



RAND WEST CITY
LOCAL MUNICIPALITY

RAND WEST CITY LOCAL MUNICIPALITY

RWCLM-4/007/2022/2023

TENDER DOCUMENT

**APPOINTMENT OF A PANEL OF LEGAL PRACTITIONERS TO PROVIDE THE
RAND WEST CITY LOCAL MUNICIPALITY WITH PROFESSIONAL LEGAL
SERVICES ON AN AS AND WHEN REQUIRED BASIS FROM DATE OF
APPOINTMENT FOR A PERIOD OF 36 MONTHS.**

Name of Tenderer : _____
Address : _____

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

ISSUED BY;

THE MUNICIPAL MANAGER

Rand West City Local

Municipality

P O Box 218

Randfontein

1760

Tel: 011 411 0051

Fax: 011 693 3865

Special conditions of contract and required documentation

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

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

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

BIDDERS SHOULD ALSO TAKE NOTE OF THE FOLLOWING BID CONDITIONS:

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

Failure to comply with these conditions may invalidate your offer.

Acknowledgement

Signature

Date



PART A INVITATION TO BID

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

BID NUMBER:	RWCLM-4/007/2022/2023	CLOSING DATE:	05 JULY 2023	CLOSING TIME:	11:00
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DESCRIPTION	APPOINTMENT OF A PANEL OF LEGAL PRACTITIONERS TO PROVIDE THE RAND WEST CITY LOCAL MUNICIPALITY WITH PROFESSIONAL LEGAL SERVICES ON AN AS AND WHEN REQUIRED BASIS FROM DATE OF APPOINTMENT FOR A PERIOD OF 36 MONTHS
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THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (MBD7).

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

CNR Fedler and Second Street

Randfontein

1760

SUPPLIER INFORMATION

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

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

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER PART B:3]
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TOTAL NUMBER OF ITEMS OFFERED		Pricing	
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SIGNATURE OF BIDDER	DATE
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CAPACITY UNDER WHICH THIS BID IS SIGNED	
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BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:

DEPARTMENT	SCM	TECHNICAL INFORMATION MAY BE DIRECTED TO:	
CONTACT PERSON	Cecilia Mofokeng	CONTACT PERSON	Loshnee Pakkiri
TELEPHONE NUMBER	010 496 5628	TELEPHONE NUMBER	011 411 0000
FACSIMILE NUMBER		FACSIMILE NUMBER	
E-MAIL ADDRESS	Cecilia.Mofokeng@randwestcity.gov.za	E-MAIL ADDRESS	Loshnee.Pakkiri@randwestcity.gov.za

PART B TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:	
1.1.	BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2.	ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED-(NOT TO BE RE-TYPED) OR ONLINE
1.3.	THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
2. TAX COMPLIANCE REQUIREMENTS	
2.1	BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2.2	BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.
2.3	APPLICATION FOR THE TAX COMPLIANCE STATUS (TCS) CERTIFICATE OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA .
2.4	FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART B:3.
2.5	BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
2.6	IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
2.7	WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS	
3.1.	IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? <input type="checkbox"/> YES <input type="checkbox"/> NO
3.2.	DOES THE ENTITY HAVE A BRANCH IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO
3.3.	DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO
3.4.	DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO
3.5.	IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? <input type="checkbox"/> YES <input type="checkbox"/> NO
IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE.	

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

SIGNATURE OF BIDDER:

CAPACITY UNDER WHICH THIS BID IS SIGNED:

DATE:

SPECIFICATIONS FOR THE APPOINTMENT OF A PANEL OF LEGAL PRACTITIONERS TO PROVIDE THE RAND WEST CITY LOCAL MUNICIPALITY WITH PROFESSIONAL LEGAL SERVICES ON AN AS AND WHEN REQUIRED BASIS FROM DATE OF APPOINTMENT FOR A PERIOD OF 36 MONTHS.

1. PURPOSE

To appoint a panel of Legal Practitioners to represent the Municipality in various fields of law as and when required for a period of 36 months.

2. SCOPE

- 2.1 The Rand West City Local Municipality (RWCLM) requires the services of appropriately qualified legal practitioners to render such legal services as may be required. Rand West City Local Municipality will appoint a panel of Legal Practitioners for a period of 36 months perform specific legal services for RWCLM on an as and when required basis.
- 2.2 It is the objective of this to identify legal practitioners that can render legal services over a broad spectrum of the fields of law as well as specific types of legal services, whose services can be utilised for such areas of legal services as they must be duly qualified for and have adequate experience in. Where a Bidder specializes in a specific field of law, it must be indicated as such on the form as set out hereafter.
- 2.3 In order to avoid any possible conflict of interest, prospective service providers who are appointed will be required not to accept any instructions from any party against the RWCLM irrespective of the nature thereof.
- 2.4 The RWCLM therefore reserves the right in its sole discretion to appoint any number of legal practitioners/ law firms to serve on its legal panel as it may deem fit.
- 2.5 RWCLM may from time to time require specialised legal expertise and therefore reserves the right to, in deserving cases, appoint legal practitioners outside the appointed panel of legal practitioners when the expertise and experience in a specific field of law or for any other reason in its sole discretion requires it and is deemed to be in the best interest of RWCLM.

3. TYPE OF SERVICES REQUIRED

The following services required as set out hereafter do not constitute and is not exhaustive to every type of service that may be required from the appointed legal panel:

The Bidder may bid for one or all of the legal fields set out hereunder.

3.1 CONVEYANCING AND NOTARIAL AND OTHER PROPERTY RELATED SERVICES

3.1.1 CONVEYANCING

3.1.1.1 Transfer of properties alienated / acquired by Council including but not limited to housing transfers;

3.1.1.2 Registration, acquisition, and cancellation of servitudes;

3.1.1.3 Opening of township register, and all processes related thereto;

3.1.1.4 Cancellation / registration of mortgage bonds;

3.1.1.5 Drafting of Powers of Legal practitioners;

3.1.1.6 Excision of holdings;

3.1.1.7 Conversion from leasehold to freehold;

3.1.1.8 All other conveyancing work not listed above.

3.1.2 NOTARIAL PRACTICE:

3.1.2.1 Registration and cancellation of notarial tie agreements, notarial deed servitudes and notarial leases, and

3.1.2.2 All other notarial work not listed / covered above.

3.1.3 EXPROPRIATIONS

3.1.3.4 Expropriation of property on behalf of RWCLM in terms of applicable legislation.

3.1.4 VALUATIONS, RATES AND TAXES

3.1.4.1 The Bidder should have a proper understanding of the Local Authority Rating Ordinance, 1977 as well as the Local Government: Municipal Property Rates Act, 2004. The Bidder should understand the basis for the valuation of land and rights in land, the basis for the levying of rates and where applicable, the rebates allowable and the requirements relating to the (municipal) value.

3.1.4.2 The Bidder should also be familiar with the review and appeal processes allowed for in the legislation. Bidders must be able to represent the RWCLM at the valuation Board as well as the Appeal Board where necessary. The prescription periods and other legislation with regard to the recovery of rates are also important.

3.1.4.3 The legality of other rates, taxes and surcharges imposed by the RWCLM needs to be addressed.

3.1.5 MINING AND MINERAL LAWS

3.1.5.1 The Bidder should have a proper understanding of mining and mineral laws in general, and also legislation of particular importance to the RWCLM, not only limited to developmental aspects, but also the general obligations of the local authority, in particular as a municipal service provider and the custodian of municipal infrastructure and the protection of such services and infrastructure against mining operations.

3.1.5.2 The Bidder should be able to advise RWCLM on the obligations and minimum standards to be complied with by the RWCLM in the various respects, and the obligations of any of its service providers in this regard. The RWCLM also needs to be advised on the actions to be taken and all litigation relating to mining aspects.

3.1.6 PERFORMANCE STANDARD:

3.1.6.1 Please note that this performance standard as set out below relates to Conveyancing; Notarial Practice; Expropriations; Valuations, rates, and taxes; Mining and Mineral Laws.

3.1.6.2 Performance assessment to be based on the nature of the transaction, i.e., transfer of straightforward transaction i.e., "Residential 1" even within at least a period of three (3) months from date of receipt of instructions to transfer unless there are impediments beyond their control in which case they must, clearly, indicate having played their part.

3.1.6.3 Other cases, exceptional circumstances where RWCLM's original Title Deed cannot be found, consolidation and / or subdivision diagrams are required etc. the applicable timeframes for finalization of matters be five (5) months from the date of receipt of instructions.

3.1.6.4 The Bidder shall verify the correctness of the exercise of expropriation powers within empowering legislation in every specific instance.

3.1.6.5 Deeds Office and Companies and Intellectual Property Commission (CIPC) searches, where applicable must be done in every instance.

3.1.6.6 The Bidder shall advise the RWCLM what the outstanding documents and information is that it requires before expropriation notices can be drafted.

3.1.7 REPORTING PROCESS:

3.1.7.1 Please note that this reporting process as set out below relates to Conveyancing; Notarial Practice; Expropriations; Valuations, Rates and Taxes; Mining and Mineral Laws.

3.1.7.2 Instructions received to be acknowledged in writing within 3 working days which must include a clear indication of ability to promptly carry out the instructions.

3.1.7.3 To be done on an ad hoc basis, i.e., as, and when particular processes have been undertaken and completed and until finalization of the transaction.

3.1.7.3.1 E.g., transfer documentations finalized and forwarded to the seller for signature and the purchaser having come to sign the relevant documents.

3.1.7.3.2 Clearance figures requested and received etc.

- 3.1.7.4 Failure to acknowledge receipt of instructions despite clear proof of same having been received and persistent non-reporting of progress when same is duly requested, will constitute sufficient basis to withdraw the instructions after following due process.
- 3.1.7.5 Settlement of fees prior to lodging of the transfer documents by the purchaser and any lack of co-operation by the purchaser be reported to be RWCLM to enable the latter to intervene.
- 3.1.7.6 All arrangements regarding payments i.e., purchase price and interest thereon must be attended to by the conveyancer.

3.2 COMMERCIAL CONTRACTS

- 3.2.1 The RWCLM has a multi-disciplinary administration that deals with the rendering of services and the core functions of the RWCLM. In order to execute these functions, it becomes necessary for the RWCLM to enter into commercial contracts with other parties. These contracts would arise out of the various disciplines dealt with by the departments of the RWCLM.
- 3.2.2 The Bidder is required to draw or examine commercial contracts on behalf of the RWCLM.
- 3.2.3 The Bidder may be required to negotiate on contract terms.

3.3 PERFORMANCE REQUIREMENT

- 3.3.1 All such work must be executed by the Bidder on its own, and only under very exceptional circumstances will the Bidder be allowed to instruct Counsel. In this respect the Bidder will be required to advise the RWCLM timeously and must submit a written motivation for the appointment of Counsel. The RWCLM may for particular reasons instruct the Bidder to appoint a specific Counsel.
- 3.3.2 The Bidder must communicate timeously with the Manager/Legal Advisor who issues the instructions, should the Bidder require any technical information to execute its instructions.
- 3.3.3 All instructions to the Bidder will be issued from or will be endorsed by the Corporate Support Services Department.
- 3.3.4 The Bidder must acknowledge receipt of instructions within 3 (three) days of receiving same.

3.4 CIVIL AND CRIMINAL LITIGATION

3.4.1 GENERAL

- 3.4.1.1 Legal practitioners appointed for civil litigation, will be utilized for matters in accordance with their field of expertise as indicated and confirmed by the references.
- 3.4.1.2 The RWCLM will be entitled to insist that a duly qualified and admitted Legal practitioner attends to the matters of the RWCLM, where it appears that a Candidate Attorney is not able to properly assist and advise the RWCLM.

3.5 MAGISTRATES' COURTS AND SUPERIOR COURTS LITIGATION:

- 3.5.1 Comprehensive instructions will be issued by RWCLM in writing and will be delivered by hand or forwarded through e-mail. Instructions will be accompanied by background information, applicable documentation, and references for consultations.
- 3.5.2 Instructions have to be acknowledged in writing within 3 working days from date receipt. Should the information accompanying the instruction be insufficient or should further information and or a consultation be required, same will be requested in writing within 3 working days. All instructions required from the RWCLM in the course of a matter, will be requested in writing and also be issued in writing. The Bidder should take cognizance of the fact that certain instructions may only be authorized by the Council or a committee thereof, and the time required in this regard needs to be taken into account.
- 3.5.3 Should the Bidder be of the opinion that there is no or limited prospect of success, the RWCLM must be informed of such an opinion in writing prior to any further steps being taken in the matter. Should the Bidder be of the opinion that the matter can be resolved in any other manner, the RWCLM must be informed in writing of such alternatives prior to any further steps being taken.
- 3.5.4 All Magistrates' Court matters must be attended to by the Legal practitioners, including the drafting of papers and counsel may not be briefed without the prior written consent of the RWCLM. The appointment of Counsel will only be allowed in exceptional cases, based on a properly motivated written request from the Legal practitioners.
- 3.5.5 The Bidder shall at all times comply with the provisions of the Magistrates' Court Act, 1944 and the rules of court issued in terms thereof as well as the legislation applicable in each specific matter.
- 3.5.6 All matters shall be brought to their final conclusion, including the recovery of all capital and interest owing, where applicable, as well as the recovery of all costs orders made by the court, including execution steps as well as any other relevant steps.
- 3.5.7 All consultations, discussions and requests for information will be arranged through the legal advisor assigned to the matter, and officials and other departments will not be contacted directly. The RWCLM must be informed of trial dates within seven days from date of having been informed of such date, in order to ensure that all relevant witnesses, in the employ of the RWCLM, are available for purposes of trial.
- 3.5.8 The Bidder will arrange for the delivery and collection of all documents to be signed by the Municipal Manager, through the legal advisor assigned to the matter.
- 3.5.9 Junior Counsel shall attend to High Court matters and such appointments must be made in consultation with the RWCLM. Should the Bidder be of the opinion that Senior Counsel should be briefed, it may only be done with the prior written consent of the RWCLM. No such consent will be granted unless a duly motivated, written request has been received from the Bidder. The RWCLM reserves the right to request that specific Junior or Senior Counsel be appointed in certain matters.
- 3.5.10 The Bidder shall at all times comply with the provisions of the Superior Courts Act 10 of 2013 and the rules of court issued in terms thereof, as well as the legislation applicable in each specific matter.

3.6 ARBITRATION:

- 3.6.1 Comprehensive instructions will be issued by RWCLM in writing and will be delivered by hand or forwarded through e-mail. Instructions will be accompanied by background information, applicable documentation, and references for consultations.
- 3.6.2 Instructions have to be acknowledged in writing within 3 days from receipt. Should the information accompanying the instruction be insufficient or should further information and or a consultation be required, same will be requested in writing within 7 days.
- 3.6.3 All instructions required from the RWCLM in the course of a matter, will be requested in writing and also be issued in writing. The Bidder should take cognizance of the fact that certain instructions may only be authorized by the Council or a committee thereof, and the time required in this regard needs to be taken into account.
- 3.6.4 Should the Bidder be of the opinion that there are no prospects of success, the RWCLM must be informed of such an opinion prior to any further steps being taken in the matter. Should the bidder be of the opinion that the matter can be resolved in any other manner, the RWCLM must be informed in writing of such alternatives prior to any further steps being taken.
- 3.6.6 Should the nature of the dispute require a specialized legal opinion before embarking on arbitration proceedings, the Bidder should advise the RWCLM accordingly.
- 3.6.7 Advise the RWCLM on preferred action or alternative course of action, e.g., civil litigation or arbitration.
- 3.6.8 Advise the RWCLM with regard to the appointment of an Arbitrator or in the event of arbitration proceedings being initiated by the other contracting party, advise RWCLM with regard to conceding to the Arbitrator proposed by claimant or suggest alternatives.
- 3.6.9 Negotiate settlement of the dispute with the defending party/claimant in consultation with the RWCLM and advise the RWCLM on preferred course of action prior to commencement of arbitration proceedings.
- 3.6.10 Advise and recommend to RWCLM on actions to be taken to prevent future recurrence of the circumstances that gave rise to the dispute.
- 3.6.11 All such work must be executed by the Bidder on its own, and only under very exceptional circumstances will the Bidder be allowed to instruct Counsel. In this respect the Bidder will be required to advise the RWCLM timeously and must submit a written motivation for the appointment of Counsel. The RWCLM may for particular reasons instruct the Bidder to appoint a specific Counsel.

3.7 URGENT MATTERS:

- 3.7.1 Urgent matters should be attended to as a priority and may, depending on the circumstances, require special rules. Depending on the forum in which the urgent proceedings are instituted, the general rules for conducting matters in the High Court, Magistrates' Court and Labour Court/CCMA/Bargaining Council will apply. Instructions will be issued by RWCLM in writing and will be delivered by hand or emailed, after

telephonic arrangements have been made with the Bidder, and will be as complete as possible under the circumstances.

- 3.7.2 The Legal Advisor/ Delegated official of the municipality assigned to the matter will be specified in the instruction in order to allow for easy communication in the circumstances. The Bidder shall use his best endeavours to resolve the situation prior to any matter being heard urgently.
- 3.7.3 Instructions have to be acknowledged in writing within 2 hours from receipt thereof, to the extent that it is practical within the circumstances. Where required, verbal instructions will be provided, but same will be confirmed in writing as soon as possible. Advocates will be appointed with the consent and in consultation with the RWCLM and based on the availability of suitable Counsel under the circumstances.
- 3.7.4 Should the Bidder be of the opinion that there is no or limited prospect of success, the RWCLM must be informed of such an opinion prior to any further steps being taken in the matter. Should the Bidder be of the opinion that the matter can be resolved in any other manner, the RWCLM must be informed in writing of such alternatives prior to any further steps being taken. As a rule, opposing papers should be prepared, and verbal evidence should only be led in extremely urgent matters.
- 3.7.5 All matters shall be brought to their final conclusion, including the recovery of all capital and interest owing, where applicable, as well as the recovery of all costs orders made by the court, including execution steps as well as any other relevant steps.
- 3.7.6 All consultations, discussions and requests for information will be arranged through the Legal Advisor/ Delegated official of the municipality assigned to the matter. Any other Official or department will not be contacted directly.
- 3.7.7 Bidders will arrange for the delivery and collection of all documents to be signed by the Municipal Manager through the Legal advisor / Delegated official of the municipality assigned to the matter.

3.8 FIELDS OF EXPERTISE:

- 3.8.1 The RWCLM is aware of the fact that, given its particular circumstances, there may be a combination of fields in a specific matter, it requires experts in the following fields of expertise with a certain minimum required level of experience. The specified areas are as follows:

3.8.2 Intellectual Property

- 3.8.2.1 To identify the inherent intellectual property of the RWCLM and to advise on the protection thereof and remedies where it has been infringed upon, either by employees or third parties. To also address the unlawful and/or unauthorized use of the coat of arms, crest, and other symbols of the RWCLM, or to address alleged infringements on the intellectual property of others.
- 3.8.2.2 To attend to any other litigation relating to intellectual and confidential property, regardless whether the claims are delictual or contractual in nature.

3.8.3 Information Technology

- 3.8.3.1 To clarify the rights of the RWCLM and that of service providers with regard to both hardware and software acquired by the RWCLM in order to protect the interest of the RWCLM, and to advise the RWCLM on the correct use of computer evidence in litigation.

3.8.4 Access to Information and Administrative Justice

- 3.8.4.1 The Bidder should have a proper understanding of the Promotion of Administrative Justice Act, 2000, as well as the regulations issued in terms thereof. Precedents should be applied in a specific instance in order to comment on the administrative fairness or legality of RWCLM actions and decisions. The Bidder also needs to have a good understanding of the internal processes of the RWCLM, as well as the political and administrative structure of the RWCLM.
- 3.8.4.2 The possibility of resolving the issue without litigation should be considered, and where possible, interaction with the legal practitioners of the applicant is required.
- 3.8.4.3 The Bidder is required to consider the effect that the provision of the information would have on the RWCLM, and also advise on possible further actions that may, in his opinion, result once the information has been provided.
- 3.8.4.4 The appeal process as prescribed in the Local Government: Municipal Systems Act, 2000 should be understood, as well as all other internal remedies provided for in the various pieces of legislation relating to local government, in order to determine whether a specific process follow in applicable under the circumstances.
- 3.8.4.5 The Bidder should be able to distinguish between an appeal and review process to determine the appropriate action to be taken in any given circumstances.

3.8.5 Environmental Law

- 3.8.5.1 The Bidder should have a proper understanding of environmental law in general, and also legislation of particular importance to the RWCLM, not only limited to town-planning and developmental aspects, but also the general obligations of the local authority, in particular as water service provider and the custodian of waste disposal sites. The Bidder should be able to address noise pollution.
- 3.8.5.2 The Bidder should be able to advise to RWCLM on the obligations and minimum standards to be complied with by the RWCLM in the various respects, and the obligations of any of its service providers in this regard. The RWCLM also needs to be advised on the actions to be taken by transgressors and all litigation relating to environmental aspects.
- 3.8.5.3 The Bidder should also align all actions with the Legislative Framework as well as other policies of the RWCLM in this regard Where necessary, interaction with Provincial and National government has to be attended to.

3.8.6 Evictions

- 3.8.6.1 The Bidder should have a proper understanding of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 1998, and the Extension of Security of Tenure act 62 of 1997 and also be familiar with the precedents in this regard, focusing on both the rights of the unlawful occupiers as well of the RWCLM. In this regard, the provisions of the Bill of Rights, the Housing Act, 1997 as well as the Gauteng Housing Act, 1998 should be taken into account, as well as the Housing Code.
- 3.8.6.2 Where relief sought against the RWCLM, the Bidder should consider whether the correct legal process was followed, whether the applicant is entitled to the relief sought and also whether the RWCLM is obliged to provide the relief sought.
- 3.8.6.3 In the event of applications brought by the RWCLM, the Bidder needs to be able to determine whether the information available will satisfy the court, whether the grounds for eviction is justifiable and whether all requirements have been met, in terms of both the PIE act or ESTA as well as the Housing Code. Where required, the Bidder has to make the necessary arrangements with the Sheriff for the service of the application as well as the order, and if required, obtain an order for substituted service. The order should also be phrased in such a manner that it will cover all the requirements for the actual removal process.
- 3.8.6.4 The Bidder needs to co-ordinate with the sheriff and the RWCLM as well as its contractor, to ensure that all arrangements are in place for the actual eviction. The Bidder ensure that proper returns of service are obtained subsequent to the eviction.

3.8.7 Town Planning

- 3.8.7.1 Attendance to Town Planning matters on behalf of the RWCLM in terms of applicable legislation as and when necessary.
- 3.8.7.2 Institute legal action in the High Court in respect of contraventions of the Town Planning Scheme.
- 3.8.7.3 Upon receipt of instructions, accompanied by background and supporting information, e.g., notices, town planning scheme, inspection reports, etc., the Bidder to: -
- 3.8.7.3.1 Do Companies and Intellectual Property Commission Company (CIPC)/Deeds search if necessary.
- 3.8.7.3.2 Carry out inspection in loco, if necessary.
- 3.8.7.3.3 Deliver final notice to property owner and/or offender.
- 3.8.7.3.4 Correspond with property owner/offender, including negotiating with a view to ceasing/re- locating activities to suitable premises and drafting of settlement agreement to be made Order of Court.
- 3.8.7.4 In the event of the matter not being solved as aforesaid, reserve the services of Counsel in consultation with the RWCLM.
- 3.8.7.5 Draft and serve papers on defending party within 30 days from the date of the Bidder's notice to the offender.
- 3.8.7.6 Finalize the application and recover costs from defending party in accordance with order granted by Court.

3.8.8 Representing the RWCLM at hearings of the Development Tribunal, or Appeals Tribunal.

3.8.8.1 Instructions will be accompanied by the relevant application, comments, reports, and objections where applicable.

3.8.8.2 Bidder to study documentation and determine necessity for consultation or supplementary documentation timely in preparation of the hearing.

3.8.8.3 Prepare Heads of Argument/Motivation.

3.8.8.4 Advise RWCLM of legal requirements to be complied with or administrative actions to be finalized prior to the hearing.

3.8.8.5 In the event of defective process followed, advise the RWCLM on corrective steps to be taken.

3.8.8.6 Advise RWCLM on further actions to be taken in finalizing the matter.

3.9.9 Prosecution of Contravention of National Building Regulations and Building Standards Act, 1977, And Municipal By Laws.

3.9.9.1 Institute legal action in the Regional Magistrate's Court in respect of the contravention of the National Building Regulations and Building Standards Act, 1977.

3.9.9.2 Instructions to prosecute will be accompanied by notices sent to offender, affidavits by inspector, inspection reports and other relevant supporting information.

3.9.9.3 Bidder to study instruction and notices sent in terms of the Act and in the event of poor prospects advise the RWCLM of alternative or corrective steps to be taken.

3.9.9.4 Company/Deeds search to be performed by legal practitioners if necessary.

3.9.9.5 Final notice to be sent to offender by Bidder.

3.9.9.6 The case should be handed to the Prosecutor at the Magistrate's/Municipal Court within 90 days from the date of receipt of the instruction to initiate criminal proceedings.

3.9.10 Supply Chain Management and Contracts

3.9.10.1 Advise and represent the RWCLM in respect of litigation relating to Supply Chain Management and contracts.

3.9.10.2 In the event of intended legal action by the RWCLM, the Bidder to: -

3.9.10.2.1 Study the instruction, bid/contract documentation, policy, delegated authority, and applicable legislation forming framework for the bid/contract.

3.9.10.2.2 Advise the RWCLM on preferred action for relief, e.g., in terms of arbitration as provided for or civil litigation.

- 3.9.10.2.3 Advise the RWCLM on prospects of success in litigating or instituting arbitration proceedings.
- 3.9.10.2.4 Advise the RWCLM on alternative course of action to obtain the required relief.
- 3.9.10.2.5 Advise the RWCLM on appropriate relief in the event of the relief sought by the RWCLM not being attainable/appropriate.
- 3.9.10.2.6 Advise the RWCLM on joinder of parties as defendant/applicant in the claim.
- 3.9.10.2.7 Negotiate with contracting parties with a view to possible settlement arrangements after having received a mandate from the RWCLM to do so.
- 3.9.10.2.8 Reserve services of Counsel in consultation with the RWCLM and draft papers to commence action.
- 3.9.10.2.9 Finalize the claim/action commenced with.
- 3.9.10.2.10 Advise the RWCLM on contractual measures to be taken to prevent recurrence of the situation that gave rise to the claim/application.
- 3.9.10.3 In the event of claims/legal action brought against the RWCLM by contracting party(ies) the Bidder to: -
 - 3.9.10.3.1 Study the instruction, claim/application received, bid/contract documentation, policy, delegated authority, and applicable legislation forming framework for the bid/contract and consult with responsible staff members and other parties if necessary.
 - 3.9.10.3.2 Negotiate with claimant/applicant to resolve the situation and in consultation with the RWCLM.
 - 3.9.10.3.3 Advise the RWCLM on prospects of success should the case be defended.
 - 3.9.10.3.4 Advise the RWCLM on joinder of other parties as defendants in the claim.
 - 3.9.10.3.5 Reserve services of Counsel in consultation with the RWCLM and draft papers in reply/seeking further particulars.
 - 3.9.10.3.6 Finalize the claim/action commenced with.
 - 3.9.10.3.7 Advise the RWCLM on contractual measures to be taken to prevent recurrence of the situation that gave rise to the claim/application.
- 3.9.10.4 Performance standards:
 - 3.9.10.4.1 Please note that this performance standard as set out below relates to all categories of Civil and Criminal Litigation.
 - 3.9.10.4.2 Instructions must be acknowledged within 3 days from receipt thereof; urgent instructions must be acknowledged within 2 hours from receipt thereof.
 - 3.9.10.4.3 Appoint Counsel in Consultation with the RWCLM. The appointment of Senior Counsel must be motivated by the Bidder. The RWCLM reserves the right to request the Bidder to appoint a specific Counsel.
 - 3.9.10.4.4 The Bidder shall inform the RWCLM immediately should the prospects of success be poor.

3.9.10.4.5 To advise the RWCLM on settlement and attend to settlement negotiations timeously and with a view to curtailing costs.

3.9.10.5 Reporting process:

3.9.10.5.1 Please note that this reporting process as set out below relates to all categories of Civil and Criminal Litigation.

3.9.10.5.2 Any progress must be reported immediately and, in any event, not later than 2 days after the event with advice on the proposed course of action; and

3.9.10.5.3 If a response does not take place on the expected or required date, a report with advice on the proposed course of action must be submitted.

3.9.10.5.4 The dates in (1) and (2) above may only be deviated from in extremely complex matters where research is required, in which event the RWCLM must be informed of the delay and reason for it.

3.9.11 Labour

3.9.11.1 All Labour related matters, including but not limited to:

3.9.11.1.1 Appointments as presiding and prosecutors in disciplinary enquiries and disciplinary appeals.

3.9.11.1.2 Opinions and advice on processes.

3.9.11.1.3 Representing RWCLM in conciliations and arbitrations both in the CCMA and Bargaining Council.

3.9.11.1.4 representing RWCLM in the Labour Court and Labour Appeal Court in applications such as reviews and interlocutory applications, interdicts as well as opposing such applications or in trials; and

3.9.11.1.5 handling of strikes.

3.9.11.2 Performance Standard:

3.9.11.2.1 All time frames in terms of the applicable legislation, collective agreements and other conditions of service must strictly be observed;

3.9.11.2.2 If the Bidder is of the view that there are no prospects of success, RWCLM must be informed before any further steps are taken;

3.9.11.2.3 Mandates must be obtained before proceeding with any action;

3.9.11.2.4 The possibility of settlement must be explored in every matter;

3.9.11.2.5 No settlement may be entered into without the written authority of the authorized official in RWCLM. In this regard it is expected of the Bidder to familiarize itself with the relevant delegations;

3.9.11.2.6 Follow up on instructions and documents required, must be done by the Bidder to ensure responses within the time frames stated above;

- 3.9.11.2.7 The Bidder is responsible to arrange consultations with witnesses after the necessity thereof has been determined in consultation with the contact person in the legal section, and in liaison with such person;
- 3.9.11.2.8 Calls must be returned the same day, but if not possible, not later than the first following day;
- 3.9.11.2.9 Opinions must be completed within the period stated in the request and if no date is stated, 14 days from date of transmission to the Bidder;
- 3.9.11.2.10 In all instances appointed presiding and prosecutor officers must endeavour to finalize disciplinary enquiries and appeal hearings within 3 months from the date of commencement of the proceedings, failing which a report advancing the reasons for the delay must be provided to the contact person at the legal section with an estimate of the time frame within which finalization can be expected; and
- 3.11.2.11 No Advocate may be appointed without a specific written mandate from RWCLM.
- 3.9.11.3 Reporting Standard:
- 3.9.11.3.1 Instructions must be acknowledged within 3 days from receipt thereof; urgent instructions must be acknowledged within 2 hours from receipt thereof.
- 3.9.11.3.2 Any progress must be reported immediately and, in any event, not later than 2 days after the event with advice on the proposed course of action;
- 3.9.11.3.3 If a response does not take place on the expected or required date, a report with advice on the proposed course of action must be submitted; and
- 3.9.11.3.4 The time frames in (1) and (2) above may only be deviated from in extremely complex matters where research is required, in RWCLM vent the RWCLM must be informed of the delay and reason for it.

3.10 General Legal Services

- 3.10.1 The rendering of such legal services not specified elsewhere such as:
- 3.10.1.1 Legal opinions and legal research related to all aspect involving local government
- 3.10.1.1 Drafting and vetting By-laws, policies, and procedures for legal compliance
- 3.10.1.2 In general any kind of legal service not specified elsewhere.

3.10.2 Performance Standard

- 3.10.2.1 It is expected from the Bidder to attend to the specific matter within 5 working days unless the nature of the matter indicates a longer timeframe that is specifically agreed to by RWCLM.
- 3.10.2.2 The engagement of Counsel in any matter shall be subject to specific authorization by RWCLM.
- 3.10.2.3 If an opinion is required from Counsel, the Legal practitioner is not expected to write a pre-opinion but merely to draft the brief to the Advocate.

3.10.3 Reporting Standard

- 3.10.3.1 Acknowledge receipt of instruction within three (3) working days after date of receipt of instruction.
- 3.10.3.2 To provide RWCLM with a progress report within three (3) days after the date of any Court Appearance.
- 3.10.3.3 To advise the RWCLM within three (3) working days of the outcome/finalization of criminal trial/bail application.

4. PROMOTION OF ACCESS TO INFORMATION ACT, ACT 2 OF 2000

- 4.1 Bidder will be required to fully comply with the requirements of the Access to Information Act, Act 2 of 2000.
- 4.2 In terms of the Promotion of Access to Information Act, Act 2 of 2000, the RWCLM is obliged and compelled to provide certain information to the general public.
- 4.3 The Bidder as part of his function in collecting data on behalf of the RWCLM will be required to comply with the provisions of the Promotion of Access to Information Act, Act 2 of 2000.
- 4.4 The extent whereas a Bidder will be obliged to supply or refuse the supply of information in terms of the Act and will be determined in consultation with the RWCLM.

5. CONTRACT PERIOD

This contract will be effective from date of award for a period of 36 months.

6. CONTRACT PRICE ADJUSTMENTS

No annual price adjustment is applicable to this bid.

7. AWARDING OF BIDS, ALLOCATION OF WORK AND PAYMENTS

- 7.1 The Municipality reserves the right to accept any bid or part thereof and does not bind itself to accept any bid. The panel will be composed by all Bidder(s) who have met the minimum requirements.
- 7.2 An RQF will be sent to panellists per specific category requesting them to submit a financial offer within the specified timeframe, will be evaluated on best price.
- 7.3 The allocation of instructions will be done on a fair distribution of work per legal category which is subject to the performance of the Bidder as monitored by the Manager: Legal.
- 7.4 Successful bidders will be required to submit monthly invoices on work done, if applicable.
- 7.5 RWCLM reserves the right to expand the panel by Re-advertising a particular category of legal work under the same requirements and for the same contract period.

8. CONFIDENTIALITY

- 8.1 In the process of representing the Municipality in any matter the Bidder will have access to sensitive and confidential information. All information accessed, obtained, or collected by Bidder and/or its employees must at all times be kept confidential and not be disclosed to any other person without the prior and written authorization of the RWCLM.
- 8.2 In addition, information may not be used for personal gain by the Bidder or the Bidder's business, any employee, sub-contractor or any agent of the Bidder or any other person, body or organization receiving the information or data through the Bidder, or any their employees or agents.
- 8.3 Failure to observe these conditions will constitute a breach of contract, which could result in termination of this contract.

9. MINIMUM QUALIFICATIONS AND EXPERIENCE

Bidders are required to submit the following:

- 9.1 Bidders are to submit admission certificates for all practising attorneys within the law firm duly registered with the Legal Practice Council in terms of the applicable legislation:
 - 9.1.1 A minimum of 1 admitted Legal Practitioner with 5 years' experience or more (individual) – attach CV, admission certificate and certificate for Right of Appearance in the High Court for each Legal Practitioner.

Failure to submit all the above will result in the Bidder not being considered.

9.2 Candidate Legal Practitioner

- 9.2.1 A minimum of 1 Candidate Legal Practitioner (CLP) registered with the Legal Practise Council. Bidders are to submit a CV for the CLP's and attached proof of registration from a relevant Legal Practise Council.

Failure to submit all the above will result in the Bidder not being considered.

9.3 Administrative Support Staff

- 9.3.1 A minimum of 2 administrative support staff employed by the firm. Bidders must submit a curriculum vitae and a Grade 12 certificate or higher.

Failure to submit all the above will result in the Bidder not being considered.

9.4 Conveyancing and Notaries

- 9.4.1 Bidders that intend to participate in the conveyancing and Notaries categories are required to submit additional certificates as Conveyancers/ Notaries Qualification. (May be part of the legal practitioners referred to in (a) above or additional legal practitioners)

Failure to submit the additional certificates as stated will result in the Bidder not being considered for these categories.

9.5 Fidelity Fund Certificate

- 9.5.1 In the event that the Bidder is a sole proprietor, a valid Fidelity Fund Certificate from the Legal Practitioners Fidelity Fund/Legal Practice Council is required in the name of the sole proprietor. In the event that the bidder is in a partnership, a valid Fidelity Fund Certificate from the Legal Practitioners Fidelity Fund/Legal Practice Council is required from each of the directors of that partnership.

Failure to submit all the above will result in the Bidder not being considered.

9.6 Bidder's Experience

- 9.6.1 Bidders must submit a minimum of 3 (three) reference letters in respect of previous work done where they provided legal service/s within the last 5 (five) years.

Failure to submit 3 (three) reference letters will result in the bidder being disqualified.

9.7 Insurance

- 9.7.1 Bidder must submit proof of Professional Indemnity Insurance for the law firm to a minimum value of R 3 000 000,00 (Three Million Rand).

- 9.7.2 Should the bidder not have insurance, a letter of intent from an insurer must be submitted that proves that arrangements have been made with that insurer to obtain such cover within 7 (seven) days after award of the bid.

NB: The professional indemnity is over and above the Fidelity Fund Certificate.

Failure to submit the Professional Indemnity Insurance as stated above will result in the bidder being disqualified.

9.8 PLEASE NOTE

Bidders will be evaluated on all the above submission failure to do so and failure to meet the minimum requirements stipulated will result in the bidder being disqualified.

Please note that all information and particulars necessary to properly evaluate this tender must be furnished on submission. Incomplete particulars and documents required to substantiate the Bidders submission or insufficient documentary proof thereof will result in the Bidder being disqualified.

10. TRANSITIONAL MATTERS

- 10.1 All data or information collected by the appointed service providers will remain the property of RWCLM.
- 10.2 Transitional matters – Three months before the end of the contract, the Service Provider/s will return all files back to the Council, at the cost of the Service Provider,

except those files which the RWCLM and the Service Provider agrees that have progressed sufficiently or are defended matters and where the process of litigation has already commenced.

10.3 If at any time for the duration of this contract an attorney within the employ of the bidder is removed from the roll of attorneys, the appointment of such an attorney will also be terminated and all instructions held by that attorney will be cancelled and recalled. The Attorney must be replaced by a similar qualified attorney to the satisfaction of RWCLM.

10.4 No work given to the successful bidder may be outsourced.

10.5 Successful Service providers must provide annually, a Fidelity Fund Certificate. Such proof must be submitted before 1 June of each calendar year. Certified copies will be accepted. **Failure to submit the required proof timeously (on 1 June) may result in the recalling of any instruction already give to such an attorney in the absolute and sole discretion of the Municipality.**

10.6 Proof of Letter of Good Standing from the Legal Practice Council must be submitted annually, such proof must be submitted before 1 April of each calendar year.

11 LISTING OF INTEREST IN FIELD/S OF LAW:

11.1 Prospective Bidders should mark in the SCHEDULE as set out hereafter all preferred fields of law/service offerings.

11.2 **TYPE OF SERVICES OFFERED** (prospective bidder must mark the service offering)

PLEASE NOTE: FAILURE TO SUBMIT/ATTACH THE REQUIRED DOCUMENTS WILL RENDER YOUR BID NON- RESPONSIVE AND NOT BEING PART OF THE LEGAL PANEL

	Yes	No
	Mark X	
1. Conveyancing, notarial practice and other property related services;		
1.1 Conveyancing (certified certificate must be attached)		
1.2 Notarial Practice (certified corticate must be attached)		
1.3 Expropriations		
1.4 Valuation, rates, and taxes		
1.5 Mining and Mineral Laws		
1.6 Environmental Law		

1.7 Evictions		
2. Commercial Law and Contracts;		
3. Town Planning		
4. National Building Regulations and Building Standards Act, 1977;		
5. Procurement / Tenders / Bids and related contracts;		
6. Labour Law;		
7. General legal services, including relevant Municipal Law, etc 7.1 Intellectual property 7.2 Information communication technology 7.3 Access to information and administrative justice		
8. Civil and Criminal Law		
9. Arbitrations		

12. GENERAL REPORTING STANDARD

- 12.1 Monthly reports are to be submitted to the Manager Legal on or before the last day of each month.
- 12.2 Quarterly (1st Quarter 30 September 2nd Quarter 31 December 3rd Quarter 31 March and 4th Quarter 30 June) progress reports on each matter to be submitted to RWCLM Local Municipality free of charge. These reports must be submitted within 3 days after end of each quarter.
- 12.3 Yearly reports to Auditor General as and when requested by the RWCLM free of charge.
- 12.4 The following standards must be used when drafting an opinion or correspondences:
- 12.4.1 Font type: Arial and Arial Narrow; Font size: 12;
 - 12.4.2 Margins: 16mm top, bottom, right and left; Alignment: justified;
 - 12.4.3 Spacing: before 0, after 0 and single line;
 - 12.4.4 Paragraph spacing non indented unless with numbering bullets;

- 12.5 RWCLM reserves the right to allocate work during the term of the contract based on the performance of the Service Provider/s.
- 12.6 The Bidders appointed should note that RWCLM reserves the right to appoint the advocate to be used, if so required.
- 12.7 Advocates appointed must comply with the rates as specified in the Bar Tariffs any deviation must be consented to by the Municipality.

BIDDERS MUST PACKAGE THEIR BID DOCUMENT IN THE FOLLOWING FORMAT:

SCHEDULE 1

**ATTACH PROOF OF HIGH COURT ADMISSION AS
ATTORNEY/S**

SCHEDULE 2

ATTACH PROOF OF FIDELITY FUND CERTIFICATE

SCHEDULE 3

**ATTACH PROOF OF ADMISSION AS CONVEYANCER (if
applicable)**

SCHEDULE 4

ATTACH PROOF OF RIGHT OF APPEARANCE

SCHEDULE 5

ATTACH PROOF OF ADMISSION AS NOTARY (if applicable)

SCHEDULE 6

ATTACH PROOF OF INSURANCE COMPLIANCE

SCHEDULE 7

**RESOLUTIONS WHERE THE BIDDER IS NOT A NATURAL
PERSON**

SCHEDULE 8

ATTACH PROOF OF ADDITIONAL QUALIFICATIONS

SCHEDULE 9

ATTACH REFERENCE LETTERS

SCHEDULE 10

ATTACH CV's

14. SCHEDULE OF FEES

Annexure "B" indicates the fees which the RWCLM is willing to engage legal practitioners for the respective services that will be required. This will represent the maximum fees that RWCLM is willing to pay for legal services rendered. The submission of a bid will be regarded as full acceptance by the bidder of the fee schedule and the rates reflected therein. (Any attorney/bidder that is not willing to render services at the fees and rates as set out in the Schedule of Fees should not submit a tender. The schedule of fees will not increase yearly).

15 DISBURSEMENTS

Payment of disbursements whether or not provided for by the Legal Practice Council which include *inter alia* payments to the Sheriff of the Court, capturing of recordings, Transcribers, Instructions to, Surveyors, Advocates, Experts, and or any other professional person, payment of witnesses etc.

Service providers must attach acceptable proof of disbursements e.g., Advocates Invoice, sheriffs' invoice, Experts, Surveyors cost, but not limited thereto. Failure to submit such acceptable proof will result in non-payment of

Any disbursements claimed by a successful bidder must be accompanied by sufficient proof.

I, _____ hereby on behalf of _____ hereby confirm that the fees as set out above (Excl. VAT) to be paid for the work done in terms of this Bid, is accepted.

SIGNATURE OF PERSON AUTHORISED TO SIGN BID DOCUMENTS

NAME IN BLOCK LETTERS

DESIGNATION

DATE

invoice;

Documents to be fully completed and signed

All pages of the bidding documents need to be completed and signed in full in black ink. Only the original tender document will be accepted.

WITNESS: _____ **CAPACITY:** _____

SIGNATURE: _____ **DATE:** _____

**SCHEDULE OF FEES
RWCLM LOCAL MUNICIPALITY**

**APPOINTMENT OF SERVICE PROVIDER TO RENDER LEGAL SERVICESFIXED
BASED PAYMENT:**

Bidders' must note that the remuneration for services rendered under this bid is basedon fixed amounts to be paid for the period of the contract as set out hereafter: CPI increases will not be applicable.

A. TARRIFS

MATTER	UNIT OF MEASURE	TARRIF TO BE PAYABLE
1. Receiving of instructions/ Acceptance letter/ Collection of file/ Opening file/ Letter of clarification	Per instruction	R500.00
2. Perusal of documents in High Court matters per 250 words; 2.1 Perusal by admitted Legal Practitioner 2.2Perusal by CLP	Per page = 250 words	2.1 R70.00 2.2 R50.00
3. Perusal of documents in Magistrate Court matters per 100 words 3.1 Perusal by admitted Legal Practitioner 3.2 Perusal by CLP	Per page = 100 words	3.1 R60.00 3.2 R50.00
4. 4.1 Perusal by admitted Legal Practitioner of pictures/ drawings/ diagrams in High Court matters 4.2 Perusal by CLP of pictures/ drawings/ diagrams in High Court matters	Per picture/drawings/diagrams	4.1 R50.00 4.2 R40.00
5. Consultation and attending High Court 5.1 by admitted attorneys 5.2 by CLP	Attendance at court and consultation	5.1 R1900.00 per hour or partthereof at R475.00 per 15 minutes 5.2 CLP R1000 per hour or part thereof at 250 per 15 minutes

6.Consultation and attending Magistrates Court; 6.1 by admitted attorneys 6.2 by CLP	Attendance at court and consultation	6.1 R1400.00 per hour or part thereof at R300.00 per 15 minutes 6.2 R900.00 per hour or part thereof at 225 per 15 minutes
7.Preparation by admitted attorney in high court matter.	Preparation by admitted attorney	R1900.00 per hour or part thereof at R475 per 15 minutes.
16 Preparation by admitted attorney in magistrate court matter 8.1 Preparation by CLP in magistrate court matter	Preparation per hour or part thereof	8.1 R1400 per hour or part thereof at R300.00 per 15 minutes 8.2 2 R900.00 per hour or part thereof at 225 per 15 minutes
9. Copies charges per page	Per A4 & A3 page.	R 4.50 per page
10. Travelling expenses	Per Km	R6 per KM
11. Travelling time 11.1 Attorney 11.2 CLP	Per hour or part thereof, depending if High Court/ Magistrate Court	R600.00 per hour or part thereof at R150.00 per 15 minutes and not exceeding R2 400.00 per day.

Note on fees:

- CLP = Candidate Legal Practitioner.
- The guidelines of conveyancing fees issued by the Legal Practise Act and in terms of the Deeds Registration Act No. 47 of 1937 will apply.
- No drawing fee will be allowed subject to instances where a court order / settlement made specific reference to cost. Drawing fee of 10% will be applicable in those instances.
- No duplication of work ie. Attorney/Advocate and CLP.
- In the event of the matter not being solved as aforesaid, the admitted attorney with right of appearance in the High Court is expected to proceed with litigation. In instances of complex matters in nature, Counsel may be briefed upon approval by RWCLM.
- In instances when Counsel is instructed the Rules of the Bar/Society will be applicable.
- Preparation by CLP will not be required and/or considered in High Court matters
- RWCLM reserves the right to decide whether to utilise either number of pages or number words as a unit measure for perusa

PRICING SCHEDULE – FIRM PRICES (PURCHASES)

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

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

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

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

ITEM NO.	QUANTITY	DESCRIPTION	BID PRICE IN RSA CURRENCY **(ALL APPLICABLE TAXES INCLUDED)
----------	----------	-------------	--

- | | | | |
|---|--|-------|---------------------------|
| - | Required by: | ..... |  |
| - | At: | ..... |  |
| | | | |
| - | Brand and Model | ..... |  |
| - | Country of Origin | ..... |  |
| - | Does the offer comply with the specification(s)? | | *YES/NO |
| - | If not to specification, indicate deviation(s) | ..... |  |
| - | Period required for delivery | ..... |  |
| | | | *Delivery: Firm/Not firm. |
| - | Delivery basis | ..... |  |

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

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

*Delete if not applicable

MBD 4

DECLARATION OF INTEREST

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

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

3.2 Identity Number:

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

3.4 Company Registration Number:

3.5 Tax Reference Number:.....

3.6 VAT Registration Number:

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

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

3.8.1 If yes, furnish particulars.

.....

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

(a) a member of –

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

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

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

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

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

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

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

- 3.9 Have you been in the service of the state for the past twelve months? **YES / NO**
- 3.9.1 If yes, furnish particulars.....
.....
- 3.10 Do you have any relationship (family, friend, other) with persons in the service of the state and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**
- 3.10.1 If yes, furnish particulars.
.....
.....
- 3.11 Are you, aware of any relationship (family, friend, other) between any other bidder and any persons in the service of the state who may be involved with the evaluation and or adjudication of this bid? **YES / NO**
- 3.11.1 If yes, furnish particulars
.....
.....
- 3.12 Are any of the company's directors, trustees, managers, principle shareholders or stakeholders in service of the state? **YES / NO**
- 3.12.1 If yes, furnish particulars.
.....
.....
- 3.13 Are any spouse, child or parent of the company's directors trustees, managers, principle shareholders or stakeholders in service of the state? **YES / NO**
- 3.13.1 If yes, furnish particulars.
.....
.....
- 3.14 Do you or any of the directors, trustees, managers, principle shareholders, or stakeholders of this company have any interest in any other related companies or business whether or not they are bidding for this contract. **YES / NO**
- 3.14.1 If yes, furnish particulars:
.....
.....

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

Full Name	Identity Number	State Employee Number

.....
Signature

.....
Date

.....
Capacity

.....
Name of Bidder

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

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

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

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

***YES / NO**

.....
.....

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

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

2.2 If yes, provide particulars.

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

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

* Delete if not applicable

***YES / NO**

3.1 If yes, furnish particulars

.....

***YES / NO**

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

***YES / NO**

4.1 If yes, furnish particulars

.....

CERTIFICATION

I, THE UNDERSIGNED (NAME)

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

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

.....
 Signature

.....
 Date

.....
 Position

.....
 Name of Bidder

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

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

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

1. GENERAL CONDITIONS

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

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

1.2 To be completed by the organ of state

(delete whichever is not applicable for this tender).

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

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

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

1.4 To be completed by the organ of state:

The maximum points for this tender are allocated as follows:

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

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

2. DEFINITIONS

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

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

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

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

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

80/20 or 90/10

Where

- P_s = Points scored for price of tender under consideration
- P_t = Price of tender under consideration
- P_{min} = Price of lowest acceptable tender

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

3.2.1. POINTS AWARDED FOR PRICE

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

$$\begin{array}{ccc} 80/20 & \text{or} & 90/10 \\ Ps = 80 \left(1 + \frac{Pt - P_{max}}{P_{max}} \right) & \text{or} & Ps = 90 \left(1 + \frac{Pt - P_{max}}{P_{max}} \right) \end{array}$$

Where

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

4. POINTS AWARDED FOR SPECIFIC GOALS

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

then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

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

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

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

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

DECLARATION WITH REGARD TO COMPANY/FIRM

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

4.4. Company registration number:

4.5. TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

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

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

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

DECLARATION CERTIFICATE FOR LOCAL PRODUCTION AND CONTENT FOR DESIGNATED SECTORS

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

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

1. General Conditions

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

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

Where

x is the imported content in Rand

y is the bid price in Rand excluding value added tax (VAT)

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

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

1.6. A bid may be disqualified if –

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

2. Definitions

2.1. **“bid”** includes written price quotations, advertised competitive bids or proposals;

2.2. **“bid price”** price offered by the bidder, excluding value added tax (VAT);

2.3. **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;

2.4. **“designated sector”** means a sector, sub-sector or industry that has been designated by the Department of Trade and Industry in line with national development and industrial policies for local production, where only locally produced services, works or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content;

2.5. **“duly sign”** means a Declaration Certificate for Local Content that has been signed by the Chief Financial Officer or other legally responsible person nominated in writing by the Chief Executive, or senior member / person with management responsibility (close corporation, partnership or individual).

2.6. **“imported content”** means that portion of the bid price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its subcontractors) and which costs are inclusive of the costs abroad (this includes labour and intellectual property costs), plus freight and other direct importation costs, such as landing costs, dock duties, import duty, sales duty or other similar tax or duty at the South African port of entry;

2.7. **“local content”** means that portion of the bid price which is not included in the imported content, provided that local manufacture does take place;

2.8. **“stipulated minimum threshold”** means that portion of local production and content as determined by the Department of Trade and Industry; and

2.9. **“sub-contract”** means the primary contractor's assigning, leasing, making out work to, or employing another person to support such primary contractor in the execution of part of a project in terms of the contract.

3. **The stipulated minimum threshold(s) for local production and content (refer to Annex A of SATS 1286:2011) for this bid is/are as follows:**

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

4. Does any portion of the services, works or goods offered have any imported content?
(Tick applicable box)

YES		NO	
-----	--	----	--

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

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

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

Currency	Rates of exchange
US Dollar	
Pound Sterling	
Euro	
Yen	
Other	

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

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

YES		NO	
-----	--	----	--

- 5.1. If yes, provide the following particulars:

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

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

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

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

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

IN RESPECT OF BID NO.

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

NB

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

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

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

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

(b) I have satisfied myself that

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

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

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

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

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

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

SIGNATURE: _____

DATE: _____

WITNESS No. 1 _____

DATE: _____

WITNESS No. 2 _____

DATE: _____

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

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

Item	Question	Yes	No
4.1	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? (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). 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.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>

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

CERTIFICATION

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

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

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Municipal Bidding Document (MBD) must form part of all bids¹ invited.

- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).² Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.

- 3 Municipal Supply Regulation 38 (1) prescribes that a supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer, among others, to:
 - a. take all reasonable steps to prevent such abuse;
 - b. reject the bid of any bidder if that bidder or any of its directors has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system; and
 - c. cancel a contract awarded to a person if the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.

- 4 This MBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.

- 5 In order to give effect to the above, the attached Certificate of Bid Determination (MBD 9) must be completed and submitted with the bid:

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

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

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Municipality / Municipal Entity)

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

I certify, on behalf of: _____ that:

(Name of Bidder)

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

6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
 - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

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

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

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

Js9141w 4

THE NATIONAL TREASURY

Republic of South Africa



GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT

July 2010

GOVERNMENT PROCUREMENT
GENERAL CONDITIONS OF CONTRACT
July 2010

NOTES

The purpose of this document is to:

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

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

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

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General Conditions of Contract

1. Definitions

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

RSA.

- 1.12 "Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- 1.13 "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.
- 1.14 "GCC" means the General Conditions of Contract.
- 1.15 "Goods" means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.16 "Imported content" means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.
- 1.17 "Local content" means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- 1.18 "Manufacture" means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.19 "Order" means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20 "Project site," where applicable, means the place indicated in bidding documents.
- 1.21 "Purchaser" means the organization purchasing the goods.
- 1.22 "Republic" means the Republic of South Africa.
- 1.23 "SCC" means the Special Conditions of Contract.
- 1.24 "Services" means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such

obligations of the supplier covered under the contract.

- 1.25 “Written” or “in writing” means handwritten in ink or any form of electronic or mechanical writing.

2. Application

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

3. General

- 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.
- 3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from www.treasury.gov.za

4. Standards

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

5. Use of contract documents and information; inspection.

- 5.1 The supplier shall not, without the purchaser’s prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 5.2 The supplier shall not, without the purchaser’s prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.
- 5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier’s performance under the contract if so required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier’s records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

6. Patent rights

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

7. Performance security

- 7.1 Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.
- 7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.
- 7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:
- (a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or
 - (b) a cashier's or certified cheque
- 7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified in SCC.

8. Inspections, tests and analyses

- 8.1 All pre-bidding testing will be for the account of the bidder.
- 8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department.
- 8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
- 8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.
- 8.7 Any contract supplies may on or after delivery be inspected, tested or

analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.

- 8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of GCC.

9. Packing

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

10. Delivery and documents

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

11. Insurance

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

12. Transportation

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

13. Incidental services

- 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:
- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
 - (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
 - (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;

- (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
- (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.

13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.

14. Spare parts

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

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

15. Warranty

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

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

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

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

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

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

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| 16. Payment | <p>16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.</p> <p>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.</p> <p>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.</p> <p>16.4 Payment will be made in Rand unless otherwise stipulated in SCC.</p> |
| 17. Prices | <p>17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized in SCC or in the purchaser's request for bid validity extension, as the case may be.</p> |
| 18. Contract amendments | <p>18.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.</p> |
| 19. Assignment | <p>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.</p> |
| 20. Subcontracts | <p>20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.</p> |
| 21. Delays in the supplier's performance | <p>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.</p> <p>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.</p> <p>21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.</p> <p>21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the</p> |

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

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

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

22. Penalties

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

23. Termination for default

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

- (a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
- (b) if the Supplier fails to perform any other obligation(s) under the contract; or
- (c) if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

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

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

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

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

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

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

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

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

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

24. Anti-dumping and countervailing duties and rights

24.1 When, after the date of bid, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference shall on demand be paid forthwith by the contractor to the State or the State may deduct such amounts from moneys (if any) which may otherwise be due to the contractor in regard to supplies or services which he delivered or rendered, or is to deliver or render in terms of the contract or any other contract or any other amount which

may be due to him

25. Force Majeure

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

26. Termination for insolvency

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

27. Settlement of Disputes

- 27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.
- 27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.
- 27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.
- 27.5 Notwithstanding any reference to mediation and/or court proceedings herein,
- (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
 - (b) the purchaser shall pay the supplier any monies due the supplier.

28. Limitation of liability

- 28.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6;
- (a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and

		(b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.
29. Governing language	29.1	The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.
30. Applicable law	30.1	The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.
31. Notices	31.1	Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice
	31.2	The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.
32. Taxes and duties	32.1	A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
	32.2	A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
	32.3	No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.
33. National Industrial Participation Programme (NIP)	33.1	The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.
34 Prohibition of Restrictive practices	34.1	In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).
	34.2	If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.

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

Js General Conditions of Contract (revised July 2010)