



**PROVISION OF 300 MICROSOFT OFFICE 365 E3 WITH TEAMS LICENSES PLAN FOR A PERIOD OF 36 MONTHS.**

**Enquiries: Mr: SL Mkhize E-Mail [SMkhize2@uthukela.gov.za](mailto:SMkhize2@uthukela.gov.za)**

**SUBMISSION OF PROPOSALS DEADLINE**

**Date: 02 July 2025**

**Time: 12h00**

**Venue: uThukela District Municipality Offices  
36 Lyell Street, Ladysmith**

Name of Organisation	
Postal Address	
Contact Person	
Telephone No.	
Fax No.	
E-Mail Address	
Tender Price	

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**PROVISION OF 300 MICROSOFT OFFICE 365 E3 WITH TEAMS LICENSES PLAN FOR A PERIOD OF 36 MONTHS.**

**TENDER NO. 02/2025-ITS**

The uThukela District Municipality seeks accredited service provider to provide 300 Microsoft office 365.

Tender documents will be available from the offices of the cashier from 30 May 2025 at the uThukela District Municipality, 36 Lyell Street, Ladysmith at a non-refundable cost of R500.00 or download on E-tenders. Any queries in respect of the documentation can be directed to Mr Langelihle Thwala via email [LThwala@uthukela.gov.za](mailto:LThwala@uthukela.gov.za)

Tenders submitted on the official tender document that you have purchased are to be submitted in a sealed envelope, clearly marked **"TENDER NO.02/2025-ITS : PROVISION OF 300 MICROSOFT OFFICE 365 E3 LICENSES PLAN FOR A PERIOD OF 36 MONTHS** must be deposited in the tender box situated on the ground floor of the uThukela District Municipality, 36 Lyell Street, Ladysmith, on or before the closing time of **12h00 on Wednesday 02 July 2025**, where the tenders will be opened in public. **Late quotations or Tenders received by way Facsimile or E-Mail will under no circumstances be considered.**

Only bidders who are registered with National Treasury Central Supplier Database (CSD) will be eligible to bid.

Tenderers shall take note of the following Tender Conditions:

- uThukela District Municipality procurement policy will apply,
- uThukela District Municipality does not bind itself to accept the lowest tender or any other tender and reserves the right to accept the whole or part of the tender,
- Tenders submitted are to be valid for a period of 90 days from the closing date for submissions of tenders.
- The Single Envelope System shall apply.
- The tender will be evaluated on a 80/20 preferential points system as per the following criteria: uThukela District Municipality strive to achieve the specific goals in line with PPPFA regulations 2022.
- A bidder must score a minimum of 70 points in respect of pre-qualification to be considered for the next stage.

**LS JILI**  
**MUNICIPAL MANAGER**

## ***CHECKLIST***

**PLEASE ENSURE THAT THE FOLLOWING FORMS HAVE BEEN DULY COMPLETED AND SIGNED AND THAT ALL DOCUMENTS AS REQUESTED, ARE ATTACHED TO THE TENDER DOCUMENT:**

No	Description	Tenderer to Tick ( ✓ )	For Official Use Only	
1.	<b>Authority to Sign a Bid</b> Is the form duly completed and is a certified copy of the resolution attached?		C	
2.	<b>Tax Clearance Certificate</b> Is an ORIGINAL and VALID Tax Clearance Certificate attached?		C	
3.	<b>Declaration of Interest</b> Is the form duly completed and signed?		C	
	<b>Preference Points Claim Form</b> Is the form duly completed and signed? Is a CERTIFIED copy of the B-BBEE Certificate or the original B-BBEE Certificate attached?			
4.	<b>Declaration Certificate for Local Production and Content</b> Is the form and annexures duly completed and signed?		C	
5.	<b>Declaration of Past Supply Chain Practices</b> Is the form duly completed and signed?			
6.	<b>Certificate of Independent Bid Determination</b> Is the form duly completed and signed?			
7.	<b>Certificate of Payment of Municipal Accounts</b> Is the form duly completed and signed? Are the Identity numbers, residential addresses and municipal account numbers of ALL members, partners, directors, etc. provided on the form as requested?		C	
8.	<b>Experience of Tenderer</b> Is the form duly completed with relevant experience detailed and signed?		C	
9.	<b>Scope of Works / Terms of Reference</b> Is the form duly completed and signed?		C	
10.	<b>Form of Offer</b> Is the form duly completed and signed?		C	
11.	<b>Database Registration</b> Is the form duly completed and signed? Are ALL the supporting documents attached?		C	

**\*\* C: Failure to comply with these Sections may prejudice the tender.**

SIGNATURE		NAME (PRINT)	
CAPACITY		DATE	
NAME OF FIRM			

**UTHUKELA DISTRICT MUNICIPALITY**

**PROVISION OF 300 MICROSOFT OFFICE 365 E3 WITH TEAMS LICENSES PLAN FOR A PERIOD OF 36 MONTHS.**

**FORM OF OFFER AND ACCEPTANCE OFFER**

The employer, identified in the acceptance signature block, has solicited offers to enter into a contract for:

**PROVISION OF 300 MICROSOFT OFFICE 365 E3 TEAMS LICENSES PLAN FOR A PERIOD OF 36 MONTHS.  
– 02/2025-ITS**

The tenderer, identified in the offer signature block, has examined the documents listed in the tender data and addenda thereto as listed in the tender schedules, and by submitting this offer has accepted the conditions of tender.

By the representative of the tenderer, deemed to be duly authorized, signing this part of this form of offer and acceptance, the tenderer offers to perform all of the obligations and liabilities of the contractor under the contract including compliance with all its terms and conditions according to their true intent and meaning for an amount to be determined in accordance with the conditions of contract identified in the contract data.

**THE OFFERED TOTAL OF THE PRICES INCLUSIVE OF VALUE ADDED TAX IS**

.....

..... Rand (in words);

R..... (in figures) (or other suitable wording)

This offer may be accepted by the employer by signing the acceptance part of this form of offer and acceptance and returning one copy of this document to the tenderer before the end of the period of validity stated in the tender data, whereupon the tenderer becomes the party named as the contractor in the conditions of contract identified in the contract data.

Signature(s) .....

Name(s) .....

Capacity .....

For the  
Tenderer .....

(Name of organization)

Name and  
Signature of

Witness..... Date .....

**ACCEPTANCE (To be completed by the Employer)**

By signing this part of this form of offer and acceptance, the employer identified below accepts the tenderer's offer. In consideration thereof, the employer shall pay the tenderer the amount due in accordance with the conditions of contract identified in the contract data. Acceptance of the tenderer's offer shall form an agreement between the employer and the tenderer upon the terms and conditions contained in this agreement and in the contract that is the subject of this agreement.

The terms of the contract, are contained in:

- Part 1 Agreements and tender document, (which includes this agreement)
- Part 2 Pricing data
- Part 3 Scope of work
- Part 4 Briefing Session

and any drawings and documents or parts thereof, which may be incorporated by reference into Parts 1 to 4 above.

Deviations from and amendments to the documents listed in the tender document and any addenda thereto as listed in the tender schedules as well as any changes to the terms of the offer agreed by the tenderer and the employer during this process of offer and acceptance, are contained in the Record of Addendum attached to and forming part of this agreement. No amendments to or deviations from said documents are valid unless contained in this schedule, which must be signed by the authorized representative(s) of both parties.

The tenderer shall within two weeks after receiving a completed copy of this agreement, including the schedule of deviations (if any), contact the employer's agent (whose details are given in the tender document) to arrange the delivery of any bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the conditions of contract identified in the contract data at, or just after, the date this agreement comes into effect. Failure to fulfill any of these obligations in accordance with those terms shall constitute a repudiation of this agreement.

Notwithstanding anything contained herein, this agreement comes into effect on the date when the tenderer receives one fully completed original copy of this document, including the schedule of deviations (if any). Unless the tenderer within five days of the date of such receipt notifies the employer in writing of any reason why he cannot accept the contents of this agreement, this agreement shall constitute a binding contract between the parties.

<b>NAME</b>			
<b>SIGNATURE</b>			
<b>CAPACITY (tick one)</b>	<input type="checkbox"/> Municipal Manager	<input type="checkbox"/> Chief Financial Officer	
<b>FOR THE EMPLOYER</b>	<b>UTHUKELA DISTRICT MUNICIPALITY, LYELL STREET, LADYSMITH</b>		
<b>NAME OF WITNESS</b>		<b>DATE</b>	
<b>SIGNATURE OF WITNESS</b>			

## PART A INVITATION TO BID

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF MUNICIPALITY/ MUNICIPAL ENTITY)</b>					
BID NUMBER:	02/2025-ITS	CLOSING DATE:	02 JULY 2024	CLOSING TIME:	12:00
DESCRIPTION	PROVISION OF 300 MICROSOFT OFFICE 365 E3 TEAMS LICENSES PLAN FOR A PERIOD OF 36 MONTHS.				
<b>THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (MBD7).</b>					

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

<b>UThukela District Municipality</b>
<b>36 Lyell Street</b>
<b>Ladysmith</b>
<b>3370</b>

<b>SUPPLIER INFORMATION</b>					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
TAX COMPLIANCE STATUS	TCS PIN:		OR	CSD No:	
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]	<input type="checkbox"/> Yes		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No			<input type="checkbox"/> No	
<b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES &amp; QSEs) MUST BE SUBMITTED IN ORDER TO ALIFY FOR PREFERENCE POINTS FOR B-BBEE]</b>					

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

CONTACT PERSON		TELEPHONE NUMBER	
TELEPHONE NUMBER		FACSIMILE NUMBER	
FACSIMILE NUMBER		E-MAIL ADDRESS	
E-MAIL ADDRESS			

## PART B TERMS AND CONDITIONS FOR BIDDING

### 1. BID SUBMISSION:

- 1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
- 1.2. **ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED-(NOT TO BE RE-TYPED) OR ONLINE**
- 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.

### 2. TAX COMPLIANCE REQUIREMENTS

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

### 3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

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

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

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

SIGNATURE OF BIDDER: .....

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

DATE: .....

### Authority for Signatory

Indicate the status of the tenderer by ticking the appropriate box hereunder. The tenderer must complete the certificate set out below for the relevant category.

A Company	B Partnership	C Joint Venture	D Sole Proprietor	E Close Corporation

#### A. Certificate for Company

I, ....., chairperson

of the board of .....,

hereby confirm that by resolution of the board (copy attached) taken on

..... 20...., Mr/Ms .....

acting in the capacity of ....., was authorised to sign all documents in connection with this tender for Contract No 02/2025-ITS and any contract resulting from it on behalf of the company.

#### As witnesses:

1. ....

Chairman: .....

2. ....

Date: .....

#### B. Certificate for Partnership

We, the undersigned, being the key partners in the business trading as .....

....., hereby authorise

Mr/Ms ....., acting in the capacity of .....

....., to sign all documents in connection with this tender for

Contract No 02/2025-ITS and any contract resulting from it on our behalf.

Name	Address	Signature	Date

*Note: This certificate is to be completed and signed by all key partners upon whom rests the direction of the affairs of the Partnership as a whole.*

**C. Certificate for Joint Venture**

We, the undersigned, are submitting this tender offer in Joint Venture and hereby

authorise Mr/Ms ....., authorised signatory of the company

....., acting in the capacity of lead

Partner, to sign all documents in connection with this tender for Contract No. 02/2025-ITS and any contract resulting from it on our behalf.

This authorisation is evidenced by the attached power of attorney signed by legally authorised signatories of all the partners to the Joint Venture.

Name of Firm	Address	Authorising Name and Capacity	Authorising Signature
Lead Partner:			

**D. Certificate for Sole Proprietor**

I, ....., hereby confirm that I am

the sole owner of the business trading as .....

**As witnesses:**

1. ....

Sole Owner: .....

2. ....

Date: .....

**E. Certificate for Close Corporation**

We, the undersigned, being the key members in the business trading as .....

....., hereby authorise Mr/Ms .....

acting in the capacity of ....., to sign all to sign all documents in connection with this tender for Contract No 02/2025-ITS and any contract resulting from it on our behalf.

Name	Address	Signature	Date

*Note: This certificate is to be completed and signed by all key partners upon whom rests the direction of the affairs of the Partnership as a whole.*

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

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

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

### 1. GENERAL CONDITIONS

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

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

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

*(delete whichever is not applicable for this tender).*

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

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

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

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

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	80
SPECIFIC GOALS	20
Total points for Price and SPECIFIC GOALS	100

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

## 2. DEFINITIONS

### (a) “tender”

means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;

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

## 3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

### 3.1. POINTS AWARDED FOR PRICE

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

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

$$80/20 \qquad \text{or} \qquad 90/10$$

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

P min = Price of lowest acceptable tender

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

## GENERATING PROCUREMENT

### 3.2.1. POINTS AWARDED FOR PRICE

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

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

Where

$P_s$  = Points scored for price of tender under consideration

$P_t$  = Price of tender under consideration

$P_{max}$  = Price of highest acceptable tender

## 4. POINTS AWARDED FOR SPECIFIC GOALS

4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:

4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—

(a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or

(b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,

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

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

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

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

The specific goals allocated points in terms of this tender	Number of points allocated (90/10 system) (To be completed by the organ of state)	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (90/10 system) (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)
Enterprises that are black owned		10		
Enterprises that are owned by disabled person (s)		3		
Enterprises that are youth owned		3		
Locality (within district) (4) Within Province (2) Outside Province (1)		4		

**NB: Bidders must provide attachments (Proof of Residence, ID Documents and B-BBEE Certificate) for the above-mentioned specific goals as proof.**

## DECLARATION WITH REGARD TO COMPANY/FIRM

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

4.4. Company registration number: .....

4.5. TYPE OF COMPANY/ FIRM

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

☐ State Owned Company  
[TICK APPLICABLE BOX]

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

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

.....  
**SIGNATURE(S) OF TENDERER(S)**

**SURNAME AND NAME:** .....

**DATE:** .....

**ADDRESS:** .....

#### **4. SUB-CONTRACTING**

4.1 Will any portion of the contract be sub-contracted?

**(Tick applicable box)**

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

4.1.1 If yes, indicate:

- i) What percentage of the contract will be subcontracted.....%
- ii) The name of the subcontractor..... iii) The B-BBEE status level of the subcontractor.....
- iv) Whether the sub-contractor is an EME or QSE (*Tick applicable box*)

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

- v) Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations, 2017:

Designated Group: An EME or QSE which is at last 51% owned by:	EME ✓	QSE ✓
Black people		
Black people who are youth		
Black people who are women		
Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		
Black people who are military veterans		
<b>OR</b>		
Any EME		
Any QSE		

## 5. DECLARATION WITH REGARD TO COMPANY/FIRM

- 5.1 Name of company/firm:.....
- 5.2 VAT registration number:.....
- 5.3 Company registration number:.....
- 5.4 TYPE OF COMPANY/ FIRM

- ☐ Partnership/Joint Venture / Consortium
- ☐ One person business/sole propriety
- ☐ Close corporation

- ☐ Company
- ☐ (Pty) Limited
- [TICK APPLICABLE BOX]

5.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

.....

.....COMPANY CLASSIFICATION

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

5.6 MUNICIPAL INFORMATION

Municipality where ..... is situated:  
business.....

Registered account number: .....

Stand Number: .....

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

5.8 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 B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- v) The information furnished is true and correct; vi) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- vii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- viii) 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 –

- (f) disqualify the person from the bidding process;

- (g) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
- (h) 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;
- (i) 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 (j) forward the matter for criminal prosecution

WITNESSES

- 1. ....
- 2. ....

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

DATE: .....  
ADDRESS .....  
.....  
.....

## **TENDER ADJUDICATION CRITERIA**

1. The 80/20 adjudication criteria will apply when this Tender is adjudicated, and points will be allocated as follows :-

Price:	80 Points
Preference Points:	20 Points
Total	100 Points

Preference Points will be awarded in terms of the Preferential Procurement Regulations, 2022. Tenderers are required to submit a valid B-BBEE Rating Certificate by an agency accredited with SANAS in order to be eligible for Preference Points.

Enterprises that are black owned		10		
Enterprises that are owned by disabled person (s)		3		
Enterprises that are youth owned		3		
Locality (within district) (4)		4		
Within Province (2)				
Outside Province (1)				

### **A. AWARDING OF CONTRACT, COMPLETION AND PENALTIES**

1. This Bid is subject to the General Conditions of Contract (GCC) and, if applicable, any other Special Conditions of Contract.
2. The date of commencement of the Contract will be advised after adjudication of the Tender.
3. Tenderers shall furthermore note that goods or services will not be considered acceptable and consequently their obligations not fulfilled should goods or services fail to comply with the specifications in the Tender document.
4. Where the supplier fails to render the services within the stipulated period, or should services rendered be deemed not to the satisfaction of the uThukela District Municipality, the tenderer will receive written notice of poor performance. Failure to address performance issues could result in the entire contract being reviewed or cancelled.

### **B. PAYMENTS**

1. Payments will be made within 30 days of the certified invoice date.
2. Tenders must clearly state all settlement and trade discounts.

3. Any additional payment for extra work carried out on a contract will only be made provided that the contractor is issued with a variation order by an authorized uThukela District Municipality official.
4. The uThukela District Municipality hereby indemnifies itself from any claims whatsoever, which may arise as a result of loss of income suffered by the tenderer for any reason directly or indirectly during the course of this Tender and the uThukela District Municipality reserves the right to consider compensation at its own terms.

**C. TAX**

1. Tenderers are requested to attach the original tax clearance certificate from the revenue office to indicate their standing with regard to Tax matters.

SIGNATURE: .....  
(Of person authorised to sign on behalf of the Tenderer)

DATE: .....

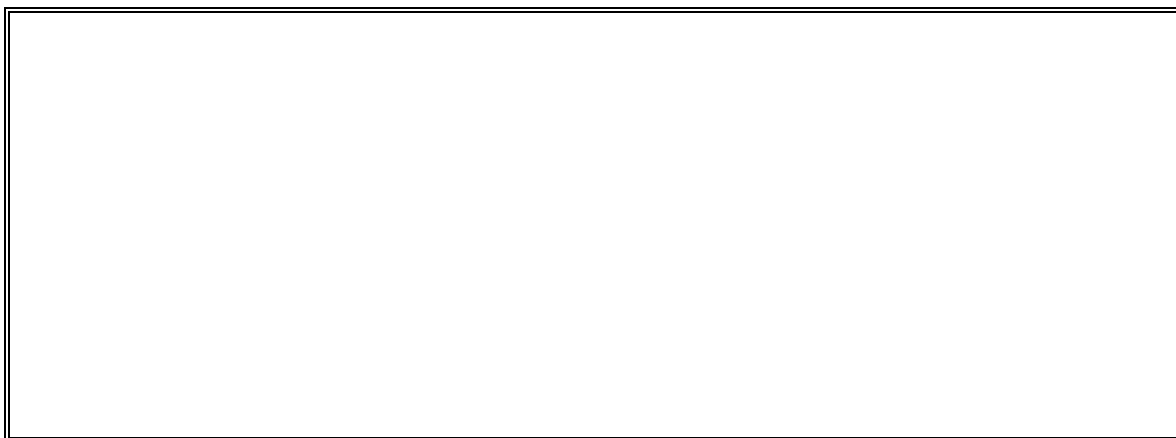
## TAX CLEARANCE CERTIFICATE REQUIREMENTS

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

1. The taxes of the successful Tenderer must be in order, or that satisfactory arrangements have been made with the Receiver of Revenue to meet his/her tax obligations.
2. An Application for Tax Clearance Certificate must be completed in all respects and submitted to the Receiver of Revenue. The Receiver of Revenue will then furnish the Tenderer with a Tax Clearance Certificate that will be valid for a period of twelve (12) months from date of issue. This Tax Clearance Certificate must be submitted in the original together with the tender.
3. Copies of the TCC 001 "Application for a Tax Clearance Certificate" form are available from any SARS branch office nationally or on the website [www.sars.gov.za](http://www.sars.gov.za). Applications for the Tax Clearance Certificates may also be made via eFiling. In order to use this provision, taxpayers will need to register with SARS as eFilers through the website [www.sars.gov.za](http://www.sars.gov.za).
4. In tenders where Consortia/Joint Ventures/Sub-Contractors are involved each party must submit a separate Tax Clearance Certificate. Copies of the Application for Tax Clearance Certificates are available at any Receiver's Office.

**NOTE:** *Failure to do so will lead to your tender being disqualified*

Attach valid Tax Clearance/Pin Certificates to this page.



SIGNATURE OF TENDERER: .....

DATE: .....

**BEE RATING CERTIFICATE**

- 1. Bidders are required to submit original and valid B-BBEE Status Level Verification Certificates or certified copies thereof together with their bids, to substantiate their B-BBEE rating claims,
- 2. 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 B-BBEE but will not be disqualified from the bidding process. They will score points out of 90 or 80 for price only and zero (0) points out of 10 or 20 .
- 3. A trust, consortium or joint venture must submit a consolidated B-BBEE Status Level Verification Certificate.

Tenderers are to note that copies of certified documents will not be accepted.

Attach valid BEE Rating Certificates to this page.

SIGNATURE OF TENDERER: .....

DATE: .....

## PROOF OF GOOD STANDING WITH MUNICIPAL ACCOUNTS

The tenderer is to affix to this page:

- Proof that they are not in arrears for more than 3 months with municipal rates and taxes and municipal service charges or more than 30 days if the value of the bid is greater than R10 Million (VAT included). The latest municipal account is to be attached.

Note:

1. Failure to affix such documentation as prescribed to this page shall result in this tender not being further considered for the award of the contract.
2. Should this tender be considered for award of the contract, based on proof of submission and should proof of such submission be found to be invalid, erroneous or inaccurate, the this tender will no longer be considered for the award of the contract.

Attach latest municipal account statement to this page.

**NB: Please attach certified copy(ies) of ID document(s)**

I, \_\_\_\_\_,  
(Full name in block letters) the undersigned, certify that the information furnished on this declaration form is correct and that I / we have no undisputed commitments for municipal services towards a municipality in respect of which payment is overdue for more than 90 days.

If the value of the transaction is expected to exceed R10 million (VAT included) I certify that the bidder has no undisputed commitments for municipal services towards a Municipality in respect of which payment is overdue for more than 30 days

<b>SIGNATURE</b>		<b>NAME (PRINT)</b>	
<b>CAPACITY</b>		<b>DATE</b>	
<b>NAME OF FIRM</b>			

## BANKING DETAILS

It is the policy of the uThukela District Municipality to pay all creditors by means of direct bank transfers. Please complete this information and acquire your banker's confirmation.

ACCOUNT HOLDER	
NAME OF BANK	
ACCOUNT NUMBER	
ACCOUNT TYPE	
BRANCH NAME	
BRANCH CODE	
BRANCH CONTACT PERSON	
PHONE NUMBER	
FAX NUMBER	

I/we hereby request and authorise the uThukela District Municipality to pay any amounts that may accrue to me/us to the credit of my/our bank account.

I/we further undertake to inform the uThukela District Municipality in advance of any change in my/our bank details and accept that this authority may only be cancelled by me/us by giving thirty days' notice by prepaid registered post.

**Alternatively, the tenderer may submit a letter/declaration from his bank worded as above, providing the required details and signed by an appropriate Bank Official (attached to this page).**

**FOR BANK USE ONLY**

<p>I/we hereby certify that the details of our clients bank account as indicated on the credit order instruction is correct:</p> <p>.....</p> <p>AUTHORISED SIGNATURE(S)</p>	<p>OFFICIAL DATE STAMP</p>
--	----------------------------

## JOINT VENTURE AGREEMENT

This returnable schedule is to be completed by joint ventures.

We, the undersigned, are submitting this tender offer in joint venture and hereby authorize Mr./Ms. ...., authorized signatory of the company, close corporation or partnership ...., acting in the capacity of lead partner, to sign all documents in connection with the tender offer and any contract resulting from it on our behalf.

NAME OF FIRM	ADDRESS	DULY AUTHORISED SIGNATORY
Lead Partner		Signature:
		Name:
		Designation:
		Signature:
		Name:
		Designation:
		Signature:
		Name:
		Designation:

**Note:**

A copy of the Joint Venture Agreement showing clearly the percentage contribution of each partner to the Joint Venture shall be appended to this schedule.

Service providers intending to tender in the form of Joint Ventures/Consortiums must submit the following documentation together with the tender:

1. Original and valid tax clearance certificate of all parties of the Joint Venture/Consortium;
2. An undertaking duly signed by all parties of the Joint Venture/Consortium indicating their intention to enter into an agreement for the purposes of the contract and;
3. A consolidated valid and original or certified copy of their B-BBEE Status level verification certificate obtainable from a verification agency accredited by SANAS or a registered auditor approved by the Independent Regulatory Board of Auditors (IRBA).

Further to the above, the name of the Joint Venture/Consortium must appear on the relevant pages of the document. Failure to comply with these requirements shall lead to disqualification.

SIGNATURE OF TENDERER: .....

DATE: .....

## SCHEDULE OF PROPOSED SUB-CONTRACTORS

The Tenderer shall list below any Sub-Contractors he wishes to employ to carry out part(s) of the Work.

The acceptance of his tender shall not be construed as approval of all or any of the listed Sub-Contractors. Should any or all of the Sub-Contractors not be approved subsequent to acceptance of the tender, this shall in no way invalidate this tender. Furthermore, the tendered unit rates for the various items of work shall remain final and binding.

No.	PROPOSED SUB-CONTRACTORS	PART OR TYPE OF WORK	ADDRESS OF PROPOSED SUBCONTRACTOR	CONTACT DETAILS	VALUE OF WORK (R)
1					
2					
3					
4					
5					
6					
7					
TOTAL VALUE OF WORKS TO BE SUB-CONTRACTED					R

Bidders are requested to furnish certified copies of the proposed subcontractor's CK Certificate, BEE Rating Certificate as well as certified copies of the owners' Identity Documents along with this tender.

SIGNED ON BEHALF OF TENDERER: .....

1. **SPECIFICATIONS OF TENDER.**

**SCOPE OF WORK**

- Supply Microsoft 365 E3 with Teams Licenses or Microsoft Business Premium License (Microsoft office suite applications, Teams, SharePoint, Exchange, Defender and OneDrive etc)
- 300 Users License
- Annual license for 3 years
- Must include setup, installation, and support.
- Kindly note that the service provider must be a Microsoft Partner authorised to resell Microsoft licenses up 300.

## 1.1 EVALUATION CRITERIA

Points will be awarded, as follows

A pre-qualification Evaluation will be undertaken. A minimum total score of 70 points out of 100 must be scored, in order to proceed to the Financial Evaluation.

Please complete the tables below and take note of the requirements for each section, which is needs to be submitted, with the completed document.

Functionality description	Functionality Score	Points Claimed by Service Provider (with clear reference page numbers relating to proof in support of the points claimed)
<b>Registration</b>  Must be an accredited Microsoft partner, authorised to resell Microsoft Licenses  (Service provider must provide Microsoft partner certificate as proof and a letter from the distributor)	<b>40</b>	
<b>Relevant Experience on Projects of Similar Nature</b> ( <i>appointment letters</i> ) <ul style="list-style-type: none"><li>• 3 projects</li><li>• 2 projects</li><li>• 1 project</li></ul>	<b>30</b>  30 20 10	
<b>Bidder's Capacity</b>  Number of year's company has been in practice in the supply of Microsoft licenses.  1 < 4 years =10      5 < 9 years =20      > 10 years = 30	<b>30</b>	

## EXPERIENCE OF TENDERER

The following is a statement of work of a similar nature (E.g. Supply of original branded tracksuits) successfully executed by myself / ourselves within the past 5 years:

EMPLOYER: CONTACT PERSON AND TELEPHONE NUMBER	DESCRIPTION OF WORK	VALUE OF WORK (inclusive of VAT)	COMPLETION DATE
(name)			
(tel.)			
(email)			
(fax)			
(name)			
(tel.)			
(email)			
(fax)			
(name)			
(tel.)			
(email)			
(fax)			
(name)			
(tel.)			
(email)			
(fax)			

**A separate schedule, clearly referenced, may be inserted here.**

Bidders must have specific experience and submit at least three recent references (in a form of written proof/(s) on organization's letterhead including relevant contact person, nature of service, contract amount, commencement date, telephone number, fax number and email addresses) of similar work undertaken.

SIGNATURE: .....  
(of person authorised to sign on behalf of the Tenderer)

DATE: .....

## DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

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

Item	Question	Yes	No
------	----------	-----	----

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

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

#### CERTIFICATION

I, THE UNDERSIGNED (FULL NAME) .....

**CERTIFY THAT THE INFORMATION FURNISHED ON THIS  
DECLARATION FORM TRUE AND CORRECT.**

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

.....

**Signature**

.....

**Date**

.....

**Position**

.....

**Name of Bidder**

## Compulsory Enterprise Questionnaire

The following particulars must be furnished. In the case of a joint venture, **separate** enterprise questionnaires in respect of each partner must be completed and submitted.

**Section 1: Name of enterprise:** .....

**Section 2: VAT registration number, if any:** .....

**Section 3: CIDB registration number, if any:** .....

### Section 4: Particulars of sole proprietors and partners in partnerships

Name*	Identity number*	Personal income tax number*

\* Complete only if sole proprietor or partnership and attach separate page if more than 3 partners

### Section 5: Particulars of companies and close corporations

Company registration number .....

Close corporation number .....

Tax reference number .....

### Section 6: Record of service of the state

Indicate by marking the relevant boxes with a cross, if any sole proprietor, partner in a partnership or director, manager, principal shareholder or stakeholder in a company or close corporation is currently or has been within the last 12 months in the service of any of the following:

- |  |   |
|--|---|
| <input type="checkbox"/> a member of any municipal council                                     | <input type="checkbox"/> an employee of any provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999) |
| <input type="checkbox"/> a member of any provincial legislature                                | <input type="checkbox"/> a member of an accounting authority of any national or provincial public entity  |
| <input type="checkbox"/> a member of the National Assembly or the National Council of Province | <input type="checkbox"/> an employee of Parliament or a provincial legislature  |
| <input type="checkbox"/> a member of the board of directors of any municipal entity            |   |
| <input type="checkbox"/> an official of any municipality or municipal entity                   |   |

If any of the above boxes are marked, disclose the following:

Name of sole proprietor, partner, director, manager,	Name of institution, public office, board or organ of state and position held	Status of service (tick appropriate column)
--	---	---

principal shareholder or stakeholder		current	Within last 12 months

\*insert separate page if necessary

#### Section 7: Record of spouses, children and parents in the service of the state

Indicate by marking the relevant boxes with a cross, if any spouse, child or parent of a sole proprietor, partner in a partnership or director, manager, principal shareholder or stakeholder in a company or close corporation is currently or has been within the last 12 months been in the service of any of the following:

- |  |   |
|--|---|
| <input type="checkbox"/> a member of any municipal council                                     | <input type="checkbox"/> an employee of any provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999) |
| <input type="checkbox"/> a member of any provincial legislature                                | <input type="checkbox"/> a member of an accounting authority of any national or provincial public entity  |
| <input type="checkbox"/> a member of the National Assembly or the National Council of Province | <input type="checkbox"/> an employee of Parliament or a provincial legislature  |
| <input type="checkbox"/> a member of the board of directors of any municipal entity            |   |
| <input type="checkbox"/> an official of any municipality or municipal entity                   |   |

Name of spouse, child or parent	Name of institution, public office, board or organ of state and position held	Status of service (tick appropriate column)	
		current	Within last 12 months

\*insert separate page if necessary

The undersigned, who warrants that he/she is duly authorised to do so on behalf of the enterprise:

- i) authorizes the Employer to obtain a tax clearance certificate from the South African Revenue Services that my / our tax matters are in order;
- ii) confirms that the neither the name of the enterprise or the name of any partner, manager, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears on the Register of Tender Defaulters established in terms of the Prevention and Combating of Corrupt Activities Act of 2004;
- iii) confirms that no partner, member, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears, has within the last five years been convicted of fraud or corruption;
- iv) confirms that I / we are not associated, linked or involved with any other tendering entities submitting tender

**MBD 4  
DECLARATION OF INTEREST**

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

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

3.2 Identity Number: .....

3.3 Position occupied in the Company (director, trustee, hareholder<sup>2</sup>):.....

3.4 Company Registration Number: .....

3.5 Tax Reference Number:.....

3.6 VAT Registration Number: .....

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

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

3.8.1 If yes, furnish particulars. ....

.....

<sup>1</sup>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.

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

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

3.9.1 If yes, furnish particulars.....

.....

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

3.10.1 If yes, furnish particulars.

.....

.....

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

3.11.1 If yes, furnish particulars

.....

.....

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

3.12.1 If yes, furnish particulars.

.....

.....

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

YES / NO

3.13.1 If yes, furnish particulars.

.....  
.....

3.14 Do you or any of the directors, trustees, managers, principle shareholders, or stakeholders of this company have any interest in any other related companies or business whether or not they are bidding for this contract.

YES / NO

3.14.1 If yes, furnish particulars:

.....  
.....

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

Full Name	Identity Number	State Employee Number

.....  
**Signature**

.....  
**Date**

.....  
**Capacity**

.....  
**Name of Bidder**

## CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Municipal Bidding Document (MBD) must form part of all bids<sup>1</sup> 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).<sup>2</sup> Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 Municipal Supply Regulation 38 (1) prescribes that a supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer, among others, to:
  - a. take all reasonable steps to prevent such abuse;
  - b. reject the bid of any bidder if that bidder or any of its directors has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system; and
  - c. cancel a contract awarded to a person if the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.
- 4 This MBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (MBD 9) must be completed and submitted with the bid:

<sup>1</sup> Includes price quotations, advertised competitive bids, limited bids and proposals.

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

## CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

---

(Bid Number and Description)

in response to the invitation for the bid made by:

---

(Name of Municipality / Municipal Entity)

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

I certify, on behalf of: \_\_\_\_\_ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign, the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
  - (a) has been requested to submit a bid in response to this bid invitation;
  - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
  - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium<sup>3</sup> 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.

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

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

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

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

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

1 Are you by law required to prepare annual financial statements for auditing? **\*YES / NO**

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

.....

.....

2 Do you have any outstanding undisputed commitments for municipal services towards any municipality for more than three months or any other service provider in respect of which payment is overdue for more than 30 days? **\*YES / NO**

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

2.2 If yes, provide particulars.

.....

.....

.....

.....

\* Delete if not applicable

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

**\*YES / NO**

3.1 If yes, furnish particulars

.....

.....

4. Will any portion of goods or services be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality / municipal entity is expected to be transferred out of the Republic? **\*YES / NO**

4.1 If yes, furnish particulars

.....  
.....

**CERTIFICATION**

**I, THE UNDERSIGNED (NAME)** .....

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

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

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

**RECORD OF ADDENDA TO TENDER DOCUMENTS**

We confirm that the following communications received from the employer before the submission of this tender offer, amending the tender documents, have been taken into account in this tender offer.		
	<b>Date</b>	<b>Title or Details</b>
1.		
2.		
3.		
4.		
5.		

*Attach additional pages if more space is required.*

**Failure to acknowledge any addendum released by uThukela District Municipality may result in your tender submission being declared non-responsive.**

SIGNATURE: ..... DATE: .....  
(Of person authorised to sign on behalf of the Tenderer)

## ***ELIGIBILITY CRITERIA***

Tender offers will only be accepted if:

1. The tenderer submits **an original valid** Tax Clearance Certificate/pin issued by the South African Revenue Services or has made arrangements to meet outstanding tax obligations;
2. The tenderer has purchased the tender document and has signed the Purchase Register and/or has attended the Compulsory Briefing Session.
3. 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 person prohibited from doing business with the public sector;
4. The tenderer has not:
  - a. abused the Employer's Supply Chain Management System; or
  - b. failed to perform on any previous contract and has been given a written notice to this effect;
5. The tenderer has completed the Declaration of Interest and Compulsory Enterprise Questionnaire 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 and persons in the employ of the state are permitted to submit tenders or participate in the contract;
6. The tenderer is registered on the uThukela District Municipality's supplier database and the Central Supplier Database;
7. The tenderer has met local production threshold minimums. Textile, Clothing, Leather and Footwear have been designated for local production with minimum local content thresholds. The stipulated minimum threshold for local production and content is 100%. The Declaration Certificate for Local Production and Content must be completed.
8. The tenderer is not in arrears for more than 3 months with municipal rates and taxes and municipal service charges or 30 days if the value of the bid exceeds R10 Million. The latest municipal account is to be attached.
9. A Joint-Venture Agreement, if applicable, must be submitted with tender.
10. The tender offer is signed by a person authorized to sign on behalf of the Tenderer.
11. Tenderers submit a minimum of five written testimonials from municipalities or departments. In order for a service provider to be scored in the Financial and Equity sections the proposed product must fully comply with the Specification Requirements. Accreditation with relevant chemical authority.
12. All returnable schedules are to be completed and all relevant certificates attached where indicated.

**A. Criteria: Experience Applicable to last 5 years only: Minimum No. of Projects Completed = 3**

	List below up to 4 highest-value Jobs of supplying plant hire undertaken as main supplier within the last 3 years. Projects listed must be selected from those listed in the Prior Experience Schedule.				
	Contract	Value	Reference		
			Name	Organisation	Tel N°
1.1					
1.2					
1.3					
1.4					

Bidders are required to have a minimum of three jobs (current or complete). A written testimonial from the client, in a form of written proof/(s) on organization's letterhead (including relevant contact person, nature of service, contract amount, commencement date, telephone number, fax number and email addresses) is required to validate claims of experience of the bidder.

**Only Eligible to Tender if the Minimum Requirements are met.**

All returnable schedules are to be completed and all relevant certificates attached where indicated.

## ***REFERENCE LETTERS***

Bidders must have specific experience and submit at least three **legit** recent (not older than 5 years) references (in a form of written proof/(s) on organization's letterhead including relevant contact person, nature of service, contract amount, commencement date, telephone number, fax number and email addresses) of similar work undertaken.

**Reference Letters are to be signed and dated.**

**Bidders are to note that appointment letters/purchase orders will not be accepted in lieu of reference letters.**

Clients must further include on such written references their rating of the Bidder according to the following specific criteria:

- i. Turn-around times
- ii. Quality of feedback
- iii. Accessibility and availability
- iv. Reliability
- v. Customer satisfaction

Attach Letters of Reference to this page.



SIGNATURE: .....  
(Of person authorised to sign on behalf of the Tenderer)

DATE: .....

## ***COMPANY PROFILE***

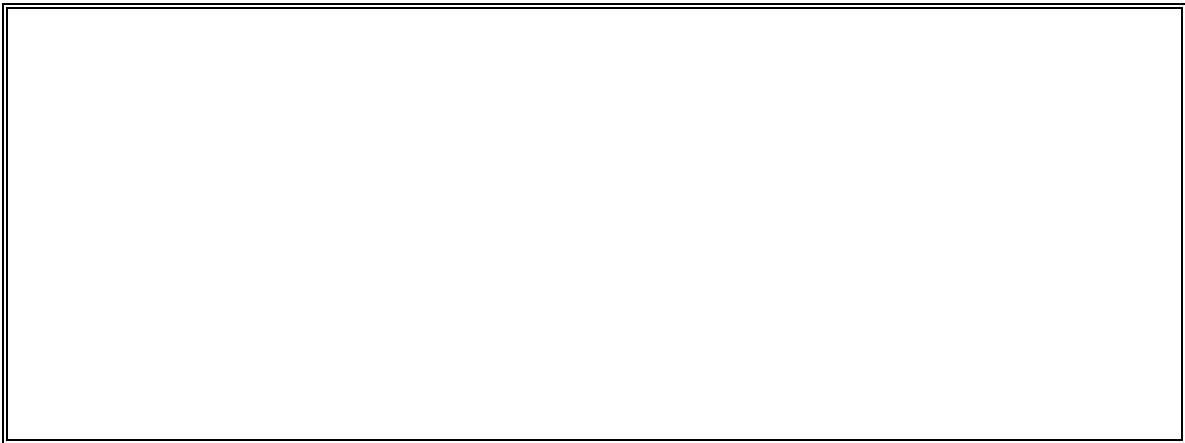
Bidders are required to submit a Company Profile that records evidence of previous work which substantiate their ability to undertake specific tasks.

The Company Profile must include the following items:

- Company Registration Documents
- Latest Financial Statements
- VAT Registration Certificate

Please note that all copies of qualifications must be certified. Copies of certified documents will not be accepted.

Attach Company Profile to this page.



SIGNATURE: .....  
(Of person authorised to sign on behalf of the Tenderer)

DATE: .....

## ***DATABASE REGISTRATION***

Name of Tenderer: .....

CSD Registration Number: .....

**No awards will be made to a tenderer who is not registered on the UTDM Supplier Database.  
Provide proof of registration, on the central database for government(CSD summary report).  
Provide valid tax clearance/pin certificate.**

Database application forms can be collected at reception, 36 Lyell Street. Alternatively the forms may be downloaded of the uThukela District Municipality's website:

[http://www.uthukeladm.co.za/index.php?option=com\\_docman&Itemid=191](http://www.uthukeladm.co.za/index.php?option=com_docman&Itemid=191)

SIGNATURE: .....  
(Of person authorised to sign on behalf of the Tenderer)

DATE: .....

## **PROVISION OF 300 MICROSOFT 365 E3 LICENSES PLAN FOR A PERIOD OF 36 MONTHS.**

### **1. PRICES**

The prices quoted shall include all other charges to UThukela District Municipality.

### **2. COMPLIANCE WITH THE MUNICIPAL FINANCE MANAGEMENT ACT:**

All person tendering must ensure that their tender complies with the above act and if required copies of the relevant sections will be made available.

### **3. SPECIFICATION**

UThukela District Municipality invite suitable qualified, appropriately accredited bidders who have, and can demonstrate, the necessary capacity, to bid for the delivery of services as outlined in these terms of reference,

### **4. VAT REGISTRATION**

The tenderer must be VAT registered and a certified copy of VAT registration certificate in the name of the company tendering must accompany the Tender.

### **5. PAYMENT**

Payment will be made by the Council within thirty (30) days after receipt of an invoice.

### **6. DURATION OF CONTRACT**

- 3 years .

### **7. TENDERER VALIDITY**

Prices quoted shall be valid for the duration of the contract. This tender shall not be withdrawn during a period of 90 days from the date on which it is to be lodged and it may be accepted at any time during that period.

### **8. TENDER COMPLIANCE**

Tenders must comply with the following:

**8.1.** Tenders must be on the official Schedule of Quantities;

**8.2.** Tenders must adhere strictly to specifications and cost details set out in the Schedule of Quantities;

**8.3.** VAT must be indicated separately;

## **9. TENDER FORM**

All Tenderers shall be made on the tender form incorporated in these documents and unit rates and amounts shall be entered against each item of work given in schedule of quantities.

*TENDERERS MUST COMPLETE THIS FORM IN INK.*

## **10. TENDER REGULATIONS**

All Tenderers shall be subject to the understanding that the Tenderer has fully acquainted himself with these documents and undertakes to be bound by the conditions thereof, and all Tenderers shall be received subject to these conditions.

## **12. FORM OF TENDER**

All Tenderers shall complete and sign the Form of Tender and the complete submission with priced Bills of Quantities included is to be returned as a complete tender.

## **13. FACSIMILE TENDERS**

Facsimile tenders will not be considered.

## **14. ADJUDICATION OF TENDERS**

UTHUKELA DISTRICT MUNICIPALITY does not bind itself to accept the lowest or any Tender, and reserves the right to accept any tender or part thereof, as may be deemed necessary, nor will UTHUKELA DISTRICT MUNICIPALITY assign any reason for the rejection of a Tender. UTHUKELA DISTRICT MUNICIPALITY may accept more than one tender for the purpose of this contract.

**Tenderers are warned that a tender will be disqualified should any attempt be made by a Tenderer, either directly or indirectly, to canvas in respect of a Tender submitted.**

## **15. CONFIDENTIALITY**

The supplier agrees not to disclose or release any confidential or proprietary information of uThukela District obtained in the performance of this contract.

## **16. COMMUNICATIONS**

The service provider undertakes to maintain good communications between themselves and Council during the full contractual period. During the term of the contract the Service Provider will make regular contact with the designated representative of the Council.

## **17. RECORDS**

Accurate daily deliveries logs shall be kept by the Contractor on an approved form showing date and the signature of the recipient.

## **18. EXECUTION PLAN**

The bidder will be required to provide an efficient and effective service. Therefore, the bidder is required to submit the proof that he/she has the required capacity to execute the contract tendered for successfully. The bidder must supply references or state his/her experience as a company to undertake the contract. References of past experience of owners/employees of new entities must accompany the bid document. Alternatively, the bidder must submit a project execution plan that the company will utilize to successfully execute the contract in terms of manpower, machinery, process control, infrastructure, etc.

If the bidder is a supplier, not a manufacturer of the output tendered for, he/she must submit with the bid document on the closing date and time of bid a guarantee from a manufacturer that support required to execute the contract successfully for the duration of the contract will be provided.

Failure to submit sufficient information for assessment to be made may invalidate the entire bid.

It is a bid condition that prior to an award of the bid being made and/or during the evaluation process, the premises of the most acceptable bidder will be subject to inspection. Therefore premises of the bidder shall be open, at reasonable hours, for inspection by a representative of uThukela District Municipality on its behalf.

## **19. MULTIPLE AWARDS**

The uThukela District Municipality tender award committee reserves the right to award the bid to more than one contractor, provided the respective bidders offer complies with the specification and meets all the conditions attached to the bid. Multiple awards may take place in respect of individual items or a combination of items.

## **20. UNSATISFACTORY PERFORMANCE**

Unsatisfactory performance occurs when performance is not in accordance with the contract conditions.

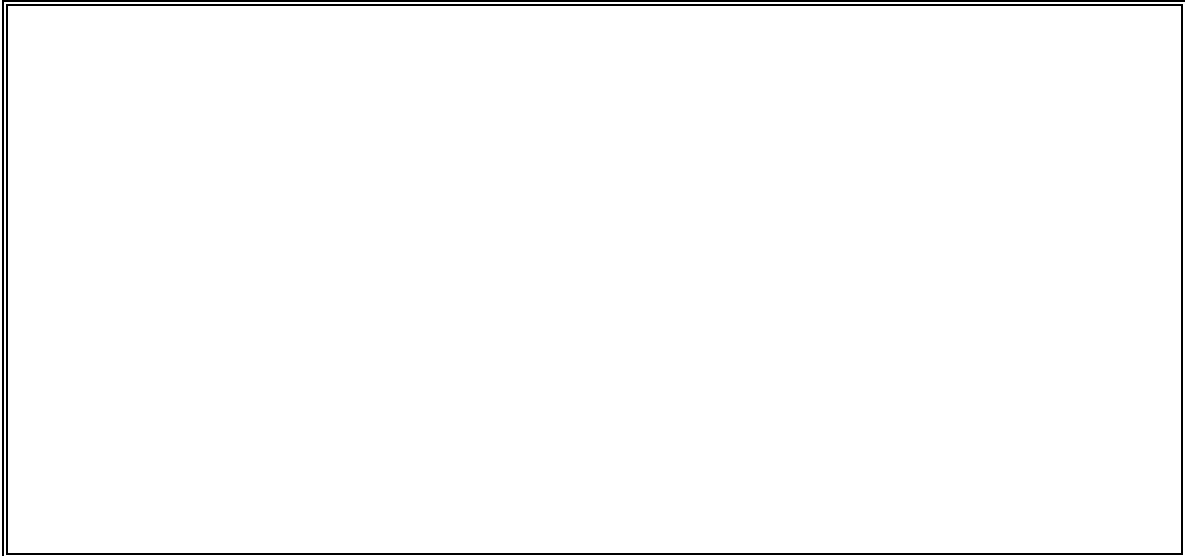
Before any action is taken, the uThukela District Municipality shall warn the contractor that action will be taken in accordance with the contract conditions unless the contractor complies with the contract conditions and delivers satisfactory supplies or service within a specified reasonable time (7 days minimum). If the contractor does not perform satisfactorily despite the warning the institution will:

Take action in terms of its delegated powers and terminate the contract when correspondence is addressed to the contractor, reference will be made to the contract number/item number/s and an explanation of the complaint.

## REFERENCE LETTERS

Bidders must have specific experience and submit at least three **legit** recent (not older than 5 years) references (in a form of written proof/(s) on organization's letterhead including relevant contact person, nature of service, contract amount, commencement date, telephone number, fax number and email addresses) of similar work undertaken.

Attach Letters of Reference to this page.



SIGNATURE OF TENDERER: .....

DATE: .....

## *PRICING SUMMARY*

# PRICING SCHEDULE

The pricing schedule below must be completed by the bidder. Failure to complete the schedule will render the bid invalid which will result it in being disqualified. The price quoted is fixed for the duration of the contract. The price is therefore binding for the duration of the period of the contract.

Bidders are required to complete the pricing table below:

**Bidders must complete the applicable pricing schedule.**

### YEAR 1

Item no	Description	Unit	Qty	Total
1	PROVISION OF 300 MICROSOFT OFFICE 365 E3 WITH TEAMS OR 365 BUSINESS PREMIUM LICENSE PLAN	sum		
2	ALLOW PROVISIONAL SUM FOR REIMBURSEMENT AND TRAVELLING	sum		
	Sub-Total			
	Add vat			
	Total offer			

### YEAR 2

Item no	Description	Unit	Qty	Total
1	PROVISION OF 300 MICROSOFT OFFICE 365 E3 WITH TEAMS OR 365 BUSINESS PREMIUM LICENSE PLAN	sum		
2	ALLOW PROVISIONAL SUM FOR REIMBURSEMENT AND TRAVELLING	sum		
	Sub-Total			
	Add vat			
	Total offer			

**YEAR 3**

Item no	Description	Unit	Qty	Total
1	PROVISION OF 300 MICROSOFT OFFICE 365 E3 WITH TEAMS OR 365 BUSINESS PREMIUM LICENSE PLAN	sum		
2	ALLOW PROVISIONAL SUM FOR REIMBURSEMENT AND TRAVELLING	sum		
	Sub-Total			
	Add vat			
	Total offer			
	<b>Total Offer (Year 1,2 &amp;3)</b>			

SIGNATURE: .....  
(Of person authorised to sign on behalf of the Tenderer)

DATE: .....

## ***GENERAL CONDITIONS OF TENDER***

### **1. General Conditions of Contract**

This Bid is subject to the General Conditions of Contract (GCC) 2010 and, if applicable, any other Special Conditions of Contract.

### **2. Submission of Tenders**

Sealed tenders, with the "Tender Number and Title" clearly endorsed on the envelope, must be deposited in the tender box indicated at the offices of the uThukela District Municipality, 36 Lyell Street, Ladysmith.

All literature must be securely attached to the tender. The Council shall not be held liable for any loss or damages sustained due to the service provider's failure to comply with this condition.

If a courier service company is being used for delivery of the tender document, the tender description must be endorsed on the delivery note/courier packaging and the courier must ensure that documents are placed / deposited into the tender box. The UTDM will not be held responsible for any tender document which is not timeously delivered, mislaid or incorrectly delivered due to the negligence of the courier company or any other party involved in the delivery of the tender document.

Please note:

- Tenders that are deposited in the incorrect box will not be considered.
- Mailed, telegraphic or faxed tenders will not be accepted.
- Documents may only be completed in black ink.
- The use of correction fluid/tape on the bid documents is not allowed. If there is an error, draw a line through it, initial next to it and make the correction directly above /below/next to it.
- All bids must be submitted in writing on the official forms supplied (not to be re-typed)
- All prices shall be quoted in South African currency.

### **3. Quality Assurance**

Any defects, patent or latent, which are attributable to poor workmanship, will be rectified by the bidder at own cost and time and all costs relating to the correction of defects will be expressly and separately noted on billing documentation.

### **4. Intellectual Property Rights**

Copyright, patent rights and other similar rights in any works or products created as a result of the performance of this proposal and its assignments will vest in and are hereby transferred to uThukela District Municipality (UTDM), unless specifically agreed otherwise, in the form of individual written Agreement signed by both parties.

For this purpose only, all works created in terms of this proposal and the assignments thereof will be deemed to have been created under the control and direction of UTDM.

### **5. Disbursements, Travel and Subsistence**

No bidder will be refunded any cost or disbursements incurred in respect of the project, save where the prior written approval of UTDM has been obtained in respect of such expenditure.

Any authorized disbursements will be refunded at the reasonable and actual cost determined by UTDM.

Any expenditure incurred by the successful bidder in respect of authorized travel for the project will be refunded in accordance with the UTDM travel policy as applicable from time to time. The rates payable for the use of private vehicles will be the prevailing rates quoted by the Automobile Association of South Africa

All claims in respect of authorized disbursements (travel and subsistence costs) must be substantiated by documentary evidence such as receipts and logs of kilometres travelled.

All expenses incurred by the bidder for the proposal and presentations are the responsibility of the bidder and will not be reimbursed by UTDM.

**6. Certified Copies**

The tenderer shall, where required in terms of the tender document submit with the proposal, certified copies of all certificates specified. Failure to do so may render the proposal liable to rejection on the grounds of being incomplete. Copies of certified documents will not be accepted.

**7. Bidders Currently Rendering Services**

During the evaluation of a service provider, the Bid evaluation committee will assess whether the service provider is currently rendering services to the municipality:

- i. If the service provider is currently rendering services to the municipality with a stage of completion less than 50% and
- ii. The service providers' performance is not in line with the project performance milestones, then the service provider should be disqualified from further evaluation, and should be placed on hold.

**8. Bids Exceeding R10 Million**

If the tendered value exceeds R10 million (VAT included), bidders are required to furnish:

- i. if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements:
  - for the past three years; or
  - since their establishment if established during the past three years;
- ii. a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
- iii. particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract
- iv. a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and
- v. Stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.

**9. Acceptance or Rejection of a Tender**

The Municipality reserves the right to withdraw any invitation to tender and/or to re-advertise or to reject any tender or to accept a part of it. The Municipality does not bind itself to accepting the lowest tender.

**10. Completion of Tender Documents**

The original tender document must be completed fully in black ink and signed by the authorised signatory to validate the tender.

Tender documents may not be retyped. Retyped documents will result in the disqualification of the tender. The complete original tender document must be returned. Missing pages will result in the disqualification of the tender.

No unauthorised alteration of this set of tender documents will be allowed. Any unauthorised alteration will disqualify the tender automatically. Any ambiguity has to be cleared with contact person for the tender before the tender closure.

**11. Site / Information Meetings**

Site or information meetings, if specified, are compulsory. Bids will not be accepted from bidders who have not attended compulsory site or information meetings. Bidders that arrive 15 minutes or more after the advertised time the meeting starts will not be allowed to attend the meeting or to sign the attendance register. If a bidder is delayed, he must inform the contact person before the meeting commence and will only be allowed to attend the meeting if the chairperson of the meeting as well as all the other bidders attending the meeting, give permission to do so.

All partners or the leading partner of a Joint Venture must attend the compulsory site or information meeting.

**12. Contact with Municipality after Tender Closure Date**

Bidders shall not contact the uThukela District Municipality on any matter relating to their bid from the time of the opening of the bid to the time the contract is awarded. If a bidder wishes to bring additional information to the notice of the uThukela District Municipality, it should do so in writing to the uThukela District Municipality. Any effort by the firm to influence the uThukela District Municipality in the bid evaluation, bid comparison or contract award decisions may result in the rejection of the bid.

**13. Opening, Recording and Publications of Tenders Received**

Tenders will be opened on the closing date immediately after the closing time specified in the tender documents. If requested by any bidder present, the names of the bidders, and if practical, the total amount of each bid and of any alternative bids will be read out aloud.

Details of tenders received in time will be recorded in a register which is open to public inspection.

Faxed, e-mailed and late tenders will not be accepted.

**14. Procurement Policy**

Bids will be awarded in accordance with the Preferential Procurement Regulations, 2011 pertaining to the Preferential Procurement Policy Framework Act, No 5 of 2000 and its amendments as well as the Municipality's Supply Chain Management Policy.

#### **15. Wrong Information Furnished**

Where a contract has been awarded on the strength of the information furnished by the bidder which, after the conclusion of the relevant agreement, is proved to have been incorrect, the Municipality may, in addition to any other legal remedy it may have, recover from the contractor all costs, losses or damages incurred or sustained by the Municipality as a result of the award of the contract.

#### **16. Poor Performance**

Where the supplier fails to render the services within the stipulated period, or should services rendered be deemed not to the satisfaction of the uThukela District Municipality, the tenderer will receive written notice of poor performance. Failure to address performance issues could result in the entire contract being reviewed or cancelled.

#### **17. Supplier Database**

No awards will be made to a tenderer who is not registered on the UTDM Supplier Database. It is each tenderer's responsibility to keep all the information on the UTDM Supplier Database updated. If any information required (e.g. tax clearance certificate, proof of CIDB registration, etc.) is not valid or has expired, all transactions with the vendor may, in the sole discretion of the UTDM, be suspended until such time as the correct, verified information is received.

#### **18. Inducements, rewards, gifts and other abuses of the Supply Chain Management System**

No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of, may directly or indirectly:

- i. Influence or interfere with the work of any UTDM officials involved in the tender process in order to inter alia:
  - a. influence the process and/or outcome of a tender;
  - b. incite breach of confidentiality and/or the offering of bribes;
  - c. cause over- or under-invoicing;
  - d. influence the choice of procurement method or technical standards;
  - e. Influence any UTDM official in any way which may secure an unfair advantage during or at any stage of the procurement process.
- ii. Abuse of the supply chain management system is not permitted and may result in the tender being rejected, cancellation of the contract, "blacklisting" and/or any such remedies as set out in the UTDM's SCM Policy.

## ***GENERAL CONDITIONS OF CONTRACT***

### GENERAL CONDITIONS OF CONTRACT – GOVERNMENT PROCUREMENT

#### **1. DEFINITIONS**

The following terms shall be interpreted as indicated:

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

- 1.12. "Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable.
- 1.13. 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.
- 1.14. "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.
- 1.15. "GCC" means the General Conditions of Contract.
- 1.16. "Goods" means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.17. "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.
- 1.18. "Local content" means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- 1.19. "Manufacture" means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.20. "Order" means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.21. "Project site" where applicable, means the place indicated in bidding documents.
- 1.22. "Purchaser" means the organization purchasing the goods.
- 1.23. "Republic" means the Republic of South Africa.
- 1.24. "SCC" means the Special Conditions of Contract.
- 1.25. "Services" means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.
- 1.26. "Supplier" means the successful bidder who is awarded the contract to maintain and administer the required and specified service(s) to the State.
- 1.27. "Tort" means in breach of contract.
- 1.28. "Turnkey" means a procurement process where one service provider assumes total responsibility for all aspects of the project and delivers the full end product / service required by the contract.
- 1.29. "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. Invitations to bid are usually published in locally distributed news media and on the municipality / municipal entity website.

#### **4. Standards**

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

#### **5. Use of contract documents and information; inspection.**

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

#### **6. Patent Rights**

- 6.1. The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof by the purchaser.
- 6.2. When a supplier developed documentation / projects for the municipality / municipal entity, the intellectual, copy and patent rights or ownership of such documents or projects will vest in the municipality / municipal entity.

#### **7. Performance Security**

- 7.1. Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.
- 7.2. The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.
- 7.3. The performance security shall be denominated in the currency of the contract or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:
  - 7.3.1. 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
  - 7.3.2. a cashier's or certified cheque

- 7.4. The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified.

## **8. Inspections, tests and analyses**

- 8.1. All pre-bidding testing will be for the account of the bidder.
- 8.2. If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspections tests and analysis, the bidder or contractor's premises shall be open, at all reasonable hours, for inspection by a representative of the purchaser or an organization acting on behalf of the purchaser.
- 8.3. If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4. If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the goods to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
- 8.5. Where the goods or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such goods or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6. 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 goods may on or after delivery be inspected, tested or analysed and may be rejected if found not to comply with the requirements of the contract. Such rejected goods shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with goods which do comply with the requirements of the contract. Failing such removal the rejected goods shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute goods forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected goods, purchase such goods as may be necessary at the expense of the supplier.
- 8.8. The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 22 of GCC.

## **9. Packing**

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

## **10. Delivery**

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

## **11. Insurance**

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

## **12. Transportation**

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

## **13. Incidental**

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

13.1.1. performance or supervision of on-site assembly and/or commissioning of the supplied goods;

13.1.2. furnishing of tools required for assembly and/or maintenance of the supplied goods;

13.1.3. furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;

13.1.4. 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

13.1.5. training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.

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

## **14. Spare Parts**

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

14.1.1. 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;

14.1.2. in the event of termination of production of the spare parts:

14.1.2.1. advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and

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

#### **16. Payment**

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

#### **17. Prices**

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

#### **18. Variation Orders**

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

#### **19. Assignment**

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**

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

#### **21. Delays in the supplier's performance**

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

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

- 21.3. The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.
- 21.4. Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 22 without the application of penalties.
- 21.5. Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without cancelling 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**

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:
  - 23.1.1. 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;
  - 23.1.2. if the Supplier fails to perform any other obligation(s) under the contract; or
  - 23.1.3. if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
- 23.2. In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.
- 23.3. Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.
- 23.4. If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the supplier as having no objection and proceed with the restriction.
- 23.5. Any restriction imposed on any person by the purchaser will, at the discretion of the purchaser, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the purchase 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:

- 23.6.1. the name and address of the supplier and / or person restricted by the purchaser;
- 23.6.2. the date of commencement of the restriction
- 23.6.3. the period of restriction; and
- 23.6.4. 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**

When, after the date of bid, provisional payments are required, or antidumping 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**

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.  
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.
- 27.2. Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.
- 27.3. Notwithstanding any reference to mediation and/or court proceedings herein,
- 27.3.1. the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
- 27.3.2. the purchaser shall pay the supplier any monies due for goods delivered and / or services rendered according to the prescripts of the contract.

## **28. Limitation of liability**

- 28.1. Except in cases of criminal negligence or wilful misconduct, and in the case of infringement pursuant to Clause 6;
- 28.1.1. 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
- 28.1.2. 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**

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**

The contract shall be interpreted in accordance with South African laws, unless otherwise specified.

## **31. Notices**

- 31.1. Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice
- 31.2. The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

## **32. Taxes and duties**

- 32.1. A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
- 32.2. A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.

- 32.3. No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid SARS must have certified that the tax matters of the preferred bidder are in order.
- 32.4. No contract shall be concluded with any bidder whose municipal rates and taxes and municipal services charges are in arrears.

**33. Transfer of contracts**

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

**34. Amendment of contracts**

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

**35. Prohibition of restrictive practices.**

- 35.1. In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder(s) is / are or a contractor(s) was / were involved in collusive bidding.
- 35.2. If a bidder(s) or contractor(s) based on reasonable grounds or evidence obtained by the purchaser has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in section 59 of the Competition Act No 89 Of 1998.
- 35.3. If a bidder(s) or contractor(s) has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.