



UPHONGOLO LOCAL MUNICIPALITY

APPOINTMENT OF A PANEL FOR THE CONSULTANT ENGINEERS (ELECTRICAL) FOR THE PROVISION OF PROFESSIONAL SERVICES FOR A PERIOD OF 36 MONTHS

TENDER NO: 741/04/24

Name of Tenderer _____

Telephone Number _____

Fax Number_ _____

Address

10th of June 2024 @ 12:00

CLOSING DATE

**NO LATE SUBMISSIONS WILL BE
CONSIDERED**

DOCUMENTS DELIVERED BY HAND MUST BE DEPOSITED IN THE TENDER BOX SITUATED AT THE RECEPTION AREA OF UPHONGOLO LOCAL MUNICIPALITY OFFICES AT 61 MARTIN STREET, UPHONGOLO 3170:

**Issued by.
UPHONGOLO MUNICIPALITY
MUNICIPAL MANAGER
P.O BOX 191
UPHONGOLO
3170
Tel: (034) 413 1223
Fax: (034) 413 1706**

TABLE OF CONTENTS

1. Bid Advert
2. Bid Specifications
3. Standard forms
4. General conditions of contract
5. Attachments:
6. MBD 1 Invitation to Bid
- 6.1 MBD 2. Tax Clearance Certificate
- 6.2 MBD 4. Declaration of Interest
- 6.3 MBD 6.1. Points claimed (specific goals)
- 6.4 MBD 8. Declaration of Bidders Past Supply Chain Management Practices
- 6.5 MBD 9. Certificate of Independent Bid Determination



uPHONGOLO MUNICIPALITY

ADVERTISEMENT

BID NUMBER	PROJECT NAME	ENQUIRIES	TENDER CLOSING DATE
741/04/24	APPOINTMENT OF A PANEL FOR THE CONSULTANT ENGINEERS (ELECTRICAL) FOR THE PROVISION OF PROFESSIONAL SERVICES FOR A PERIOD OF 36 MONTHS	Mr. MVM Mbatha (034) 413-1223 Email: mgabadelim@u-phongolo.gov.za	10 June 2024 @ 12h00

Terms of reference and tender documents will be available on the municipal website www.uphongolo.gov.za and e-tender portal <https://etenders.treasury.gov.za> as from 16th May 2024.

Sealed bids marked with a relevant **Bid No.** must be placed in the bid box at uPhongolo Local Municipality at 61 Martins Street, uPhongolo, 3170 **on or before 12H00 on a given Date above** and will be opened directly thereafter and the bid result will be published on municipal website within three (3) days.

The following conditions will apply:

- Proposals will be evaluated in accordance with the applicable Preferential Point Scoring System as set out in the Council's Supply Chain Management Policy.
- Proposals that are late or incomplete will not be considered, whilst the lowest or only bid will not necessarily be accepted. Bids per fax or E-mail will also not be considered.
- Prospective service providers from proposal bids who will be shortlisted and proceed to the next evaluation stage will be required to do presentations.
- A valid Tax Clearance Compliance Status Pin Certificate must accompany all bids.
- The 80/20 preferential points system, as determined by the Preferential Procurement Regulations 2022, issued in terms of section 5 of the Preferential Procurement Policy Framework Act (Act 5 of 2000) will be employed to evaluate this bid.
- Proposals must be accompanied by CIPRO documentation to verify ownership.
- Joint Venture Agreement (where applicable),
- The Bidder must complete all MBD forms included in the tender document;
- Proof of National Treasury (NT) Central Supplier Database Registration i.e. submit a copy of CSD
- A valid SARS Tax Clearance Certificate and the Tax Compliance Status pin are to be submitted.
- Certified ID Copies of Directors or Members (in cases of sole proprietor, partnerships, and close corporation), this must have been certified within three (03) months,

The evaluation of the bids will be conducted in two stages process in terms of national treasury circular No:53

Stage 1: Assessment of functionality. Only service provider who achieve a minimum score of 70 points of the total evaluation will qualify to stage two of the Evaluation process. Stage 2: Thereafter the qualifying Bids are evaluated in terms of the 80/20

preference point system, where the 80 points are used for price and the 20 points are used for specific goals as determined by the advert.

SPECIFIC GOALS

The specific goals allocated points in terms of this quote	80/20	Documents required for verification
Specific goal 1 – Ownership - maximum points = 10		
Company owned by 100% black person	10	Certified ID copy of director/Owner and CSD
Company owned by >51% black person	8	Certified ID copy of director/Owner and CSD
Company owned by >25% black person	5	Certified ID copy of director/Owner and CSD
Specific goal 2 – BBBEE Certificate = 4		
BBBEE Certificate level 1	4	BBBEE Certificate or Certified copy of Affidavit
BBBEE Certificate level 2	2	BBBEE Certificate or Certified copy of Affidavit
BBBEE Certificate level 3	1	BBBEE Certificate or Certified copy of Affidavit
Specific goal 3 – RDP Goals – maximum points = 6		
Companies falls under the SMME Category		
Promotion of enterprises located within Zululand District Municipality	6	Preferred address on CSD report and Certified copy of a utility bill of property rates and services OR proof of residence
Promotion of enterprises located within Kwa-Zulu Natal	4	Preferred address on CSD report and Certified copy of a utility bill of property rates and services OR proof of residence
Promotion of enterprises located within South Africa	2	Preferred address on CSD report and Certified copy of a utility bill of property rates and services OR proof of residence

For technical enquiries please contacts Director Technical Services: Mr MVM Mbatha on his email: mgabadelim@uphongolo.gov.za / 034 413 1223 and Mr MS Mtshali for Supply Chain related enquiries on musawenkosim@uphongolo.gov.za / 034 413 1223 during offices hours : 07:30 to 16:00 Monday to Friday.

uPHONGOLO Local Municipality reserves the right to accept any Bid or part of any Bid and is not bound to accept the lowest or any other Bid or to furnish any reason for the acceptance or rejection of a Tender.

NO LATE, E-MAIL, POSTED OR FAXED BIDS WILL BE ACCEPTED

MR MB KHALI
MUNICIPAL MANAGER
uPhongolo local Municipality

UPHONGOLO LOCAL MUNICIPALITY
TENDER NO: 731/11/23
APPOINTMENT OF A PANEL FOR THE CONSULTANT ENGINEERS (ELECTRICAL) FOR THE
PROVISION OF PROFESSIONAL SERVICES FOR A PERIOD OF 36 MONTHS
PART A
INVITATION TO BID

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

BID NUMBER:	741/04/24	CLOSING DATE:	10 JUNE 2024	CLOSING TIME:	12pm
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DESCRIPTION **APPOINTMENT OF A PANEL FOR THE CONSULTANT ENGINEERS (ELECTRICAL) FOR THE PROVISION OF PROFESSIONAL SERVICES FOR A PERIOD OF 36 MONTHS**

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 61 Martin Street, uPhongolo 3170 Municipal Reception.

SUPPLIER INFORMATION

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

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

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER PART B:3]
TOTAL NUMBER OF ITEMS OFFERED		TOTAL BID PRICE	R
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	Budget and Treasury Office	CONTACT PERSON	Mr MVM Mbatha
CONTACT PERSON	Mr MS Mtshali	TELEPHONE NUMBER	034 413 1223
TELEPHONE NUMBER	034 413 1223	FACSIMILE NUMBER	N/A
FACSIMILE NUMBER	N/A	E-MAIL ADDRESS	mbagadelim@uphongolo.gov.za
E-MAIL ADDRESS	musawenkosim@uphongolo.gov.za		

PART B
1 TERMS AND CONDITIONS FOR BIDDING

<p>1. BID SUBMISSION:</p> <p>1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.</p> <p>1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED- (NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.</p> <p>1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.</p> <p>1.4. THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).</p>
<p>2. TAX COMPLIANCE REQUIREMENTS</p> <p>2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.</p> <p>2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.</p> <p>2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.</p> <p>2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.</p> <p>2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED; EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.</p> <p>2.6 WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.</p> <p>2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE.”</p>

NB: FAILURE TO PROVIDE / OR COMPLY WITH ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.

SIGNATURE OF BIDDER:

.....

CAPACITY UNDER WHICH THIS BID IS SIGNED:

.....

(Proof of authority must be submitted e.g. company resolution)

DATE:

.....

NOTE TO BIDDERS ON BID CONDITIONS:

- The Supply Chain Management Policy of **uPhongolo local** Municipality will apply. The Council reserves the right not to accept the lowest bid or any bid and reserves the right to accept the whole or part of the bid, or to reject all bids and cancel the notice to bid.
- Bids that are submitted late, incomplete, unsigned or by facsimile, electronically or not completed in black ink will be rejected and not accepted for further evaluation.
- Council reserves the right to inspect the business premises to ensure that they meet with all relevant requirements of the company.
- Members or Directors of Companies or Service Providers who are state employees are not allowed to bid or quote.
- Unsuccessful bidders will be informed of the tender outcome through the Municipal website and

local newspaper/s. Aggrieved unsuccessful bidders will be allowed to lodge, within fourteen (14) days of the decision or action, a written objection or complaint to the Office of the Municipal Manager through email, or fax number. Complaints or objections received after fourteen (14) days of the date of the notice **will not** be entertained; and

- Bids submitted are to be valid for a period of **90 days**.

PROSPECTIVE SERVICE PROVIDERS ARE HEREBY INVITED TO SUBMIT DOCUMENT TO BE PLACED ON THE PANEL OF CONSULTANT ENGINEERS (ELECTRICAL) FOR THE PROVISION OF PROFESSIONAL SERVICES FOR THE PERIOD OF THREE (3) YEARS.

SCOPE OF WORK

The Municipality may request the panel to do the price estimate for the specific projects during the period of appointment. The fees should always remain in-line with the ECSA Guidelines/Gazette and should always be value for money.

- Electrification projects.
- Street lighting.
- Energy Efficiency Demand Side Management (EEDSM).
- Maintenance of existing infrastructure.
- Updating creating of planning documents.
- Implementation of Turnkey projects where necessary.
- Prepare Tender document.

NB: WHEN RESPONDING TO THIS TENDER, BIDDER MUST PROVIDE A REQUIRED INFORMATION (REFER TO THE EVALUATION CRITERIA BELOW IN THE PRICING SCHEDULE)

PHASE 1

PLANNING, STUDIES, INVESTIGATIONS AND ASSESSMENTS

- Consultation with the client or client's authorized representative.

- Inspection of the site of the project.
- Preliminary investigation, planning and a level of design appropriate to allow decisions on feasibility.
- Consultation with authorities having rights or powers of sanctions.
- Advice to the client as to regulatory and statutory requirements, including environmental management and the need for surveys, analyses, tests and site or other investigations, as well as approvals, where such are required for the compilation of the report, and arranging for these to be carried out at the client's expense.
- Searching for, obtaining, investigating, and collating available data, drawings and plans relating to the works.
- Investigating financial and economic implications relating to the proposals or feasibility studies.

Deliverables will typically include:

- Collation of information.
- Reports on technical and financial feasibility and related implications.
- List of consents and approvals.
- Schedule of required surveys, tests, analyses, site, and other investigations.

NORMAL SERVICES

- Assist in developing a clear project brief.
- Attend project initiation meetings.
- Advise on procurement policy for the project.
- Advise on rights, constraints, consents, and approvals.
- Define the scope of services and scope of work required.
- Conclude the terms of the agreement with the client.
- Inspect the site and advise on the necessary surveys, analyses, tests and site or other investigations where such information will be required for Stage 2 including the availability and location of infrastructure and services.
- Determine the availability of data, drawings and plans relating to the project.
- Advise on criteria that could influence the project life cycle cost significantly.
- Provide necessary information within the agreed scope of the project to other consultants involved.

Deliverables will typically include:

- Agreed scope of services and scope of work.
- Signed agreement.
- Report on project, site, and functional requirements.

STAGE 2

CONCEPT AND VIABILITY (OFTEN CALLED PRELIMINARY DESIGN)

- Establish the concept design criteria.
- Prepare initial concept design and related documentation.
- Advise the client regarding further surveys, analyses, tests and investigations, which may be required.
- Establish regulatory authorities' requirements and incorporate into the design.
- Refine and assess the concept design to ensure conformance with all regulatory requirements and consents.
- Establish access, utilities, services, and connections required for the design.
- Prepare process designs (where required), preliminary designs, and related documentation for approval by authorities and client and suitable for costing.
- Provide cost estimates and life cycle costs as required.

- Liaise, co-operate, and provide necessary information to the client.

Typical deliverables will include:

- Concept design.
- Schedule of required surveys, tests and other investigations and related reports.
- Process design.
- Preliminary design.
- Cost estimates as required.

STAGE 3

DESIGN DEVELOPMENT (ALSO TERMED DETAIL DESIGN)

- Incorporate client's and authorities detailed requirements into the design.
- Prepare design development drawings including draft technical details and specifications.
- Review and evaluate design and outline specification and exercise cost control.
- Prepare detailed estimates of DESIGN cost.
- Submit the necessary design documentation to local and other authorities for approval.

Typical deliverables will include:

- Design development drawings.
- Outline specifications.
- Local and other authority submission drawings and reports. □ Detailed estimates of DESIGN costs.

STAGE 4

DOCUMENTATION AND PROCUREMENT

- Prepare specifications and preambles for the works.
- Accommodate services design.
- Check cost estimates and adjust designs and documents if necessary to remain within budget.
- Prepare documentation for contractor procurement.
- Review designs, drawings and schedules for compliance with approved budget.
- Assist in calling for tenders and / or negotiation of prices.
- Assist in the evaluation of tenders.
- Assist with the preparation of contract documentation for signature. □ Assess samples and products for compliance and design intent.

Typical deliverables will include:

- Specifications.
- Services co-ordination.
- Working drawings.
- Budget DESIGN cost.
- Tender documentation.
- Tender evaluation report.
- Tender recommendations.
- Priced contract documentation.

Phase 2
STAGE 5

CONTRACT ADMINISTRATION AND INSPECTION

- Attend site handover.
- Issue DESIGN documentation in accordance with the documentation schedule including, in the case of structural engineering, reinforcing bending schedules and detailing and specifications of structural steel sections and connections.
- Carry out contract administration procedures in terms of the contract.
- Prepare schedules of predicted cash flow.
- Prepare proactive estimates of proposed variations for client decision making.
- Attend regular site, technical and progress meetings.
- Inspect works for conformity to contract documentation.
- Adjudicate and resolve financial claims by contractor(s).
- Assist in the resolution of contractual claims by the contractor.
- Establish and maintain a financial control system.
- Clarify details and descriptions during DESIGN as required.
- Prepare valuations for payment certificates to be issued.
- Witness and review of all tests and mock ups carried out both on and off site.
- Check and approve contractor drawings for design.
- Update and issue drawings register.
- Issue contract instructions as and when required.
- Review and comment on operation and maintenance manuals, guarantee certificates and warranties.
- Inspect the works and issue practical completion and defects lists.
- Arranging for the delivery of all test certificates, including the Electrical Certificate of Compliance, statutory and other approvals, as built drawings and operating manuals.

Typical deliverables will include:

- Schedule of predicted cash flow.
- DESIGN documentation.
- Drawing register.
- Estimates for proposed variations.
- Contract instructions.
- Financial control reports.
- Valuations for payment certificates.
- Progressive and draft final account(s).
- Practical completion and defects list.
- Electrical Certificate of Compliance.

STAGE 6
CLOSE OUT

- Inspect and verify the rectification of defects.
- Receive, comment, and approve relevant payment valuations and completion certificates.
- Prepare and / or procure operations and maintenance manuals, guarantees and warranties.
- Prepare and / or procure as-built drawings and documentations. Conclude the final accounts where relevant.

Typical deliverables will include:

- Valuations for payment certificates.
- Works and final completion lists.
- Operations and maintenance manuals, guarantees and warranties.
- As-built drawings and documentation.
- Final accounts.
- Schedule of required surveys, tests, analyses, site and other investigations. □ Schedule of consents and approvals.

ADDITIONAL SERVICES

Setting out or staking out the works and indicating any boundary beacons and other reference marks.

DESIGN MONITORING

The consultant is required to conduct this stage at LEVEL 3 SUPERVISION (i.e. full-time supervision):

- The DESIGN monitoring staff shall: -
- Maintain a full-time presence on site to constantly review – □ Work procedures.
- Design materials.
- For compliance with the requirements of the plans and specifications and review completed work prior to enclosure or on completion as appropriate.
- Where the consulting engineer is the sole consultant or principal agent, carry out such administration of the project as is necessary on behalf of the client.
- Be available to provide the contractor with technical interpretation of the plans and specifications.

OCCUPATIONAL HEALTH AND SAFETY ACT, 1993 (ACT NO. 85 OF 1993)

- The consulting engineer must arrange, formally and in writing, for the contractor to provide documentary evidence of compliance with all the requirements of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993).
- The consulting engineer must execute the duties of the client, as his appointed agent, as contemplated in the DESIGN Regulations to the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993).

EPWP REQUIREMENTS**Expanded Public Works Program (EPWP) REQUIREMENTS**

- The Service Provider is to assist the Municipality to ensure that the Municipality can comply with the requirements of the EPWP Programme, i.e. assist with the completion of the Municipality's Business Plan, beneficiary list, monthly reporting and other associated functions.
- UPHONGOLO LOCAL MUNICIPALITY requires that the successful service provider to undertake monthly presentations regarding progress on the projects, therefore it is important that the Service Provider monthly provides photographs, reports, etc. highlighting progress as well as completing the necessary close out reports when the project is complete.

Requirements:

- Prices must be valid for ninety (90) days from the proposal closing date.
- Prices quoted must be inclusive of VAT.
- A firm delivery period must be indicated.
- Bidders are required to, together with their proposal, submit an original and valid B-BBEE Status Level Verification Certificates or certified copies thereof to substantiate their B-BBEE rating claims.

- Proposal that are late or incomplete will not be considered, whilst the lowest or only bid will not necessarily be accepted. Bids per fax or E-mail will also not be considered.
- A valid Tax Clearance Compliance Status Pin Certificate must accompany all bids.
- The 80/20 preferential points system, as determined by the Preferential Procurement Policy Framework Act (Act 5 of 2000) will be employed to evaluate this bid.
- Proposal must be accompanied with CIPRO documentation to verify ownership.
- CSD must be attached.
- Prospective Service Providers must submit a valid Original Tax Clearance Certificate /Tax Compliance Status with pin.
- Prospective Service Providers must be registered on Central Suppliers Database (CSD)
- To claim preference points a valid original or certified copy of BBBEE certificate from SANAS registered verification agency.
- Certified copies of qualifications (Certificates, Diplomas or Degrees), including CVs
- Proof of registration with relevant professional regulators

The proposal must be deposited in the tender box situated at Main Office, uPhongolo Local Municipality, 61 Martins Street, Pongola 3170.

Evaluation will be done on the following two-stage process in terms of National Treasury Circular No.53.

Stage 1: Assessment of Functionality. Only service providers who achieve a minimum score of 70% or 70 points of the total available points will qualify from stage two of the Evaluation process.

The points for stage one will be allocated as follows:

CRITERIAL	POINTS
Approach and Methodology	20
Organizational Expertise & Capacity	40
<input type="checkbox"/> CVs, Postgraduate qualification for Supervisor	40
<input type="checkbox"/> CVs, Undergraduate degree for Supervisor	30
<input type="checkbox"/> CVs, National diploma for Supervisor	20
<input type="checkbox"/> No CVs, qualifications. and registration proof	00
Organizational Expertise in previous related projects 20	
• Complete 5 projects	20
• Complete 4 projects	15
• Complete 3 projects	10
• Complete 2 Projects	05
Locality 20	
Offices located within the district	20
Offices Located within the KZN	15
Offices Located within the Country (SA)	05

Stage 2: The 80/20 preferential point system will be applied, where 80 points will be allocated for the Price and 20 points. Specific Goals. Preference will be given to the companies who will score more point on specifics goals and Pricing.

uPhongolo Local Municipality does not bind itself to accept the lowest or any tender. Enquires can be directed to, Mr. M.S Mtshali on (034) 413-1223 or Email: musawenkosim@uphongolo.gov.za, and Technical enquires should be directed to Mr MVM Mbatha, on (034) 413-1223 mgabadelim@uphongolo.gov.za Director Planning and Housing

CLOSING DATE: 10th June 2024 at 12H:00

DECLARATION OF INTEREST

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

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

3.2 Identity Number.....

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

3.4 Company Registration Number.....

3.5 Tax Reference Number.....

3.6 VAT Registration Number.....

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

3.8 Are you presently in the service of the state? **YES / NO**

3.8.1 If yes, furnish particulars.

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

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

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

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

3.9 Have you been in the service of the state for the past twelve months? ...**YES / NO**
3.9.1 If yes, furnish particulars.....
.....

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

3.10.1 If yes, furnish particulars.
.....
.....

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

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

3.12 Are any of the company’s directors, trustees, managers, principal 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, principal 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, principal 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

MBD 6.1

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	80
SPECIFIC GOALS	20
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 regarding 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:

$$\begin{array}{ccc}
 \mathbf{80/20} & \mathbf{or} & \mathbf{90/10} \\
 \\
 P_s = 80 \left(1 - \frac{P_t - P_{min}}{P_{min}} \right) & \text{or} & P_s = 90 \left(1 - \frac{P_t - P_{min}}{P_{min}} \right)
 \end{array}$$

Where?

P_s = Points scored for price of tender under consideration

P_t = Price of tender under consideration

P_{min} = 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:

80/20

or

90/10

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

Where?

P_s = Points scored for price of tender under consideration

P_t = Price of tender under consideration

P_{max} = 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)
Specific goal 1 – Ownership - maximum points = 10	10	
Company owned by 100% black person	10	
Company owned by >51% black person	8	
Company owned by >25% black person	5	
Specific goal 2 – BBBEE Certificate = 4		
BBBEE Certificate level 1	4	
BBBEE Certificate level 2	2	
BBBEE Certificate level 3	1	
Specific goal 3 – RDP Goals – maximum points = 6		
Promotion of enterprises located within Zululand District Municipality	6	
Promotion of enterprises located within Kwa-Zulu Natal	4	
Promotion of enterprises located within South Africa	2	

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 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. wilfully 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>	<p>Yes</p> <input type="checkbox"/>	<p>No</p> <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>	<p>Yes</p> <input type="checkbox"/>	<p>No</p> <input type="checkbox"/>
4.2.1	If so, furnish particulars:		

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

CERTIFICATION

I, THE UNDERSIGNED (FULL NAME) CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM TRUE AND CORRECT.

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

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

MBD 9
CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Municipal Bidding Document (MBD) must form part of all bids¹ invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging). ² Collusive bidding is a *per se* prohibition meaning that it cannot be justified under any grounds.
- 3 Municipal Supply Regulation 38 (1) prescribes that a supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer, among others, to:
- b. rejects 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

“competitor” shall include any individual or organization, other than the bidder, whether 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 Bidders

GENERAL CONDITIONS OF CONTRACT TABLE OF CLAUSES

1. Definitions
2. Application
3. General
4. Standards
5. Use of contract documents and information inspection
6. Patent Rights
7. Performance security
8. Inspections, tests, and analyses
9. Packing
10. Delivery and documents
11. Insurance
12. Transportation
13. Incidental Services
14. Spare parts
15. Warranty
16. Payment
17. Prices
18. Variation orders
19. Assignment
20. Subcontracts
21. Delays in the supplier's performance
22. Penalties
23. Termination for default
24. Anti-dumping and countervailing duties and rights
25. Force Majeure
26. Termination for insolvency
27. Settlement of Disputes
28. Limitation of Liability
29. Governing language
30. Applicable law
31. Notices
32. Taxes and duties

33. Transfer of contracts
34. Amendments of contracts
35. Prohibition of restrictive practices

General Conditions of Contract

- 1. Definitions**
- 1.1 The following terms shall be interpreted as indicated:
- 1.2 “Closing time” means the date and hour specified in the bidding documents for the receipt of bids.
- 1.3 “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.
- 1.4 “Contract price” means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
- 1.5 “Corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.
- 1.6 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
- 1.7 “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.
- 1.8. “Database application form” means the application form required by the UPhongolo Local Municipality to be filled in by the successful tenderer, following the award of the contract, for inclusion on the RNM database before payment is made.

- 1.9 “Day” means calendar day.
- 1.10 “Delivery” means delivery in compliance of the conditions of the contract or order.
- 1.11 “Delivery ex stock” means immediate delivery directly from stock actually on hand.
- 1.12 “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 goods are so delivered and a valid receipt is obtained.
- 1.13 "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.
- 1.14” 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.
- 1.15 “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.
- 1.16 “GCC” means the General Conditions of Contract.
- 1.17 “Goods” means all the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.

- 1.18 “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 goods covered by the bid will be manufactured.
- 1.19 “Local content” means that portion of the bidding price, which is not included in the imported content provided that local manufacture does take place.
- 1.20 “Manufacture” means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.21 “Order” means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.22 “Project site,” where applicable, means the place indicated in bidding documents.
- 1.23 “Purchaser” means the organization purchasing the goods.
- 1.24 “Republic” means the Republic of South Africa.
- 1.25 “SCC” means the Special Conditions of Contract.
- 1.26 “Services” means that 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.

1.27 “Supplier” means the successful bidder who is awarded the contract to maintain and administer the required and specified service(s) to the State.

1.28 “Tort” means in breach of contract.

1.29 “Turnkey” means a procurement process where one service provider assumes total responsibility for all aspects of the project and delivers the full product / service required by the contract.

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

2. Application 2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services (excluding professional services related to the building and construction industry), sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.

2.2 Where applicable, special conditions of contract are also laid down to cover specific goods, 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 nonrefundable fee for documents may be charged.

3.2 Invitations to bid are usually published in locally distributed news media and on the municipality/municipal entity website.

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

5. Use of

5.1 The supplier shall not, without the purchaser's prior written consent, **contract** disclose the contract, or any provision thereof, or any specifications, **documents** plan, drawing, pattern, sample, or information furnished by or on and behalf of the purchaser in connection therewith, to any person other **information** than a person employed by the supplier in the of the contract.

inspection

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.

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

7. Performance 7.1 award,

Within thirty (30) days of receipt of the notification of contract

security

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.

- 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 goods to be produced or services to be rendered should at any stage be subject to inspections, tests and analyses, the bidder or contractor's premises shall be open, at all reasonable hours, for inspection by a representative of the purchaser or organization acting on behalf of the purchaser.
- 8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the goods 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 goods or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such goods or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Goods 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 goods may on or after delivery be inspected, tested or analyses and may be rejected if found not to comply with the requirements of the contract. Such rejected goods 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 goods, which do comply with the requirements of the contract. Failing such removal, the rejected goods shall be returned

at the suppliers cost and risk. Should the supplier fail to provide the substitute goods forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected goods, purchase such goods 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 22 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 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, and in any subsequent instructions ordered by the purchaser.

10. Delivery and documents

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

11. Insurance

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

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

13. Incidental services 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any:

- (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, 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 is 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.

- 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 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, 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.
- 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfilment of other obligations stipulated in the contract.
- 16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.
- 16.4 Payment will be made in Rand unless otherwise stipulated.
- 16.5 Payment will only be made if the supplier has filled in and submitted the necessary database application form to the satisfaction of the Chief Financial Officer.

- 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 or in the purchaser's request for bid validity extension, as the case may be.

18. Variation orders

18.1 In cases where the estimated value of the envisaged changes in purchase does not vary more than 15% of the total value of the original contract, the contractor may be instructed to deliver the goods or render the services as such. In cases of measurable quantities, the contractor may be approached to reduce the unit price, and such offers may be accepted provided that there is no escalation in price.

19. 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 sub-contracts 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 21.1 Delivery of the goods and performance of services shall be
supplier's made by the supplier in accordance with the time schedule
performance 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 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 goods are required, or the supplier's services are not readily available.
- 21.4 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 22.2 without the application of penalties.
- 21.5 Upon any delay beyond the delivery period in the case of a goods contract, the purchaser shall, without cancelling the contract, be entitled to purchase goods 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 judgement 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 supplier as having no objection and proceed with the restriction.
- 23.5 Any restriction imposed on any person by the purchaser will, at the discretion of the purchaser, 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 purchaser 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:
- (a) the name and address of the supplier and / or person
restricted by the purchaser;
 - (b) the date of commencement of the restriction;
 - (c) the period of restriction; and
 - (d) 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** 24.1 When, after the date of bid, provisional payments are required, or
- and** anti-dumping or countervailing duties are imposed, or the amount of
- countervailing** amount of a provisional payment or anti-dumping or countervailing
- duties and rights** 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 supplier to the purchaser or the purchaser may deduct such amounts from moneys (if any) which may otherwise be due to the supplier in regard to goods 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** 25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the
- majeure** 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 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 for goods delivered and / or services rendered according to the prescripts of the contract.

28. Limitation of liability

- 28.1 Except in cases of criminal negligence or wilful 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.

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 SARS must have certified that the tax matters of the preferred bidder are in order.

32.4 No contract shall be concluded with any bidder whose municipal rates and taxes and municipal services charges are in arrears.

33. Transfer of contracts

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

34. Amendment of contracts

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

35. Prohibition of restrictive practices

35.1 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.

35.2 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 section 59 of the Competition Act No 89 Of 1998.

35.3 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.