



Sarah Baartman

DISTRICT MUNICIPALITY

Province of the Eastern Cape

progress through development

BID NO. 37/2023

**PROVISION OF LICENSING MAINTENANCE SUPPORT OF
MIMECAST CLOUD EMAIL SECURITY AND TARGET THREAT
PROTECTION
(OR EQUIVALENT)**

NAME OF BIDDER	:
CSD SUPPLIER NO.	:	MAAA.....
CONTACT PERSON	:
CONTACT NO.	:
ADDRESS	:

BID DOCUMENT

SCHEDULE A - Bid Advertisement

BID NO. 37/2023: PROVISION OF LICENSING, MAINTENANCE SUPPORT OF MIMECAST CLOUD EMAIL SECURITY AND THREAT PROTECTION (OR EQUIVALENT)

Sarah Baartman District Municipality invites bids from suitably experience service providers for the **Provision of Licensing, Maintenance Support of Mimecast Cloud Email Security and Threat Protection (or Equivalent)** for a 3-year period. Prospective bidders must be certified by Mimecast and must submit Mimecast (or equivalent) Partnership Reseller Certification. Failure to submit proof of the certification will result in disqualification. The certification must be in the name of the bidder.

Bid documents with the necessary specifications may be obtained at a **non-refundable cost of R200.00** from the Supply Chain Management Unit, 4th Floor, 32 Govan Mbeki Avenue, Gqeberha, tel. 041 508 7007. Alternatively, bid documents may be downloaded free of charge from the e-Tender Portal (<https://etenders.treasury.gov.za>) or the municipal website (<https://sarahbaartman.co.za>).

The qualifying bids will be evaluated on a 80/20 preference points system, as per the Preferential Procurement Regulations, 2022, where a maximum of 80 points will be allocated for price and a maximum of 20 points will be allocated for specific goals. The bids will also be evaluated on functionality. Bidders that do not obtain a minimum score of 70% on functionality criteria will be excluded from further evaluation.

Functionality will be assessed as follows:

CRITERIA	WEIGHT	VALUE 1-5	MAXIMUM POSSIBLE SCORE
Experience of Company in the Provision of licensing maintenance support of Mimecast cloud email security and target threat protection (or equivalent)	25	Max 5	125
Experience of Key Personnel in Implementation of Mimecast cloud email security and target threat protection (or equivalent)	20		100
Total	45		225 (MPS)

Where: 1 = Poor; 2 = Acceptable; 3 = Good; 4 = Very Good; and 5 = Excellent

Bids in a sealed envelope clearly marked **“BID NO. 37/2023: PROVISION OF LICENSING, MAINTENANCE SUPPORT OF MIMECAST CLOUD EMAIL SECURITY AND THREAT PROTECTION (OR EQUIVALENT)”** must be placed in the tender box, 4th Floor, 32 Govan Mbeki Avenue, Gqeberha, before 12h00 noon on **Wednesday, 21 February 2024**. Thereafter bids will be opened in public in the Committee Room No. 1, 6th Floor, 32 Govan Mbeki Avenue, Gqeberha.

Prospective bidders must be registered on the Central Supplier Database (CSD). Failure to comply shall render the bid non-responsive. Failure to submit any other compulsory document(s) shall render the bid non-responsive.

The original document collected from the municipality must be submitted or, if the documents are printed from the websites, printed documents must be submitted. Bids may only be submitted on the bid documentation provided by the municipality.

Late, incomplete, facsimile or emailed bids will not be accepted for consideration. The only or lowest bid received shall not necessarily be accepted. SBDM reserves the right to accept part of or the full bid.

NOTICE 62 OF 2023 DATED 19 FEBRUARY 2024

**Ms U DANIELS
MUNICIPAL MANAGER
SARAH BAARTMAN DISTRICT MUNICIPALITY
PO BOX 318
GQEBERHA
6000**



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INVITATION TO BID (MBD 1)

YOU ARE HEREBY INVITED TO BID FOR PROVISION OF LICENSING, MAINTENANCE SUPPORT OF MIMECAST CLOUD EMAIL SECURITY AND TARGET THREAT PROTECTION (OR EQUIVALENT)

BID NO: 37/2023

CLOSING DATE: 21 FEBRUARY 2024

CLOSING TIME: 12H00

THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (MBD 7).

BID DOCUMENTS MUST BE DEPOSITED IN THE BID BOX SITUATED AT:

32 Govan Mbeki Avenue, Fourth Floor, Gqeberha

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

The Bid box is open during office hours, namely 08H00 to 16H30, Monday to Friday.

ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL ORIGINAL FORMS.

THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT

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

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

NAME OF BIDDER.....
POSTAL ADDRESS
STREET ADDRESS.....
CONTACT NAME:
TELEPHONE NUMBER:
CELL PHONE NUMBER:
FACSIMILE:
E-MAIL ADDRESS:
VAT REGISTRATION NUMBER.....
CENTRAL SUPPLIER DATABASE (CSD) NUMBER: MAAA

BIDDERS MUST BE SUCCESSFULLY REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD) PRIOR TO SUBMITTING THE BID.

FOR REGISTRATION ON THE CSD BIDDERS CAN GO TO THE FOLLOWING WEBSITE:

(<https://etenders.treasury.gov.za>)

A SEPARATE DECLARATION OF INTEREST FORM MUST BE SUBMITTED BY THE SUCCESSFUL BIDDER TO SBDM BEFORE ANY PAYMENT CAN BE MADE.

1. HAS ONE OF THE FOLLOWING BEEN ATTACHED?
A VALID MUNICIPAL BILLING CLEARANCE CERTIFICATE/ MOST RECENT MUNICIPAL STATEMENT/ LEASE AGREEMENT IF PREMISES ARE LEASED (only if lessee is not responsible for municipal services) **YES / NO**
2. HAS PROOF OF REGISTRATION WITH THE CONSTRUCTION INDUSTRY DEVELOPMENT BOARD BEEN ATTACHED? **YES / NA**
3. HAS A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE OR SWORN AFFIDAVIT BEEN ATTACHED? (MBD 6.1) **YES / NO**

IF YES, WHO WAS THE CERTIFICATE ISSUED BY?

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

(Tick applicable box)

(A CERTIFIED COPY OF A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE OR SWORN AFFIDAVIT MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE)

- 4. HAS PROOF OF ADDRESS BEEN ATTACHED OF THE OFFICE DEALING WITH THE PROJECT (I.E. LEASE AGREEMENT/MUNICIPAL ACCOUNT IN NAME OF BIDDER) TO CLAIM FOR SPECIFIC GOAL OF LOCALITY **YES / NO**
- 5. BIDS WITH A VALUE OF MORE THAN R10 MILLION (VAT INCLUDED) ARE REQUIRED TO SUBMIT FINANCIAL STATEMENTS FOR THE PAST THREE YEARS OR SINCE ESTABLISHMENT, IF ESTABLISHED DURING THE PAST THREE YEARS.
- 6. BIDS WILL BE CONSIDERED NON-RESPONSIVE IF THE BID HAS NOT BEEN COMPLETED IN FULL AND ALL THE REQUIRED DOCUMENTS HAVE NOT BEEN INCLUDED IN THE BID SUBMITTED.
- 7. ALL DOCUMENTATION MUST BE ORIGINALLY SIGNED IN BLACK INK (COPIES OF SIGNARTORIES WILL NOT BE ACCEPTED).
- 8. THE PRICES COMPLETED ON MBD 3: PRICING SCHEDULE MUST BE INCLUSIVE OF ALL APPLICABLE TAXES LESS ALL UNCONDITIONAL DISCOUNTS. NO PRICES WILL BE AMENDED FOR VAT PURPOSES DURING THE TERM OF CONTRACT.
- 9. IT SHOULD BE NOTED THAT BIDS AWARDED ARE ADVERTISED ON SBDM WEBSITE (www.sarahbaartman.co.za). BIDDERS ARE REQUIRED TO VISIT THE WEBSITE TO VIEW BIDS AWARDED. ALSO, THE OBJECTION CLOSING DATE (14 DAYS AFTER AWARD) WILL BE STIPULATED.

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS/SERVICES/WORKS OFFERED? **YES/NO**

SIGNATURE OF BIDDER

DATE

CAPACITY UNDER WHICH THIS BID IS SIGNED
.....

TOTAL BID PRICE – PLEASE REFER TO THE PRICING SCHEDULE (SCHEDULE C)

ANY ENQUIRIES REGARDING TECHNICAL INFORMATION MAY BE DIRECTED TO:

Municipality: Sarah Baartman District Municipality
Contact Person: Mr Chuma Mabindla
Tel: 041 508 7054

ANY ENQUIRIES REGARDING THE BIDDING PROCEDURE MAY BE DIRECTED TO:

Municipality: Sarah Baartman District Municipality
Contact Person: Mr Khayaletu Fana
Tel: 041 508 7149

PART 1 - CONDITIONS OF BID

1. GENERAL REQUIREMENTS

- 1.1 The Council wishes to request a bid for the **“PROVISION OF LICENSING, MAINTENANCE SUPPORT OF MIMECAST CLOUD EMAIL SECURITY AND THREAT PROTECTION (OR EQUIVALENT)”**
- 1.2 The bidder is required to furnish full details requested on the bid forms. All prices shall be inclusive of Value Added Tax.
- 1.3 The bidder is requested to furnish all relevant information not entertained on the form of bids under separate cover which shall form part of the bid.

2. CONTACT PERSON FOR TECHNICAL QUERIES

Name : Mr Chuma Mabindla
Telephone : 041 508 7054
Email : cmabindla@sbdm.co.za

3. TERMS AND CONDITIONS

3.1 Confidentiality

All materials, specifications, service level requirements detailed information and everything else supplied with this request for the bid remains the property of the SBDM and may be recalled if deemed necessary.

3.2 Contractual obligations

The request for bid does not constitute a contract nor does it create an obligation on the part of the SBDM to purchase services, products or equipment from any vendor submitting a bid.

3.4 Response to Questions

Where appropriate, questions should be answered explicitly by providing specific details requested. Bidders selecting to omit any of the required information or who do not follow the specified format will be disqualified from the bid process.

Should additional information be required by SBDM, bidders may be approached to provide more details, including aspects not specifically covered in this request for bids.

Please ensure that the documentation required is completed in full and signed.

PART 2 – TERMS OF REFERENCE (BID SPECIFICATIONS)

GENERAL INFORMATION

The Sarah Baartman District Municipality (SBDM) currently requires the Provision of licensing maintenance support of Mimecast cloud email security and target threat protection (or equivalent) for a three (3) year period, situated at 32 Govan Mbeki Avenue, Port Elizabeth.

SBDM has approximately 100 staff members and is utilizing Microsoft Office 365 Business Standard applications which has got Microsoft Exchange online for email. In addition, the municipality does not have cloud email management solution for email security, protecting emails from malware, spam and data leakage (third party application). The current office 365 license is for 115 mailboxes, inclusive of the resource mailbox. The email archiving function is not required as part of this project as such function or feature the municipality is in the process of acquiring Metallic Office 365 Backup for Exchange Online Archive, Exchange Online Mailbox (Inclusive of Exchange Online Calendar, Exchange Online Contacts Email), OneDrive for Business, and SharePoint Online. Therefore, email archiving function will be completed using Metallic, and only email security is required.

The staff members at the satellite offices use data sim-cards or LTE Routers to connect to the internet, while the head office staff members connect to the Internet via a 160Mbps Microwave satellite solution.

SBDM has two active directory servers, which are hosted internally at the SBDM offices in Govan Mbeki Avenue, Port Elizabeth. The two servers are running on Windows Server 2008 operating system. SBDM uses CAT 5 Local Area Network (LAN).

SBDM's website and two (2) domains i.e., sbdm.co.za (primary domain) and cacadu.co.za are currently being hosted by a service provider. In addition, the DNS hosting of cacadu.co.za and sbdm.co.za zones are hosted by the same service provider. Therefore, these services are not required.

SPECIFICATIONS

The Sarah Baartman District Municipality invites bids for the “**BID NO. 37/2023: PROVISION OF LICENSING MAINTENANCE SUPPORT OF MIMECAST CLOUD EMAIL SECURITY AND TARGET THREAT PROTECTION (OR EQUIVALENT)**” for a period of three (3) years. Prospective bidders must be certified by Mimecast and must submit Mimecast (or equivalent) Partnership Reseller Certification. Failure to submit proof of the certification will result in disqualification. The certification must be in the name of the bidder.

SBDM requires the following:

Provision of Licensing Maintenance Support of Mimecast Cloud Email Security and Target Threat Protection (or equivalent), which must include the following applications:

- Email Security
 - Provision of Mimecast cloud email management solution for email security for 120 mailboxes
 - Provision of unified email security and ensure that security and policies are consistently enforced even during outages.
 - Provision of cloud email management solution for email security.
 - Provision of protection of municipal users email from malware, including blocking spam, chain emails data leakage, and other evolving threats.
 - Provision of the service must be 100% antivirus and anti-spam service levels, with 0.0001% spam false positive

- Must provide email bridgehead in the network cloud, stopping known and emerging born threats before they reach the Municipal network.
- Ensures integrity of email receipt, delivery, policy enforcement, tracking and retention.
- Provision of scanning of outgoing and incoming emails.
- Target thread protection
 - Provides security gateway services to protect organization against the growing threat posed by advanced phishing and spear phishing attacks in inbound mail.
 - Protects against malware, spam, phishing, directory harvest attack (DHA) and distributed denial of service (DDoS) attacks, deliberate or accidental data leaks, outages and social engineering attack.
- Deliverables
 - Cloud Email Solutions
 - Targeted Threat Protection
 - Maintenance and support of the cloud email management solution for email security

The cloud email management solution for email security must be compatible with exchange online and be able to integrate with exchange online, and outlook.

The successful bidder will be required to provide support as requested for the Provision of Licensing Maintenance Support of Mimecast Cloud Email Security and Target Threat Protection (or Equivalent).

PRICING

For a detailed pricing schedule, refer to **PART 5 – SCHEDULE C - PRICING SCHEDULE**.

AWARD

Award will be made to one service provider.

TWO STAGE EVALUATION PROCESS

The bids will be evaluated on a 80/20 preference points system as per the Preferential Procurement Regulations, 2022 as well as on functionality.

Assessment of functionality

The assessment of functionality will be done in terms of the evaluation criteria. A Bid will be disqualified if it fails to meet the minimum threshold of 70% for functionality as per the Bid invitation and will not proceed to the 2nd stage of evaluation.

Functionality Criteria

Criteria to be used for functionality:

CRITERIA	WEIGHT	VALUE 1-5	MAXIMUM POSSIBLE SCORE
Experience of Company in the Provision of licensing maintenance support of Mimecast cloud email security and target threat protection (or equivalent)	25	Max 5	125
Experience of Key Personnel in Implementation of Mimecast cloud email security and target threat protection (or equivalent)	20		100
Total	45		225 (MPS)

Where: 1 = Poor, 2 = Acceptable, 3 = Good, 4 = Very Good, 5 = Excellent

PREFERENCE POINTS SYSTEMS

Only those qualifying bids will be evaluated in terms of the 80/20 preference points systems, where the maximum of 80 points will be allocated for price (VAT inclusive), and a maximum of 10 points allocated for locality and a maximum of 10 for points allocated for B-BBEE status level of contribution as follows:

Points awarded for B-BBEE Status Level of Contribution

B-BBEE Status Level of Contributor	Number of Points
1	10
2	9
3	8
4	6
5	4
6	3
7	2
8	1
Non-Compliant Contributor	0

NB: Bidders are required to submit an original and valid B-BBEE Status Level Verification Certificates or certified copies or the Sworn Affidavits together with their Bids to substantiate their B-BBEE rating claims. Failure will result in preference points being not allocated.

Points allocated for Locality

Locality	Procurement under 80/20
	Points
Within the Sarah Baartman District Municipality's area of jurisdiction	10
Within the Eastern Cape province	8
Within South Africa	5
Outside South Africa	1

NB: Bidders are required to submit proof of address of office dealing with the project. A valid lease agreement/municipal account in name of bidder must be submitted. Failure will result in preference points not being allocated.

GENERAL REQUIREMENTS

The bidder is required to furnish full details requested on the bid forms. All rates tendered shall be inclusive of Value Added Tax.

COMPLETENESS OF THE BID INFORMATION

The SBDM may request clarification or additional information regarding any aspect of the bid. The applicant must supply the requested information within 48 hours after the request has been made.

SUBMISSION OF BIDS

Bids must be submitted in a sealed envelope, clearly marked "**BID NO. 37/2023: PROVISION OF LICENSING MAINTENANCE SUPPORT OF MIMECAST CLOUD SECURITY AND TARGET THREAT PROTECTION (OR EQUIVALENT)**" must be placed in the tender box, situated on the 4th Floor, 32 Govan Mbeki Avenue, Gqeberha, by **no later than 12h00 noon on Wednesday, 21 February 2024**. Thereafter bids will be opened in public in the Committee Room No. 1, 6th Floor, 32 Govan Mbeki Avenue, Gqeberha. The only or lowest bid shall not necessarily be accepted. SBDM reserves the right to accept part of or the full bid.

Late, telephonic, faxed and electronic bids will not be accepted.

TECHNICAL ENQUIRIES

Technical enquiries about the project shall be directed to the Project Manager, details below.

Mr Chuma Mabindla

Telephone: 041 508 7054

Email: cmabindla@sbdm.co.za

PART 3 – SCHEDULE A
BID FORM AND IMPORTANT CONDITIONS

- 1 I/We hereby Bid to supply all of the supplies and/or to render all or any of the services described in the attached documents to the Sarah Baartman District Municipality on the terms and conditions and in accordance with the specifications stipulated in the Bid documents (and which shall be taken as part of, and incorporated into, this Bid) at the prices and on the terms regarding time for delivery and/or execution inserted therein.
- 2 I/We agree that:
 - (a) the offer herein shall remain binding upon me/us and open for acceptance by the Bid Adjudication Committee during the validity period indicated and calculated from the closing time of the Bid;
 - (b) this Bid and its acceptance shall be subject to the terms and conditions contained in the General Conditions of contract and Preference Certificate with which I am/we are fully acquainted;
 - (c) if I/we withdraw my/our Bid within the period for which I/we have agreed that the Bid should remain open for acceptance, or fail to fulfill the contract when called upon to do so, the SBDM may without prejudice to its other rights, agree to the withdrawal of my/or Bid or cancel the contract that may have been entered into between me/us and the SBDM and I/we will then pay to the SBDM any additional expense incurred either to accept any less favorable Bid or fresh Bidders have to be invited, the additional expenditure incurred by the invitation of fresh Bid and by the subsequent acceptance of any less favorable Bid, the SBDM shall also have the right to recover such additional expenditure by set-off against moneys which may be due or become to me/us under this or any other Bid or contract or against any guarantee or deposit that have been furnished by me/us or on my/our behalf for the due fulfillment of this or any other Bid or contract and pending the ascertainment of the amount of such additional expenditure to retain such moneys, guarantee or deposit as security for any loss the SBDM may sustain by reason of my/our default;
 - (d) the law of the Republic of South Africa shall govern the contract created by the acceptance of my/our Bid and that I/we choose domicilium citandi et executandi in the Republic (full address).
- 3 I/We furthermore confirm that I/we have satisfied myself/ourselves as to the correctness and validity of my/our Bid, that the price(s) and rate(s) quoted cover all the work/items(s) in these documents; and that the price(s) and rate(s) cover all my/our obligations under a resulting contract. I/we accept that any mistakes regarding price(s) and calculations will be at my/our risk.
- 4 I/we hereby accept full responsibility for the proper execution and fulfillment of all obligations and conditions devolving on me/us under this agreement as the principal (s) liable for the due fulfillment of this contract.
- 5 I/We agree that any action from this contract in all respects be instituted against me/us and I/we hereby undertake to satisfy fully any sentence or judgment which may be pronounced against me/us as a result of such action.

6 I/We declare that I/we have participation / no participation in the submission of any other offer for the supplies/service described in the attached documents. If in the affirmative, state name(s) or Bid (s) involved.

7 Are you duly authorized to sign the Bid? ***YES / NO**

8 Has the Declaration of Interest been duly completed and included with the other Bid forms? ***YES / NO**

****Delete whichever is not applicable***

SIGNATURE (S) OF BIDDER OR ASSIGNEE(S)

DATE:.....

Please complete the following in block letters

Capacity and particulars of the authority under which this Bid is signed

Name of Bidder

Postal Address

Telephone number(s)

Facsimile number(s)

Bid Number

Name of contact person



IMPORTANT CONDITIONS

1. Failure on the part of the Bidder to sign this Bid form and thus to acknowledge and accept the conditions in writing or to complete the attached forms, questionnaires and specifications in all respects, may invalidate the Bid.
2. Bids should be submitted on the official forms and should not be qualified by the Bidder's own conditions of Bid. Failure to comply with these requirements or to renounce specifically the Bidder's own conditions of Bid, when called upon to do so may invalidate the Bid.
3. If any of the conditions on this Bid form are in conflict with any special conditions, stipulations or provisions incorporated in the Bid, such special conditions, stipulations or provisions shall apply.
4. This Bid is subject to the Supply Chain Management Regulations and the General Conditions and Procedures and subsequent amendments thereto and re-issues thereof.
5. Copies of the regulations are obtainable from the Sarah Baartman District Municipality Office of the Accountant SCM, 4th floor, Govan Mbeki Ave, Gqeberha.

MISCELLANEOUS REQUIREMENTS

1. The Bid forms are drawn up so that certain essential information is to be furnished in a specific manner. Any additional particulars shall be furnished in the enclosed questionnaire or in a separate annexure.
2. The forms attached, shall be completed and submitted with the Bid.
3. Where items are specified in detail, the specifications form an integral part of the Bid document and Bids shall indicate in the space provided whether the items offered are to specification or not
4. With the exception of basic prices, where required, all prices shall be quoted inclusive of VAT in South African currency.

PART 4 – SCHEDULE B - PREFERENCE POINTS CLAIM FORM

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

NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022.

1. GENERAL CONDITIONS

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

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

1.2 The value of this Bid is estimated **not to exceed R50 000 000** (VAT inclusive) for a three-year period and therefore the **80/20** system shall be applicable.

1.3 Preference points for this Bid shall be awarded for:

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

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

	POINTS
PRICE	80
B-BBEE STATUS LEVEL OF CONTRIBUTION	10
LOCALITY	10
Total points for Price, B-BBEE and Locality must not exceed	100

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

1.5 Failure on the part of a Bidders to fill in and/or to sign this form and submit Proof of Address of office dealing with the project (i.e. lease agreement/municipal account in name of bidder) to claim for specific goal of Locality, together with the Bid, will be interpreted to mean that preference points for Locality are not claimed.

1.6. The municipality reserves the right to require of a Bidder, either before a Bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the municipality.

2. DEFINITIONS

- 2.1 **“all applicable taxes”** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- 2.2 **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad - Based Black Economic Empowerment Act;
- 2.3 **“B-BBEE status level of contributor”** means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- 2.4 **“Bid”** means a written offer in a prescribed or stipulated form in response to an invitation by the municipality for the provision of services, works or goods, through price quotations, advertised competitive tendering processes or proposals and **“tender”** has a corresponding meaning;
- 2.5 **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- 2.6 **“consortium or joint venture”** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;
- 2.7 **“contract”** means the agreement that results from the acceptance of a bid by the Sarah Baartman District Municipality;
- 2.8 **“Functionality”** means the measurement according to predetermined norms, as set out in the tender specification, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
- 2.9 **“person”** includes a juristic person;
- 2.10 **“Rand value”** means the total estimated value of a contract in South African currency calculated at the time of tender invitations, and includes all applicable taxes and excise duties
- 2.11 **“sub-contract”** means the primary contractor’s assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;
- 2.12 **“Total revenue”** bears the same meaning assigned to this expression in the Codes of Good Practice;
- 2.13 **“Trust”** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person;
- 2.14 **“Trustee”** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person;

3. ADJUDICATION USING A POINT SYSTEM

- 3.1 The Bidder obtaining the highest number of total points will be awarded the contract.
- 3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts;
- 3.3 Points scored must be rounded off to the nearest 2 decimal places.
- 3.4 If two or more bidders score an equal total number of points, the contract must be awarded to the bidder that scored the highest points for specific goals.
- 3.5 If functionality is part of the evaluation process and two or more bidders score equal total points and equal specific goal points the contract must be awarded to the bidder that scored the highest points for functionality.
- 3.6 If two or more bidders score equal total points in all respects, the award must be decided by the drawing of lots.

4. POINTS AWARDED FOR PRICE

4.1 THE 80/20 PREFERENCE POINT SYSTEMS

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

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

inclusive of all applicable taxes

Where

Ps = Points scored for price of bid under consideration;

Pt = Price of bid under consideration; and

P_{min} = Price of lowest acceptable bid.

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

- 5.1 In terms of paragraph 4(2) of the Preferential Procurement Regulations, preference points must be awarded to a Bidder for attaining specific goals. The points for B-BBEE status level of contribution in accordance with the following table:

B-BBEE Status Level of Contributor	Number of Points for Preference (80/20)	Number of Points for Preference (90/10)
1	10	5
2	9	4
3	8	3
4	6	2
5	4	1
6	3	1
7	2	1
8	1	1
Non-compliant contributor	0	0

- 5.2 Bidders must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.
- 5.3 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- 5.4 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate Bid.
- 5.5 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- 5.6 **B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.3. AND 5.1**

B-BBEE Status Level of Contributor =.....

B-BBEE Points Claimed = (maximum of 10 points)

(Points claimed in respect of paragraph 5.6 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a B-BBEE certificate (Certified Copy or Original) issued by

a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or an Accounting Officer as contemplated in the CCA) or a sworn affidavit for EME in the acceptable format as issued by the Department of Trade and Industry.

6. Points awarded for Locality

- 6.1 In terms of paragraph 4(2) of the Preferential Procurement Regulations, preference points must be awarded to a Bidder for attaining specific goals. The points for Locality are in accordance with the following table:

Locality	Procurement under 80/20	Procurement under 90/10
	Points	Points
Within the Sarah Baartman District Municipality's area of jurisdiction	10	5
Within the Eastern Cape province	8	4
Within South Africa	5	3
Outside South Africa	1	1

- 6.2 Proof of address of office dealing with the project (i.e. lease agreement/municipal account in name of bidder) must be submitted to claim for preference points for Locality.
- 6.3 A bidder failing to submit proof of required evidence to claim preferences points for locality will score 0 points for the specific goals.
- 6.4 **POINTS FOR LOCALITY CLAIMED IN TERMS OF PARAGRAPHS 6.1**

Address of office dealing with the project.....

.....

.....

Locality Points Claimed = (maximum of 10 points)

7. DECLARATION WITH REGARD TO COMPANY/FIRM

7.1 Name of company/firm.....

7.2 Company registration number:

7.3 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]

7.4 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 5.1 and 6.1, 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.

WITNESSES:

1.
2.

.....
SIGNATURE (S) OF BIDDER

ADDRESS OF BIDDER:
.....
.....
.....

PART 5 – SCHEDULE C - PRICING SCHEDULE

FIRM PRICES (PURCHASES) (MBD 3.1)

Name of Bidder: _____

Bid Number: 37/2023

Closing Time: 12:00 (NOON)

Closing Date: 21 February 2024

OFFER TO BE VALID FOR 90 DAYS FROM THE CLOSING DATE OF BID.

All prices quoted must be VAT inclusive

PRICING

Description	ONCE-OFF	YEAR 1 Annual Fee	YEAR 2 Annual Fee	YEAR 3 Annual Fee
Deployment of the solution (Once-Off)				
Comprehensive Defense Plan for 120 users (annual fees)				
Maintenance and Support (annual fees)				

The above prices are for the following offered package:

Product: _____

Full Product description: _____

Bidders must provide brochures for the offered package.

PART 6 – SCHEDULE D - PARTICULARS OF BUSINESS

PARTNERSHIP/JOINT VENTURE/CLOSED CORPORATION/COMPANY/SOLE PROPRIETOR

Business Name: _____

Trading Name: _____

SIRA Reg. No.: _____

CK 1. No.: _____

CK 2. No.: _____

VAT Reg. No.: _____

UIF No.: _____

Workman's Compensation No. : _____

Directorship/Ownership/Shareholding

Name	Identity No.	Gender	% Ownership

Company's Fixed telephone Line : _____

Company's Fixed Fax Line : _____

Mobile phone : _____

Street Addresses of the registered offices

Head Office: _____

E-Mail : _____

Branches

1 _____
2 _____
3 _____
4 _____

Postal Address of the Head Office



.....
SIGNATURE OF (ON BEHALF OF) BIDER

.....
NAME IN CAPITALS

In the presence of:

- 1.
- 2.

PART 7 - SCHEDULE E - DECLARATION OF INTEREST (MBD4)

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

3.1. Full Name of Bidder or his or her representative:

3.2. Identity Number:

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

3.4. Company Registration Number:

3.5. Tax Reference Number:

3.6. VAT Registration Number:

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

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

3.8.1. If yes, furnish particulars.

.....

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

(a) a member of –

- (i) any municipal council;
- (ii) any provincial legislature; or
- (iii) the national Assembly or the national Council of provinces;

(b) a member of the board of directors of any municipal entity;

(c) an official of any municipality or municipal entity;

(d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);

(e) a member of the accounting authority of any national or provincial public entity; or

(f) an employee of Parliament or a provincial legislature.

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

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

3.9.1 If yes, furnish particulars.....

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

3.10.1 If yes, furnish particulars.....

.....

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

3.11.1 If yes, furnish particulars

.....

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

3.12.1 If yes, furnish particulars.....

.....

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

3.13.1 If yes, furnish particulars.....

.....

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

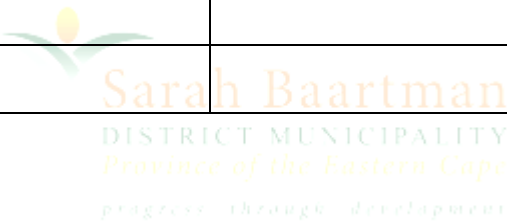
3.14.1 If yes, furnish particulars.....

.....

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

Note: The full details disclosed hereunder must correlate to “ownership information” as per Central Supplier Database (CSD).

Full Name	Identity Number	State Employee Number



.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

In the presence of:

1.

2.

CERTIFICATION OF CORRECTNESS

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



**SCHEDULE F: MBD 5:
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?	*YES / NO
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. _____ _____	
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?	*YES / NO
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?	*YES / NO
3.1 If yes, furnish particulars _____ _____	

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

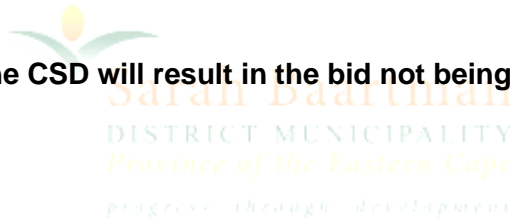
.....
Name of Bidder

PART 8 SCHEDULE G - TAX CLEARANCE REQUIREMENTS

It is a condition of bid that the taxes of the successful bidder must be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the bidder's tax obligations.

1. In order to meet this requirement bidders are required to apply to SARS for a Tax Clearance Certificate at any SARS branch office nationally.
2. SARS will issue a Tax Clearance Certificate that will be valid for a period of 1 (one) year from the date of approval.
3. The Overall Tax Clearance status indicator of the bidder on the CSD must be **TAX COMPLIANT**.
4. In bids where Consortia / Joint Ventures / Sub-contractors are involved, each party must be Tax Compliant on the CSD.
5. Bidders must allow for timeous registration on the CSD and the application and issue of a Tax Clearance Certificate by SARS.
6. Applications for the Tax Clearance Certificates may also be made via eFiling. In order to use this provision, taxpayers will need to register with SARS as eFilers through the website www.sars.gov.za.

A non-compliant tax status on the CSD will result in the bid not being awarded.



SCHEDULE H - DETAILS OF BIDDER'S NEAREST OFFICE

1. Physical address of Bidder:

1 Telephone No of nearest office: _____

3 Time period for which such office has been used by Bidder: _____

.....
SIGNATURE OF (ON BEHALF OF) BIDDER

.....
NAME IN CAPITALS



In the presence of:

1.

2.

SCHEDULE I - FINANCIAL PARTICULARS

This schedule must be completed by the Bidder and submitted together with the Bid. If this requirement is not complied with in full the Bid may be considered invalid

Nature of Service: _____

Name of Bidder: _____

Number: **37/2023**

	<p align="center"><u>FINANCIAL POSITION OF BIDDER</u></p> <p>I/we hereby certify that I/we have the necessary financial capacity and resources to execute the above contract successfully for the Bid amount as indicated in the completed Pricing Schedule</p> <p><u>(SCHEDULE K)</u></p> <p>I / we attach a letter from the financial Institution confirming the availability of financial resources or a letter confirming that I / we have applied for financial assistance and the financial Institution is willing to favorably consider our application.</p> <p>I / we hereby give the SBDM permission to contact the financial institution stated below to verify the information given above.</p>
NAME OF FINANCIAL INSTITUTION	
ADDRESS	
TEL.NO	
FAX NO	
CONTACT PERSON	

.....
SIGNATURE OF (ON BEHALF OF) BIDDER

.....
NAME IN CAPITALS

In the presence of:

1.

2.

SCHEDULE J - LETTER OF CONSENT

The Municipal Manager
Sarah Baartman District Municipality
P.O. Box 318
Gqeberha
6005

Sir/Madam

Granting of authority to request information from any legal entity relevant to this Bid

1. I/we acknowledge that the information herein contained shall constitute the basis on which my/our Bid is to be considered. I/we grant approval that any source regarding this Bid may be fully investigated and that all such information shall be of material SBDM and directly relevant to the consideration of our Bid. I /we SBDM grant my/our consent to such source to provide confidential information.
2. I/we warrant that all the information herein contained is to the best of my/our knowledge and belief true and correct in all material respects and I/we am /are not aware of any information which, should it become known to the SBDM, would affect the consideration of my/our Bid in any way.
3. The SBDM wishes to inform you that all information regarding your personal matters is treated as strictly as confidential.

Please tick the appropriate box.

<input type="checkbox"/>	I/We hereby consent to the above
<input type="checkbox"/>	I/We hereby withhold consent and fully understand the implications and ramifications of my/our decision and will not hold the SBDM responsible for not considering my/our Bid.

Signature:

Date:

Witness:


Signature:

**SCHEDULE K:
DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES (MBD 8)**

- 1 This Municipal Bid Document must form part of all Bid 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 Bid 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	<p>If so, furnish particulars:</p> <div align="center">  <p>Sarah Baartman DISTRICT MUNICIPALITY <i>Province of the Eastern Cape</i></p> </div>		
4.2	<p>Is the Bidder or any of its directors listed on the Register for Bid Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?</p> <p>The Register for Bid 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	<p>If so, furnish particulars:</p>		
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>	<p>Yes</p> <input type="checkbox"/>	<p>No</p> <input type="checkbox"/>
4.3.1	<p>If so, furnish particulars:</p>		

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) **Sarah Baartman**

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

**SCHEDULE L:
CERTIFICATE OF INDEPENDENT BID DETERMINATION (MBD 9)**

1. This Municipal Bid 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 Bid (or Bid rigging).² Collusive Bid 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 Bid 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 Bid) 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 Bid 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 NO. 37/2023: PROVISION OF LICENSING, MAINTENANCE SUPPORT OF MIMECAST CLOUD EMAIL SECURITY AND TARGET THREAT PROTECTION (OR EQUIVALENT)

in response to the invitation for the Bid made by **SARAH BAARTMAN DISTRICT MUNICIPALITY**

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

I certify, on behalf of:that:

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 Bid.
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) Bid 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

SCHEDULE M
CONTRACT FORM - RENDERING OF SERVICES (MBD 7.2)

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

PART 1 (TO BE FILLED IN BY THE SERVICE PROVIDER)

1. I hereby undertake to render services described in the attached Bid documents to (name of the institution)..... in accordance with the requirements and task directives / proposals specifications stipulated in Bid Number..... at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the Purchaser during the validity period indicated and calculated from the closing date of the Bid.
2. The following documents shall be deemed to form and be read and construed as part of this agreement:
 - (i) Bid documents, viz
 - Invitation to Bid
 - Tax clearance certificate
 - Pricing schedule(s)
 - Filled in task directive/proposal
 - Preference claims in terms of the Preferential Procurement Regulations 2017
 - Declaration of interest
 - Special Conditions of Contract;
 - (ii) General Conditions of Contract; and
 - (iii) Other (specify)
3. I confirm that I have satisfied myself as to the correctness and validity of my Bid; that the price(s) and rate(s) quoted cover all the services specified in the Bid documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfilment of this contract.
5. I declare that I have no participation in any collusive practices with any Bidder or any other person regarding this or any other Bid.
6. I confirm that I am duly authorised to sign this contract.

NAME (PRINT)
CAPACITY
SIGNATURE
NAME OF FIRM
DATE

WITNESSES

1

2

DATE:.....




BID 7.2

CONTRACT FORM - RENDERING OF SERVICES

PART 2 (TO BE FILLED IN BY THE PURCHASER)

1. I..... in my capacity
as.....
accept your Bid under reference numberdated.....for the rendering of
services indicated hereunder and/or further specified in the annexure(s).
2. An official order indicating service delivery instructions is forthcoming.
3. I undertake to make payment for the services rendered in accordance with the terms and conditions of
the contract, within 30 (thirty) days after receipt of an invoice.

DESCRIPTION OF SERVICE	PRICE (VAT INCL)	COMPLETION DATE	BBBEE POINTS CLAIMED
 Sarah Baartman DISTRICT MUNICIPALITY Province of the Eastern Cape progress through development			

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

SIGNED AT ON

NAME (PRINT)

SIGNATURE

OFFICIAL STAMP

WITNESSES

3

4

DATE:.....

SCHEDULE N - FORM OF BID AND DECLARATION

BID NO. 37/2023: PROVISION OF LICENSING, MAINTENANCE SUPPORT OF MIMECAST CLOUD
EMAIL SECURITY AND THREAT PROTECTION (OR EQUIVALENT)

DECLARATION:

To: The Municipal Manager

Sarah Baartman District Municipality

Sir/Madam,

I/We, the undersigned:

- a) Bid to supply and delivery to the Sarah Baartman District Municipality all of the services described both in this and the other forms and schedules to this Bid.
- b) Agree that we will be bound by the specifications, prices, terms, conditions and proposals stipulated in the schedules attached to this Bid document, regarding delivery and execution.
- c) Further agree to be bound by the conditions, set out in Bid document, should this Bid be accepted.
- d) Confirm that this Bid may only be accepted by the **Sarah Baartman District Municipality** by way of a duly authorized Letter of Acceptance.
- e) Declare that we are fully acquainted with the schedules and the contents thereof and that we have signed the schedules, attached hereto.
- f) Declare that, each page of the Bid document and amendments thereto will be initialled by the relevant authorized person in order for the document to constitute a proper contract between the **Sarah Baartman District Municipality** and the undersigned, on acceptance of the Bid by the **Sarah Baartman District Municipality**.

Signed at on this day of20....

Signature of Bidder.....:

Name of Bidder:

Domicilium address:

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

As witnesses:

1. Signature.....Name in Full.....
I.D. No.....

2. Signature.....Name in full.....
I.D. No.....

Where the Bidder is a Company, Corporation or Firm a duly authorised resolution must accompany the Bid.

PLEASE NOTE:

- Each page of the Bid document and schedules thereto must be initialled by the relevant authorised person in order for the document to constitute a proper contract between the municipality and the Bidder.
- On acceptance of the Bid by the municipality, the forms and schedules attached hereto shall be deemed to be the Conditions of Contract between the parties.

**SCHEDULE O – OTHER REQUIRED INFORMATION
(COMPULSORY TO COMPLETE)**

Failure by bidders to be registered by the following or failure to submit certified copies thereof will result in the disqualification of the bid.

Has the Mimecast (or equivalent) partnership reseller certificate been submitted? **(YES/NO)**
(If yes, failure to submit proof of the certification will result in disqualification)

THE FOLLOWING INFORMATION MUST BE COMPLETED TO FACILITATE THE EVALUATION OF FUNCTIONALITY.

1. Provide details where Mimecast cloud email security (or equivalent) and licensing have been provided in South Africa during the last 5 years:

Client's Name	Contact Name	Contact Number	Contract Period (Start and End dates)

Should additional space be required please complete and attach with proper page referencing.

2. Key Personnel

Provide details of the members of the project team providing Mimecast cloud email security (or equivalent) and licensing:

Position	Name	No of years' experience	Qualification
Project Manager			

Should additional space be required please complete and attach with proper page referencing. CV's and certified copies of qualification must be submitted.



SCHEDULE P - 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



**THE NATIONAL TREASURY - GOVERNMENT PROCUREMENT
GENERAL CONDITIONS OF CONTRACT**

The purpose of this document is to:

- a) Draw special attention to certain general conditions applicable to government bids, contracts and orders; and
 - b) To ensure that clients be familiar with regard to the rights and obligations of all parties involved in doing business with government.
 - c) The General Conditions of Contract will form part of all bid documents and may be amended.
 - d) Special Conditions of Contract (SCC) relevant to a specific bid should be compiled separately for every bid and will supplement the General Conditions of Contract.
- Wherever there is a conflict, the provisions in the SCC will prevail

1. DEFINITIONS

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 anything 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 goods 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 to, acts of the purchaser in its sovereign capacity, wars or evolutions, 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.
- 1.16 **“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 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.
- 1.17 **“Local content”** means that portion of the Bid 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 Bid 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.
- 7.1 **“Services”** means those functional services ancillaries 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 **“Supplier”** means the successful Bidder who is awarded the contract to maintain and administer the required and specified service(s) to the State.
- 1.26 **“Tort”** means in breach of contract.
- 1.27 **“Turnkey”** means a procurement process where one service provider assumes total responsibility for all aspects of the project and delivers the full end product / service required by the contract.
- 1.28 **“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 Bid 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 Bid documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a Bid. Where applicable a non-refundable fee for documents may be charged.
- 3.2 Invitations to Bid are usually published in locally distributed news media and on the municipality/municipal entity website.

4. STANDARDS

- 4.1 The goods supplied shall conform to the standards mentioned in the Bid 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 as 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 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 Bid 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 Bid 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 analysed 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.

1. TRANSPORTATION

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

2. INCIDENTAL SERVICES

- 2.1 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 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.
- 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 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.

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 subcontracts awarded under this contract 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 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 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 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:
- (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 Bid 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. ANTIDUMPING 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 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 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 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 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.

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 **restrictive practices** 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 Bid.
- 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.

Revised July 2010

SCHEDULE Q - BID CHECK LIST

SBDM Individual bid documents will have the typical bid check list as an attachment. This list is to assist all bidders to submit complete bids.

Bidders are to check the following points before the submission of their bid:

Tick

- | | |
|---|--------------------------|
| 1. All pages of the bid document have been read and initialed by the bidder. | <input type="checkbox"/> |
| 2. All pages requiring information have been completed in black ink. | <input type="checkbox"/> |
| 3. The Pricing Schedule has been checked for arithmetic correctness. | <input type="checkbox"/> |
| 4. All sections requiring information have been completed. | <input type="checkbox"/> |
| 5. The bidder has submitted the following documentation, e.g. | |
| - Full CSD Supplier Report | <input type="checkbox"/> |
| - Valid Municipal Billing Clearance Certificate / most recent municipal statement, lease agreement if premises are leased. (only if lessee is not responsible for municipal services) | <input type="checkbox"/> |
| - B-BBEE Certificate or Sworn Affidavit (original or certified copy) | <input type="checkbox"/> |
| - Proof of address of office dealing with the project (i.e. lease agreement/municipal account in name of bidder) | <input type="checkbox"/> |
| - CIDB Certificate (if applicable) | <input type="checkbox"/> |
| - Bids with a value of more than R10 million (VAT Incl.) are required to submit the financial statements for the past three years or since establishment, if established during the past three years. | <input type="checkbox"/> |