TENDER NO. 62/2023-2024 T	

CONTRACT DOCUMENT

FOR THE

Panel for Legal Services (3 years)

ISSUED BY:	COMPILED BY:	For official use.
Supply Chain Management Office Senqu Municipality 19 Murray Street, Lady Grey, 9755 Private Bag X 003, Lady Grey, 9755 Tel: 0516030019 Fax: 0516030445 e-mail: info@senqu.gov.za	**Senqu Municipality** **19 Murray Street, Lady Grey, 9755** **Private Bag X 03, Lady Grey, 9755** **Tel: 051 603 1303** **e-mail: info@senqu.gov.za**	**SIGNATURES OF MUNICIPALITY OFFICIALS AT TENDER OPENING** **1.** **2.** **3.**

April 2024

NAME OF TENDERING ENTITY	
EMAIL ADDRESS OF TENDERING ENTITY	
FAX NUMBER OF TENDERING ENTITY	

(1) GENERAL TENDER INFORMATION

TENDER DETAILS	
Tender advertising date	26 April 2024
Tender closing date	27 May 2024
Tender closing time	12h00
Technical contact person	Ms N Majikela 051 603 1300 / 1338 majikelan@senqu.gov.za
SCM contact person	Mr. N.Ngwenya 051 – 603 1300 / 1303 ngwenyan@senqu.gov.za
CLARIFICATION MEETING	N/A
TENDER SUBMISSION DETAILS	
Tender box address	Senqu Municipality, 19 Murray Street, Lady Grey
Tender submission process	The Tender Document (which includes the Form of Offer and Acceptance) completed in all respects, plus any additional supporting documents required, must be submitted in a sealed envelope with the name and address of the tenderer, the tender No. and title, and the closing date indicated on the envelope. The sealed envelope must be inserted into the tender box before closing time. If the tender offer is too large to fit into the abovementioned box or the box is full, please enquire at the public counter for alternative instructions. The onus remains with the tenderer to ensure that the tender is placed in either the original box or as alternatively instructed.

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(2) TENDER NOTICE AND INVITATION TO TENDER

SENQU LOCAL MUNICIPALITY

INVITES YOU TO SUBMIT AN OFFER FOR THE FOLLOWING TENDER:

TENDER NUMBER:	62/2023-2024T
TENDER TITLE	Panel for Legal Services (3 year)
CLOSING DATE	27 May 2024
CLOSING TIME	12h00
ADDRESS OF MUNICIPALITY	Senqu Municipality, 19 Murray Street, Lady Grey
TECHNICAL ENQUIRIES	Ms N Majikela 051 603 1300 / 1338 majikelan@senqu.gov.za
SCM ENQUIRIES	Mr. N.Ngwenya 051 – 603 1300 / 1303 ngwenyan@senqu.gov.za
TENDER VALIDITY PERIOD	120 days

Tenders may only be submitted on the bid documentation provided by the municipality. The completed original tender document and all supporting documentation shall be placed in a single sealed envelope clearly marked with the name and address of the tenderer, the tender number and title, and the closing date indicated on the envelope and deposited in the tender box at the address, and by the date and time stated above. No faxed or e-mailed documents will be accepted. The Senqu 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 will be opened in public as soon as practical after the closing time.

Documents will be available on the municipal the website **http://www. senqu.gov.za.** Tender enquiries can be made to the parties as stated above.

Tenders must be compliant with all bid requirements stated in the tender document. Bidders are specifically referred to the requirements of the Preferential Procurement Regulations, 2022, including but not limited to price and specific goals **as stated in the tender document**. If applicable, only locally produced, or manufactured goods meeting the stipulated minimum threshold for local production and content, will be considered. Tenderers' attention is drawn to the registration requirements in the tender documents in respect of registration on the municipal supplier database, Central Suppliers' Database, Construction Industry Development Board (if applicable), etc.

(3) CONDITIONS OF TENDER

3.1	**General**
3.1.1	**Actions**
3.1.1.1	The Senqu Municipality (SM) and each tenderer submitting a tender offer shall comply with these Conditions of Tender. In their dealings with each other, they shall discharge their duties and obligations as set out in these Conditions of Tender, timeously and with integrity, and behave equitably, honestly and transparently, comply with all legal obligations. The parties agree that this tender, its evaluation and acceptance and any resulting contract shall also be subject to the SM's Supply Chain Management Policy ('SCM Policy') that was applicable on the date the bid was advertised, save that if the SM adopts a new SCM Policy which contemplates that any clause therein would apply to the contract emanating from this tender, such clause shall also be applicable to that contract. Please refer to this document contained on the SM's website. Abuse of the supply chain management system is not permitted and may result in the tender being rejected, cancellation of the contract, restriction of the supplier, and/or the exercise by the SM of any other remedies available to it as described in the SCM Policy.
3.1.1.2	The SM, the tenderer and their agents and employees involved in the tender process shall avoid conflicts of interest and where a conflict of interest is perceived or known, declare any such conflict of interest, indicating the nature of such conflict. Tenderers shall declare any potential conflict of interest in their tender submissions. Employees, agents and advisors of the SM shall declare any conflict of interest to the SM at the start of any deliberations relating to the procurement process or as soon as they become aware of such conflict, and abstain from any decisions where such conflict exists or recuse themselves from the procurement process, as appropriate.
3.1.1.3	The SM shall not seek, and a tenderer shall not submit a tender, without having a firm intention and capacity to proceed with the contract.
3.1.2	**Interpretation**
3.1.2.1	The additional requirements contained in the returnable documents are part of these Conditions of Tender.
3.1.2.2	These Conditions of Tender and returnable schedules which are required for tender evaluation purposes, shall form part of the contract arising from the invitation to tender.
3.1.2.3	For the purposes of these conditions of tender, the following definitions apply: Not Applicable a) **Award Strategy** means the way the SM intends to award a tender. b) **Framework Agreement** means a contract for construction works, goods and services, between the SM and one or more suppliers for the provision of construction works, goods or services, which are of an ad-hoc or repetitive nature on an "as instructed" or "as and when required" basis where the terms, conditions, specifications, rates, prices, and works order allocation processes are awarded for use over a predetermined period without guaranteeing any quantum of expenditure utilising the contract. c) **Standby Supplier(s)** means a supplier(s) appointed by the SM under a framework agreement to be available to execute works orders as and when the need arises, if higher ranked supplier(s) has refused, or is unable to perform, a specific works order. d) **Works Order Allocation Process** means the process through which task(s) are determined and allocated in a framework agreement in accordance with the terms and conditions of the relevant contract. e) **Works Order Contract Document** means the documents that formally reflects the scope, quantum, value, delivery period, delivery details, and all other relevant terms and conditions impacting the execution of the works order and / or assignment. f) **Works Orders** means task(s) to be performed by a supplier under a framework agreement, of which the specific terms, conditions, and scope is specified in a works order

	contract document. g) **Works Order Acceptance/Refusal Notice** means the formal notification, signed by the supplier in accordance with the framework agreement, which was sent to the SM, informed of its decision to accept or refuse the opportunity afforded to it, to further participate in the supplier appointment procedure for a works order.
3.1.3	**Communication during tender process** Verbal or any other form of communication, from the SM, its employees, agents, or advisors during site visits/clarification meetings or at any other time prior to the award of the Contract, will not be regarded as binding on the SM, unless communicated by the SM in writing to suppliers by its Bid Specification Committee or his nominee. All communications must be directed to the persons as stated in the General Tender Information.
3.1.4	**The SM's right to accept or reject any tender offer**
3.1.4.1	The SM may accept or reject any tender offer and may cancel the tender process or reject all tender offers at any time before the formation of a contract. The SM may, prior to the award of the tender, cancel a tender if:
	(a) due to changed circumstances, there is no longer a need for the services, works or goods requested; or (b) funds are no longer available to cover the total envisaged expenditure; or (c) no acceptable tenders are received; or (d) there is a material irregularity in the tender process; or (e) the parties are unable to negotiate market related pricing. The SM shall not accept or incur any liability to a tenderer for such cancellation or rejection, but will give written reasons for such action upon receiving a written request to do so.
3.1.5	**Procurement procedures**
3.1.5.1	**General** For the purposes of this tender, the area of the municipal area has been identified and are outlined in the table below. **Region** | **Work Areas** Central | Delivery at Lady Grey, Eastern Cape, 9755 For the purposes of this tender, commodity groupings have been identified and are outlined in the table below. **Commodity Grouping** | **Pricing Schedule References** Legal Services | Rates based Unless otherwise stated in the tender conditions, a contract will be concluded with the tenderer who scores the highest number of tender adjudication points. The SM intends to appoint a panel for the allocation of work. If insufficient responsive bids are received, the SM reserves the not to appoint a tenderer at all. The contract period shall be for a period of three years from the commencement date of the contract. Suppliers, once appointed and subject to operational requirements, will be invited to deliver the goods or services on a panel basis as per Treasury requirements .
3.1.5.2	**Proposal procedure using the two stage-system.** A two-stage system will not be followed.

3.1.5.2.1	Tenderers shall submit in the first stage only technical proposals. The SM shall invite all responsive tenderers to submit tender offers in the second stage, following the issuing of procurement documents. Not Applicable
3.1.5.2.2	The SM shall evaluate tenders received during the second stage in terms of the method of evaluation stated in the tender conditions and award the contract in terms of these Conditions of Tender.
3.1.5.3	**Nomination of Alternative Bidder** Alternative Bidder means a bidder, identified at the time of awarding a bid, that will be considered for award should the contract be terminated for any reason whatsoever. In the event that a contract is terminated during the execution thereof, the SM may consider the award of the contract, or non-award, to the alternative bidder in terms of the procedures included its SCM Policy.
3.1.6	**Objections, complaints, queries and disputes/ Appeals in terms of Section 62 of the Systems Act/ Access to court**
3.1.6.1	**Disputes, objections, complaints and queries**
	In terms of Regulations 49 and 50 of the Local Government: Municipal Finance Management Act, 56 of 2003 Municipal Supply Chain Management Regulations (Board Notice 868 of 2005): Persons aggrieved by decisions or actions taken by the SM in the implementation of its supply chain management system, may lodge within 14 days of the decision or action, a written objection or complaint or query or dispute against the decision or action.
3.1.6.2	**Appeals** In terms of Section 62 of the Local Government: Municipal Systems Act, 32 of 2000 a person whose rights are affected by a decision taken by the SM, may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision. An appeal must contain the following: i. Must be in writing ii. It must set out the reasons for the appeal iii. It must state in which way the Appellant's rights were affected by the decision; iv. It must state the remedy sought; and v. It must be accompanied with a copy of the notification advising the person of the decision The relevant SM appeal authority must consider the consider the appeal and **may confirm, vary or revoke** the decision that has been appealed, but no such revocation of a decision may detract from any rights that may have accrued as a result of the decision.
3.1.6.3	**Right to approach the courts and rights in terms of Promotion of Administrative Justice Act, 3 of 2000 and Promotion of Access to Information Act, 2 of 2000** The sub- clauses above do not influence any affected person's rights to approach the High Court at any time or its rights in terms of the Promotion of Administrative Justice Act (PAJA) and Promotion of Access to Information Act (PAIA).
3.1.6.4	All requests referring to sub clauses 3.1.6.1 to 3.1.6.3 must be submitted in writing to: **The Municipal Manager** **Via hand delivery at:** Senqu Municipality, 19 Murray Street, Lady Grey **Via post at:** Private Bag X003, Lady Grey, 9755 **Via fax at:** 051 603 0445 **Via email at:** mawongat@senqu.gov.za

3.1.7	**Senqu Municipality Town Supplier Database Registration** Tenderers are required to be registered on the SM Supplier Database as a service provider. Tenderers must register as such upon being requested to do so in writing and within the period contained in such a request, failing which no orders can be raised or payments processed from the resulting contract. In the case of Joint Venture partnerships this requirement will apply individually to each party of the Joint Venture. Tenderers who wish to register on the SM's Supplier Database may collect registration forms from the Senqu Municipality at 19 Murray Street, Lady Grey (Tel 051 603 0019).). Registration forms and related information are also available on the SM's website by following the link alongside – https://www.senqu.gov.za/supplier-registration-forms/. It is each tenderer's responsibility to keep all the information on the SM Supplier Database updated.
3.1.8	**National Treasury Web Based Central Supplier Database (CSD) Registration** Tenderers are required to be registered on the National Treasury Web Based Central Supplier Database (CSD) as a service provider. Tenderers must register as such upon being requested to do so in writing and within the period contained in such a request, failing which no orders can be raised or payments processed from the resulting contract. In the case of Joint Venture partnerships this requirement will apply individually to each party of the Joint Venture. Tenderers who wish to register on the National Treasury Web Based Central Supplier Database (CSD) may do so via the web address **https://secure.csd.gov.za**. It is each tenderer's responsibility to keep all the information on the National Treasury Web Based Central Supplier Database (CSD) updated.

3.2	**Tenderer's obligations**
3.2.1	**Eligibility Criteria**
3.2.1.1	**Tenderers are obligated to submit a tender offer that complies in all aspects to the conditions as detailed in this tender document. Only those tenders that comply in all aspects with the tender conditions, specifications, pricing instructions and contract conditions will be declared to be responsive.**
3.2.1.1.1	**Submit a tender offer** Only those tender submissions from which it can be established that a clear, irrevocable, and unambiguous offer has been made to SM, by whom the offer has been made and what the offer constitutes, will be declared responsive.
3.2.1.1.2	**Compliance with requirements of SM SCM Policy and procedures** Only those tenders that are compliant with the requirements below will be declared responsive: a) A completed **Compulsory Enterprise Questionnaire** to be provided (applicable schedule to be completed); b) A completed **Certificate of Independent Bid Determination** to be provided and which does not indicate any non-compliance with the requirements of the schedule (applicable schedule to be completed); c) A completed **Certificate of Authority for Partnerships/ Joint Ventures/ Consortiums** to be provided authorising the tender to be made and the signatory to sign the tender on the partnership /joint venture/consortium's (applicable schedule to be completed); d) A copy of the partnership / joint venture / consortium agreement to be provided. e) A completed **Declaration – Conflict of Interest and Declaration of Bidders' past Supply Chain Management Practices** to be provided and which does not indicate any conflict or past practises that renders the tender non-responsive based on the conditions contained thereon (applicable schedules to be completed); f) A completed **Declaration of Interest – State Employees** to be provided and which does not indicate any non-compliance with the legal requirements relating to state employees (applicable schedule to be completed); g) The tenderer (including any of its directors or members), has not been restricted in terms of abuse of the Supply Chain Management Policy, h) The tenderer's tax matters with SARS are in order, or the tenderer is a foreign supplier that is not required to be registered for tax compliance with SARS; i) The tenderer is not an advisor or consultant contracted with the SM whose prior or current obligations creates any conflict of interest or unfair advantage, j) The tenderer is not a person, advisor, corporate entity or a director of such corporate entity, involved with the bid specification committee; k) A completed **Municipal Accounts' Status** schedule to be provided and which does not indicate any details that prevents the award of the tender based on the conditions contained thereon (applicable schedules to be completed); l) The tenderer (including any of its directors or members), has not been found guilty of contravening the Competition Act 89 of 1998, as amended from time to time; m) The tenderer (including any of its directors or members), has not been found guilty on any other basis listed in the Supply Chain Management Policy.
3.2.1.1.3	**Compulsory clarification meeting** **Not Applicable** Tenderers are required to attend a compulsory clarification meeting at which they may familiarise themselves with aspects of the proposed work, services or supply and pose questions. Details of the meeting(s) are stated in the General Tender Information. Only those tenders submitted by tenderers whose attendance at this meeting have been recorded, will be declared responsive.

3.2.1.1.4 **Minimum score for functionality**

Only those tenders submitted by tenderers who achieve the minimum score for functionality as stated below will be declared responsive.

The description of the functionality criteria and the maximum possible score for each is shown in the table below. The score achieved for functionality will be the sum of the scores achieved, in the evaluation process, for the individual criteria.

ITEM	Weight
Criteria	
1. Company Overall Experience	40
2. Experience in local government	15
3. Personnel	30
4. Fidelity Fund	15

The minimum qualifying score for functionality is **80** out of a maximum of **100**.

Where the entity tendering is a Joint Venture, Consortium, or reliant upon sub-contractors, the tender must be accompanied by a statement describing exactly what aspects of the work will be undertaken by each party to the tendering entity.

Tenderers shall ensure that all relevant information has been submitted with the tender offer in the prescribed format to ensure optimal scoring of functionality points for each Evaluation Criteria. Failure to provide all information **IN THIS TENDER SUBMISSION** could result in the tenderer not being able to achieve the specified minimum scoring.

A more detailed explanation of the functionality criteria is given below:

The following criteria will be used to calculate points for functionality of Service providers tender offers, and Service providers must ensure that they submit all information and required evidence to be evaluated in terms of functionality on the criteria mentioned in the tables below:

CRITERIA 1: Company experience = Max 40 points:

WHAT IS EVALUATED:	Organisational Experience in providing legal services
EVIDENCE REQUIRED:	Client reference letters
HOW WILL POINTS BE ALLOCATED:	Points will be allocated as per table below. More than 10 years' experience in providing legal services within the specified category shall be awarded **= 40 points** More than 5 years but up to 10 years' experience in providing legal services within the specified category shall be awarded **= 30 points** More than 1 year but up to 5 years' experience in providing legal services within the specified category shall be awarded **=20 points**

CRITERIA 2: Experience in local government = Max 15 points:

WHAT IS EVALUATED:	Experience in providing legal services to local government
EVIDENCE REQUIRED:	Reference letters from municipalities on their letter heads with the dates
HOW WILL POINTS BE ALLOCATED:	Points will be allocated as per table below. More than 10 years' experience in providing legal services to local government shall be awarded **=15 points;** More than 5 years but up to 10 years' experience in providing legal services to local government shall be awarded **=10 points;** More than 1 year but up to 5 years' experience in providing legal services to local government shall be awarded **=5 points**

CRITERIA 3: Personnel = Max 30 points:

WHAT IS EVALUATED:	**Number of admitted Attorneys in the company.**
EVIDENCE REQUIRED:	A organogram with names, Personnel CV 's with proof of registration and admission by the Legal Practise Council
HOW WILL POINTS BE ALLOCATED:	More than one admitted attorney with active registration by the Legal Practise Council **= 30 points** At least one admitted attorney with active registration by the Legal Practise Council **= 20 points**

CRITERIA 4: Fidelity fund = Max 15 points:

WHAT IS EVALUATED:	The fidelity fund of the firm
EVIDENCE REQUIRED:	Fidelity fund certificate of legal company

	HOW WILL POINTS BE ALLOCATED:	Company fidelity fund letter **= 15 points** No company fidelity fund **= 0 points**
3.2.1.1.5	**Local production and content N/A** The SM promotes the procurement of goods manufactured by local suppliers. The Department of Trade and Industry and National Treasury has identified specific designated sectors which require local content compliance. The current designated sectors are listed below: Note: All to be listed including the date that the relevant Sector became effective. Tenderers are required to ensure that they comply with these designated Sector requirements by ensuring that the products provided to the SM are locally manufactured. Failure to meet the minimum stipulated threshold for local production and content will result in a bid being declared non-responsive. Further details of designated sectors are available on http://www.thedtic.gov.za/sectors-and-services-2/industrial-development/industrial-procurement/ and http://ocpo.treasury.gov.za/Buyers_Area/Legislation/Pages/Practice-Notes.aspx. **In addition to the above:** The supplier shall study the terms and conditions as stated in the **Local Content Declaration / Annexure C** returnable schedule. The stipulated minimum threshold percentages for local production and content for the ("the designated sector") is **%** and will include all sub-sectors from the applicable National Treasury Instruction Note. Only tenders with locally produced or locally manufactured Prepaid Electricity Meters from local raw material or input will be considered. If the raw material or input to be used for a specific item is not available locally, suppliers should obtain written authorisation from the Department of Trade and Industry (DTI) (Chief Director: Industrial Procurement, tel. 012 394 3927 and email tmakube@thedtic.gov.za) should there be a need to import such raw material or input. A copy of the authorisation letter must be submitted together with the bid document at the closing date and time of the bid. The SM is obliged and must ensure that contracts for the **..** are awarded at prices that are market related taking into account, among others, benchmark prices designated by the DTI for the sector, value for money and economies of scale. Where appropriate, prices may be negotiated with preferred bidders in accordance with provisions for Negotiation with Preferred Bidders as set out in the SM SCM Policy. A bid will be declared non-responsive / disqualified if the Declaration Certificate for Local Production and Content and Annex C as well as the authorisation letter referred to above (if applicable) are not submitted as part of the bid documentation at the closing date and time of the bid. Bid will also be declared non-responsive if any line item on Annexure C indicates a local content percentage that is lower than the stipulated thresholds. For further information relating to the local production and content legislation, suppliers may refer to website http://www.thedtic.gov.za/sectors-and-services-2/industrial-development/industrial-procurement/ or may contact the local content helpline at telephone number (012) 394 1435. Alternatively, bidders may contact the Director: Fleet Procurement, Ms Cathrine Matidza, at telephone number (012) 394 5598 and e-mail CMatidza@thedti.gov.za.

3.2.1.1.6	**Pre-qualification criteria** **Tenderers must provide letters to indicate that all Individual legal practitioners involved in the project are in good standing.**
3.2.1.1.7	**Provision of samples** **Not Applicable** Only those tenders submitted by tenderers who provided acceptable samples as stated in the Tender Specifications will be declared responsive.
3.2.2	**Cost of tendering** The SM will not be liable for any costs incurred in the preparation and submission of a tender offer, including the costs of any testing necessary to demonstrate that aspects of the offer complies with requirements.
3.2.3	**Check documents** The documents issued by the SM for the purpose of a tender offer are listed in the index of this tender document. Before submission of any tender, the tenderer should check the number of pages, and if any are found to be missing or duplicated, or the figures or writing is indistinct, or if the Price Schedule contains any obvious errors, the tenderer must apply to the SM at once to have the same rectified.
3.2.4	**Confidentiality and copyright of documents** Treat as confidential all matters arising in connection with the tender. Use and copy the documents issued by the SM only for the purpose of preparing and submitting a tender offer in response to the invitation.
3.2.5	**Reference documents** Obtain, as necessary for submitting a tender offer, copies of the latest versions of standards, specifications, Conditions of Contract and other publications, which are not attached but which are incorporated into the tender documents by reference.
3.2.6	**Acknowledge and comply with notices** Acknowledge receipt of notices to the tender documents, which the SM may issue, fully comply with all instructions issued in the notices, and if necessary, apply for an extension of the closing time stated on the front page of the tender document, in order to take the notices into account. Notwithstanding any requests for confirmation of receipt of notices issued, the tenderer shall be deemed to have received such notices if the SM can show proof of transmission thereof via electronic mail, facsimile or registered post.
3.2.7	**Clarification meeting N/A** Attend, where required, a clarification meeting at which tenderers may familiarise themselves with aspects of the proposed work, services or supply and pose questions. Details of the meeting(s) are stated in the General Tender Information. Tenderers should be represented at the site visit/clarification meeting by a person who is suitably qualified and experienced to comprehend the implications of the work involved.
3.2.8	**Seek clarification** Request clarification of the tender documents, if necessary, by notifying the SM at least one week before the closing time stated in the General Tender Information, where possible.
3.2.9	**Pricing the tender offer**
3.2.9.1	Comply with all pricing instructions as stated on the Price Schedule.

<table>
<tr><td>3.2.10</td><td>Alterations to documents

Do not make any alterations or additions to the tender documents, except to comply with instructions issued by the SM in writing, or necessary to correct errors made by the tenderer. All signatories to the tender offer shall initial all such alterations.</td></tr>
<tr><td>3.2.11.2</td><td>Accept that an alternative tender offer may be based only on the criteria stated in the tender conditions or criteria otherwise acceptable to the SM.</td></tr>
<tr><td>3.2.12</td><td>Submitting a tender offer</td></tr>
<tr><td>3.2.12.1</td><td>Submit one tender offer only on the original tender documents as issued by the SM, either as a single tendering entity or as a member in a joint venture to provide the whole of the works, services or supply identified in the contract conditions and described in the specifications. Only those tenders submitted on the tender documents as issued by the SM together with all Returnable Schedules duly completed and signed will be declared responsive.</td></tr>
<tr><td>3.2.12.2</td><td>Return the entire document to the SM after completing it in its entirety, either electronically (if they were issued in electronic format) or by writing legibly in non-erasable ink.</td></tr>
<tr><td>3.2.12.3</td><td>Submit the parts of the tender offer communicated on paper as an original with an English translation for any part of the tender submission not made in English.

1 (One) copy(ies) of the following elements of the bid submission must be submitted separately bound in the same envelope where possible:</td></tr>
<tr><td></td><td><table>
<tr><th>Part</th><th>Heading</th></tr>
<tr><td>4</td><td>Pricing Schedules</td></tr>
<tr><td>9</td><td>Supporting Schedules</td></tr>
<tr><td></td><td>All other attachments submitted by bidder</td></tr>
</table></td></tr>
<tr><td>3.2.12.4</td><td>Sign the original tender offer where required in terms of the tender conditions. The tender shall be signed by a person duly authorised to do so. Tenders submitted by joint ventures of two or more firms shall be accompanied by the document of formation of the joint venture or any other document signed by all parties, in which is defined precisely the conditions under which the joint venture will function, its period of duration, the persons authorised to represent and obligate it, the participation of the several firms forming the joint venture, and any other information necessary to permit a full appraisal of its functioning. Signatories for tenderers proposing to contract as joint ventures shall state which of the signatories is the lead partner.</td></tr>
<tr><td>3.2.12.5</td><td>Where a two-envelope system is required in terms of the tender conditions, place and seal the returnable documents listed in the tender conditions in an envelope marked “financial proposal” and place the remaining returnable documents in an envelope marked “technical proposal”. Each envelope shall state on the outside the SM’s address and identification details stated in the General Tender Information, as well as the tenderer's name and contact address.</td></tr>
<tr><td>3.2.12.6</td><td>Seal the original tender offer and copy packages together in an outer package that states on the outside only the SM's address and identification details as stated in the General Tender Information. . If it is not possible to submit the original tender and the required copies (see 3.13.3) in a single envelope, then the tenderer must seal the original and each copy of the tender offer as separate packages marking the packages as “ORIGINAL” and “COPY” in addition to the aforementioned tender submission details.</td></tr>
<tr><td>3.2.12.7</td><td>Accept that the SM shall not assume any responsibility for the misplacement or premature opening of the tender offer if the outer package is not sealed and marked as stated.</td></tr>
<tr><td>3.2.12.8</td><td>Accept that tender offers submitted by facsimile or e-mail will be rejected by the SM, unless stated otherwise in the tender conditions.</td></tr>
<tr><td>3.2.12.9</td><td>By signing the offer part of the Form of Offer (Section 2, Part A) the tenderer warrants that all information provided in the tender submission is true and correct.</td></tr>
</table>

3.2.12.10	Tenders must be properly received and deposited in the designated tender box on or before the closing date and before the closing time (as detailed on the **General Tender Information** page of this tender document)
3.2.12.12	The tenderer must record and reference all information submitted contained in other documents for example cover letters, brochures, catalogues, etc. in the returnable schedule titled **List of Other Documents Attached by Tenderer**.
3.2.13	**Information and data to be completed in all respects** Accept that tender offers, which do not provide all the data or information requested completely and in the form required, may be regarded by the SM as non-responsive.
3.2.14	**Closing time**
3.2.14.1	Ensure that the SM receives the tender offer at the address specified in the General Tender Information prior to the closing time stated on the front page of the tender document.
3.2.14.2	Accept that, if the SM extends the closing time stated on the front page of the tender document for any reason, the requirements of these Conditions of Tender apply equally to the extended deadline.
3.2.14.3	Accept that, the SM shall not consider tenders that are received after the closing date and time for such a tender (late tenders).
3.2.15	**Tender offer validity and withdrawal of tenders**
3.2.15.1	Warrants that the tender offer(s) remains valid, irrevocable and open for acceptance by the SM at any time for a period of 120 days after the closing date stated on the front page of the tender document.
3.2.15.2	Notwithstanding the period stated above, bids shall remain valid for acceptance for a period of three (3) months after the expiry of the original validity period, unless the SM is notified in writing of anything to the contrary by the bidder.
3.2.15.3	A tenderer may request in writing, after the closing date, that the tender offer be withdrawn. Such withdrawal will be permitted or refused at the sole discretion of the SM after consideration of the reasons for the withdrawal, which shall be fully set out by the tenderer in such written request for withdrawal. Should the tender offer be withdrawn in contravention hereof, the tenderer agrees that: n) it shall be liable to the SM for any additional expense incurred or losses suffered by the SM in having either to accept another tender or, if new tenders have to be invited, the additional expenses incurred or losses suffered by the invitation of new tenders and the subsequent acceptance of any other tender; the SM shall also have the right to recover such additional expenses or losses by set-off against monies which may be due or become due to the tenderer under this or any other tender or contract or against any guarantee or deposit that may have been furnished by the tenderer or on its behalf for the due fulfilment of this or any other tender or contract. Pending the ascertainment of the amount of such additional expenses or losses, the SM shall be entitled to retain such monies, guarantee, or deposit as security for any such expenses or loss.
3.2.16	**Clarification of tender offer, or additional information, after submission** Provide clarification of a tender offer, or additional information, in response to a written request to do so from the SM during the evaluation of tender offers within the time period stated in such request. No change in the competitive position of tenderers or substance of the tender offer is sought, offered, or permitted. This clause does not preclude the negotiation of the final terms of the contract with a preferred tenderer following a competitive selection process, should the SM elect to do so. Failure, or refusal, to provide such clarification or additional information within the time for submission stated in the SM's written request may render the tender non-responsive.

3.2.17	**Provide other material**
3.2.17.1	**General:** Provide, on request by the SM, any other material that has a bearing on the tender offer, the tenderer's commercial position (including joint venture agreements), preferencing arrangements, or samples of materials, considered necessary by the SM for the purpose of the evaluation of the tender. Should the tenderer not provide the material, or a satisfactory reason as to why it cannot be provided, by the time for submission stated in the SM's request, the SM may regard the tender offer as non-responsive.
3.2.17.2	Provide, on written request by the SM, where the transaction value inclusive of VAT **exceeds R 10 million**: a) audited annual financial statement for the past 3 years, or for the period since establishment if established during the past 3 years, if required by law to prepare annual financial statements for auditing; b) a certificate signed by the tenderer certifying that the tenderer 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; c) particulars of any contracts awarded to the tenderer 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; d) 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. Each party to a Consortium/Joint Venture shall submit separate certificates/statements in the above regard.
3.2.17.3	**Municipal Accounts:** In addition to the conditions stated in 3.2.1.1.2.k of these tender conditions, tenderers further undertake to fully cooperate with the SM in the provision of appropriate and valid information and / or evidence to enable the SM to determine whether the entity and its directors / members / partners has any municipal arrears greater than 90 days. The SM reserves its rights to make additional enquiries in this regard, with the bidding entity or any municipality or municipal entity.
3.2.18	**Samples, Inspections, tests and analysis** Provide access during working hours to premises for inspections, tests and analysis as provided for in the tender conditions or specifications. If the **Specification** requires the tenderer to provide samples, these shall be provided strictly in accordance with the instructions set out in the Specification. If such samples are not submitted as required in the bid documents or within any further time stipulated by the SM in writing, then the bid concerned may be declared non-responsive. The samples provided by all successful bidders will be retained by the SM for the duration of any subsequent contract. Bidders are to note that samples are requested for testing purposes therefore samples submitted to the SM may not in all instances be returned in the same state of supply and in other instances may not be returned at all. Unsuccessful bidders will be advised by the Project Manager or dedicated SM Official to collect their samples, save in the aforementioned instances where the samples would not be returned.
3.2.19	**Certificates** The tenderer must provide the SM with all certificates as stated below:

3.2.19.1	**Broad-Based Black Economic Empowerment Status Level Documentation** In order to qualify for preference points, it is the responsibility of the tenderer to submit documentary proof, either as certificates, sworn affidavits or any other requirement prescribed in terms of the B-BBEE Act, of its B-BBEE status level of contribution in accordance with the applicable Codes of good practise as issued by the Department of Trade and Industry, to the SM with the tender submission. Consortiums/Joint Ventures will qualify for preference points, provided that the **entity** submits the relevant certificate/scorecard in accordance with the applicable codes of good practise. Note that, in the case of unincorporated entities, a verified consolidated B-BBEE scorecard must be submitted in the form of a certificate with the tender. Tenderers are further referred to the content of the **Preference Points Claim Form** for the full terms and conditions applicable to the awarding of preference points. The applicable code for this tender is the **Amended Codes of Good Practise (Generic Scorecard)** unless in possession of a valid sector certificate. The tenderer shall indicate on the **Preference Points Claim Form** the Level of Contribution in respect of the enterprise status or structure of the tendering entity (the supplier).
3.2.19.2	**Evidence of tax compliance** Tenderers shall be registered with the South African Revenue Service (SARS) and their tax affairs must be in order and they must be tax compliant subject to the requirements of clause 2.2.1.1.2.h. In this regard, it is the responsibility of the tenderer to provide its Tax Compliance Status PIN number on the **Compulsory Enterprise Questionnaire** pages of the tender submission. Each party to a Consortium/Joint Venture shall separately submit this information. Before making an award the SM must verify the bidder's tax compliance status. Where the recommended bidder is not tax compliant, the bidder should be notified of the non-compliant status and be requested to submit to the SM, within 7 working days, written proof from SARS that they have made arrangement to meet their outstanding tax obligations. The proof of tax compliance submitted by the bidder must be verified by the SM via CSD or e-Filing. The SM should reject a bid submitted by the bidder if such bidder fails to provide proof of tax compliance within the timeframe stated herein and it status on the SARS system remains non-compliant. Only foreign suppliers who have answered "NO" to all the questions contained in the Questionnaire to Bidding Foreign Suppliers section on the **Compulsory Enterprise Questionnaire** pages of the tender submission, are not required to register for a tax compliance status with SARS.
3.2.20	**Compliance with Occupational Health and Safety Act, 85 of 1993** Tenderers are to note the requirements of the Occupational Health and Safety Act, 85 of 1993. The Tenderer shall be deemed to have read and fully understood the requirements of the above Act and Regulations and to have allowed for all costs in compliance therewith. In this regard the Tenderer shall submit **upon written request to do so by the SM**, a Health and Safety Plan in sufficient detail to demonstrate the necessary competencies and resources to deliver the goods or services all in accordance with the Act, Regulations and Health and Safety Specification.

3.2.21	**Claims arising from submission of tender** The tenderer warrants that it has: a) inspected the Specifications and read and fully understood the Conditions of Contract. b) read and fully understood the whole text of the Specifications and Price Schedule and thoroughly acquainted himself with the nature of the goods or services proposed and generally of all matters which may influence the Contract. c) visited the site(s) where delivery of the proposed goods will take place, carefully examined existing conditions, the means of access to the site(s), the conditions under which the delivery is to be made, and acquainted himself with any limitations or restrictions that may be imposed by the Municipal or other Authorities in regard to access and transport of materials, plant and equipment to and from the site(s) and made the necessary provisions for any additional costs involved thereby. d) requested the SM to clarify the actual requirements of anything in the Specifications and Price Schedule, the exact meaning or interpretation of which is not clearly intelligible to the Tenderer. e) received any notices to the tender documents which have been issued in accordance with the SM's Supply Chain Management Policy. The SM will therefore not be liable for the payment of any extra costs or claims arising from the submission of the tender.
3.3	**The SM's undertakings**
3.3.1	**Respond to requests from the tenderer**
3.3.1.1	Unless otherwise stated in the Tender Conditions, respond to a request for clarification received up to one week (where possible) before the tender closing time stated on the front page of the tender document.
3.3.1.2	The SM's representative for the purpose of this tender is stated on the General Tender Information page.
3.3.2	**Issue Notices** If necessary, issue addenda in writing that may amend or amplify the tender documents to each tenderer during the period from the date the tender documents are available until one week before the tender closing time stated in the Tender Data. The SM reserves its rights to issue addenda less than one week before the tender closing time in exceptional circumstances If, as a result a tenderer applies for an extension to the closing time stated on the front page of the tender document, the SM may grant such extension and, shall then notify all tenderers who drew documents. Notwithstanding any requests for confirmation of receipt of notices issued, the tenderer shall be deemed to have received such notices if the SM can show proof of transmission thereof via electronic mail, facsimile or registered post.
3.3.3	**Opening of tender submissions**
3.3.3.1	Unless the two-envelope system is to be followed, open tender submissions in the presence of tenderers' agents who choose to attend at the time and place stated in the tender conditions. Tenders will be opened immediately after the closing time for receipt of tenders as stated on the front page of the tender document, or as stated in any Notice extending the closing date and at the closing venue as stated in the General Tender Information.
3.3.3.2	Announce at the meeting held immediately after the opening of tender submissions, at the closing venue as stated in the General Tender Information, the name of each tenderer whose tender offer is opened and, where possible, the prices and the preferences indicated.
3.3.3.3	Make available a record of the details announced at the tender opening meeting on the SM's website.

3.3.4	**Two-envelope system**
3.3.4.1	Where stated in the tender conditions that a two-envelope system is to be followed, open only the technical proposal of tenders in the presence of tenderers' agents who choose to attend at the time and place stated in the tender conditions and announce the name of each tenderer whose technical proposal is opened.
3.3.4.2	Evaluate the quality of the technical proposals offered by tenderers, then advise tenderers who have submitted responsive technical proposals of the time and place when the financial proposals will be opened. Open only the financial proposals of tenderers, who have submitted responsive technical proposals in accordance with the requirements as stated in the tender conditions and announce the total price and any preferences claimed. Return unopened financial proposals to tenderers whose technical proposals were non-responsive.
3.3.5	**Non-disclosure** Not disclose to tenderers, or to any other person not officially concerned with such processes, information relating to the evaluation and comparison of tender offers and recommendations for the award of a contract, until after the award of the contract to the successful tenderer.
3.3.6	**Grounds for rejection and disqualification** Determine whether there has been any effort by a tenderer to influence the processing of tender offers and instantly disqualify a tenderer (and his tender offer) if it is established that he engaged in corrupt or fraudulent practices.
3.3.7	**Test for responsiveness**
3.3.7.1	Appoint a Bid Evaluation Committee and determine after opening whether each tender offer properly received: a) complies with the requirements of these Conditions of Tender, b) has been properly and fully completed and signed, and c) is responsive to the other requirements of the tender documents.
3.3.7.2	A responsive tender is one that conforms to all the terms, conditions, and specifications of the tender documents without material deviation or qualification. A material deviation or qualification is one which, in the SM's opinion, would: a) detrimentally affect the scope, quality, or performance of the goods, services or supply identified in b) the Specifications, c) significantly change the SM's or the tenderer's risks and responsibilities under the contract, or d) affect the competitive position of other tenderers presenting responsive tenders, if it were to be rectified. Reject a non-responsive tender offer, and not allow it to be subsequently made responsive by correction or withdrawal of any material deviation or qualification. The SM reserves the right to accept a tender offer which does not, in the SM's opinion, materially and/or substantially deviate from the terms, conditions, and specifications of the tender documents.
3.3.8	**Arithmetical errors, omissions, discrepancies and corrections of rates**
3.3.8.1	Check the highest ranked tender or tenderer with the highest number of tender evaluation points after the evaluation of tender offers for: a) the gross misplacement of the decimal point in any unit rate; b) omissions made in completing the Price Schedule; or c) arithmetic errors in: i. line item totals resulting from the product of a unit rate and a quantity in the Price Schedule; or ii. the summation of the prices; or iii. calculation of individual rates.

3.3.8.2	Notify the tenderer of all errors or omissions that are identified in the tender offer and either confirm the tender offer as tendered or accept the corrected total of prices. Where the tenderer elects to confirm the tender offer as tendered, correct the errors as follows: a) If bills of quantities or pricing schedules apply and there is an error in the line item total resulting from the product of the unit rate and the quantity, the line item total shall govern and the rate shall be corrected. Where there is an obviously gross misplacement of the decimal point in the unit rate, the line item total as quoted shall govern, and the unit rate shall be corrected. Where there is an error in the total of the prices either as a result of other corrections required by this checking process or in the tenderer's addition of prices, the total of the prices shall govern and the tenderer will be asked to revise selected item prices (and their rates if bills of quantities apply) to achieve the tendered total of the prices.
3.3.8.3	In the event of tendered rates or lump sums being declared by the SM to be unacceptable to it because they are not priced, either excessively low or high, or not in proper balance with other rates or lump sums, the tenderer may be required to produce evidence and advance arguments in support of the tendered rates or lump sums objected to. If, after submission of such evidence and any further evidence requested, the SM is still not satisfied with the tendered rates or lump sums objected to, it may request the tenderer to amend these rates and lump sums along the lines indicated by it. The tenderer will then have the option to alter and/or amend the rates and lump sums objected to and such other related amounts as are agreed on by the SM, but this shall be done without altering the tender offer in accordance with this clause. Should the tenderer fail to amend his tender in a manner acceptable to and within the time stated by the SM, the SM may declare the tender as non-responsive.
3.3.9	**Clarification of a tender offer** The SM may, after the closing date, request additional information or clarification from tenderers, in writing on any matter affecting the evaluation of the tender offer or that could give rise to ambiguity in a contract arising from the tender offer, which written request and related response shall not change or affect their competitive position or the substance of their offer. Such request may only be made in writing by the Bid Evaluation Committee using any means as appropriate.
3.3.10	**Evaluation of tender offers**
3.3.10.1	**General**
3.3.10.1.1	Reduce each responsive tender offer to a comparative price and evaluate them using the tender evaluation methods and associated evaluation criteria and weightings that are specified in the tender conditions.
3.3.10.1.2	For evaluation purposes only, the effects of the relevant contract price adjustment methods will be considered in the determination of comparative prices as follows: b) If the selected method is based on bidders supplying rates or percentages for outer years, comparative prices would be determined over the entire contract period based on such rates or percentages. c) If the selected method is based on a formula, indices, coefficients, etc. that is the same for all bidders during the contract period, comparative prices would be the prices as tendered for year one. d) If the selected method is based on a formula, indices, coefficients, etc. that varies between bidders, comparative prices would be determined over the entire contract period based on published indices relevant during the 12 months prior to the closing date of tenders. e) If the selected method includes an imported content requiring rate of exchange variation, comparative prices would be determined based on the exchange rates tendered for the prices as tendered for year one. The rand equivalent of the applicable currency 14 days prior to the closing date of tender will be used (the SM will check all quoted rates against those supplied by its own bank).

	f) If the selected method is based on suppliers' price lists, comparative prices would be the prices as tendered for year one. If the selected method is based on suppliers' price lists and / or rate of exchange, comparative prices would be determined as tendered for year one whilst taking into account the tendered percentage subject to rate of exchange (see sub clause (d) for details on the calculation of the rate of exchange).
3.3.10.1.3	Where the scoring of functionality forms part of a bid process, each member of the Bid Evaluation Committee must individually score functionality. The individual scores must then be interrogated and calibrated if required where there are significant discrepancies. The individual scores must then be added together and averaged to determine the final score.
3.3.10.2	**Decimal places** Score financial offers, preferences, and functionality, as relevant, to two decimal places.
3.3.10.3	**Scoring of tenders (price and preference)**
3.3.10.3.1	Points for price will be allocated in accordance with the formula set out in this clause based on the tender sum / amount as set out in the **Price Schedule (Part 3).**
3.3.10.3.2	Points for preference will be allocated in accordance with the provisions of **Preference Points Claim Form** and the table in this clause.
3.3.10.3.3	The terms and conditions of **Preference Points Claim Form** as it relates to preference shall apply in all respects to the tender evaluation process and any subsequent contract.
3.3.10.3.4	Applicable formula: The price/preference points system as identified within the Preference Claim form attached in this bid document will be applicable to this tender.
3.3.10.5	**Risk Analysis** Notwithstanding compliance with regard to any requirements of the tender, the SM will perform a risk analysis in respect of the following: a) reasonableness of the financial offer b) reasonableness of unit rates and prices c) the tenderer's ability to fulfil its obligations in terms of the tender document, that is, that the tenderer can demonstrate that he/she possesses the necessary professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, capacity, experience, reputation, personnel to perform the contract, etc.; the SM reserves the right to consider a tenderer's existing contracts with the SM in this regard d) any other matter relating to the submitted bid, the tendering entity, matters of compliance, verification of submitted information and documents, etc. The conclusions drawn from this risk analysis will be used by the SM in determining the acceptability of the tender offer. No tenderer will be recommended for an award unless the tenderer has demonstrated to the satisfaction of the SM that he/she has the resources and skills required.
3.3.11	**Negotiations with preferred tenderers** The SM may negotiate the final terms of a contract with tenderers identified through a competitive tendering process as preferred tenderers provided that such negotiation: g) does not allow any preferred tenderer a second or unfair opportunity; h) is not to the detriment of any other tenderer; and i) does not lead to a higher price than the tender as submitted. If negotiations fail to result in acceptable contract terms, the Municipal Manager (or his delegated authority) may terminate the negotiations and cancel the tender, or invite the next ranked tenderer for negotiations. The original preferred tenderer should be informed of the reasons for termination

	of the negotiations. If the decision is to invite the next highest ranked tenderer for negotiations, the failed earlier negotiations may not be reopened by the SM. Minutes of any such negotiations shall be kept for record purposes. The provisions of this clause will be equally applicable to any invitation to negotiate with any other tenderers. In terms of the PPPFA Regulations, 2017, tenders must be cancelled in the event that negotiations fail to achieve a market related price with any of the three highest scoring tenderers.
3.3.12	**Acceptance of tender offer** Notwithstanding any other provisions contained in the tender document, the SM reserves the right to:
3.3.12.1	Accept a tender offer(s) which does not, in the SM's opinion, materially and/or substantially deviate from the terms, conditions, and specifications of the tender document.
3.3.12.2	Accept the whole tender or part of a tender or any item or part of any item or items from multiple manufacturers, or to accept more than one tender (in the event of a number of items being offered), and the SM is not obliged to accept the lowest or any tender.
3.3.12.3	Accept the tender offer(s), if in the opinion of the SM, it does not present any material risk and only if the tenderer(s):: a) is not under restrictions, has any principals who are under restrictions, or is not currently a supplier to whom notice has been served for abuse of the supply chain management system, preventing participation in the SM's procurement, b) can, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract, c) has the legal capacity to enter into the contract, d) is not insolvent, in receivership, under Business Rescue as provided for in chapter 6 of the Companies Act, 2008, bankrupt or being wound up, has his affairs administered by a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings in respect of any of the foregoing, complies with the legal requirements, if any, stated in the tender data, and e) is able, in the opinion of the SM, to perform the contract free of conflicts of interest. If an award cannot be made in terms of anything contained herein, the SM reserves the right to consider the next ranked tenderer(s).
3.3.12.4	Not to make an award, or revoke an award already made, where the implementation of the contract may result in reputational risk or harm to the SM as a result of (inter alia): a) reports of poor governance and/or unethical behaviour; b) association with notorious individuals or their known family; c) poor performance issues, known to the SM; d) negative social media reports; and e) adverse assurance (e.g. due diligence) report outcomes.
3.3.12.5	The SM reserves the right to nominate an alternative bidder at the time when an award is made and in the event that a contract is terminated during the execution thereof, the SM may consider the award of the contract, or non-award, to the alternative bidder in terms of the procedures included its SCM Policy.
3.3.13	**Prepare contract documents**
3.3.13.1	If necessary, revise documents that shall form part of the contract and that were issued by the SM as part of the tender documents to take account of: j) notices issued during the tender period, k) inclusion of some of the returnable documents, and

	other revisions agreed between the SM and the successful tenderer.
3.3.13.2	Complete the schedule of deviations attached to the form of offer and acceptance, if any.
3.3.14	**Notice to successful and unsuccessful tenderers**
3.3.14.1	Before accepting the tender of the successful tenderer the SM shall notify the successful tenderer in writing of the decision of the SM's Bid Adjudication Committee to award the tender to the successful tenderer. No rights shall accrue to the successful tenderer in terms of this notice
3.3.14.2	The SM shall, at the same time as notifying the successful tenderer of the Bid Adjudication Committee's decision to award the tender to the successful tenderer, also give written notice to the other tenderers informing them that they have been unsuccessful.
3.3.15	**Provide written reasons for actions taken** Provide upon request written reasons to tenderers for any action that is taken in applying these Conditions of Tender, but withhold information which is not in the public interest to be divulged, which is considered to prejudice the legitimate commercial interests of tenderers or might prejudice fair competition between tenderers.

(4) 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 1a: Name of enterprise:		
Section 1b: Trading as (if different from above)		
Section 1c: Type of Entity (please select an option)	Individual / Sole Proprietor	
	Closed Corporation	
	Company	
	Partnership / Joint Venture	
	Trust	
	Other:	
Section 1d: Postal address		
Section 1e: Physical address (Chosen as domicillium citandi et executandi)		
Section 1f: Details of authorised representative of tenderer	Title: Full Name:	
	Tel no: Fax no:	
	Cellular no:	
	Email address:	

Section 2: VAT registration number, if any:	
Section 2a: National Treasury Central Supplier Database registration no.:	
Section 2b: SARS Tax Compliance Status PIN :	
Section 2c: Senqu Municipality Supplier Database registration no. :	
Section 3: cidb registration no (if applicable):	

Section 4: Particulars of sole proprietors and partners in partnerships

***** *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: Foreign Bidding Suppliers Is tenderer the accredited representative in South Africa for the Goods / Services / Works offered?	☐Yes ☐No If yes, enclose proof

Is tenderer a foreign based supplier for the Goods / Services / Works offered?	☐Yes ☐No If yes, answer the Questionnaire to Bidding Foreign
Questionnaire to Bidding Foreign Suppliers	
a) Is the tenderer a resident of the Republic of South Africa or an entity registered in South Africa?	☐Yes ☐No
b) Is the tenderer a resident of the Republic of South Africa or an entity registered in South Africa?	☐Yes ☐No
c) Does the tenderer have a permanent establishment in the Republic of South Africa?	☐Yes ☐No
d) Does the tenderer have any source of income in the Republic of South Africa?	☐Yes ☐No
e) Is the tenderer liable in the Republic of South Africa for any form of taxation?	☐Yes ☐No

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

i) authorizes the SM 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 or Database of Restricted Suppliers;

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 offers and have no other relationship with any of the tenderers or those responsible for compiling the scope of work that could cause or be interpreted as a conflict of interest; and

iv) confirms that the contents of this questionnaire are within my personal knowledge and are to the best of my belief both true and correct.

Signed: _____ Date: _____

Name: _____ Position: _____

Enterprise Name: _____

(5) FORM OF OFFER AND ACCEPTANCE

Offer

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

CONTRACT NO. 62/2023-2024T PANEL FOR LEGAL SERVICES (3 YEARS)

The tenderer, identified in the offer signature block, has examined the documents listed in the conditions of tender and addenda thereto as listed in the returnable 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 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 herein.

By signing this Form of Offer and Acceptance the tenderer offers to supply all or any of the goods and/or render all or any of the services described in the tender document to the SM in accordance with the:

1.1 terms and conditions stipulated in this tender document;
1.2 specifications stipulated in this tender document; and
1.3 at the prices as set out in the **Price Schedule**.

This offer may be accepted by the SM 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 conditions of tender, whereupon the tenderer becomes the party named as the supplier in the conditions of contract.

Signature (s)		
Name(s)		
Capacity		
For the Tenderer	Date	
Name and Address of the Tenderer		
Name and signature of witness		Date

For official use.		
INITIALS OF MUNICIPAL OFFICIALS AT TENDER OPENING		
1.	**2.**	**3.**

Acceptance

By signing this part of this form of offer and acceptance, the SM identified below accepts the tenderer's offer. In consideration thereof, the SM shall pay the supplier the amount due in accordance with the conditions of contract.. Acceptance of the tenderer's offer shall form an agreement between the SM 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:

Special and General Conditions of Tender
Price schedule
Specifications

and any drawings and documents or parts thereof, which may be incorporated by reference into the above listed Parts.

Deviations from and amendments to the documents listed in the conditions of tender and any addenda thereto as listed in the returnable schedules as well as any changes to the terms of the offer agreed by the tenderer and the SM during this process of offer and acceptance, are contained in the schedule of deviations attached to and forming part of this form of offer and acceptance. No amendments to or deviations from said documents are valid unless contained in this schedule.

The tenderer shall within two weeks after receiving a completed copy of this agreement, including the schedule of deviations (if any), contact the SM to arrange the delivery of any securities, bonds, guarantees, proof of insurance and any other documents to be provided in terms of the conditions of contract as supplemented by the special conditions of contract. Failure to fulfil 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 agreement, including the schedule of deviations (if any). The tenderer (now contractor**)** shall within five working days of the agreement coming into effect notify the SM in writing of any reason why he cannot accept the contents of this agreement as a complete and accurate memorandum thereof, failing which the agreement presented to the contractor shall constitute the binding contract between the parties.

Signature (s)		
Name(s)		
Capacity		
For the Employer	Date	
Name and Address of the Employer		
Name and signature of witness		Date

Schedule of Deviations

Notes:

1. The extent of deviations from the tender documents issued by the SM before the tender closing date is limited to those permitted in terms of the conditions of tender.
2. A tenderer's covering letter shall not be included in the final contract document. Should any matter in such letter, which constitutes a deviation as aforesaid, become the subject of agreements reached during the process of offer and acceptance, the outcome of such agreement shall be recorded here.
3. Any other matter arising from the process of offer and acceptance either as a confirmation, clarification or change to the tender documents and which it is agreed by the Parties becomes an obligation of the contract shall also be recorded here.
4. Any change or addition to the tender documents arising from the above agreements and recorded here, shall also be incorporated into the final draft of the Contract.

1	Subject	
	Details	
2	Subject	
	Details	
3	Subject	
	Details	
4	Subject	
	Details	
5	Subject	
	Details	

By the duly authorised representatives signing this agreement, the SM and the tenderer agree to and accept the foregoing schedule of deviations as the only deviations from and amendments to the documents listed in the conditions of tender and addenda thereto as listed in the returnable schedules, as well as any confirmation, clarification or changes to the terms of the offer agreed by the tenderer and the SM during this process of offer and acceptance.

It is expressly agreed that no other matter whether in writing, oral communication or implied during the period between the issue of the tender documents and the receipt by the tenderer of a completed signed copy of this Agreement shall have any meaning or effect in the contract between the parties arising from this agreement.

(6) PRICE SCHEDULE

Bid specifications may not make any reference to any particular trade mark, name, patent, design, type, specific origin or producer, unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words "or equivalent".

TENDERERS MUST NOTE THAT WHEREVER THIS DOCUMENT REFERS TO ANY PARTICULAR TRADE MARK, NAME, PATENT, DESIGN, TYPE, SPECIFIC ORIGIN OR PRODUCER, SUCH REFERENCE SHALL BE DEEMED TO BE ACCOMPANIED BY THE WORDS 'OR EQUIVALENT"

Pricing Instructions:

Pricing Assumptions mean the criteria as set out below, read together with all Parts of this contract document, which it will be assumed in the contract, that the tenderer has taken into account when developing his prices.

6.1 State the rates and prices in Rand unless instructed otherwise in the tender conditions.

6.2 Include in the rates, prices, and the tendered total of the prices (if any) all duties, taxes (except Value Added Tax (VAT), and other levies payable by the successful tenderer, such duties, taxes and levies being those applicable 14 days before the closing time stated in the General Tender Information.

6.3 All prices tendered must include all expenses, disbursements and costs (e.g. transport, accommodation etc.) that may be required for the execution of the tenderer's obligations in terms of the Contract, and shall cover the cost of all general risks, liabilities and obligations set forth or implied in the Contract as well as overhead charges and profit (in the event that the tender is successful). All prices tendered will be final and binding.

6.4 All prices shall be tendered in accordance with the units specified in this schedule.

6.5 Where a value is given in the Quantity column, a Rate and Price (the product of the Quantity and Rate) is required to be inserted in the relevant columns.

6.6 The successful tenderer is required to perform all tasks listed against each item. The tenderer must therefore tender prices/rates on all items as per the section in the Price Schedule. **An item against which no rate is/are entered, or if anything other than a rate or a nil rate (for example, a zero, a dash or the word "included" or abbreviations thereof) is entered against an item, it will also be regarded as a nil rate having been entered against that item, i.e. that there is no charge for that item. The Tenderer may be requested to clarify nil rates, or items regarded as having nil rates; and the SM may also perform a risk analysis with regard to the reasonableness of such rates.**

6.7 Provide fixed rates and prices for the duration of the contract that are not subject to adjustment except as otherwise provided for in clause 17 of the Conditions of Contract and as amplified in the Special Conditions of Contract.

6.8.1 **RATES Based Pricing Schedule:**

Item	Expertise required	Price per Unit excluding VAT
1	Litigation (excluding litigation in the Regional and Magistrate's Courts),	R
2	Local Government law, Labour Law, Commercial & Contract law – the non-litigious tariff of the Cape Legal Practise Council.	R
3	Litigation in the Regional and Magistrate's Courts (including Collections) – the prescribed tariff in the Magistrate's Court Rules.	R
4	Conveyancing – the prescribed tariff of the Legal Practise Council	R

Bid No 62/2023-2024 T
Panel for Legal Services (3 years)

Item	Expertise required	Price per Unit excluding VAT
5.	Transport per Kilometre as per prescribed tariff	
6.	Accommodation (disbursement)	
	SUBTOTAL EXCLUDING VAT	R
	TOTAL INCLUSIVE OF VAT	
	TOTAL FOR 3 YEARS INCLUSIVE OF VAT	

Rates will be paid as per the current tariffs provided by the Legal Practise Council. Should the tariffs be reviewed by the Legal Practise Council, successful bidders will be paid according to the new tariffs.

For official use.		
SIGNATURE OF MUNICIPAL OFFICIALS AT TENDER OPENING		
1.	**2.**	**3.**

(7) SUPPORTING SCHEDULES

SCHEDULE 1: CERTIFICATE OF INDEPENDENT TENDER DETERMINATION

I, the undersigned, in submitting this tender for in response to the invitation for the tender made by the Municipality, do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of:_____ that:

(Name of Tenderer)

1. I have read and I understand the contents of this Certificate;
2. I understand that this tender will be declared as non-responsive if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the tenderer to sign this Certificate, and to submit this tender on behalf of the tenderer;
4. Each person whose signature appears on this tender has been authorized by the tenderer to determine the terms of, and to sign, the tender, on behalf of the tenderer;
5. For the purposes of this Certificate and this tender, I understand that the word "competitor" shall include any individual or organization, other than the tenderer whether or not affiliated with the tenderer, who:
   (a) has been requested to submit a tender in response to this invitation to tender;
   (b) could potentially submit a tender in response to this invitation to tender, based on their qualifications, abilities or experience; and
   (c) provides the same goods and services as the tenderer and/or is in the same line of business as the tenderer;
6. The tenderer has arrived at this tender independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium[1] will not be construed as collusive tendering;
7. In particular, without limiting the generality of paragraph 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 tender;
   (e) the submission of a tender which does not meet the specifications and conditions of the tender; or
   (f) tendering with the intention not to win the tender;

[1]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.

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 invitation to tender relates;
9. The terms of this tender have not been, and will not be, disclosed by the tenderer, directly or indirectly, to any competitor, prior to the date and time of the official tender opening or of the awarding of the contract;
10. I am aware that , in addition and without prejudice to any other remedy provided to combat any restrictive practices related to tenders and contracts, tenders 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

....
Name Position

SCHEDULE 2: CERTIFICATE OF AUTHORITY FOR JOINT VENTURES / PARTNERSHIPS / CONSORTIA

This schedule is to be completed if the tender is submitted by a partnership/joint venture/ consortium.

1. We, the undersigned, are submitting this tender offer as a partnership/ joint venture/ consortium and hereby authorize Mr/Ms _____, of the authorised entity _____, acting in the capacity of Lead Partner, to sign all documents in connection with the tender offer and any contract resulting from it on the partnership/joint venture/ consortium's behalf.
2. By signing this schedule the partners to the partnership/joint venture/ consortium:
   - 2.1 warrant that the tender submitted is in accordance with the main business and objectives of the partnership/joint venture/ consortium;
   - 2.2 agree that the SM shall make all payments in terms of this Contract into the following bank account of the Lead Partner:

     Account Holder: _____

     Financial Institution: _____

     Branch Code: _____

     Account No.: _____
   - 2.3 agree that in the event that there is a change in the partnership/ joint venture/ consortium and/or should a dispute arise between the partnership/joint venture/ consortium partners, that the SM shall continue to make any/all payments due and payable in terms of the Contract into the aforesaid bank account until such time as the SM is presented with a Court Order or an original agreement (signed by each and every partner of the partnership/joint venture/ consortium) notifying the SM of the details of the new bank account into which it is required to make payment.
   - 2.4 agree that they shall be jointly and severally liable to the SM for the due and proper fulfilment by the successful tenderer/supplier of its obligations in terms of the Contract as well as any damages suffered by the SM as a result of breach by the successful tenderer/supplier. The partnership/joint venture/ consortium partners hereby renounce the benefits of excussion and division.

SIGNED BY THE PARTNERS OF THE PARTNERSHIP/ JOINT VENTURE/ CONSORTIUM			
NAME OF FIRM	ADDRESS	DULY AUTHORISED SIGNATORY	Percentage contribution
Lead partner		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.

If the above schedule is does not provide sufficient space to capture all the joint venture details, please append all details to this schedule. A copy of the Joint Venture Agreement, clearly showing the **percentage contribution of each partner** to the joint venture, shall be appended to this schedule.

……..... Signature

…….. Date

…….. Position

…….. Name of Tenderer/Contractor

SCHEDULE 3: DECLARATION OF TENDERER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES (MBD 8)

Where the entity tendering is a joint venture, each party to the joint venture must sign a declaration in terms of the Municipal Finance Management Act, 56 of 2003, and attach it to this schedule.

1 The tender offer of any tenderer may be rejected if that tenderer or any of its directors/members have:

a) abused the municipality's / municipal entity's supply chain management system or committed any fraudulent 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).

2 In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

Item	Question	Yes	No
2.1	Is the Tenderer or any of its directors listed on the National Treasury's Database of Restricted Suppliers as a company or person prohibited from doing business with the public sector? (Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the *audi alteram partem* rule was applied). **The Database of Restricted Suppliers now resides on the National Treasury's website www.treasury.gov.za and can be accessed by clicking on its link at the bottom of the home page.**	Yes ☐	No ☐
2.1.1	If so, furnish particulars:		
2.2	Is the Tenderer 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, 12 of 2004? **The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.**	Yes ☐	No ☐
2.2.1	If so, furnish particulars:		
2.3	Was the Tenderer or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?	Yes ☐	No ☐
2.3.1	If so, furnish particulars:		
2.4	Does the Tenderer 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 ☐	No ☐
2.4.1	If so, furnish particulars:		
2.5	Was any contract between the Tenderer 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 ☐	No ☐
2.5.1	If so, furnish particulars:		

I, _____, the undersigned,
(full name in block letters)
certify that the information furnished on this declaration form is true and correct, and 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 Tenderer/Contractor

SCHEDULE 4: DECLARATION OF INTEREST – STATE EMPLOYEES (MBD 4 AMENDED)

1. No bid will be accepted from:
   1.1 persons in the service of the state[1], or
   1.2 if the person is not a natural person, of which any director, manager or principal shareholder or stakeholder is in the service of the state,.
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 tenderer 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 tenderer or his or her representative:……..

3.2 Identity Number: …….

3.3 Position occupied in the Company (director, trustee, shareholder[2]):……..

3.4 Company or Close Corporation 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. ……..

……
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 supplier 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.

……

……

13.4 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:

……

……

3.15 Have you, or any of the directors, trustees, managers, principle shareholders, or stakeholders of this company been in the service of the Municipality in the past twelve months? **YES / NO**

3.15.1 If yes, furnish particulars ……

3.16 Do you have any employee/s who was/were in the service of the Municipality at a level of ???? or higher at the time they left the employ of the Municipality, and who was involved in any of the Municipality's bid committees for this bid? **YES / NO**

3.16.1 If yes, furnish particulars ……

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

Full Name	Identity Number	State Employee Number

If the above table does not sufficient to provide the details of all directors / trustees / shareholders, please append full details to the tender submission.

The tenderer hereby certifies that the information set out in this schedule and/or attached thereto is true and correct, and acknowledges that failure to properly and truthfully complete this schedule may result in the tender being declared non-responsive, and/or (in the event that the tenderer is successful) the cancellation of the contract, restriction of the tenderer or the exercise by the employer of any other remedies available to it

_____ _____

Signature **Date**

_____

Name (PRINT)

(For and on behalf of the tenderer, duly authorised)

[1]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) an executive member of the accounting authority of any national or provincial public entity; or
(f) an employee of Parliament or a provincial legislature.

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

SCHEDULE 5: PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022 (MBD 6.1 AMENDED)

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

---

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to all bids:
- the 80/20 system for requirements with a Rand value of up to R50 000 000 (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
a) The value of this bid is estimated to not exceed R50 000 000 (all applicable taxes included) and therefore the 80/20 preference point system shall be applicable: or

b) Either the 80/20 or 90/10 preference point system will be applicable to this tender (*delete whichever is not applicable for this tender*).

1.3 Points for this bid shall be awarded for:
(a) Price; and
(b) B-BBEE Status Level of Contributor.

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

	POINTS
PRICE	80
SPECIFIC GOALS	20
Points for historically disadvantaged persons by unfair discrimination based on race, gender, or disability	10
Points for Locality (Domiciled in the Senqu Local Municipality)	10
Points for Locality (Domiciled in the Joe Gqabi District Municipality)	5
Points for Locality (Domiciled in the Eastern Cape Province)	2
Points for Locality (Domiciled outside the Eastern Cape Province)	0
Total points for Price and Specific Goals must not exceed	**100**

1.5 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that for historically disadvantaged persons by unfair discrimination based on race, gender or disability are not claimed.

1.6 Documents Considered for claiming pints based on locality.

1.7 The Following Documents needs to be submitted with the bid to ensure that where the tenderer is the owner of the property of the business:
(1) Municipal account registered in the name of the tenderer; • Where the tenderer is not the owner of the property of the business: A valid lease agreement; or Affidavit from the property owner that the address used to claim points in the MBD 6.1 is being rented out to the tenderer at no cost.
(2) Where the tenderer is the owner of the property of the business that is not yet formalised: Proof of address by Local Ward Councillor confirming that the owner is indeed operating a business from the premises

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

2. DEFINITIONS

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

(b) "**B-BBEE status level of contributor"** means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

(c) **"bid"** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services, through price quotations, advertised competitive

bidding processes or proposals;

(d) **"Broad-Based Black Economic Empowerment Act"** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

(e) **"EME"** means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;

(f) **"functionality"** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.

(g) **"price"** includes all applicable taxes less all unconditional discounts;

(h) **"proof of B-BBEE status level of contributor"** means:

1) B-BBEE Status level certificate issued by an authorized body or person;

2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;

3) Any other requirement prescribed in terms of the B-BBEE Act;

(i) **"QSE"** means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;

(j) **"rand value"** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

4. POINTS AWARDED FOR PRICE

4.1 **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 **or** **90/10**

$$Ps = 80\left(1 - \frac{Pt - P\,min}{P\,min}\right) \quad \text{or} \quad Ps = 90\left(1 - \frac{Pt - P\,min}{P\,min}\right)$$

Where

Ps = Points scored for price of bid under consideration

Pt = Price of bid under consideration

Pmin = Price of lowest acceptable bid

4.2 **FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME-GENERATING PROCUREMENT**

4.3 **POINTS AWARDED FOR PRICE**

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

80/20 **or** **90/10**

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

Where

Ps = Points scored for price of bid under consideration

Pt = Price of bid under consideration

Pmax = Price of highest acceptable bid

5. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

5.1 In terms of the Municipalities specific goals as indicated, municipal specific goals for preference points which must be awarded to a bidder for Points for historically disadvantaged persons by unfair discrimination based on race, gender or disability in accordance with the table below:

Points for historically disadvantaged persons by unfair discrimination based on race, gender, or disability.

SPECIFIC GOALS	**DOCUMENT TO BE SUBMITTED**	**NUMBER OF POINTS ALLOCATED**
Points for historically disadvantaged persons by unfair	**Valid BBBEE Certificate** or **Sworn Affidavit**	MAX 10 Points
	1	10

discrimination based on race, gender, or disability	2	9
	3	7
	4	6
	5	5
	6	4
	7	2
	8	1
	0	0

6. BID DECLARATION

6.1 Bidders who claim points in respect of B-BBEE Status Level of Contribution must complete the following:

7. B-BBEE STATUS LEVEL OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1

7.1 B-BBEE Status Level of Contributor: . = ……(maximum of 10 or 20 points)
(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

8. SUB-CONTRACTING

8.1 Will any portion of the contract be sub-contracted?
(***Tick applicable box***)

YES		NO	

8.1.1 If yes, indicate:

i) What percentage of the contract will be subcontracted.....……%
ii) The name of the sub-contractor……..
iii) The B-BBEE status level of the sub-contractor.....……..
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,2022:

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		
OR		
Any EME		
Any QSE		

9. **DECLARATION WITH REGARD TO COMPANY/FIRM**

9.1 Name of company/firm:…….

9.2 VAT registration number:…….

9.3 Company registration number:…….

9.4 TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
- One person business/sole propriety
- Close corporation
- Company
- (Pty) Limited

[TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

……
……

……
……..

9.6 COMPANY CLASSIFICATION

- □ Manufacturer
- □ Supplier
- □ Professional service provider
- □ Other service providers, e.g. transporter, etc.

[*TICK APPLICABLE BOX*]

9.6 **MUNICIPAL INFORMATION**

Municipality where business is situated: ….……

Registered Account Number: …….

Stand Number:…….

9.7 Total number of years the company/firm has been in business:……

9.8 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:

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

WITNESSES 1. …….. 2. …….	…… SIGNATURE(S) OF BIDDERS(S) DATE: …….. ADDRESS: ……..……

For official use.		
SIGNATURE OF MUNICIPAL OFFICIALS AT TENDER OPENING		
1.	**2.**	**3.**

SCHEDULE 9: MUNICIPAL ACCOUNTS' STATUS

To: **THE MUNICIPAL MANAGER, SENQU MUNICIPALITY**
From: _____
(Name of tenderer)

The tenderer:

a) hereby acknowledges that according to SCM Regulation 38(1)(d)(i) the Municipal Manager may reject the tender of the tenderer if any municipal rates and taxes or municipal service charges owed by the tenderer (or any of its directors/members/partners) to the Senqu Municipality, or to any other municipality or municipal entity, are in arrears for more than 3 (three) months; and

b) hereby agrees to provide evidence in the form of current municipal accounts that will enable the SM to evaluate the municipal accounts statuses of the entity and its directors / members / partners.

c) The tenderer hereby certifies that the information set out in this schedule and/or attached hereto is true and correct, and acknowledges that failure to properly and truthfully complete this schedule may result in steps being taken against the tenderer, the tender being declared non-responsive, and/or (in the event that the tenderer is successful) the cancellation of the contract and/or steps in terms of abuse of the Supply Chain Management Policy.

Physical **Business** address of the Tenderer	Municipal Account number(s)

If there is not enough space for all the names, please attach the additional details to the Tender Document

Name of Director / Member / Partner	Identity Number	Physical **residential** address of Director / Member / Partner	Municipal Account number(s)

_____ _____
Signature
Print name: Date
On behalf of the tenderer (duly authorised)

SCHEDULE 14: PROPOSED DEVIATIONS AND QUALIFICATIONS BY TENDERER

The Tenderer should record any **proposed** deviations or qualifications he may wish to make to the tender documents in this Returnable Schedule. Alternatively, a tenderer may state such proposed deviations and qualifications in a covering letter attached to his tender and reference such letter in this schedule. Any proposed deviations or qualifications contained in a covering letter which is not referenced in this schedule will not be considered.

The Tenderer's attention is drawn to clause 3.8 of the Conditions of Tender regarding the SM's handling of material deviations and qualifications.

If no deviations or qualifications are proposed, the schedule hereunder is to be marked NIL and signed by the Tenderer.

PAGE	CLAUSE OR ITEM	PROPOSED DEVIATION OR QUALIFICATION

Number of sheets appended by the tenderer to this Schedule ..... (If nil, enter NIL).

SIGNED ON BEHALF OF TENDERER: . . . . . .

SCHEDULE 15: RECORD OF ADDENDA TO TENDER DOCUMENTS

We confirm that the following communications received from the SM before the submission of this tender offer, amending the tender documents, have been taken into account in this tender offer:

	Date	Title or Details
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

Attach additional pages if more space is required.

SIGNED ON BEHALF OF TENDERER: . . . . . .

SCHEDULE 16: INFORMATION TO BE PROVIDED WITH THE TENDER

The following information shall be provided with the Tender:

A. Client Reference letter
B. Local government Reference letters
C. Fidelity Fund certificate
D. Letters of good standing
E. Organogram
F. CV's
G. Certified qualification
H. Company profile or CSD registration to be Submitted.

SIGNED ON BEHALF OF TENDERER: . . . . . .

(8) SPECIAL CONDITIONS OF CONTRACT

The following Special Conditions of Contract, referring to the National Treasury – Conditions of Contract (revised July 2010), are applicable to this Contract:	
1. Definitions	
1.15	The word 'Goods' is to be replaced everywhere it occurs in the GCC with the phrase 'Goods and / or Services' which means all of the equipment, machinery, materials, services, products, consumables, etc. that the supplier is required to deliver to the purchaser under the contract. This definition shall also be applicable, as the context requires, anywhere where the words "supplies" and "services" occurs in the GCC.
1.19	The word 'Order' is to be replaced everywhere it occurs in the GCC with the words 'Purchase Order' which means the official purchase order authorised and released on the purchaser's system.
1.21	'Purchaser' means the **Senqu Municipality**. The address of the Purchaser is **19 Murray Street, Lady Grey.**
1.26	'Supplier' means any provider of goods and / or services with whom the contract is concluded
1.27	"Intellectual Property" means any and all intellectual property rights of any nature anywhere in the world whether registered, registerable or otherwise, including patents, trademarks, registered designs and domain names, applications for any of the foregoing, trade or business names, copyright and rights in the nature of copyright, design rights, rights in databases, know-how, trade secrets and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the "look and feel" of any websites
2. General Obligations	
2.2	The parties will be liable to each other arising out of or in connection with any breach of the obligations detailed or implied in this contract, subject to clause 28.
2.3	All parties in a joint venture or consortium shall be jointly and severally liable to the purchaser in terms of this contract and shall carry individually the minimum levels of insurance stated in the contract, if any.
2.4	The parties shall comply with all laws, regulations and bylaws of local or other authorities having jurisdiction regarding the delivery of the goods and give all notices and pay all charges required by such authorities.
2.4.1	The parties agree that this contract shall also be subject to the SM's Supply Chain Management Policy ('SCM Policy') that was applicable on the date the bid was advertised**, save that if the Purchaser adopts a new SCM Policy which contemplates that any clause therein would apply to the contract emanating from this tender, such clause shall also be applicable to that contract**. Please refer to this document contained on the SM's website.
2.4.2	Abuse of the supply chain management system is not permitted and may result in cancellation of the contract, restriction of the supplier, and/or the exercise by the municipality of any other remedies available to it as described in the SCM Policy.
2.5	The **supplier** shall:
2.5.1	Arrange for the documents listed below to be provided to the Purchaser prior to the issuing of the order: a) Proof of Insurance (Refer to Clause 11) or Insurance Broker's Warrantee b) Letter of good standing from the Compensation Commissioner, or a licensed compensation insurer (Refer to Clause 11) c) Initial delivery programme d) Other requirements as detailed in the tender documents
2.5.2	Only when notified of the acceptance of the bid by the issuing of the order, the supplier shall commence with and carry out the delivery of the goods in accordance with the contract, to the satisfaction, of the purchaser
2.5.3	Provide all of the necessary materials, labour, plant and equipment required for the delivery of the goods including any temporary services that may be required
2.5.4	Insure his workmen and employees against death or injury arising out of the delivery of the goods
2.5.5	Be continuously represented during the delivery of the goods by a competent representative duly

	authorised to execute instructions;
2.5.6	In the event of a loss resulting in a claim against the insurance policies stated in clause 11, pay the first amount (excess) as required by the insurance policy
2.5.7	Comply with all written instructions from the purchaser subject to clause 18
2.5.8	Complete and deliver the goods within the period stated in clause 10, or any extensions thereof in terms of clause 21
2.5.9	Make good at his own expense all incomplete and defective goods during the warranty period
2.5.10	Pay to the purchaser any penalty for delay as due on demand by the purchaser. The supplier hereby consents to such amounts being deducted from any payment to the supplier.
2.5.11	Comply with the provisions of the OHAS Act & all relevant regulations.
2.5.12	Comply with all laws relating to wages and conditions generally governing the employment of labour in the Eastern Cape area and any applicable Bargaining Council agreements.
2.5.13	Deliver the goods in accordance with the contract and with all reasonable care, diligence and skill in accordance with generally accepted professional techniques and standards.
2.6	The **purchaser** shall:
2.6.1	Issue orders for the goods required under this Contract. No liability for payment will ensue for any work done if an official purchase order has not been issued to the supplier.
2.6.2	Make payment to the **supplier** for the goods as set out herein.
2.6.3	Take possession of the goods upon delivery by the supplier.
2.6.4	Regularly inspect the goods to establish that it is being delivered in compliance with the contract.
2.6.5	Give any instructions and/or explanations and/or variations to the supplier including any relevant advice to assist the supplier to understand the contract documents.
2.6.6	Grant or refuse any extension of time requested by the supplier to the period stated in clause 10.
2.6.7	Inspect the goods to determine if, in the opinion of the purchaser, it has been delivered in compliance with the contract, alternatively in such a state that it can be properly used for the purpose for which it was intended.
2.6.8	Brief the supplier and issue all documents, information, etc. in accordance with the contract.
3. Use of contract documents and information; inspection, copyright, confidentiality, etc.	
3.5	Copyright of all documents prepared by the supplier in accordance with the relevant provisions of the copyright Act (Act 98 of 1978) relating to contract shall be vested in the purchaser. Where copyright is vested in the supplier, the purchaser shall be entitled to use the documents or copy them only for the purposes for which they are intended in regard to the contract and need not obtain the supplier's permission to copy for such use. Where copyright is vested in the purchaser, the supplier shall not be liable in any way for the use of any of the information other than as originally intended for the contract and the purchaser hereby indemnifies the supplier against any claim which may be made against him by any party arising from the use of such documentation for other purposes. The ownership of data and factual information collected by the supplier and paid for by the purchaser shall, after payment, vest with the purchaser
3.6	Publicity and publication
	The supplier shall not release public or media statements or publish material related to the services or contract within two (2) years of completion of the services without the written approval of the purchaser, which approval shall not be unreasonably withheld.
3.7	Confidentiality
	Both parties shall keep all information obtained by them in the context of the contract confidential and shall not divulge it without the written approval of the other party.
3.8	Intellectual Property
3.8.1	The supplier acknowledges that it shall not acquire any right, title or interest in or to the Intellectual Property of the Purchaser.
3.8.2	The supplier hereby assigns to the Purchaser, all Intellectual Property created, developed or otherwise brought into existence by it for the purposes of the contract, unless the Parties expressly agree otherwise in writing.
3.8.3	The supplier shall, and warrants that it shall:
3.8.3.1	not be entitled to use the Purchaser's Intellectual Property for any purpose other than as contemplated in this contract;
3.8.3.2	not modify, add to, change or alter the Purchaser's Intellectual Property, or any information or data related thereto, nor may the supplier produce any product as a result of, including and/or arising from

	any such information, data and Intellectual Property, and in the event that it does produce any such product, the product shall be, and be deemed in law to be, owned by the Purchaser;
3.8.3.3	not apply for or obtain registration of any domain name, trademark or design which is similar to any Intellectual Property of the Purchaser;
3.8.3.4	comply with all reasonable directions or instructions given to it by the Purchaser in relation to the form and manner of use of the Purchaser Intellectual Property, including without limitation, any brand guidelines which the Purchaser may provide to the supplier from time to time;
3.8.3.5	procure that its employees, directors, members and contractors comply strictly with the provisions of clauses 3.8.3.1 to 3.8.3.3 above;
	unless the Purchaser expressly agrees thereto in writing after obtaining due internal authority.
3.8.4	The supplier represents and warrants to the Purchaser that, in providing goods, services or both, as the case may be, for the duration of the contract, it will not infringe or make unauthorised use of the Intellectual Property rights of any third party and hereby indemnifies the Purchaser from any claims, liability, loss, damages, costs, and expenses arising from the infringement or unauthorised use by the supplier of any third party's Intellectual Property rights.
3.8.5	In the event that the contract is cancelled, terminated, ended or is declared void, any and all of the Purchaser's Intellectual Property, and any and all information and data related thereto, shall be immediately handed over to the Purchaser by the supplier and no copies thereof shall be retained by the supplier unless the Purchaser expressly and in writing, after obtaining due internal authority, agrees otherwise.
4. Performance Security	
4.1	Within 14 (fourteen) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified herein. The Guarantee Sum shall be equal to [DRAFTER TO INSERT RAND AMOUNTS REQUIRED AS DETERMINED IN ACCORDANCE WITH THE REQUIREMENTS OF THE SCM POLICY] being [ ] percent of the Contract price. **Not Applicable**
4.3	The performance security shall be furnished strictly in accordance with the terms and conditions set out in **Form of Guarantee / Performance Security** and can only be issued by any one of the Financial Institutions listed in **Annexure A** (attached to this form)**.** **Not Applicable**
4.4	The performance security will be discharged by the purchaser and returned to the supplier strictly in accordance with the terms and conditions set out in the **Form of Guarantee / Performance Security** **Not Applicable**
5. Inspections, tests and analyses	
5.1	If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the purchaser or an organisation acting on behalf of the purchaser.
6. Delivery and documents	
6.1	Delivery of the goods shall be made by the supplier in accordance with the terms specified in the contract. The time for delivery of the goods shall be the date as stated on the order. Orders for the supply and delivery of goods may be raised up until the expiry of a framework agreement bid, provided that the goods can be delivered within 30 days of expiry of the framework contract. All orders, other than for the supply and delivery of goods, must be completed prior to the expiry of the contract period.
6.2	The purchaser shall determine, in its sole discretion, whether the goods have been delivered in compliance with the contract, alternatively in such a state that it can be properly used for the purpose for which it was intended. When the purchaser determines that the goods have been satisfactorily delivered, the purchaser must issue an appropriate certification, or written approval, to that effect. Invoicing may only occur, and must be dated, on or after the date of acceptance of the goods.
7. Insurance	
	Not Applicable
7.1	Without limiting the obligations of the supplier in terms of this contract, the supplier shall effect and maintain the following additional insurances:
a)	Public liability insurances, in the name of the supplier, covering the supplier and the purchaser against liability for the death of or injury to any person, or loss of or damage to any property, arising out of or in the course of this Contract, in an amount not less than **R?? million** for any single claim**;**

b)	Motor Vehicle Liability Insurance, in respect of all vehicles owned and / or leased by the supplier, comprising (as a minimum) "Balance of Third Party" Risks including Passenger Liability Indemnity;
c)	Registration / insurance in terms of the Compensation for Occupational Injuries and Disease Act, Act 130 of 1993**.** This can either take the form of a certified copy of a valid Letter of Good Standing issued by the Compensation Commissioner, or proof of insurance with a licenced compensation insurer, from either the bidder's broker or the insurance company itself (see **Proof of Insurance / Insurance Broker's Warranty** section in document for a pro forma version).
d)	Professional indemnity insurance providing cover in an amount of not less than R5 million in respect of each and every claim during the contract period. **Not Applicable**
	In the *event* of under insurance or the insurer's repudiation of any claim for whatever reason, the SM will retain its right of recourse against the supplier.
7.2	The supplier shall be obliged to furnish the SM with proof of such insurance as the SM may require from time to time for the duration of this Contract. Evidence that the insurances have been effected in terms of this clause, shall be either in the form of an insurance broker's warranty worded precisely as per the pro forma version contained in the Proof of Insurance / Insurance Broker's Warranty section of the document or copies of the insurance policies.
8. Warranty	
8.1	This warranty for this contract shall remain valid for twelve **(12) months** after the goods have been delivered.
9. Payment	
9.1	A monthly payment cycle will be the norm. All invoices which are dated on or before the 20th of a particular month will typically be paid between the 23rd and 26th of the following month. The supplier may submit a fully motivated application regarding more frequent payment to the Purchaser's Director: Expenditure for consideration. Requests for more frequent payments will be considered at the sole discretion of the Purchaser and is not a right in terms of this contract. Not applicable
9.2	The supplier shall furnish the purchaser's Accounts Payable Department with an original tax invoice, clearly showing the amount due in respect of each and every claim for payment.
9.3	Notwithstanding any amount stated on the order, the supplier shall only be entitled to payment for goods actually delivered in terms of the Project Specification and Drawings, or any variations in accordance with clause 18. Any contingency sum included shall be for the sole use, and at the discretion, of the purchaser. **Not Applicable**
9.4	The SM is not liable for payment of any invoice that pre-dates the date of delivery of the goods.
9.5	The purchaser will only make advanced payments to the supplier in strict compliance with the terms and details as contained on **Proforma Advanced Payment Guarantee** and only once the authenticity of such guarantee has been verified by the Purchaser's Treasury Department.
10. Prices	
10.1	If as a result of an award of a contract beyond the original tender validity period, the contract execution will be completed beyond a period of twelve (12) months from the expiry of the original tender validity period, then the contract may be subject to contract price adjustment for that period beyond such twelve (12) months. An appropriate contract price adjustment formula will be determined by Supply Chain Management if such was not included in the bid documents.
10.2	If as a result of any extension of time granted the contract execution will be completed beyond a period of twelve (12) months from the expiry of the original tender validity period, then contract price adjustment may apply to that period beyond such twelve (12) months. An appropriate contract price adjustment formula will be determined by Supply Chain Management if such was not included in the bid documents.
10.3	The prices for the goods delivered and services performed shall be subject to contract price adjustment and the following conditions will be applicable:
	Not Applicable
10.4	If price adjustment for variations in the cost of plant and materials imported from outside of South Africa is provided for in the contract, such adjustment shall be based on the information contained on the schedule titled "**Price Basis for Imported Resources"** and as below. For the purposes of this clause the Rand value of imported Plant and Materials inserted on the schedule titled "**Price Basis for Imported Resources"** (column (F)) shall be the value in foreign currency (column (A)) converted to South African Rand (column (C)) by using the closing spot selling rate quoted by **SM's** main banker,

	Standard Bank, on the Base Date (seven calendar days before tender closing date) rounded to the second decimal place (column(B)), to which shall be added any Customs Surcharge and Customs Duty applicable at that date (columns (D) and (E)).
10.4.1	Adjustment for variations in rates of exchange:
(a)	The value in foreign currency inserted in column (A) shall be subject to clause (h) below when recalculating the Rand value.
(b)	The rate of exchange inserted in column (B) shall be the closing spot selling rate quoted by Council's main banker, Standard Bank, on the Base Date, rounded to the second decimal place, subject to sub-paragraph (c) below.
(c)	If the rate of exchange inserted by the Tenderer differs from the Standard Bank rate referred to above, then the Standard Bank rate shall apply and the Rand value in columns (C) and (F) shall be recalculated accordingly, without altering the price in the Price Schedule for the relevant items.
(d)	If a tender from a supplier or sub-contractor provides for variations in rates of exchange, the Supplier may **only** claim for variations in rates of exchange if he binds the supplier or sub-contractor to the same provision to take out forward cover as described in sub-paragraph (e) below.
(e)	The Supplier (or sub-contractor) shall within five working days from the date of placing a firm order on an overseas supplier, cover or recover forward by way of a contract with a bank which is an authorised foreign exchange dealer, the foreign exchange component of the cost of any imported Plant and Materials inserted by the Tenderer on the scheduled titled "**Price Basis for Imported Resources"**.
(f)	When the Supplier (or sub-contractor) so obtains forward cover, the Supplier shall immediately notify the SM of the rate obtained and furnish the SM with a copy of the foreign exchange contract note.
(g)	Based on the evidence provided in sub-paragraph (f) above, the value in Rand inserted in column (C) of on the schedule titled "**Price Basis for Imported Resources** "shall be recalculated using the forward cover rate obtained, and any increase or decrease in the Rand value defined in this clause shall be adjusted accordingly, subject to sub-paragraph (h) below.
(h)	The adjustments shall be calculated upon the value in foreign currency in the Supplier's (or sub-contractor's) **forward cover contract**, provided that, should this value exceed the value in foreign currency inserted in column (A) of on the schedule titled "**Price Basis for Imported Resources"**, then the value in column (A) shall be used.
10.5.1	Adjustment for variations in customs surcharge and customs duty
(a)	Any increase or decrease in the Rand value between the amounts of Customs Surcharge and Customs Duty inserted in on the schedule titled "**Price Basis for Imported Resources"** and those amounts actually paid to the Customs and Excise Authorities, which are due to changes in the percentage rates applicable or to the foreign exchange rate used by the authorities, shall be adjusted accordingly.
(b)	The Tenderer shall state the Customs Duty Tariff Reference applicable to each item and the Supplier shall advise the SM's Agent of any changes which occur.
10.5.2	Adjustment for variation in labour and material Costs
	If the prices for imported Plant and Materials are not fixed, the Supplier shall in his Tender specify the formula for calculating Contract Price Adjustments normally used in the country of manufacture and the indices and relative proportions of labour and material on which his Tender prices are based. Evidence of the indices applicable shall be provided with each claim. The indices applicable 42 days before contractual dispatch date from the factory will be used for the purposes of Contract Price Adjustment.
	Failure to specify a formula in the Tender shall mean that the prices are fixed or shall be deemed to be fixed.
11. Contract Amendments	
	Not Applicable
12. Contract Amendments and Variations	
	Variations means changes to the goods, extension of the duration or expansion of the value of the contract that the purchaser issues to the supplier as instructions in writing, subject to prior *approval* by the purchaser's delegated authority. Should the supplier deliver any goods not described in a written instruction from the purchaser, such work will not become due and payable until amended order has been issued by the purchaser.
12. Subcontracts	
	Not Applicable
12.1	The supplier shall be liable for the acts, defaults and negligence of any subcontractor, his agents or employees as fully as if the were the acts, defaults or negligence of the supplier.
12.2	Any appointment of a subcontractor shall not amount to a contract between the SM and the

	subcontractor, or a responsibility or liability on the part of the SM to the subcontractor and shall not relive the supplier from any liability or obligation under the contract.
13. Delays in the supplier's performance	
13.1	If at any time during the performance of the contract the supplier or its sub-contractors should encounter conditions beyond their reasonable control which impede the timely delivery of the goods, the supplier shall notify the purchaser in writing, within 7 Days of first having become aware of these conditions, of the facts of the delay, its cause(s) and its probable duration. As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation, and may at his discretion extend the time for delivery.
	Where additional time is granted, the purchaser shall also determine whether or not the supplier is entitled to payment for additional costs in respect thereof. The principle to be applied in this regard is that where the purchaser or any of its agents are responsible for the delay, reasonable costs shall be paid. In respect of delays that were beyond the reasonable control of both the supplier and the purchaser, additional time only (no costs) will be granted.
	The purchaser shall notify the *supplier* in writing of his decision(s) in the above regard.
13.2	No provision in a contract shall be deemed to prohibit the obtaining of goods from a national department, provincial department, or a local authority.
14. Penalties	
14.1	Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods 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 as stated herein for each day of the delay until actual delivery or performance.
	The order will not be paid for this contract if the goods is not delivered within 12 weeks from the date the purchase order is issue by the Municipality.
15. Termination for default	
	If goods received is not according to the require specifications of this Tender Document the awarded Bidder will not be paid.
16. Termination	
16.1	In addition to the grounds for termination due to default by the supplier, the contract may also be terminated:
16.1.1	Upon the death of the supplier who was a Sole Proprietor, or a sole member of a Close Corporation, in which case the contract will terminate forthwith.
16.1.2	The parties by mutual agreement terminate the contract.
16.1.3	If an Order has been issued incorrectly, or to the incorrect recipient, the resulting contract may be terminated by the purchaser by written notice
16.1.4	If a material irregularity vitiates the procurement process leading to the conclusion of the contract, rendering the procurement process and the conclusion of the resulting contract unfair, inequitable, non-transparent, uncompetitive or not cost-effective, provided the Municipal Manager follows the processes as described in the purchasers SCM Policy.
16.1.5	After providing notice to the supplier, if the implementation of the contract may result in reputational risk or harm to the Purchaser as a result of (inter alia):
16.1.5.1	reports of poor governance and/or unethical behaviour;
16.1.5.2	association with notorious individuals or their known family;
16.1.5.3	poor performance issues, known to the Purchaser; or
16.1.5.4	negative social media reports.
16.2	If the contract is terminated in terms of clause 16.1, all obligations that were due and enforceable prior to the date of the termination must be performed by the relevant party.
17. Termination for insolvency	
17.1	The purchaser may make either of the following elections to ensure its rights are protected and any negative impact on service delivery is mitigated:
17.1.1	accept a supplier proposal (via the liquidator) to render delivery utilising the appropriate contractual mechanisms; or
17.1.2	terminate the contract, as the liquidator proposed supplier is deemed unacceptable to the purchaser, at any time by giving written notice to the supplier (via the liquidator).
17.2	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.

18. Settlement of Disputes	
18.1	If any dispute or difference of any kind whatsoever, with the exception of termination in terms of clause 23.1(c), arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve such dispute or difference amicably, by mutual consultation.
18.2	Should the parties fail to resolve any dispute by way of mutual consultation, either party shall be entitled to refer the matter for mediation before an independent and impartial person appointed by the Purchaser Manager in accordance with Regulation 50(1) of the Local Government: Municipal Finance Management Act, 56 of 2003 – Municipal Supply Chain Management Regulations (Notice 868 of 2005). Such referral shall be done by either party giving written notice to the other of its intention to commence with mediation. No mediation may be commenced unless such notice is given to the other party.
	Irrespective whether the mediation resolves the dispute, the parties shall bear their own costs concerning the mediation and share the costs of the mediator and related costs equally.
	The mediator shall agree the procedures, representation and dates for the mediation process with the parties. The mediator may meet the parties together or individually to enable a settlement.
	Where the parties reach settlement of the dispute or any part thereof, the mediator shall record such agreement and on signing thereof by the parties the agreement shall be final and binding.
	Save for reference to any portion of any settlement or decision which has been agreed to be final and binding on the parties, no reference shall be made by or on behalf of either party in any subsequent court proceedings, to any outcome of an amicable settlement by mutual consultation, or the fact that any particular evidence was given, or to any submission, statement or admission made in the course of amicable settlement by mutual consultation or mediation.
19. Limitation of Liability	
(b)	the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the sums insured in terms of clause 11 in respect of insurable events, or where no such amounts are stated, to an amount equal to twice the contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.
19.1	Without detracting from, and in addition to, any of the other indemnities in this contract, the supplier shall be solely liable for and hereby indemnifies and holds harmless the purchaser against all claims, charges, damages, costs, actions, liability, demands and/or proceedings and expense in connection with:
a)	personal injury or loss of life to any individual;
b)	loss of or damage to property;
	arising from, out of, or in connection with the performance by the supplier in terms of this Contract, save to the extent caused by the gross negligence or wilful misconduct of the purchaser.
19.2	The supplier and/or its employees, agents, concessionaires, suppliers, sub-contractors or customers shall not have any claim of any nature against the purchaser for any loss, damage, injury or death which any of them may directly or indirectly suffer, whether or not such loss, damages, injury or death is caused through negligence of the purchaser or its agents or employees.
19.3	Notwithstanding anything to the contrary contained in this Contract, under no circumstances whatsoever, including as a result of its negligent (including grossly negligent) acts or omissions or those of its servants, agents or contractors or other persons for whom in law it may be liable, shall any party or its servants (in whose favour this constitutes a *stipulatio alteri*) be liable for any indirect, extrinsic, special, penal, punitive, exemplary or consequential loss or damage of any kind whatsoever, whether or not the loss was actually foreseen or reasonably foreseeable), sustained by the other party, its directors and/or servants, including but not limited to any loss of profits, loss of operation time, corruption or loss of information and/or loss of contracts.
19.4	Each party agrees to waive all claims against the other insofar as the aggregate of compensation which might otherwise be payable exceeds the aforesaid maximum amounts payable.
20. Notices	
20.1	Any notice, request, consent, approvals or other communications made between the Parties pursuant to the Contract shall be in writing and forwarded to the addresses specified in the contract and may be given as set out hereunder and shall be deemed to have been received when:
a)	hand delivered – on the working day of delivery
b)	sent by registered mail – five (5) working days after mailing
c)	sent by email or telefax – one (1) working day after transmission
22. Taxes and Duties	

22.1	No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the SM will verify this through appropriate electronic means.
22.2	The **VAT registration** number of the Senqu Municipality is **4380193732**.
23. ADDITIONAL CONDITIONS OF CONTRACT	
	Not Applicable
24. Reporting Obligations.	
24.1	The supplier shall complete, sign and submit with each delivery note, all the documents as required in the Specifications. Any failure in this regard may result in a delay in the processing of any payments.

(9) GENERAL CONDITIONS OF CONTRACT

(National Treasury - General Conditions of Contract (revised July 2010))

TABLE OF CLAUSES

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1. Definitions

1. The following terms shall be interpreted as indicated:

1.1 'Closing time' means the date and hour specified in the bidding documents for the receipt of bids.

1.2 'Contract' means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.

1.3 'Contract price' means the price payable to the supplier under the contract for the full and proper performance of his or her 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 in which an enterprise abroad is subsidised 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 recognised 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 with the conditions of the contract or order.

1.9 'Delivery ex stock' means immediate delivery directly from stock actually on hand.

1.10 'Delivery into consignee's store or to his site' means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the 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 markets its goods on its own initiative in the RSA at lower prices than that of the country of origin, and which action has the potential to harm the local industries in the RSA.

1.12 'Force majeure' means an event beyond the control of the supplier, not involving the supplier's fault or negligence, and not foreseeable. Such events may include, but are not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.

1.13 'Fraudulent practice' means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the bidder of the benefits of free and open competition.

1.14 'GCC' means the General Conditions of Contract.

1.15 'Goods' means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.

1.16 'Imported content' means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and

which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.

1.17 'Local content' means that portion of the bidding price which is not included in the imported content, provided that local manufacture does take place.

1.18 'Manufacture' means the production of products in a factory using labour, materials, components and machinery, and includes other, related value-adding activities.

1.19 'Order' means an official written order issued for the supply of goods or works or the rendering of a service.

1.20 'Project site', where applicable, means the place indicated in bidding documents.

1.21 'Purchaser' means the organisation purchasing the goods.

1.22 'Republic' means the Republic of South Africa.

1.23 'SCC' means the Special Conditions of Contract.

1.24 'Services' means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance, and other such obligations of the supplier covered under the contract.

1.25 'Written' or 'in writing' means handwritten in ink or any form of electronic or mechanical writing.

2. Application

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

2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.

2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

3. General

3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable, a non-refundable fee for documents may be charged.

3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from www.treasury.gov.za.

4. Standards

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

5. Use of contract documents and information; inspection.

5.1 The supplier shall not, without the purchaser's prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for the 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 the use of the goods or any part thereof by the purchaser.

7. Performance Security

7.1 Within 30 (thirty) 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 the 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.

7.2 The performance security shall be denominated in the currency of the contract or in a freely convertible currency acceptable to the purchaser, and shall be in one of the following forms:

a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or

b) a cashier's or certified cheque.

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

8. Inspections, tests and analyses

8.1 All pre-bidding testing will be for the account of the bidder.

8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organisation acting on behalf of the Department.

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

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

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

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

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

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

9. Packing

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

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

10. Delivery and documents

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

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

11. Insurance

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

12. Transportation

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

13. Incidental Services

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

(a) performance or supervision of on-site assembly, and/or commissioning of the supplied goods;

(b) furnishing of tools required for the assembly and/or maintenance of the supplied goods;

(c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;

(d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and

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

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

14. Spare parts

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

(a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and

(b) in the event of termination of production of the spare parts:

(i) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and

(ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

15. Warranty

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

15.2 This warranty shall remain valid for 12 (twelve) 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 18 (eighteen) 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 the SCC.

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

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

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

16. Payment

16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in the SCC.

16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfilment of any other obligations stipulated in the contract.

16.3 Payments shall be made promptly by the purchaser, but in no case later than 30 (thirty) days after submission of an invoice or claim by the supplier.

16.4 Payment will be made in Rand unless otherwise stipulated in the SCC.

17. Prices

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

18. Contract Amendments

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

19. Assignment

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

20. Subcontracts

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

21. Delays in the supplier's performance

21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.

21.2 If at any time during the 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 or her discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.

21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.

21.4 The right is reserved to procure, outside of the contract, small quantities of supplies; or to have minor essential services executed if an emergency arises, or the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.

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

21.6 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without 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

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

23. Termination for default

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

(a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;

(b) if the supplier fails to perform any other obligation(s) under the contract; or

(c) if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

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

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

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

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

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

(i) the name and address of the supplier and/or person restricted by the purchaser;

(ii) the date of commencement of the restriction;

(iii) the period of restriction; and

(iv) the reasons for the restriction.

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

23.7 If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, Act 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 of not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction, and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.

24. Anti-dumping and countervailing duties and rights

24.1 When, after the date of bid, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidised 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 or she 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 or her.

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 notify the purchaser promptly, in writing, of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

26. Termination for insolvency

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

27. Settlement of Disputes

27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve such dispute or difference amicably, by mutual consultation.

27.2 If, after 30 (thirty) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.

27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.

27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.

27.5 Notwithstanding any reference to mediation and/or court proceedings herein,

(a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and

(b) the purchaser shall pay the supplier any monies due to the supplier.

28. Limitation of Liability

28.1 Except in cases of criminal negligence or wilful misconduct, and in the case of infringement pursuant to Clause 6:

(a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and

(b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

29. Governing language

29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.

30. Applicable Law

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

31. Notices

31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail, and any other notice to him shall be posted by ordinary mail, to the address furnished in his bid or to the address notified later by him in writing; and such posting shall be deemed to be proper service of such notice.

31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

32. Taxes and Duties

32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, licence fees, and other such levies imposed outside the purchaser's country.

32.2 A local supplier shall be entirely responsible for all taxes, duties, licence fees, etc., incurred until delivery of the contracted goods to the purchaser.

32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.

33. National Industrial Participation (NIP) Programme

33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.

34 Prohibition of Restrictive practices

34.1 In terms of section 4 (1) (b) (iii) of the Competition Act, Act 89 of 1998, as amended, an agreement between or concerted practice by firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder(s) is/are or a contractor(s) was/were involved in collusive bidding (or bid rigging).

34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has/have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act, Act 89 of 1998.

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

(14) SPECIFICATION(S)

14.1 TRADE NAMES OR PROPRIETARY PRODUCTS

Bid specifications may not make any reference to any particular trademark, name, patent, design, type, specific origin or producer, unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words "or equivalent".

TENDERERS MUST NOTE THAT WHEREVER THIS DOCUMENT REFERS TO ANY PARTICULAR TRADEMARK, NAME, PATENT, DESIGN, TYPE, SPECIFIC ORIGIN OR PRODUCER, SUCH REFERENCE SHALL BE DEEMED TO BE ACCOMPANIED BY THE WORDS 'OR EQUIVALENT"

PURPOSE

It is the intention of the Senqu Municipality to enter into a formal contract with a panel of qualified & registered legal practitioners that will carry out the described hereunder.

SECTION 1 : DETAILS

Province: Eastern Cape

Municipality: Senqu Municipality

Project Name: **PANEL FOR LEGAL SERVICES (3 YEARS) TO THE SENQU LOCAL MUNICIPALITY**

SECTION 2: SUMMARY OF BRIEF

The Senqu Local Municipality ("the Municipality) wishes to review its panel of legal service providers and accordingly invites suitably qualified and experienced practitioners to apply for evaluation and listing as accredited prospective service providers for a period of 3 years.

SECTION 4: PROJECT PURPOSE / OBJECTIVES AND SCOPE

The Municipality intends to compensate legal service providers based for service rendered on the following rates, based on the experience of the practitioner who will be providing the service where applicable:

- Litigation (excluding litigation in the Regional and Magistrate's Courts),
- Local Government law, Labour Law, Commercial & Contract law – the non-litigious tariff of the Cape Legal Practise Council.
- Litigation in the Regional and Magistrate's Courts (including Collections) – the prescribed tariff in the Magistrate's Court Rules.
- Conveyancing – the prescribed tariff of the Legal Practise Council.

SECTION 5: PROJECT SCOPE OF WORK

The scope of work to be undertaken is to cover the following:

- Provision of legal services as the per the project description above;
- Each Service Provider will be listed in the panel for the services that it is a successful bidder on. The Municipality will limit the numbers of bidders in each category to a maximum number of three (3) bidders. In case of a tie between bidders in a category the successful bidder will determined utilising Preferential Procurement Regulations 2022;
- Listing on the panel of the Municipality as an accredited legal services provider does not guarantee that the services of the Applicant will be utilised;
- Listing on the panel of the Municipality as an accredited Legal Services Provider shall be subject to the Applicant entering into a service level agreement with the Municipality upon terms and conditions in the sole discretion of the accounting officer of the Municipality and;
- It is a condition for the listing of the Applicant that the Applicant agrees and undertakes not to act against the Municipality;

The proposals to be submitted to the Municipality must include the following:

- A profile of the applicant firm;
- The directors, partners or principal;
- The practitioners who will provide the legal services to the Municipality, their qualifications, experience (in years), *curricula vitae* and traceable references;
- The staffing composition;
- Details of the geographic location of the applicant's practice and the office infrastructure supporting the practice including lease agreement and / or title deed;
- Certified copies of the Fidelity Fund Certificates in respect of all the directors / partners or the principal;
- Legal practitioners whose services are currently being utilised by the Municipality and whose contracts are coming to an end in 2021 are required to comply with this notice;

SECTION 6: DOCUMENTATION AND INFORMATION RELATED TO THE BRIEF

- Any information available at Senqu Municipality will be provided to the service provider.
- Ownership of factual information, collected by the service provider and paid for by either of the municipalities shall vest with the municipality. Electronic version of the information should be supplied to the municipality.

SECTION 6: IMPLEMENTATION SCHEDULE

- n/a

SECTION 7: PROJECT COST AND PAYMENT MILESTONE

The professional fees will be based on the latest Government Gazette Number 36529 Vol 576 3 June 2013. The successful bidder will be required to have a Professional Registered Personnel that will be responsible on these projects on full time basis.

Provide total fees for the professional services including project management fees, (including disbursements & VAT).

SECTION 8 : FINANCIAL

- The budget will come out of Senqu Local Municipality capital budget. Payment to the service provider shall only be authorised quarterly or within the quarter should the project be concluded.

MONITORING AND REPORTING

- A Service Level Agreement will be concluded with each successful bidder, outlining how work will be allocated and rotated in terms of National Treasury guidelines on utilisation of panels.
- Successful bidder will be expected to submit quarterly progress reports to the project manager.

DUTY OF CARE

The Service Provider shall perform the Services in accordance with the Scope of Work as detailed on these terms of reference and approved proposal with all reasonable care, diligence and skill in accordance with generally accepted professional techniques and standards.

All data submitted will be required to have been signed off as true and correct as at the date of verification and the service provider will be held responsible for the submission of false or incorrect information.

Any conflict between the specifications contained on the Terms of Reference document and the approved Proposal by the Service Provider, the specifications and conditions contained on the Terms of Reference document shall supersede.

DURATION OF THE PROJECT

The duration of the project shall be 3 years from the date of signing of the project contract.

VALIDITY OF BID

The validity of the offer is one hundred and twenty (120) days.

GENERAL CONDITIONS OF CONTRACT

- The latest general conditions of contract and contract law will apply.
- Where special conditions of contract are in conflict with these general conditions, the special conditions shall apply.