence of heavy handling facilities at all points in transit.
- 9.2 The packing, marking and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, and in any subsequent instructions ordered by the purchaser.

10. Delivery and documents

- 10.1 Delivery of the goods and arrangements for shipping and clearance obligations, shall be made by the provider in accordance with the terms specified in the contract.

11. Insurance

- 11.1 The goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified.

12. Transportation

12.1 *Should a price other than an all-inclusive delivered price be required, this shall be specified.*

13. Incidental services

- (i) *The provider may be required to provide any or all of the following services, including additional services, if any:*
- (ii) *performance or supervision of on-site assembly and/or commissioning of the supplied goods;*
- (iii) *furnishing of tools required for assembly and/or maintenance of the supplied goods;*
- (iv) *furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;*
- (v) *performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the provider of any warranty obligations under this contract; and*
- (vi) *training of the purchaser's personnel, at the provider's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.*

- (vii) *Prices charged by the provider for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the provider for similar services.*

14. Spare parts

14.1 *As specified, the provider may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the provider:*

- (a) *such spare parts as the purchaser may elect to purchase from the provider, provided that this election shall not relieve the provider of any warranty obligations under the contract, and*
- (b) *in the event of termination of production of the spare parts:*
 - (i) *Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and*
 - (ii) *Following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.*

15. Warranty

15.1 *The provider warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The provider further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the provider, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.*

15.2 *This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise.*

- 15.3 *The purchaser shall promptly notify the provider in writing of any claims arising under this warranty.*
- 15.4 *Upon receipt of such notice, the provider shall, within the period specified and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.*
- 15.5 *If the provider, having been notified, fails to remedy the defect(s) within the period specified, the purchaser may proceed to take such remedial action as may be necessary, at the provider's risk and expense and without prejudice to any other rights which the purchaser may have against the provider under the contract.*

16. Payment

- 16.1 *The method and conditions of payment to be made to the provider under this contract shall be specified*
- 16.2 *The provider shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfilment of other obligations stipulated in the contract.*
- 16.3 *Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the provider.*
- 16.4 *Payment will be made in Rand unless otherwise stipulated.*

17. Prices

- 17.1 *Prices charged by the provider for goods delivered and services performed under the contract shall not vary from the prices quoted by the provider in his bid, with the exception of any price adjustments authorized or in the purchaser's request for bid validity extension, as the case may be.*

18. Increase/decrease of quantities

- 18.1 *In cases where the estimated value of the envisaged changes in purchase does not exceed 15% of the total value of the original contract, the contractor may be instructed to deliver the revised quantities. The contractor may be approached to reduce the unit price, and such offers may be accepted provided that there is no escalation in price.*

19. Contract amendments

- 19.1 *No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.*

20. Assignment

- 20.1 *The provider shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.*

21. Subcontracts

- 21.1 *The provider shall notify the purchaser in writing of all subcontracts awarded under this contract if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the provider from any liability or obligation under the contract.*

22. Delays in the provider's performance

- 22.1 *Delivery of the goods and performance of services shall be made by the provider in accordance with the time schedule prescribed by the purchaser in the contract.*
- 22.2 *If at any time during performance of the contract, the provider or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the provider shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the provider's notice, the purchaser shall evaluate the situation and may at his discretion extend the provider's time for performance, with or without the imposition of*

penalties, in which case the extension shall be ratified by the parties by amendment of contract.

22.3 *The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if any emergency arises, the provider's point of supply is not situated at or near the place where the supplies are required, or the provider's services are not readily available.*

22.4 Except as provided under GCC Clause 25, a delay by the provider in the performance of its delivery obligations shall render the provider liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.

22.5 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without canceling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the provider's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the provider.

23. Penalties

23.1 Subject to GCC Clause 25, if the provider fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed good or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.

24. Termination for Default

24.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the provider, may terminate this contract in whole or in part:

24.1.1 if the provider fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;

24.1.2 if the provider fails to perform any other obligation(s) under the contract; or

24.1.3 if the provider, in the judgement of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

24.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner as it deems appropriate, goods, works or services similar to those undelivered, and the provider shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the provider shall continue performance of the contract to the extent not terminated.

25. Anti-Dumping And Counter-Vailing Duties And Rights

25.1 When, after the date of bid, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference shall on demand be paid forthwith by the provider to the purchaser or the purchaser may

deduct such amounts from moneys (if any) which may otherwise be due to the provider in regard to supplies or services which he delivered or rendered, or is to deliver or render in terms of the contract or any other contract or any other amount which may be due to him.

26. Force Majeure

- 26.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the provider shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.
- 26.2 If a force majeure situation arises, the provider shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the provider shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

27. Termination for Insolvency

- 27.1 The purchaser may at any time terminate the contract by giving written notice to the provider if the provider becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the provider, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the purchaser,

28. Settlement of Disputes

- 28.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the provider in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 28.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the provider may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.
- 28.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.
- 28.4 Notwithstanding any reference to mediation and / or court proceedings herein,
- 28.4.1 the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
- 28.4.2 the purchaser shall pay the provider any monies due to the provider for goods delivered and / or services rendered according to the prescripts of the contract.

29. Limitation Of Liability

- 29.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6;

- 29.1.1 the provider shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the provider to pay penalties and / or damages to the purchaser; and
- 29.1.2 the aggregate liability of the provider to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

30. Governing Language

- 30.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.

31. Applicable Law

- 31.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified.

32. Notices

- 32.1 Every written acceptance of a bid shall be posted to the provider concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice.
- 32.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

33. TAXES AND DUTIES

- 33.1 A foreign provider shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
- 33.2 A local provider shall be entirely responsible for all taxes, duties, license fees, etc, incurred until delivery of the contracted goods to the purchaser.
- 33.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid SARS must have certified that the tax matters of the preferred bidder are in order.

34. Transfer of Contracts

- 34.1 The contractor shall not abandon, transfer, assign or sublet a contract or part thereof without the written permission of the purchaser.

35. Amendment of Contracts

- 35.1 No agreement to amend or vary a contract or order or the conditions, stipulations or provisions thereof shall be valid and of any force unless such agreement to amend or vary is entered into in writing and signed by the contracting parties. Any waiver of the requirement that the agreement to amend or vary shall be in writing, shall also be in writing.