



RAND WEST CITY
LOCAL MUNICIPALITY

RAND WEST CITY LOCAL MUNICIPALITY

RWCLM-2/009/2022/2023

TENDER DOCUMENT

**APPOINTMENT OF SERVICE PROVIDER FOR DEBT COLLECTION
SERVICES OF MUNICIPAL OVERDUE ACCOUNTS WITH SPECIALIST
ATTORNEYS ON AN AS AND WHEN REQUIRED BASIS FOR A PERIOD OF
THREE YEARS FROM DATE OF AWARD**

Name of Tenderer : _____
Address : _____

Tel. Number : _____
Cell number : _____
Fax number : _____
E-mail : _____
Total Amount : _____

ISSUED BY;

THE MUNICIPAL MANAGER

Rand West City Local

Municipality

P O Box 218

Randfontein

1760

Tel: 011 411 0051

Fax: 011 693 3865



Special conditions of contract and required documentation

The following mandatory documents must be submitted with the tender document and failure to submit either may lead to your submission being declared non-responsive:

- Prices must be valid for at least ninety (90) days from the closing date and must be inclusive of VAT if the bidder is a VAT vendor.
- A valid Tax Clearance Certificate and Tax Compliance status document with PIN from SARS.
- Proof of registration with the National Treasury Central Supplier Database (a bidder must attach CSD registration report with Supplier No. and Unique Code).
- Original BBBEE certificate, certified copy or a certified original copy of EME or QSE verified affidavit in the case of EMEs and QSEs. Failure to submit either will lead in the bidder scoring no points for BBBEE. Must be a consolidated certificate for Joint Ventures.
- Certified copies of Company Registration Documents and ID copies of company directors
- Completed MBD FORMS.
- A current municipal account statement reflecting the bidder is not in arrears for more than 3 months, lease agreement or SAPS affidavit stating that the bidder not obliged to pay municipal rates.

NB: No bids will be considered from persons in the service of the state.

BIDDERS SHOULD ALSO TAKE NOTE OF THE FOLLOWING BID CONDITIONS:

- The Rand West City Local Municipality Supply Chain Management Policy will apply.
- The Rand West City Local Municipality does not bind itself to accept the lowest bid or any other bid and reserves the right to accept the bid in whole or in part.
- Bids, which are late, incomplete, unsigned, faxed or sent electronically, will not be accepted.
- The latest General Conditions of Contract and any Special Conditions of Contract will apply.
- The bid will be evaluated on local production content the minimum threshold as stipulated by the DTI in each designated sector will apply.
- For all procurement that exceed 10 Million, (all application taxes included) bidders must submit the audited annual financial statements for the past three years.
- The municipality reserve the right for appoint more than one service provider.

Compulsory Briefing Session as Follows:

Date: 04 JULY 2023 2023

Time: 10:00am

Venue: Corner Fedler and Second Street, Randfontein

Failure to comply with these conditions may invalidate your offer.

Acknowledgement

Signature

Date



**PART A
INVITATION TO BID**

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF MUNICIPALITY/ MUNICIPAL ENTITY)

BID NUMBER:	RWCLM- 2/009/2022/2023	CLOSING DATE:	25 JULY 2023	CLOSING TIME:	11:00
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DESCRIPTION APPOINTMENT OF SERVICE PROVIDER FOR DEBT COLLECTION SERVICES OF MUNICIPAL OVERDUE ACCOUNTS WITH SPECIALIST ATTORNEYS ON AN AS AND WHEN REQUIRED BASIS FOR A PERIOD OF THREE YEARS FROM DATE OF AWARD

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

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

CNR Fedler and Second Street
Randfontein
1760

SUPPLIER INFORMATION

NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
TAX COMPLIANCE STATUS	TCS PIN:		OR	CSD No:	
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]	<input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	<input type="checkbox"/> Yes <input type="checkbox"/> No	

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

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER PART B:3]
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TOTAL NUMBER OF ITEMS OFFERED Pricing

SIGNATURE OF BIDDER DATE

CAPACITY UNDER WHICH THIS BID IS SIGNED

BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO: TECHNICAL INFORMATION MAY BE DIRECTED TO:

DEPARTMENT	SCM	CONTACT PERSON	Edward Nkoana
CONTACT PERSON	Cecilia Mofokeng	TELEPHONE NUMBER	011 411 0000
TELEPHONE NUMBER	011 411 0467	FACSIMILE NUMBER	
FACSIMILE NUMBER		E-MAIL ADDRESS	Edward.koana@randwestcity.gov.za
E-MAIL ADDRESS	Cecilia.Mofokeng@randwestcity.gov.za		

**PART B
TERMS AND CONDITIONS FOR BIDDING**

1. BID SUBMISSION:

- 1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
- 1.2. **ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED-(NOT TO BE RE-TYPED) OR ONLINE**
- 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.

2. TAX COMPLIANCE REQUIREMENTS

- 2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
- 2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.
- 2.3 APPLICATION FOR THE TAX COMPLIANCE STATUS (TCS) CERTIFICATE OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.
- 2.4 FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART B:3.
- 2.5 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
- 2.6 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
- 2.7 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.

3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

- 3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? YES NO
- 3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA? YES NO
- 3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? YES NO
- 3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? YES NO
- 3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? YES NO

IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE.

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

SIGNATURE OF BIDDER:

CAPACITY UNDER WHICH THIS BID IS SIGNED:

DATE:

RAND WEST CITY LOCAL MUNICIPALITY

THE APPOINTMENT OF A PANEL OF SERVICE PROVIDERS FOR DEBT COLLECTION SERVICES OF MUNICIPAL OVERDUE ACCOUNTS WITH SPECIALIST ATTORNEYS ON AN AS AND WHEN REQUIRED BASIS, FOR A PERIOD OF THREE YEARS FROM DATE OF AWARD.

TENDER SPECIFICATION

1. INTRODUCTION

The RWCLM wishes to appoint a **service provider for debt collection services of municipal overdue accounts with specialist attorneys on an as and when required basis, for a period of three years from date of award**, to assist in the rendering of the following services:

- Revenue Analysis and collection of arrear metered service charges from active and inactive customers as identified by the RWCLM.
- Revenue analysis and collection of arrear un-metered service charges from active and inactive rate/utilities payers as identified by the RWCLM.
- Revenue analysis and collection of arrear sundry services charges from customers from active and in-active account holders as identified by RWCLM.

Arrear metered, un-metered and sundry service charges will be service charges outstanding for a period of **90 day's** and older, from due date, or such alternative period / date the council may determine.

The lowest bidding price will not necessarily be accepted and RWCLM reserves the right to determine market related rate of commission to be offered to the successful bidders.

2. DEFINITIONS AND IMPLICATIONS

- | | | | |
|------|-------------------------|---|--|
| i. | RCWLM | : | Rand West City Local Municipality |
| ii. | CFO | : | Chief Financial Officer |
| iii. | Chief Financial Officer | : | The definition shall include in all context CFO of his/her nominee, whether implied Or explicit. |

3. DEBT COLLECTION SERVICES

Description of services required for the collection of **arrears metered, un-metered and sundry** charges will entail:

- 3.1. Hand-over of specific accounts, within debt collection criteria, to bidder reflecting all relevant account holder details, account balance and service breakdown.
- 3.2. Agents to assist account holders with resolving of hand-over account enquiries in terms of the RWCLM administrative or credit control procedure.
- 3.3. Identification of indigent debtors in the normal debt collection procedures, not already registered in terms of applicable policy and issue referral to client. (Indigent registration forms and conditions will be made available to all successful BIDDERS.
- 3.4. The collection of arrear payments due to Council, including interest, legal penalties, Value Added Tax and any other arrear amount reflected on the rate payer's hand-over account.
- 3.5. The submission, in electronic format **as prescribed by RWCLM from time to time**, of updated account holders personal contact or related details.
- 3.6. The submission of detailed monthly progress reports in respect of individual matters.

4. EXTENT OF COLLECTION PROCESS:

Comprehensive debt collection service is required, focusing on the following legislation and policies as amended from time to time.

- The Constitution.
- National Legislation.
- Local Government Legislation.
- By-Laws.
- Debt Collections and Credit Control Policy.
- Indigent Policy.
- RWCLM Resolutions.

The collection process will consist of a PRE-LEGAL, LEGAL and ADMINISTRATIVE process.

The RWCLM will identify accounts to be handed over to appointed collection agent **only** after certain internal debt control procedures have been effected. These procedures will include, but will not be limited to, the issue of final warning notices, the restriction and/ or suspension of water and/ or electricity supply or any internal collection strategy and/ or incentive implemented by RWCLM.

4.1 ALLOCATION OF WORK

At the initial stage the allocation of work will be distributed equally to appointed collection agent(s) and thereafter work may be allocated in accordance with the performance of the debt collection agent. An SLA will be entered into with all appointed service provider(s) in this regard.

The RWCLM reserves the right to appoint more than one service provider for the execution and delivery of the tender.

The RWCLM will issue formal instruction to the appointed debt collector(s) to collect such amounts owing to it, as it may decide from time to time. These instructions will include active and in-active accounts, of all customer service types.

In-active accounts are defined as accounts where the owner of property or tenant vacated premises or sold property and where no active services are levied whilst an arrear amount remained payable.

4.2 PRE-LEGAL process will entail the following:

- 4.2.1 The RWCLM shall from time to time and in its discretion instruct the collection agent to collect any debt by delivering to the collection agent, electronically or any other form reasonably acceptable, details of debt and debtor details as reflected on the RWCLM financial management system (FMS) to enable the collection agent to collect such debt.
- 4.2.2 In the event that current debtor information is incorrect or insufficient, collection agent is to make use of any legal tracing method or access any relevant external data source to obtain correct debtor details. These details are to be submitted to the RWCLM in order to update records.
- 4.2.3 In term of remunerations, RWCLM will pay 10% (Excluding VAT) collection commission against all and only successful collections achieved.
- 4.2.4 Collection agent will issue reasonable pro-active reminders including personal contact, demand for payment and opportunity for re-dress in respect of all accounts handed over for collection.
- 4.2.5 Collection agent will allow sufficient time period for account holder to respond to reminders and / or personal contact.
- 4.2.6 The collection agent will, in the absence of sufficient response and / or pro-active reactions from account holder register "adverse listing" against debtor at Credit Bureaus (Written approval from Chief Financial Officer, or his/her delegate required).
- 4.2.7 Collection agent will record and make available all actions taken against debtor on request.

4.3 LEGAL PROCESS will entail the following:

- 4.3.1 The collection agent will, in the absence of sufficient response and / or pro-active actions from account holder institute all necessary legal actions up to and including the granting of a warrant of execution.
- 4.3.2 Issue summonses to defaulting account holders upon authorization by the RWCLM through office of the Chief Financial Officer, or nominee.
- 4.3.3 Obtain default judgment against and black listing of defaulting account holders in terms of RWCLM approved CREDIT CONTROL AND DEBT COLLECTION POLICY.
- 4.3.4 Obtain emolument attachment and movable asset attachment order.
- 4.3.5 Obtain court order for attachment and sale in execution of immovable assets.
- 4.3.6 **Prior written approval to be obtained from Chief Financial Officer, or nominee; in respect of the following legal proceedings :**
 - a) Attachment of movable assets.
 - b) Sale in execution of immovable assets.
 - c) Defended matters.
- 4.3.7 Handling of all legal matters arising from hand-over account.

4.4 DEFENDED MATTERS

- 4.4.1 In the event of the debtor indicating that matter will be defended, the collection agent shall report such fact to the Chief Financial Officer for approval to proceed with the defence and counter prosecution of such action.
- 4.4.2 All defended matters must be attended to by the attorney, including the drafting of papers.
- 4.4.3 In terms of compensation, RWCLM will ONLY pay a maximum of 10%(Excl. VAT) commission on amount collected against balances handed over to the collection agent and in arrears by municipal clients in excess of 90 Days as at date of such Hand Over.

4.5 ADMINISTRATIVE PROCESS will entail the following:

- 4.5.1 Submission of detailed report in respect of each uncollectable matter including reasons why debt is deemed uncollectable.
- 4.5.2 Recording and tracking of account enquiries and or disputes. The debt collection agent to revert back to client of resolved matters and resume collection actions.
- 4.5.3 Submission, in electronic format, of updated account holder details.
- 4.5.4 Detailed reporting functions in respect of all related collection matters.
- 4.5.5 The format of the report shall be determined by the RWCLM, and shall be agreed upon during the project-planning phase, prior to commencement of work.
- 4.5.6 Ad-hoc verification and sample screening of indigent applications, either via credit profile extracts and in some instances physical site visits to verify applicants' details and offer recommendation to council.

5 COMMISSIONABLE COLLECTIONS

The municipality will extract, analyse and handed over to the appointed debt collector(s) all accounts in arrears, within permissible categories and in excess of 90 days for collection. The debt collector will ONLY collect on balances on the ageing reports that are more than 90 Days in arrears. It is against these balances that the commission will be paid out.

Commissionable collections will be considered only if the total or adjusted hand over amount on date of hand-over is paid to Council and receipted in the Council's financial management system.

- 5.1 The determination of the collection commission will **include and consider**, *inter alia*;
 - 5.1.1 Metered, un-metered and sundry service charges, interest, penalties, fines, statutory taxes and other debits raised on the rate payers account which are reflected as 90 Days in arrears on date of hand over.
 - 5.1.2 Amounts identified by the debt collector, to have been received by Council and deposited into the Councils bank account **more** than 120 days prior to identification, but not yet allocated to the rate payers account **and** where

insufficient information is reflected on bank statement to effectively allocate payment to rate payer account.

- 5.1.3 Amounts collected in terms of **FORMAL DEBT REPAYMENT ARRANGEMENT** as prescribed by the RWCLM will only be commissionable if receipted and if the conditions of agreement are adhered to for the duration of agreement not exceeding the Debt Collection Agency appointment/term of mandate.
- 5.1.4 Amounts receipted in terms of court order and or judgment sought against defaulting account holder beyond the term of contract.
- 5.1.5 Amounts receipted in terms of proceeds from "Sale in Execution" of movable or immovable assets on judgments successfully granted prior to end of term of contract.
- 5.1.6 Receipts transfers from one account to the other of a different debtor and in line with item 5.1.2. , handed over or not

5.2 But will exclude:

- 5.2.1 Any amounts collected by the collection agent in excess of the amount actually handed over or adjusted hand over amount even if such excess amount was collected as a result of error on the part of the Council or collection agent.
- 5.2.2 Any settlement made on accounts as per ageing that are less than 90 Days in arrears on date of Hand Over.
- 5.2.3 Adjusted portion of hand-over account due to administrative, billing or account enquiry error.
- 5.2.4 Categories of accounts considered as exclusions in terms of any council resolution, applicable policy or management opinion.
- 5.2.5 Any monies/settlement previously commissioned.
- 5.2.6 Accounts withdrawn from hand-over process prior to invoice date. Invoices must be dated as last calendar day of a reporting month.
- 5.2.7 Any write offs done on accounts resulting from the implementation of the Municipality' Indigent Policy
- 5.2.8 Any amount written off by the Municipality via a resolution by council or via any legislative regulation.
- 5.2.9 Clearance debt in terms of Section 118 of Systems Act (32 of 2000) applied for before or after hand-over for collection resulting from a foreclosure or sale in execution sale. Any clearance settlement resulting from a willing seller willing buyer sale agreement or a section 45 transfer will result in the commission paid in full.
- 5.2.10 Amounts identified by the debt collector, to have been received by Council **less** than 120 days prior to identification but not yet allocated to the rate payers account. Receipts transfers between one account holder will not be paid as commission.

5.2.11 Amounts identified by the debt collector, to have been received by Council and deposited into the Councils bank account **more** than 120 days prior to identification, but not yet allocated to the rate payers account **but** where sufficient information is reflected on bank statement to effectively allocate payment to levy payer account.

5.2.12 Any arrangements installments beyond the term of agreement between the municipality and the debt collection agent.

Commissionable collections will specifically EXCLUDE any amount of capital debt, legal costs, other costs and interest written off and / or adjusted by the RWCLM as an incentive, administrative error or specific circumstance as approved by the RWCLM in terms of delegated authority.

A maximum commission of 10% (TEN PERCENT) EXCLUSIVE OF VAT will be payable against every cent collected on arrears balances in excess of 90 Days. This compensation applies solely to PRE-LEGAL matters handed over.

6. LEGAL FEES/DISBURSEMENT COSTS

Any and All legal/disbursement costs incurred during the legal collection phase will be recovered directly from the account holder.

The scale of fees to be recovered from the customer will be in terms of the tariff of the magistrate's court and High Court, and the costs shall be taxed in terms of the Magistrate Court Rules or if applicable the High Court Rules.

Therefore, all the stamps, fees, costs and associated charges incurred in connection with any civil proceedings in magistrates' courts shall, as between party and party, be payable in accordance with the scales prescribed by the rules.

Bidders are invited to provide a maximum, risk-based commissionable collection percentile that they will offer to the municipality in terms of compensation on ONLY LEGAL collection matters. The commission percentile offer made **CANNOT** be greater than **10%(Excl. VAT)** of the collectable handed over amount. The percentage commission will in all material fact, represent and sought to reimburse the attorney for all legal/disbursements costs incurred. These fees as mentioned above will be borne by the defendant. The settlement of these costs will made proportional to the settlement of the total amount handed over by the defendant.

The lowest bid offer in terms of compensation of disbursements costs incurred by any successful bidder will be used and regarded as acceptable market related commission for all successful bidders should more than one bidder be appointed.

7. COLLECTION OF PAYMENT

All payments are to be effected by debtors through the available payment methods which include electronic payments via financial institutions, debit orders, Post Office, Easy pay or debit

and credit cards or cash at the RWCLM rates halls.

The collection agent will **NOT** be authorized to accept any payment in cash or otherwise from debtors except in legal matters ONLY.

NO Cheque payments WILL be accepted.

In the event of any payment by the account holder being dishonored, the municipality will debit the debtors account and credit collection agents monthly account statement with the commission amount paid in respect of particular payment.

The debt collection agency undertakes that due diligence will be exercised with monies received on **legal matters** on behalf of municipality via its trust account. Any amounts received by the debt collection agency on behalf of RWCLM will as such be paid to RWCLM within 7 calendar days of receipt thereof.

No amounts due to the debt collection agent or legal attorney by RWCLM may be offset against those amounts collected and due to RWCLM from the trust account.

8. WITHDRAWAL OF INSTRUCTIONS.

8.1. RWCLM Instructions

The RWCLM may at any time instruct the collection agent to cease proceedings against any particular debtor and withdraw any such instruction in respect of the collection of amount owing by any debtor.

The RWCLM will not be required to submit reasons to the collection agent for withdrawal instruction. The collection agent will have no legal right of claim or commissions against matters withdrawn.

8.2. Unsuccessful collections

After a period of three months from date of collection instruction being issued, the collection agent is to provide recommendation on the next collection phase of the collection process to RWCLM, this include but not limited to legal collection efforts, if **no movement on the process of the recovery is evident on request of RWCLM**, or if no satisfactory arrangement has been concluded with debtor to pay outstanding debt.

The RWCLM shall be entitled to call for reasons from the collection agent as to why no collection of debt was achieved and the collection agent shall be obliged to furnish such reasons to the RWCLM.

The RWCLM reserves the right to request documented proof of action taken in the collection process at any given time. Should the collection agent refuse and or neglect to provide the necessary proof as aforementioned, the RWCLM reserves the right to remove such instruction from the collection agent without further notice.

In the event of unsuccessful collections the RWCLM reserves the right to re-allocate the entire hand-over files to appointed debt collectors based on performance and at discretion of the Chief Financial Officer, or nominee.

9. ADDITIONAL CONDITIONS

- 9.1. The collection agent will refrain from having any contact or dealings with account holder as from the date the withdrawal instruction is issued by RWCLM, defensed matter is handed over to RWCLM or if file is returned due to unsuccessful collection.
- 9.2. The collection agent will have no claim against any collections or payments made after the date of withdrawal of hand-over instruction.
- 9.3. **The RWCLM will not be liable for the payment of ANY costs incurred by the collection agent up to the time of withdrawal of instruction.**
- 9.4. The Council may, at its sole discretion, amend or temporarily suspend any of the collection processes, without any compensation in respect of uncollected debt payable to collection agent.
- 9.5. Collection agent will not accept work from the Council if and when the Debtor is the client of the collection agent; so as to avoid a conflict of interest.
- 9.6. The collection agent must be fully insured against all accidents or misfortunes including death of or injury to persons and / or loss or damage to property arising out of the condition or execution of any work in terms of this tender.
- 9.7. The RWCLM reserves its right, to withdraw an account from the collection agent at no cost to the RWCLM if the instruction was given due to an administration error on the part of RWCLM.
- 9.8. The collection agent will at all times observe and confirm account holders identity when entering into an arrangement and keep record of power of attorney.
- 9.9. The collection agent will at all times furnish the debtor with written proof of acceptable arrangement entered into after confirmation was received of payment.
- 9.10. The collection agent is only authorized to comment on the specific amount handed over and not to create an expectation to the debtor for possible reconnection or other outstanding amounts not allocated to the specific debt collector.
- 9.11. The award is subject to the signing of a Service Level Agreement between the successful bidder(s) and the Rand West City Local Municipality.
- 9.12. The successful bidder must supply its own resources in respect of offices, personnel, vehicles and equipment required.

10. COMPUTER LINK

The appointed collection agent shall obtain a suitable electronic link between the RWCLM's computer Munsoft system and the computer system operated by the collection agent, to enable the RWCLM to transmit instructions to the collection agent electronically.

The collection agent will ensure that their computer is compatible, in all aspects, with the system of the RWCLM. All costs associated with the establishment and maintenance of remote site facility will be for the costs of the collection agent.

The computer link will further be utilized for:

- To verify balance outstanding on any account in respect of which a hand-over instruction has been issued.
- To ascertain whether or not payments have been made by account holder.
- To verify current debtors personal details.
- To ascertain whether the debtor has made any settlement arrangements with the RWCLM.
- To obtain such relevant account information as may be required in order to address account disputes and or enquiries.

The successful bidder must ensure that the relevant and nominated staff at the municipality have viewing and reporting extraction right to the collection system used. The successful bidder will be provided with names of staff members who should have access, this will and can only be communicated from the Project Manager' office.

11. AREA OF SERVICE

The area of service will be all accounts identified to being in arrears within the Rand West City Local Municipality debt base.

12. ADMINISTRATIVE OFFICE

The successful bidder must have an administrative/ satellite office within the area of jurisdiction of RWCLM to manage customer enquiries.

13. CONDUCT OF COLLECTION AGENT

The information supplied by the RWCLM or obtained by the collection agent shall not be used by the collection agent for any other purpose other than for the collection of the outstanding debt to the municipality.

The collection agent shall ensure that the RWCLM is not prejudiced or projected in an unfavorable manner and shall at all times act within the ambit of the law, the RWCLM credit control and debt collection policy and maintain acceptable customer care standards of Batho Pele.

14. STATISTICAL DATA

The following statistical information is made available for reference purposes only and will not be an indication of the actual extent of supply.

Debt Book per Service

Services	Sum of Current(0-30Days)	Sum of 31-60Days)	Sum of 61-90Days	Sum of 90+ Days	Sum of Total
ELECTRICITY	43,218,247	4,354,474	3,486,090	79,994,741	131,053,553
OTHER EXCHANGE TRANSACTIONS	10,173,958	12,338,967	8,588,699	364,683,914	395,785,537
REFUSE	6,135,243	3,949,207	3,662,429	127,699,099	141,445,977
SEWERAGE	6,090,119	4,098,699	3,819,145	130,492,381	144,500,345
VAT	12,202,006	3,545,284	3,196,010	90,190,814	109,134,113
WATER	25,591,015	10,890,826	10,187,603	237,052,286	283,721,731
PROPERTY TAX	18,805,884	8,818,416	7,642,163	206,058,426	241,324,889
Grand Total	122,216,472	47,995,874	40,582,138	1,236,171,661	1,446,966,144

Debt Book per Consumer Type

TransType	Sum of Current(0-30Days)	Sum of 31-60Days)	Sum of 61-90Days	Sum of 90+ Days	Sum of Total
BUSINESS AND COMMERCIAL	62,112,531	9,798,007	8,195,041	157,340,604	237,446,182
HOUSEHOLDS	56,709,730	36,132,500	30,487,468	1,026,835,122	1,150,164,820
ORGANS OF STATE	3,394,211	2,065,367	1,899,630	51,995,934	59,355,142
Grand Total	122,216,472	47,995,874	40,582,138	1,236,171,661	1,446,966,144

15. PROGRESS REPORTING

- 15.1. Weekly / Monthly/Quarterly reports by the collection agent must be in the format as prescribed by the Chief Financial Officer or his nominee.
- 15.2. These reports must be submitted by the collection agent by the 7th working day by each and every month, or on a weekly basis, as requested.
- 15.3. Reports to be submitted by collection agent in respect of Hand over Debt, Active and Inactive Debt, Debt per client category.
- 15.4. All required reports as specified from time to time must be addressed to the Chief Financial Officer.
- 15.5. Regular feedback is required on outstanding matters not collectable.
- 15.6. The responsible management team of the successful bidder is required to meet monthly with the relevant Credit Control and Debt Collection Manager.
- 15.7. All verified debtor information including telephone numbers, addresses, names (deed searches), and identification numbers must be supplied to the RWCLM in electronic monthly reports to update the necessary information on the RWCLM system. The successful bidder may be required to change, at own cost, existing management report formats at the request of the Municipality at any time during the duration of the contract.

16. PROFESSIONAL MEMBERSHIP

The Bidder must be registered as follows:-

- The Debt Collection Agent must be registered and in good standing with the council of Debt Collectors in line with the provisions of the DEBT COLLECTORS ACT, 1998 (ACT 114 OF 1998).
- Bidders to provide certificate of registration with Council of Debt Collectors.
- An attorney must be registered with the Law Society in line with the ATTORNEYS ACT, 1979 (ACT 53 OF 1979) and be in possession of a valid Fidelity Fund Certificate.

The valid Certificate of Registration must be enclosed and failure to submit will lead to automatic disqualification of bid.

16.1. FORMALIZED RELATIONSHIP BETWEEN THE DEBT COLLECTION AGENCY AND THE ATTORNEY

- A debt collection agency must have an attorney working for the agency or must have a formalized relationship with an attorney for handling of all legal matters arising from handover accounts and representing the Council in court.
- The attorney must have a right of appearance in the applicable court with which the litigation jurisdiction/process reside.
- The relationship referred to above must be in the form of one of the following:
 - i) Consortium.
 - ii) Partnership.
 - iii) Joint Venture.
 - iv) Management agreement / memorandum of understanding

17. QUALIFICATION AND EXPERIENCE

To qualify bidders must demonstrate that they have operated in variety of industries preferably in the public sector and their core business must be in debt collection with specialist attorneys. Area of specialization are as follows:

- a. Finalization of Defended matters.
- b. Tracking/ tracing.
- c. Issue letters of demand/ Section 129 letters.
- d. Issue summons/ judgments/ attachments.
- e. Enter into payment arrangements with customers, both written and voice.

The bidder must have a minimum of a year' experience in Debt collection. The experience must be in respect of the bidding entity and copies of contactable references must be provided in respect of the experience given. Copies not submitted will render this bid non responsive.

A minimum of 15 debt collecting staff is required for the successful execution of the contract, but depending on quantity variations additional staff may be required.

Attorney must have a right to appear in the applicable court, and must submit a certificate/ letter from the relevant court as proof that they have a right to appear in such a court and failure to submit will lead to automatic disqualification of bid.

18. INSURANCE

The successful bidders shall be required to submit Professional Indemnity insurance to the RWCLM before the commencement of work.

19. WARRANTIES

The Attorney acting on behalf of the RWCLM warrants that it shall at all times be a registered member of the law society.

The Collection agent warrants that it shall at all times be a member of the Council for Debt Collectors.

Such warrant may be requested for inspection at any point during the engagement and and failure to produce same will result in remedial action sought.

20. EXTENT OF CONTRACT

The RWCLM will not be obliged to provide the Bidder with pre-determined quota or any number of instructions during any given period.

The Council CANNOT guarantee the extent of the supply, or the volume of work to be carried out, as this tender comprises both assignment of specific tasks and ad-hoc allocations.

Bidders must note that demand variations in the required services will dictate the volume and frequency of the work required.

21. TERMINATION

The contract will terminate on completion of contract period or upon written notification by the RWCLM due to non-performance of the debt collector.

NO commission or fees will be payable in respect of any collection made or payment received after the termination date of contract, except on matters where the legal process have been initiated before the end of the contract, specifically the summons process and subsequent processes, thereafter regular progress reporting will be required and where no acceptable progress is not evident, the matter may be withdrawn with no further notice and expense to RWCLM.

The collection agent will hand over all relevant material, progress reports and files in respect of unresolved matters on termination date.

Should the agent fail to perform to the satisfaction of council, and in terms of the Agency Agreement, the services of the said agent will be terminated at the discretion of the Council. If terminated, all relevant documentations are to be handed back to the RWCLM and NO claims will be made against RWCLM in respect of outstanding arrangement commissions, fees and / or costs.

In the event of termination due to failure to perform, RWCLM reserves the right to re-allocate the hand-over files to another appointed debt collector(s) based on performance and at discretion of the Chief Financial Officer or his/her nominee.

22. PROCESS AND CAPABILITY PROPOSAL

Bidders are required to submit full details on the following collection processes and capabilities:

- Access to external debtor data information with clear distinction between Government, Provincial, Municipal and Private Sector data basis.
- Proposed methodology to be applied in respect of Pre-Legal and Legal Process, with specific reference to various category of clients.
- Legal capabilities.
- Anticipated time-frames in respect of all collection processes.
- Call Centre capabilities.
- Availability of bidder enquiry staff within RWCLM area of jurisdiction.
- Network and computer systems to be deployed.
- Previous experience in debt collection matters.
- Capacity, skills and experience.
- Detailed proposal on composition of team specifically allocated towards this bid with relevant qualifications.

23. Functionality Evaluation

Important notes on Schedule for evaluating functionality

a. General

The bidders must manage all processes on an ongoing and permanent basis in an office situated within the Rand West City Municipal boundaries. Preference points will be apportioned to bidders with an existing office situated within the Rand West City Municipal boundaries.

b. Industry knowledge

Bidders should illustrate their experience relevant to debt collection services as set out in the tender specifications and specifically distinguishing experience relevant to operate in Government, Financial institutions and other sectors.

The bidder must provide written references by way of confirmation letter of current/ prior contract work done, period contracted, giving details of the total number of consumer accounts and the number of arrear accounts per contract.

c. Staff Compliment

Schedule of staff available and corporate support. Bidders must provide an organogram of personnel to illustrate respective roles and responsibilities in general as well as specifically for the Rand West City Local Municipality.

Details of staff experience, qualifications and technical competence needs to be attached.

d. Company Profile

Bidders should specify Debt Collection experience in general. Bidders must be able to support their submission in terms of:

1. Number of Years in operation
2. Professional Registration Certifications

e. Automated online debt management system

The bidder must make use of a sophisticated applicable computer system to manage the debt collection process on behalf of Municipality.

The bidder must pay for, use and supply access to an automated online debt management system which will manage and control various administrative functions, including the following:

- Pre-legal collections.
- Soft and hard tracing.
- Listing and de-listing of debtors.
- Online integration with ITC system.
- Promise to pay arrangements.
- Legal collections including summons, judgments, letter of execution and instruction to sell.
- Handing over and monitoring of attorneys.
- Handing over and controlling debt collecting process.
- Success management and reporting.

The successful bidder/s must provide, at own cost; all hardware and software required to provide the services to the Municipality.

The Bidder must provide details of the electronic system in use and to what extend it will satisfy the tender specifications. The bidder must supply the following details:

(a) Name of system.

(b) All current installations.

- Client name and industry.
- Location.
- Period since first installed (years).
- Indicate if system is currently implemented and used in full or in part; if in part, explain which parts are and which are not implemented or used.
- Average number of users on the system at any one point

Overview of the hardware, infrastructure, networking & technology architecture.

Other relevant information the bidder considers appropriate to substantiate the quality of its system.

f. Debt collection Projects current/ completed in the past

The bidder must provide written references by way of confirmation/appointment letter of current/ prior Debt Collection projects completed in the past.

g. Legal Services

The bidder must confirm and describe its infrastructure and capacity to:

- Manage the pre-legal and legal process.
- Advise the Municipality on recoverability of debt in terms applicable legislation.
- Advise the Municipality on possible write –offs.
- Perform verification and screening on ad-hoc basis indigents applicants and recommend
- Right of appearance in the relevant Court of jurisdiction.

FUNCTIONALITY EVALUATION:

APPOINTMENT OF SERVICE PROVIDER FOR DEBT COLLECTION SERVICES OF MUNICIPAL OVERDUE ACCOUNTS WITH SPECIALIST ATTORNEYS ON AN AS AND WHEN REQUIRED BASIS, FOR A PERIOD OF THREE YEARS FROM DATE OF AWARD.

Standard	Item Description	Points
Industry Knowledge	<p>To score points,</p> <p>Bidders to attach 5 x certified appointment letters of previous or current debt collection projects from government institutions / departments / agencies. Appointment letters must be accompanied by certified contactable reference letters.</p> <ul style="list-style-type: none"> ➤ 5 points per submission meeting the above requirements. 	25
Staff Compliment (Call Centre Agents and Admin Personnel)	<ul style="list-style-type: none"> ➤ 1 to 4 Staff = 5 points ➤ 5 to 9 Staff = 10 points ➤ 10 to 14 Staff = 15 points ➤ 15 to 24 Staff = 20 points ➤ >25 = 25 points <p>Attach company organogram and include copies of CVs of the relevant Staff compliment</p> <ul style="list-style-type: none"> ➤ Project Manager 	25
Key Personnel	<p>Minimum 3 years experience in debt collection environment</p> <p>Attach copy of CV reflecting relevant experience and certified qualifications</p> <p align="right">= 5 points = 5 points</p>	10
Debt Collection Methodology	<p>Attach detailed proposal of collection methodology to be applied with the mandate</p>	10
Company Profile	<p>Number of years in operation/business</p> <ul style="list-style-type: none"> ➤ 1-5 years = 5 points ➤ 6-10 years = 10 points ➤ >11 years = 15 points <p>Attach company registration documents</p>	15
Maximum possible score for quality		85
Minimum Threshold		65

The first five (5) bidders that score the highest points will form part of the panel of service providers required.

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

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

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

Name of Bidder.....	Bid Number.....
Closing Time	Closing Date

OFFER TO BE VALID FOR..... DAYS FROM THE CLOSING DATE OF BID.

ITEM NO.	QUANTITY	DESCRIPTION	BID PRICE IN RSA CURRENCY **(ALL APPLICABLE TAXES INCLUDED)
-	Required by:	.....
-	At:	.....
-	Brand and Model	.....
-	Country of Origin	.....
-	Does the offer comply with the specification(s)?		*YES/NO
-	If not to specification, indicate deviation(s)	.....
-	Period required for delivery	.....	*Delivery: Firm/Not firm
-	Delivery basis	.....

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

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

*Delete if not applicable

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, hareholder²):.....

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

DECLARATION FOR PROCUREMENT ABOVE R10 MILLION (ALL APPLICABLE TAXES INCLUDED)

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

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

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

*YES/NO

.....
.....

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

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

2.2 If yes, provide particulars.

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

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

* Delete if not applicable

*YES / NO

3.1 If yes, furnish particulars

.....
.....

***YES / NO**

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

***YES / NO**

4.1 If yes, furnish particulars

.....
.....

CERTIFICATION

I, THE UNDERSIGNED (NAME)

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

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

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

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

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

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

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to invitations to tender:

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

1.2 **To be completed by the organ of state**

(delete whichever is not applicable for this tender).

- a) The applicable preference point system for this tender is the 90/10 preference point system.
- b) The applicable preference point system for this tender is the 80/20 preference point system.
- c) Either the 90/10 or 80/20 preference point system will be applicable in this tender. The lowest/ highest acceptable tender will be used to determine the accurate system once tenders are received.

1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:

- (a) Price; and
- (b) Specific Goals.

1.4 **To be completed by the organ of state:**

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	
SPECIFIC GOALS	
Total points for Price and SPECIFIC GOALS	100

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

2. DEFINITIONS

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

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

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

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

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

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

3.2.1. POINTS AWARDED FOR PRICE

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

$$Ps = 80 \left(1 + \frac{Pt - Pmax}{Pmax} \right) \quad \text{or} \quad Ps = 90 \left(1 + \frac{Pt - Pmax}{Pmax} \right)$$

Where

- Ps = Points scored for price of tender under consideration
- Pt = Price of tender under consideration
- Pmax = Price of highest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

- 4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:
- 4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—
 - (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
 - (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

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

(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.

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

The specific goals allocated points in terms of this tender	Number of points allocated (90/10 system) (To be completed by the organ of state)	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (90/10 system) (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)
At least 51% black ownership	5	10		
At least 51% Women ownership	5	10		

DECLARATION WITH REGARD TO COMPANY/FIRM

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

4.4. Company registration number:

4.5. TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

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

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
 - (a) disqualify the person from the tendering process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution, if deemed necessary.

.....	
SIGNATURE(S) OF TENDERER(S)	
SURNAME AND NAME:	.....
DATE:	.....
ADDRESS:	.....

DECLARATION CERTIFICATE FOR LOCAL PRODUCTION AND CONTENT FOR DESIGNATED SECTORS

This Municipal Bidding Document (MBD) must form part of all bids invited. It contains general information and serves as a declaration form for local content (local production and local content are used interchangeably).

Before completing this declaration, bidders must study the General Conditions, Definitions, Directives applicable in respect of Local Content as prescribed in the Preferential Procurement Regulations, 2011 and the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:2011 (Edition 1) and the Guidance on the Calculation of Local Content together with the Local Content Declaration Templates [Annex C (Local Content Declaration: Summary Schedule), D (Imported Content Declaration: Supporting Schedule to Annex C) and E (Local Content Declaration: Supporting Schedule to Annex C)].

1. General Conditions

- 1.1. Preferential Procurement Regulations, 2011 (Regulation 9) makes provision for the promotion of local production and content.
- 1.2. Regulation 9.(1) prescribes that in the case of designated sectors, where in the award of bids local production and content is of critical importance, such bids must be advertised with the specific bidding condition that only locally produced goods, services or works or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered.
- 1.3. Where necessary, for bids referred to in paragraph 1.2 above, a two stage bidding process may be followed, where the first stage involves a minimum threshold for local production and content and the second stage price and B-BBEE.
- 1.4. A person awarded a contract in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- 1.5. The local content (LC) expressed as a percentage of the bid price must be calculated in accordance with the SABS approved technical specification number SATS 1286: 2011 as follows:

$$LC = [1 - x / y] * 100$$

Where

- x is the imported content in Rand
- y is the bid price in Rand excluding value added tax (VAT)

Prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by the South African Reserve Bank (SARB) at 12:00 on the date of advertisement of the bid as required in paragraph 4.1 below.

The SABS approved technical specification number SATS 1286:2011 is accessible on [http://www.thedti.gov.za/industrial development/ip.jsp](http://www.thedti.gov.za/industrial%20development/ip.jsp) at no cost.

1.6. A bid may be disqualified if –

- (a) this Declaration Certificate and the Annex C (Local Content Declaration: Summary Schedule) are not submitted as part of the bid documentation; and
- (b) the bidder fails to declare that the Local Content Declaration Templates (Annex C, D and E) have been audited and certified as correct.

2. Definitions

- 2.1. **“bid”** includes written price quotations, advertised competitive bids or proposals;
 - 2.2. **“bid price”** price offered by the bidder, excluding value added tax (VAT);
 - 2.3. **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;
 - 2.4. **“designated sector”** means a sector, sub-sector or industry that has been designated by the Department of Trade and Industry in line with national development and industrial policies for local production, where only locally produced services, works or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content;
 - 2.5. **“duly sign”** means a Declaration Certificate for Local Content that has been signed by the Chief Financial Officer or other legally responsible person nominated in writing by the Chief Executive, or senior member / person with management responsibility (close corporation, partnership or individual).
 - 2.6. **“imported content”** means that portion of the bid price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its subcontractors) and which costs are inclusive of the costs abroad (this includes labour and intellectual property costs), plus freight and other direct importation costs, such as landing costs, dock duties, import duty, sales duty or other similar tax or duty at the South African port of entry;
 - 2.7. **“local content”** means that portion of the bid price which is not included in the imported content, provided that local manufacture does take place;
 - 2.8. **“stipulated minimum threshold”** means that portion of local production and content as determined by the Department of Trade and Industry; and
 - 2.9. **“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.
3. **The stipulated minimum threshold(s) for local production and content (refer to Annex A of SATS 1286:2011) for this bid is/are as follows:**

<u>Description of services, works or goods</u>	<u>Stipulated minimum threshold</u>
_____	_____ %
_____	_____ %
_____	_____ %

4. Does any portion of the services, works or goods offered have any imported content?

(Tick applicable box)

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

4.1 If yes, the rate(s) of exchange to be used in this bid to calculate the local content as prescribed in paragraph 1.5 of the general conditions must be the rate(s) published by the SARB for the specific currency at 12:00 on the date of advertisement of the bid.

The relevant rates of exchange information is accessible on www.reservebank.co.za.

Indicate the rate(s) of exchange against the appropriate currency in the table below (refer to Annex A of SATS 1286:2011):

Currency	Rates of exchange
US Dollar	
Pound Sterling	
Euro	
Yen	
Other	

NB: Bidders must submit proof of the SARB rate (s) of exchange used.

5. Were the Local Content Declaration Templates (Annex C, D and E) audited and certified as correct?

(Tick applicable box)

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

5.1. If yes, provide the following particulars:

- (a) Full name of auditor:
- (b) Practice number:
- (c) Telephone and cell number:
- (d) Email address:

(Documentary proof regarding the declaration will, when required, be submitted to the satisfaction of the Accounting Officer / Accounting Authority)

6. Where, after the award of a bid, challenges are experienced in meeting the stipulated minimum threshold for local content the dti must be informed accordingly in order for the dti to verify and in consultation with the Accounting Officer / Accounting Authority provide directives in this regard.

LOCAL CONTENT DECLARATION
(REFER TO ANNEX B OF SATS 1286:2011)

LOCAL CONTENT DECLARATION BY CHIEF FINANCIAL OFFICER OR OTHER LEGALLY RESPONSIBLE PERSON NOMINATED IN WRITING BY THE CHIEF EXECUTIVE OR SENIOR MEMBER/PERSON WITH MANAGEMENT RESPONSIBILITY (CLOSE CORPORATION, PARTNERSHIP OR INDIVIDUAL)

IN RESPECT OF BID NO.

ISSUED BY: (Procurement Authority / Name of Municipality / Municipal Entity):
.....

NB

1 The obligation to complete, duly sign and submit this declaration cannot be transferred to an external authorized representative, auditor or any other third party acting on behalf of the bidder.

2 Guidance on the Calculation of Local Content together with Local Content Declaration Templates (Annex C, D and E) is accessible on http://www.thedti.gov.za/industrial_development/ip.jsp. Bidders should first complete Declaration D. After completing Declaration D, bidders should complete Declaration E and then consolidate the information on Declaration C. **Declaration C should be submitted with the bid documentation at the closing date and time of the bid in order to substantiate the declaration made in paragraph (c) below.** Declarations D and E should be kept by the bidders for verification purposes for a period of at least 5 years. The successful bidder is required to continuously update Declarations C, D and E with the actual values for the duration of the contract.

I, the undersigned, (full names),
do hereby declare, in my capacity as
of(name of bidder
entity), the following:

(a) The facts contained herein are within my own personal knowledge.

(b) I have satisfied myself that

- (i) the goods/services/works to be delivered in terms of the above-specified bid comply with the minimum local content requirements as specified in the bid, and as measured in terms of SATS 1286:2011; and
- (ii) the declaration templates have been audited and certified to be correct.

(c)The local content percentages (%) indicated below has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E which has been consolidated in Declaration C;

Bid price, excluding VAT (y)	R
Imported content (x), as calculated in terms of SATS 1286:2011	R
Stipulated minimum threshold for local content (paragraph 3 above)	
Local content %, as calculated in terms of SATS 1286:2011	

If the bid is for more than one product, the local content percentages for each product contained in Declaration C shall be used instead of the table above. The local content percentages for each product has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E.

(d) I accept that the Procurement Authority / Municipality /Municipal Entity has the right to request that the local content be verified in terms of the requirements of SATS 1286:2011.

(e) I understand that the awarding of the bid is dependent on the accuracy of the information furnished in this application. I also understand that the submission of incorrect data, or data that are not verifiable as described in SATS 1286:2011, may result in the Procurement Authority / Municipal / Municipal Entity imposing any or all of the remedies as provided for in Regulation 13 of the Preferential Procurement Regulations, 2011 promulgated under the Preferential Policy Framework Act (PPPFA), 2000 (Act No. 5 of 2000).

SIGNATURE: _____

DATE: _____

WITNESS No. 1 _____

DATE: _____

WITNESS No. 2 _____

DATE: _____

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

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

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

(Name of Municipality / Municipal Entity)

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

I certify, on behalf of: _____ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign, the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder

6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or 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

Js9141w 4

THE NATIONAL TREASURY

Republic of South Africa



GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT

July 2010

GOVERNMENT PROCUREMENT
GENERAL CONDITIONS OF CONTRACT
July 2010

NOTES

The purpose of this document is to:

- (i) Draw special attention to certain general conditions applicable to government bids, contracts and orders; and
- (ii) To ensure that clients be familiar with regard to the rights and obligations of all parties involved in doing business with government.

In this document words in the singular also mean in the plural and vice versa and words in the masculine also mean in the feminine and neuter.

- The General Conditions of Contract will form part of all bid documents and may not be amended.
- Special Conditions of Contract (SCC) relevant to a specific bid, should be compiled separately for every bid (if applicable) and will supplement the General Conditions of Contract. Whenever there is a conflict, the provisions in the SCC shall prevail.

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General Conditions of Contract

1. Definitions

1. The following terms shall be interpreted as indicated:
 - 1.1 "Closing time" means the date and hour specified in the bidding documents for the receipt of bids.
 - 1.2 "Contract" means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
 - 1.3 "Contract price" means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
 - 1.4 "Corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.
 - 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
 - 1.6 "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.
 - 1.7 "Day" means calendar day.
 - 1.8 "Delivery" means delivery in compliance of the conditions of the contract or order.
 - 1.9 "Delivery ex stock" means immediate delivery directly from stock actually on hand.
 - 1.10 "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 supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
 - 1.11 "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the

RSA.

- 1.12 "Force majeure" means an event beyond the control of the supplier and not involving the supplier'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.
- 1.13 "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.
- 1.14 "GCC" means the General Conditions of Contract.
- 1.15 "Goods" means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.16 "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 supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the 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.
- 1.17 "Local content" means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- 1.18 "Manufacture" means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.19 "Order" means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20 "Project site," where applicable, means the place indicated in bidding documents.
- 1.21 "Purchaser" means the organization purchasing the goods.
- 1.22 "Republic" means the Republic of South Africa.
- 1.23 "SCC" means the Special Conditions of Contract.
- 1.24 "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 supplier covered under the contract.

- 1.25 “Written” or “in writing” means handwritten 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, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated 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 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from www.treasury.gov.za
- 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.**
- 5.1 The supplier 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 supplier 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.
- 5.2 The supplier 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.
- 5.3 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 supplier’s performance under the contract if so required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier’s records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.
- 6. Patent rights**
- 6.1 The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof by the purchaser.

7. Performance security

- 7.1 Within thirty (30) days of receipt of the notification of contract award, the successful 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 supplier'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) a cashier's or certified cheque
- 7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified in SCC.

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 Department or an organization acting on behalf of the Department.
- 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 clauses 8.2 and 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 supplier.
- 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 supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.

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. Packing

9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' 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, specified in SCC, and in any subsequent instructions ordered by the purchaser.

10. Delivery and documents

10.1 Delivery of the goods shall be made by the supplier in accordance with the terms specified in the contract. The details of shipping and/or other documents to be furnished by the supplier are specified in SCC.

10.2 Documents to be submitted by the supplier are specified in SCC.

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 in the SCC.

12. Transportation

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

13. Incidental services

13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:

- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
- (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
- (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;

- (d) 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 supplier of any warranty obligations under this contract; and
- (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.

13.2 Prices charged by the supplier 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 supplier for similar services.

14. Spare parts

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

- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier 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 supplier 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 supplier 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 supplier, 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 in SCC.

15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.

15.4 Upon receipt of such notice, the supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.

15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take

such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

16. Payment
- 16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.
- 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment 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 supplier.
- 16.4 Payment will be made in Rand unless otherwise stipulated in SCC.
17. Prices
- 17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized in SCC or in the purchaser's request for bid validity extension, as the case may be.
18. Contract amendments
- 18.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.
19. Assignment
- 19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.
20. Subcontracts
- 20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.
21. Delays in the supplier's performance
- 21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.
- 21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier 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 supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier'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.
- 21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.
- 21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the

supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.

21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier 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.

21.6 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 supplier'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 supplier.

22. Penalties

22.1 Subject to GCC Clause 25, if the supplier 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 goods 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.

23. Termination for default

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

- (a) if the supplier 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;
- (b) if the Supplier fails to perform any other obligation(s) under the contract; or
- (c) if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

23.2 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 supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.

23.3 Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.

23.4 If a purchaser intends imposing a restriction on a supplier or any

person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the intended penalty as not objected against and may impose it on the supplier.

23.5 Any restriction imposed on any person by the Accounting Officer / Authority will, at the discretion of the Accounting Officer / Authority, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Accounting Officer / Authority actively associated.

23.6 If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:

- (i) the name and address of the supplier and / or person restricted by the purchaser;
- (ii) the date of commencement of the restriction
- (iii) the period of restriction; and
- (iv) the reasons for the restriction.

These details will be loaded in the National Treasury's central database of suppliers or persons prohibited from doing business with the public sector.

23.7 If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.

24. Anti-dumping and countervailing duties and rights

24.1 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 contractor to the State or the State may deduct such amounts from moneys (if any) which may otherwise be due to the contractor 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

25. Force Majeure

- 25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier 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.
- 25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier 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.

26. Termination for insolvency

- 26.1 The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, 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.

27. Settlement of Disputes

- 27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier 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.
- 27.2 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 supplier 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.
- 27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.
- 27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.
- 27.5 Notwithstanding any reference to mediation and/or court proceedings herein,
- (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
 - (b) the purchaser shall pay the supplier any monies due the supplier.

28. Limitation of liability

- 28.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6;
- (a) the supplier 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 supplier to pay penalties and/or damages to the purchaser; and

- (b) the aggregate liability of the supplier 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.
29. Governing language 29.1 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.
30. Applicable law 30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.
31. Notices 31.1 Every written acceptance of a bid shall be posted to the supplier 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
- 31.2 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.
32. Taxes and duties 32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
- 32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- 32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.
33. National Industrial Participation Programme (NIP) 33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.
- 34 Prohibition of Restrictive practices 34.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).
- 34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.

- 34.3 If a bidder(s) or contractor(s), has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.

Js General Conditions of Contract (revised July 2010)