

uMkhanyakude District Municipality



BID DOCUMENT

BID NO : **SCMU 010/2023/2024**
BID DESCRIPTION : **Panel of Forensic Investigation Services**
CLOSING DATE : **24/08/ 2023**
CLOSING TIME : **12 NOON**

ISSUED BY:
UMKHANYAKUDE DISTRICT
MUNICIPALITY

TEL: (035) 573 8600

ENQUIRIES REGARDING THE BIDDING PROCEDURE MAY BE DIRECTED TO:

Department:	BOARD AND GENERAL
Contact Person:	Ms. T. Khuzwayo
Tel:	035 – 573 8600
Fax:	035- 573 8613
E-mail address:	ukdmlegal@ukdm.gov.za

ENQUIRIES REGARDING TECHNICAL INFORMATION MAY BE DIRECTED TO:

Department:	OFFICE OF THE MUNICIPAL MANAGER
Contact Person:	Mr WM Nxumalo
Tel:	035 573 8600
Fax:	035 573 8613
E-mail address:	mm@ukdm.gov.za

NAME OF BIDDER: _____

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UMKHANYAKUDE DISTRICT MUNICIPALITY

REQUEST FOR PROPOSALS

SCMU 010/2023/2024

PANEL OF FORENSIC INVESTIGATORS – 12 MONTHS

The uMkhanyakude District Municipality invites a panel of forensic investigators in order to enter into a contract of (12) twelve months to provide legal services and legal support.

Contract will be based on the National Treasury General Condition of Contracts. The bids will be evaluated on based on the UKDM SCM Policy and the preferential / specific goals set out in the municipal policy.

Tender documents may be obtained from the **www.etenders.gov.za**. The tender documents will be available from **Thursday, 10 August 2023**.

Evaluation Criteria

A minimum functional score of **70 % out of 100 points** must be scored in order to proceed to the Financial Evaluation.

The terms of reference and a detailed functionality criteria will be attached in the tender document.

Enquires relating to the bid document may be addressed to Mr. S. Mavundla on and Technical enquires may be addressed to Ms. T. Khuzwayo, both on

Tel No. 035 573 8600

Completed bid documents and supporting documentation are to be placed in a sealed envelope endorsed with the “RELEVANT PROJECT NAME AND BID NUMBER” must be delivered in the Tender box not later than **12h00 on Thursday, 24 August 2023** at the foyer of **UMkhanyakude District Municipality, No. 13433 Kingfisher Avenue, Mkuze, 3965** - where tenders will be opened in public.

Telegraphic, telephonic, telex, facsimile, e-mail and late tenders will not be accepted.

UMKHANYAKUDE DISTRICT MUNICIPALITY
ACTING MUNICIPAL MANAGER
MR. W. M. NXUMALO

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE UMKHANYAKUDE DISTRICT MUNICIPALITY					
BID NUMBER:	SCMU 010/2023/2024	CLOSING DATE:	24/08/2023	CLOSING TIME:	12:00
DESCRIPTION	LEGAL SERVICES AND LEGAL SUPPORT TO UKDM FOR PERIOD OF (3) THREE YEARS				
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)

UMKHANYAKUDE DISTRICT MUNICIPALITY					
RECEPTION AREA					
No. 13433 Kingfisher Avenue					
Mkuze					
3965					
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:		AND	CSD No:	
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]	<input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	<input type="checkbox"/> Yes <input type="checkbox"/> No	
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER PART B:3]	
TOTAL NUMBER OF ITEMS OFFERED			TOTAL BID PRICE	R	
SIGNATURE OF BIDDER		DATE		
CAPACITY UNDER WHICH THIS BID IS SIGNED					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:			TECHNICAL INFORMATION MAY BE DIRECTED TO:		
DEPARTMENT	BUDGET & TREASURY	DEPARTMENT	Municipal Manager's Office		
CONTACT PERSON	Mr S. MAVUNDLA	CONTACT PERSON	Ms T. Khuzwayo		
TELEPHONE NUMBER	035 573 8660	TELEPHONE NUMBER	035 573 8600		
FACSIMILE NUMBER	035 573 8613	FACSIMILE NUMBER	035 573 8613		
E-MAIL ADDRESS	spham@ukdm.gov.za	E-MAIL ADDRESS	ukdmlegal@ukdm.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. THE BID BOX IS ONLY OPEN BETWEEN 08H00 TO 16H30, MONDAYS TO FRIDAYS EXCLUDING PUBLIC HOLIDAYS.
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:

DETAILS OF TENDERING ENTITY'S BANK ACCOUNT

I/We hereby authorize the Employer/Client to approach all or any of the following bank/s for the purposes of obtaining a financial reference:

DESCRIPTION OF BANK DETAIL	BANK DETAILS APPLICABLE TO TENDERER'S HEAD OFFICE
Name of bank	
Branch name	
Branch code	
Name of Account Holder	
Account number	
Type of Account	

Signature of Tenderer: _____

Date: ____/____/20____

BID CONDITIONS

Only those tenderers who satisfy the following eligibility criteria and who provide the required evidence in their tender submission are eligible to submit tenders and have their tenders evaluated:

1. Tender offers will only be accepted if:

- 1) the tenderer is registered on the Central Supplier Database (CSD) for the South African government (see [https://secure.csd.gov.za /](https://secure.csd.gov.za/)) unless it is a foreign supplier with no local registered entity.
- 2) the tenderer provides written proof from SARS that the tenderer either has no Tax obligations or has made arrangements to meet outstanding Tax obligations,
- 3) the tenderer or any of its directors/shareholders is not listed on the Register of Tender Defaulters in
- 4) the financial offer is market related (See Regulation 6 (9);
- 5) the tenderer or any of its directors/shareholders is not listed on the Register of Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector;
- 6) the tenderer has not:
 - i) abused the Employer's Supply Chain Management System; or
 - ii) failed to perform on any previous contract and has been given a written notice to this effect; and
 - iii) the tenderer has completed the Compulsory Declaration and there are no conflicts of interest
Which may impact on the tenderer's ability to perform the contract in the best interests of the employer or potentially compromise the tender process.
- 7) the statement of municipal account that is not older than three months or Lease Agreement OR Affidavit from SAPS stating that the bidder is not obliged to pay municipal rates with a letter from a ward councilor is submitted with the tender document.
- 8) the Joint Venture has attached the following:
 - a) J V agreement,
 - b) original or certified copy of consolidated BBBEE certificate, and
 - c) letter of signatory.

2. The tenderer is required to submit with his tender the following certificates:

- 1) Proof of registration with Central Supplier Database must be attached.
- 2) A Copy of business entity registration certificate e.g. CK Document
- 3) Certified ID copy/s of business entity owners
- 4) Tax Compliance status documents with PIN from SARS must be attached.
- 5) Proof of B-BBEE status level of contributor in the form of an appropriate original or certified completed affidavit downloaded from www.thedti.gov.za/economic_empowerment/bee_codes.jsp or an original or certified copy of a valid verification certificate from a verification agency accredited by SANAS and recognized as an Accredited B-BBEE Verification Agencies (www.sanas.co.za/afdirectory/bbbee_list.php)

3. Returnable schedules required for tender evaluation processes

Supplier Declaration Form MBD 1: Invitation to tender

MBD 3.2: Pricing Schedule – Non-Firm Prices

MBD 4: Declaration of Interest form

MBD 6.1: Preference/ Specific Goals Points Claim Form

MBD 8: Declaration of Bidder's Past Supply Chain Management Practices

MBD 9: Certificate of Independent Bid Determination

Ethics Commitment for Suppliers Form

Please note the following:

- Failure to submit required information will lead to zero score on Functionality stage.
- Tender documents must be completed with non-erasable ink. Any tender document completed with pencil will not be acceptable and shall be disqualified.
- Ensure that there are no errors or omissions.
- The submission should be entirely legible. Any changes made to the original text of bid should be crossed through and signed for.
- If correct delivery is not received by the indicated agreed date the contract will immediately be terminated
- DO NOT USE CORRECTION FLUID as this may invalidate your submission.
Bidders must FULLY complete, SIGN tender document and INITIAL every page. Failure to do so may lead to the tender deemed non-

BIDDERS SHOULD TAKE NOTE OF THE FOLLOWING BID CONDITIONS:

- The UMkhanyakude District Municipality Supply Chain Management Policy will apply. This policy is obtainable from UMkhanyakude District Municipality offices in Mkuze and is available on UKDM Website, e.g. The UMkhanyakude District Municipality does not bind itself to accept the lowest bid or any other bid and reserves the right to accept whole or part of the bid;
- Bids which are late, incomplete, unsigned or submitted by facsimile or electronically, will not be accepted;
- Bids submitted are to hold good for a period of **90 days**;
- Bidders will be required to register as a supplier/service provider on the UKDM's Supplier/Service Provider Database, if not already registered prior to the tender closing date.
- The latest General Conditions of Contract and any Special Conditions of Contract will apply
- Failure to comply with these conditions may invalidate your offer
- Upon submission of a bid/quote the bidder automatically grants confirmation that SARS may, on an ongoing basis during the contract term disclose the bidders Tax Compliance status to the municipality
- Prices must always be VAT inclusive where applicable.
- No emailed, copied, faxed, reproduced document will be accepted.
- The municipality will not be held liable for couriered or posted tender documents, onus rest upon the bidder to deposit his/her own tender document.

TERMS OF REFERENCE FOR PANEL OF FORENSIC

SCOPE OF WORK:

PART ONE 1. BACKGROUND OF THE PROJECT

1.1. The primary objective is to appoint panel of forensic investigators that can support the UMkhanyakude District Municipality in conducting forensic investigations into mismanagement as per auditor general findings, fraud and corruption.

1.2. As such, the municipality has a responsibility to ensure the timely investigation of cases referred to it and to provide comprehensive feedback to the council and the internal fraud reporting structures.

EXTENT AND SCOPE OF WORK

2.1. The primary objective of the forensic investigation is to conduct investigations to ascertain whether there is substance into allegations of fraud and corruption reported to the Council and other internal reporting mechanisms, as and when required.

2.2. Report of the factual findings and advise the municipality of the recommended course of action relating to remediation of control weaknesses that led to potential fraud/mismanagement.

2.3. The successful service provider shall submit a project plan with a comprehensive budget containing a breakdown of the hourly tariff (VAT inclusive), per category as required for the investigation services for prior approval by the Accounting Officer.

2.4. The scope should focus on the objectives detailed above and should include activities that require the service provider/s to independently ascertain whether there is substance into allegations of fraud and corruption reported to the municipality for investigation.

2.5. The successful bidder shall work in conjunction with the Senior Manager legal Services on the pre-screening and planning of the phases of the investigation process

and must be prepared to regularly report the progress to the Accounting Officer, All reports and supporting documents will be reviewed and endorsed by the Ministerial Representative.

2.6. All intellectual property including the audit reports, working papers and other supporting documents will become the property of the municipality.

2.7. All information obtained from the municipality will be regarded as classified information, and as such be handled properly.

1. TIMING OF THE ASSIGNMENT

1.1. The duration of the contract will run for a period of three (3) years and will commence as agreed in the service level agreement signed by the municipality and the successful bidder. Work will be carried out as and when required and in accordance with the project plan as agreed.

2. PERFORMANCE MEASURES

2.1. The performance measures and ongoing management of the investigation into allegation of fraud and corruption will be closely monitored by the Senior Manager: legal Services, in line with the relevant standards/methodology. The conditions as specified in the general conditions of contracts will apply.

3. REPORTING AND DELIVERABLES

3.1. The Service Provider will submit monthly progress reports and as and when required, to the Senior Manager: legal Services for the duration of the project. 5.2 The Service Provider/s must issue an electronic final report to the Senior Manager: legal Services and a final hard-copy report

with supporting documents, based on the procedures performed and the factual findings.

4. CONTINUITY AND PROFILE OF SENIOR STAFF ON THE PROJECT

4.1. The Service Provider/s must guarantee the presence of the senior in charge of fieldwork throughout the duration of the assignment. If the senior has to leave the project, a period of at least a month is required, in which the senior must work parallel with the next person (senior consultant with similar expertise and the relevant years of experience) appointed to be able to hand over the work and transfer skill and knowledge.

CONTENT OF BID PROPOSAL (Information to be submitted by the bidders)

- 4.2. All relevant perceived strengths and weaknesses of the firm tendering for the forensic investigation service e. g. similar previous experience, in-house skills etc., providing information which will assist the municipality to assess its capabilities, competitive advantages etc.;
- 4.3. A list of references of previous and current forensic investigation appointments;
- 4.4. An organogram or list of partners, managers, specialists, together with the

curriculum vitae of the staff who will be available and assigned to the municipality for the duration of the work. Audit team assigned to the municipality may not be changed without written confirmation and approval by Senior Manager: legal Services.

4.5. Provide an overview of the methodology to be applied.

SPECIAL CONDITIONS Bids will be subject to Supply Chain Management Conditions as follows:
(Please note that these conditions are applicable to all panel services of EMD)

A bid will be disqualified if it fails to meet the minimum threshold for functionality as per the bid invitation and secondly, only the qualifying bids will be evaluated in terms of the 80/20 preference points systems, where the 80 points will be used for price only and the 20 points will be awarded in terms of the of the B-BBEE Contributor Level as per the B-BBEE Verification Certificate submitted by the service provider.

4.6. The proposal should include, amongst other, the following:

- ? A proposed plan of action.
- ? A list of references (Appointment letters must be attached)
- ? Ability to ensure continuing of staff on the project.

4.7. A plan detailing a transfer of skills.

4.8. Original Tax Clearance Certificate must be submitted together with the bid. Failure to submit the original and valid Tax Clearance Certificate before the Adjudication Committee will result in the invalidation of the bid.

In bids where Consortia/Joint Ventures/Sub-contractors are involved; such must be clearly indicated and each party must submit a separate Tax Clearance Certificate before the Adjudication Committee. Failure to submit the original and valid Tax Clearance Certificate will result in the invalidation of the bid.

4.9. Certified copies of the Tax Clearance Certificate will not be accepted. The Curriculum Vitae of the staff who will be available for the duration of the project must be attached; NOTE: Failure to submit the CVs will invalidate your bid proposal.

- 5.1. The bid proposals should be submitted with all required information containing technical information as well as price information.
- 5.2. Bidders must score a minimum of 70% for stage one (functionality/technicality) to qualify for stage two of the evaluation where only price and B-BBEE will be considered.
- 5.3. Suppliers/Service Providers are requested to submit the original and valid BBEE Status Level Verification Certificate or certified copies thereof issued by verification agencies accredited by SANAS or registered auditors approved with their bids, to substantiate their BBEE rating claims, failing which the B-BBEE preference points claimed will be forfeited.
- 5.4. Bidders who do not submit B-BBEE Status Level Verification Certificates or are non-compliant contributors to B-BBEE do not qualify for preference points for BBEE but will not be disqualified from the bidding process. They will score zero (0) points out of 10 points for B-BBEE.
- 5.5. A trust, consortium or joint venture will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- 5.6. A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- 5.7. Public entities and tertiary institutions must also submit B-BBEE Status Level Verification Certificates together with their bids
- 5.8. A bidder will not be awarded the points claimed for B-BBEE status level of contribution if it is indicated in the bid documents that such a bidder intends subcontracting more than 25% of the contract value to any other enterprise that does not qualify for at least the same number of points that the bidder qualifies for, unless the intended sub-contractor is an EME (Exempted Micro Enterprise) that has the capacity and the ability to execute the sub-contract.
- 5.9. A contractor is not allowed to sub-contract more than 25% of the contract value to another enterprise that does not have equal or higher B-BBEE status level, unless the intended subcontractor is an EME (Exempted Micro Enterprise) that has the capability and ability to execute the sub-contract.
- 5.10. Please take note that the municipality is not bound to select any of the firms' submitting proposals. The municipality reserves the right not to award any of the bids and not to award the contract to the lowest bidding price.
- 5.11. Travelling costs and time spent or incurred between home of consultants and the municipality's office will not be for the account of the municipality.
- 5.12. The intellectual property and copyright will belong to the municipality.
- 5.13. Bidders must submit the original and of the bid documents in the tender box at the municipality offices.
- 5.14. There will be a compulsory briefing session and bidders who do not attend will be disqualified.

EVALUATION CRITERIA (FORENSIC INVESTIGATION SERVICES)

Item	Description	Maximum Point	Points
1.	RELEVANT EXPERIENCE	40	
	Proof of similar projects completed in the past 10 years		
	4-10 similar projects		40
	3 similar projects		30
	2 similar projects		20
	1 similar project		10
	0 similar projects		
2.	KEY PERSONEL EXPERIENCE (Relevant Credentials)	10	
	Proof of work experience		
	More than 10 years		10
	5 to 10 years		5

Item	Description	Maximum Point	Points
	Less than 5 years		3
3	QUALIFICATIONS OF KEY PERSONNEL		
	Relevant Honours Degree /ACFE/CASA CIA		10 points per Honours Degree
	Relevant Degree		05 points per Degree
	Relevant Diploma		03 points per Diploma
4	PREVIOUS EXPERIENCE ON FINANCIAL SYSTEM		
	2 Similar Projects		10
	1 Similar Projects		5
	0 Similar Project		0

Item	Description	Maximum Point	Points
5	APPROACH AND METHODOLOGY		
	Comprehensive Methodology		10
	Average Methodology		5
	Poor Methodology		3
6	LOCALITY		
	Within UMkhanyakude District		10
	Within King Cetshwayo District		5
	Within KwaZulu Natal Province		3
	Outside KwaZulu Natal Province		1
7	PROOF OF REGISTRATION OF FORENSIC ACCREDITED BODY		

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.
- 2.8 UPON SUBMISSION OF A BID/QUOTE THE BIDDER AUTOMATICALLY GRANTS CONFIRMATION THAT SARS MAY ON AN ONGOING BASIS DURING THE CONTRACT TERM DISCLOSE THE BIDDERS TAX COMPLIANCE STATUS TO THE MUNICIPALITY.
- 2.9 THE MINISTER OF FINANCE, IN HIS 2018 BUDGET SPEECH, PRONOUNCED AN INCREASE IN VAT RATE FROM 14% TO 15%.

PRICING SCHEDULE
(Professional Services)

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

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

ITEM NO	DESCRIPTION	BID PRICE IN RSA CURRENCY INCLUSIVE OF VALUE ADDED TAX
1	The accompanying information must be used for the Formulation of proposals.	
2	Bidders are required to indicate a ceiling price based on the total estimated time for completion of all phases and including all expenses inclusive of VAT for the project	R
3	PERSONS WHO WILL BE INVOLVED IN THE PROJECT AND RATES APPLICABLE (CERTIFIED INVOICES MUST BE RENDERED IN TERMS HEREOF)	

PERSON AND POSITION	HOURLY RATE	DAILY RATE
	R	R
	R	R
	R	R
	R	R

5 PHASES ACCORDING TO WHICH THE PROJECT WILL BE COMPLETED, COST PER PHASE AND MAN-DAYS TO BE SPENT

	R	Days
	R	Days
	R	Days
	R	Days

5.1 Travel expenses (specify, for example rate/km and total km, class of air travel, etc.). Only actual costs are recoverable. Proof of the expenses incurred must accompany certified invoices.

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT
			R
			R
			R
			R
TOTAL			R

5.2 Other expenses, for example accommodation (specify, e.g. three star hotel, bed and breakfast, telephone cost, reproduction cost, etc.). On basis of these particulars, certified invoices will be checked for correctness. Proof of the expenses must accompany invoices.

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT
			R
			R
			R
			R
TOTAL			R

6. Period required for commencement with project after acceptance bid

7. Estimated man-days for completion of project

8. Are the rates quoted firm for the full period of contract?

9. If not firm for the full period, provide details of the basis on which Adjustments will be applied for, example consumer price index

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

DECLARATION OF INTEREST

1. No bid will be accepted from persons in the service of the state.
2. Any person having a kinship with persons employed by 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 favoritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to persons in the service of the state, it is required that the bidder or his/her authorized representative declare his/her position in relation to the evaluating/adjudicating authority and/or take an oath declaring his / her interest.
3. In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

3.1 Full Name: _____

3.2 Identity Number: _____

3.3 Company Registration Number: _____

3.4 Tax Reference Number: _____

3.5 VAT Reference Number: _____

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

3.6.1 If so, furnish particulars _____

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

3.7.1 If so, furnish particulars _____

* MSCM 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.

3.8 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
-----	----

3.8.1 If so, furnish particulars _____

3.9 Are you aware of any relationship (family, friend, other) between a 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
-----	----

3.9.1 If so, furnish particulars _____

3.10 Are any of the company's directors, managers, principal shareholders or stakeholders in the service of the state?

YES	NO
-----	----

3.10.1 If so, furnish particulars _____

3.11 Are any spouse, child or parent of the company's directors, managers, principal shareholders or stakeholders in service of the state?

YES	NO
-----	----

3.11.1 If so, furnish particulars _____

CERTIFICATION

I, (NAME) _____ THE
UNDERSIGNED CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 3 ABOVE IS
CORRECT. I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME SHOULD THIS
DECLARATION PROVE TO BE FALSE.

Signature

Date

Position

Name of bidder

SPECIFIC GOALS

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

NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS AND DEFINITIONS

1. GENERAL CONDITIONS

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

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

1.21.2

- a) The value of this bid is estimated to **not exceed** R50 000 000 (all applicable taxes included) and therefore thepreference point system shall be applicable; or
- b) Either the 80/20 preference point system will be applicable to this tender.

1.3 Points for this bid shall be awarded for:

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

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

	POINTS
PRICE	80
SPECIFIC GOALS	
Total points for Price and Specific goals must not exceed	100

1.5 Failure on the part of a bidder to submit the required documents to substantiate the points claimed with the bid, will be interpreted to mean that points for specific goals are not claimed.

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

2. DEFINITIONS

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

(b) **“Specific goals”** means specific goals as contemplated in section 2(1)(d) of the Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development

Programme as published in *Government Gazette* No. 16085 dated 23 November 1994

- (c) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services, through price quotations, advertised competitive bidding processes or proposals.
- (d) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (e) **“EME”** means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (f) **“functionality”** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.
- (g) **“prices”** includes all applicable taxes less all unconditional discounts;
- (h) **“proof of B-BBEE status level of contributor”** means:
 - 1) B-BBEE Status level certificate issued by an authorized body or person;
 - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
 - 3) Any other requirement prescribed in terms of the B-BBEE Act;
- (i) **“QSE”** means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (j) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1 POINTS AWARDED FOR PRICE (the 80/20 or 90/10 preference point systems)

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

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

Where

P_s = Points scored for price of bid under consideration

P_t = Price of bid under consideration

P_{min} = Price of lowest acceptable bid

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

3.2.1 POINTS AWARDED FOR PRICE

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

80/20

or

90/10

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

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

Where

P_s = Points scored for price of bid under consideration

P_t = Price of bid under consideration

P_{max} = Price of highest acceptable bid

4. POINTS AWARDED FOR SPECIFIC GOALS

- 4.1 In terms of Regulation 3 (1) an organ of state must, in the tender documents, stipulate the specific goal in the invitation to submit the tender for which a point may be awarded, and the number of points that will be awarded to each goal, and proof of the claim for such goal.

SPECIFIC GOAL	NUMBER OF POINTS FOR (80/20 PREFERENCE SYSTEM)	NUMBER OF POINTS (90/10) PREFERENCE SYSTEM)
1. Enterprise owned by Black people	4	2
2. Enterprise owned by Women	4	2
3. Enterprise owned by Youth	4	2
4. Enterprise owned by Disabled persons	4	2
5. Enterprise owned by SMME'S – QSE and EME	4	2

5. BID DECLARATION

5.1 Bidders who claim points in respect of specific goals must complete the following:

SPECIFIC GOAL	NUMBER OF POINTS FOR (80/20 PREFERENCE SYSTEM)	NUMBER OF POINTS (90/10) PREFERENCE SYSTEM)
1.Enterprise owned by Black people		
2.Enterprise owned by Women		
3. Enterprise owned by Youth		
4.Enterprise owned by Disabled persons		
5. Enterprise owned by SMME'S – QSE and EME		

6. B-BBEE STATUS LEVEL OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 3.1

6.1 Specific goals: = (maximum of 10 or 20 points)

(Points claimed in respect of paragraph 6.1 must be in accordance with the table reflected in paragraph 3.1 and must be substantiated by submitting the required documents.

7. DECLARATION WITH REGARD TO COMPANY/FIRM

7.1 Name of company/firm:.....

7.2 VAT registration number:.....

7.3 Company registration number:.....

7.4 TYPE OF COMPANY/ FIRM

- ☐ Partnership/Joint Venture / Consortium
☐ One person business/sole propriety
☐ Close corporation
☐ Company
☐ (Pty) Limited
 [TICK APPLICABLE BOX]

7.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

.....

 7.6 COMPANY CLASSIFICATION

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

7.7 Total number of years the company/firm has been in business:.....

7.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals indicated in paragraphs 1.4 and 5.1 of the foregoing certificates, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 5.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct.
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
 - (a) disqualify the person from the bidding process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution.

WITNESSES

1.
 2.

.....
 SIGNATURE(S) OF BIDDERS(S)

DATE:

ADDRESS

.....

.....

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

1. This Standard Bidding Document must form part of all bids invited.
2. It serves as a declaration to be used by institutions 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 disregarded if that bidder or any of its directors have-
 - a. abused the institution's supply chain management system;
 - b. committed fraud or any other improper conduct in relation to such system; or
 - c. failed to perform on any previous contract.
4. **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

Item	Question	es	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 audi alteram partem 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.	<input type="checkbox"/>	<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.	<input type="checkbox"/>	<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 outside of the Republic of South Africa) for fraud or corruption during the past five years?	<input type="checkbox"/>	<input type="checkbox"/>

4.3.1	If so, furnish particulars:		
4.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	es	No
4.4.1	If so, furnish particulars:		

CERTIFICATION

I, THE UNDERSIGNED (FULL NAME) _____ CERTIFY
 THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS 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	_____20_____ 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 *per se* prohibition meaning that it cannot be justified under any grounds.
3. Municipal Supply Regulation 38(1) prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and must enable the accounting officer 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 other improper conduct in relation to such system; and
 - c. cancel a contract awarded to a person if such 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:

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

No: _____ Description: _____
(Bid Number and Description)

in response to the invitation for the bid made by Umkhanyakude District Municipality, do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: _____ that:
(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.
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

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.
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.

UMKHANYAKUDE DISTRICT MUNICIPALITY

CONTRACT CONDITIONS

The purpose of this document is to:

- (i) Draw special attention to certain general conditions applicable to municipal bids, contracts and orders;
- (ii) To ensure that prospective tenderers or bidders are familiar with the rights and obligations of all parties involved in doing business with the municipality;
- (iii) To set out the conditions applicable to all tenders or bids submitted to the municipality in response to an invitation to submit a tender, bid or quotation, as may be applicable:

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

- Any specification issued by the municipality for the supply of goods or services is subject to the relevant terms and conditions contained herein.
- These General Conditions of Contract will form part of all bid documents.
- Special Conditions of Contract (SCC) relevant to a specific bid, will 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.

A. CONDITIONS APPLYING TO ALL SPECIFICATIONS

All specifications for goods and services to be procured by the municipality shall, except where otherwise stated in any specific specification, be subject to the following requirements and conditions:

1. Functionality

Where functionality is utilized as an evaluation criterion, no tender will be regarded as an acceptable tender if it fails to achieve the minimum stipulated qualifying score for functionality and only tenders that have achieved this score will be evaluated further in terms of the preference point systems referred to below.

2. 80/20 Preference Point System

2.1 The under-mentioned preference points evaluation system for the acquisition of services, works or goods up to a Rand value of R50 000 000 (all applicable taxes included) will be applied with regard to the evaluation of tenders falling within this threshold amount:

- (i) the following formula will be used to calculate the points for price in respect of tenders (including price quotations) with a Rand value equal to, or above R 30 000 and up to a Rand value of R50 000 000 (all applicable taxes included):

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

Where

P_s = Points scored for comparative price of tender or offer under consideration;

P_t = Comparative price of tender or offer under consideration; and

P_{min} = Comparative price of lowest acceptable tender or offer.

- (ii) a maximum of 20 points may be allocated under subparagraph (ii);
- (iii) the points scored by a tenderer in respect of B-BBEE contribution contemplated in subparagraph (ii) must be added to the points scored for price as calculated in accordance with subparagraph (i).

2.2 In the event of all tenders received exceeding the estimated Rand value of R50 000 000, the tender invitation will be cancelled, provided that, if one or more of the acceptable tenders received are within the aforesaid threshold of R50 000 000, all tenders received will be evaluated in accordance with this preference point system.

2.2 The B-BBEE status level attained by a tenderer will be used to determine the number of points contemplated in subparagraph 2.1 (ii) above.

3. 90/10 Preference Point System

3.1 The under-mentioned preference points evaluation system for the acquisition of services, works or goods with a Rand value above R50 000 000 (all applicable taxes

included) will be applied with regard to the evaluation of tenders above this threshold amount:

- (i) the following formula will be used to calculate the points for price in respect of tenders with a Rand value above R50 000 000 (all applicable taxes included):

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

Where

P_s = Points scored for comparative price of tender or offer under consideration;

P_t = Comparative price of tender or offer under consideration; and

P_{min} = Comparative price of lowest acceptable tender or offer.

3.2

In the event of all tenders received being equal to, or below R50 000 000, the invitation to tender will be withdrawn and all tenders received shall be regarded as having been cancelled provided that, If one or more of the acceptable tenders received are above the prescribed threshold of R50 000 000, all tenders received will be evaluated in accordance with this preference point system.

4. Local Production

4.1 Where, in the case of tenders in designated sectors, local production and content is of critical importance, it shall be a specific condition of tender 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.

4.2 The exchange rate to be used for the calculation of local content or local production referred to in subparagraph 1 will be the exchange rate published by the South African Reserve Bank at 12:00 on the date, one week (7 calendar days) prior to the closing date of the invited bid;

4.3 Only the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:201x will be used to calculate local content in accordance with the following formula:

$$LC = 1 - \frac{x}{y} \times 100$$

Where

x imported content

y bid price excluding value added tax (VAT)

and the prices referred to in the determination of x will be converted to Rand (ZAR) by using the exchange rate published by the South African Reserve Bank at 12:00 on the date, one week (7 calendar days) prior to the closing date of the bid;

4.4 Form MBD 6.2 (Declaration Certificate for Local Content) duly completed and signed must be submitted with the bid documentation;

4.4 The municipality reserves the right to verify the accuracy of the rates of exchange quoted by a bidder in paragraph 4.1 of the aforesaid Certificate.

4.5 The accounting officer of the municipality reserves the right to include a 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 on condition that any such prescript and threshold(s) are in accordance with the specific directives issued for this purpose by the National Treasury in consultation with the Department of Trade and Industry and, in such event, the requirements referred to in subparagraphs 4.2 to 4.4 above must be complied with by a tenderer.

4.6 A two- stage tendering process may be followed for tenders referred to in subparagraphs 4.1 and 4.5 and, in such event, the first stage will involve functionality and minimum threshold for local production and content and the second stage price

and B-BBEE with the possibility of price negotiations only with the short listed tenderers.

5. B-BBEE status level certificates and scorecards

- 5.1** Those tenderers who qualify as Exempted Micro Enterprises (EME's) in terms of the Broad-Based Black Economic Empowerment Act, must submit, together with their tender, a certificate to this effect issued by a registered auditor, accounting officer(as contemplated in section 60(4) of the Close Corporations Act, 1984 (Act No. 69 of 1984)) or an accredited verification agency provided that a certificate issued by an Accounting Officer of a closed corporation must be on his letterhead which should also contain his practice number and contact number clearly specified on the face of such certificate.
- 5.2** Tenderers other than Exempted Micro-Enterprises (EME's) must submit, with their tender, their original and valid B-BBEE Status Level Verification Certificate or a certified copy thereof, in support of their B-BBEE rating.
- 5.3** A trust, consortium or joint venture will qualify for points for its B-BBEE status level as a legal entity, provided it submits its B-BBEE Status Level Verification Certificate with its tender.
- 5.4** A trust, consortium or joint venture will qualify for points for its B-BBEE status level as an unincorporated entity, provided that it submits its consolidated B-BBEE scorecard as if were a group structure and, provided further, that such a consolidated B-BBEE scorecard is prepared for every separate tender.

6. Sub-contracting

- 6.1** A tenderer will not be awarded points for B-BBEE status level if it is indicated in the tender documents that such tenderer intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that he/she/it qualifies for, unless the intended sub-contractor is an exempted micro enterprise that has the capability and ability to execute the sub-contract.
- 6.2** A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an exempted micro enterprise that has the capability and ability to execute the relevant sub-contract.
- 6.3** 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.

7. Specific goals

- 7.1** Where a bidder is required to attain a specified specific goal or goals other than contracting with historically disadvantaged persons and implementing Reconstruction and Development Programmes in order to qualify for the award of a contract, such bidder must provide the required information to enable the bid evaluation committee to determine whether or not such specific goal or goals will be

attained by the bidder concerned in the event of him/her or it being awarded the relevant contract.

8. Miscellaneous conditions

- 8.1** Only tenderers who have completed and signed the declaration part of any tender documentation will be considered when tenders are evaluated.
- 8.2** When comparative prices must be calculated, any discounts which have been offered unconditionally will be taken into account.
- 8.3** A discount which has been offered conditionally will, despite not being taken into account for evaluation purposes, be implemented when payment to a tenderer in respect of an accepted tender is effected.
- 8.3** Bid evaluation points scored will be rounded off to the nearest 2 decimal places.
- 8.4** Equal point scoring:
 - (i)** In the event that two or more tenders score equal total points, the successful tender will be the one scoring the highest number of preference points for B-BBEE;
 - (ii)** However, when functionality is part of the evaluation process and two or more tenders have scored equal points including equal preference points for B-BBEE, the successful tender will be the one scoring the highest score for functionality;
 - (iii)** Should two or more tenders be equal in all respects, the award shall be decided by the drawing of lots in accordance with the applicable regulations of the municipality.

9. Cancelling a tender

- 9.1** The accounting officer may, prior to the award of a tender, by notice in the media in which the original tender was advertised, cancel such tender if, due to changed circumstances, there is no longer a need for the services, works or goods requested or if funds are no longer available to cover the total envisaged expenditure or if no acceptable tenders are received.

10. Declarations

A tenderer must -

- (a)** declare that the information provided in a tender document is true and correct;
- (b)** declare that the signatory to a tender document is duly authorized; and
- (c)** undertake to submit documentary proof regarding any tendering issue when required to the satisfaction of the municipality.

11. Remedies

11.1 A tenderer who submits a tender acknowledges thereby that:

- (a)** The municipality will, upon detecting that the B-BBEE status level of contribution has been claimed or obtained by a tenderer on a fraudulent basis or any of the conditions of a contract awarded to such tenderer or contractor have not been fulfilled, act against such tenderer or person awarded the ensuing contract.
- (b)** The municipality may, in addition to any other remedy it may have against the person contemplated in subparagraph (a)-
 - (i)** disqualify the person concerned from participating in any future tender process with the municipality;
 - (ii)** recover all costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (iii)** cancel the relevant contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
- (c)** The municipality may restrict a tenderer or contractor, its shareholders and directors, or only the shareholders and directors, as the case may be, who acted on a fraudulent basis in connection with a tender, from obtaining business from the municipality for a period not exceeding 10 years, provided that, before exercising this right, the municipality shall give the persons or parties concerned an opportunity to make representations and be heard in defence of such contemplated action; and
- (d)** The municipality may refer any fraudulent action on the part of a tenderer or contractor or any party aforesaid to the South African Police Services with a view to criminal prosecution.
- (e)** Where a tenderer or contractor is restricted in terms of subparagraph (c), the accounting officer will forward the relevant details to National Treasury for inclusion in the Central Database of Restricted Suppliers.
- (f)** The municipality will check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
- (g)** The municipality will reject any bid from a bidder -
 - (i)** if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the municipality, or to any other municipality or municipal entity, are in arrears for more than three months; or
 - (ii)** who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
- (e)** The municipality will reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, committed a corrupt or fraudulent act in competing for the particular contract;

- (f)** The municipality will cancel a contract awarded to a person if -

 - (i)** such person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
 - (ii)** an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
- (g)** The municipality will reject the bid of any bidder if that bidder or any of its directors -

 - (i)** has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;
 - (ii)** has been convicted for fraud or corruption during the past five years;
 - (iii)** has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years;
 - (iv)** has 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); and
 - (v)** who, in terms of any applicable law, is required to be in possession of a current licence, registration certificate or authority to submit a bid in response to a bid invitation by the municipality.
- (h)** The municipality will reject a bid from any bidder who failed to attend a compulsory site meeting or information session relative to a particular invitation to bid.

B. GENERAL CONDITIONS OF CONTRACT

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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 anything of value to influence the action of a public official in the procurement process or in contract execution.
- 1.5 **“Countervailing duties”** are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
- 1.6 **“Country of origin”** means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
- 1.7 **“Day”** means calendar day.
- 1.8 **“Delivery”** means delivery in compliance of the conditions of the contract or order.
- 1.9 **“Delivery ex stock”** means immediate delivery directly from stock actually on hand.
- 1.10 **“Delivery into consignee’s 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 contractor 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 markets its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.
- 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 Umkhanyakude District Municipality Municipality or any other agency or body on whose behalf it has been authorized to procure goods and services and includes the accounting officer of this municipality or his nominee.
- 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 ancillaries to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.
- 1.25** **“State”** includes the municipality;
- 1.26** **“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 local press or accessed electronically or in hard copy form from the municipality upon payment of x any prescribed fee.

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 and also 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 insofar 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 municipality or an organization acting on behalf of the municipality.

8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.

8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.

8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.

8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.

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

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

9. Packing

- 9.1** The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

- 9.2** The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in SCC, and in any subsequent instructions ordered by the purchaser.

10. Delivery and documents

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

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

11. Insurance

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

12. Transportation

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

13. Incidental services

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

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

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

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

14. Spare parts

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

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

15. Warranty

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

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

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

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

- 15.5** If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

16. Payment

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

17. Prices

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

18. Contract amendments

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

19. Assignment

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

20. Subcontracts

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

21. Delays in the supplier's performance

- 21.1** Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.
- 21.2** If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for

performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.

- 21.3** No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.
- 21.4** The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.
- 21.5** Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties
- 21.6** Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without canceling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.

22. Penalties

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

23. Termination for default

- 23.1** The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:
 - (a)** if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
 - (b)** if the supplier fails to perform any other obligation(s) under the contract; or
 - (c)** if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
- 23.2** In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.

- 23.3** Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.
- 23.4** If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the intended penalty as not objected against and may impose it on the supplier.
- 23.5** Any restriction imposed on any person by the Accounting Officer will, at the discretion of the Accounting Officer, 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 municipality 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 (NIP) Programme

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.

PAST EXPERIENCE

Bidders must furnish hereunder details of similar works/service, which they have satisfactorily completed in the past. The information shall include a description of the Works, the Contract value and name of Employer.

EMPLOYER/INSTITUTION NAME	NATURE OF WORK/ PROJECT NAME	AWARDED AMOUNT	ANTICIPATED / ACTUAL COMPLETION DATE	EMPLOYER CONTACT NO.

.....

DATE

.....

SIGNATURE OF BIDDER

PAST EXPERIENCE 2

Bidders must furnish hereunder details of similar works/service, which they have satisfactorily completed in the past. The information shall include a description of the Works, the Contract value and name of Employer.

CURRENT PROJECTS UNDERTAKEN <u>FOR UKDM</u>			
PROJECT NAME	AWARDED AMOUNT	CONTRACT START DATE	ANTICIPATED / ACTUAL COMPLETION DATE
TOTAL AMOUNT OF PROJECTS CURRENTLY UNDERTAKEN FOR UKDM			R

.....
DATE

.....
SIGNATURE OF BIDDER

Signed Bid Completion Checklist

Item	Description	Yes	No
1.	Invitation to Bid (MBD 1): completed and signed		
2.	Pricing schedule (Professional Services) MBD 3.3		
3.	Did you submit any proof of registration to relevant professional bodies, if applicable?		
4.	Declaration of interest (MBD 4) Original completed and signed?		
5.	Preference points claim (MBD 6.1) Original completed and signed?		
6.	Declaration of Bidder's past SCM Practices (MBD 8) Original completed and signed?		
7.	Certificate of Independent Bid Determination (MBD 9)		
8.	Did you submit copies of South African ID's for shareholders?		
9.	Did you submit a consortium/joint venture agreement, if applicable?		
10.	Valid tax clearance certificate and SARS Tax Compliance Status with PIN		
11.	Did you submit proof of registration with National Treasury Central supplier Database Registration (CSD) with Supplier No. and Unique Code		
12.	Did you take note of and understand the Special Conditions?		
13.	Did you submit your management and contact details?		
14.	Did you submit contact details for references?		
15.	Did you submit your company profile, details of any BEE Shareholding?		
16.	Did you submit original or certified copy of your company B-BBEE Certificate?.(Certificate must be consolidated if you are a consortium, Joint venture or trust)		
17.	In the case of a Joint Venture did you submit a Joint Venture agreement signed by all parties involved?.		
18.	Did you submit your company registration documents :example CK Document		
19.	Did you submit the Municipal Account statement which is not older than 3 months or office Lease agreement or an affidavit from South African Police Service?		

Ethics Commitment for Suppliers of the Umkhanyakude District

In our dealings with the UMkhanyakude District Municipality we commit to uphold high standards of ethics. Among other things this means:

- We will be honest and deal in good faith;
- We will not try to improperly influence any municipal official or decision;
- We will avoid all conflicts of interest;
- We will not engage in any form of corruption (e.g. paying bribes, giving kickbacks);
- We will not give gifts to municipal officials or councillors;
- We will not be involved in collusion with other service providers (i.e. price-fixing);
- We will ensure that all information we submit to the municipality is accurate and truthful (e.g. we will not engage in BBBEE fronting).
- We will inform the Municipality of any unethical behaviour which we become aware of in the procurement process, either related to other suppliers or to municipal officials.*
- We will, through all our dealings, contribute to building a positive ethical culture in the UMkhanyakude District Municipality.

This is our commitment to help build an ethical community.

Name of Company: _____

Name of authorised person: _____

Signature: _____

Date: _____

* If you wish to report unethical conduct you can contact:

The Municipal Manager:

mm@ukdm.gov.za

If you are aware of any fraud / corruption within the municipality. These may be reported anonymously, to:

- Anonymous hotline: 0860 005 050