



**MERA FONG CITY LOCAL MUNICIPALITY**  
**APPOINTMENT OF A PANEL OF ATTORNEYS ON AN AS AND REQUIRED**  
**BASIS FOR A PERIOD OF THREE YEARS**  
**BID NUMBER: MM(L&S)18/02/2425**

Name of Company	
Name of Representative	
Physical Address	
Postal Address	
Contact Number:	Tel . _____ Fax . _____ Cell . _____
BBBEE Contributor Status Level	
CSD Registration Number	
SARS Tax Pin Number	
<b>Tender Amount</b>	<b>R</b> _____

**Prepared for:**  
Merafong City Local Municipality  
3 Halite Street  
Carletonville  
2499

**Prepared By:**  
Merafong City Local Municipality  
3 Halite Street  
Carletonville  
2499



# **MERAFONG CITY LOCAL MUNICIPALITY**

03 HALITE, CARLETONVILLE, 2499 - TEL (018) 788 9500

For Bid Document Enquiry: B Tsotso 018 788 9692

E-Mail: [btsotso@merafong.gov.za](mailto:btsotso@merafong.gov.za)

## **BID NOTICE**

BID NO.	DESCRIPTION	FUNCTIONALITY	DOCUMENT AVAILABILITY	CLOSING DATE	ENQUIRIES
MM(L&S)1 8/02/2425	APPOINTMENT OF A PANEL OF ATTORNEYS ON AN AS AND REQUIRED BASIS FOR A PERIOD OF THREE YEARS.	Minimum of 70/100 to proceed to next evaluation stage	18 March 2025	02/05/2025 @ 10H00 @ SCM Unit	Mr. T Dassie  018 788 9500

Bids are hereby invited based on the above-mentioned information

**Bid documents will be available for the non-refundable fee of R 1 322.62 vat inclusive (proof of payment must be attached with the returnable document) on weekdays from 07:30 until 15:30, at Merafong Local Municipality at SCM offices situated on the corner of 3 Halite and Gold Street, Carltonville, 2499**

NB: Bid documents can also be made available electronically upon receiving the EFT proof of payment.

**Merafong City LM Banking Details- Nedbank Current Account No: 1454087331**

Bids are to be completed in accordance with the conditions contained in the bid documents and must be placed in a sealed envelope and externally endorsed:

### **Bid Number and Description**

Bids must be deposited in Bid Box 1, situated at the Revenue Section, Cnr Halite and Gold Street, Carletonville and is open between 07h30 and 16h00. Bids will be opened immediately thereafter, in public.

### **BIDDERS SHALL TAKE NOTE OF THE FOLLOWING BID CONDITIONS:**

1. Companies must be registered on the CSD database and suppliers must submit CSD report not older than 3 months, link: [www.csd.gov.za](http://www.csd.gov.za)
2. Attach municipal rates and taxes for both company and directors appearing in CK (not older than 3 months) if the statement of water and lights is not on your names, please submit copy of Lease Agreement with proof of payment not older than 3 months from the Bank (No statements).

3. Certified copies of Identity Documents (ID's) for all shareholders/owner(s)/partners registered on the CK forms.
4. Copies of Company Registration documents (CK 1) must be submitted.
5. Bidders must attach a valid tax pin certificate.
6. **NB: EVALUATION OF THE BID:** The evaluation of proposal will be conducted in two stages, compliance requirements and second stage will be assessment on functionality.
7. 90/10 Preference point scoring system will apply, where 90 points will be allocated for price only and 10 Specific goals points scored.
8. Attach receipt as proof of purchase of the bid document and ensure that the receipt is secured in the document.

**TERMS AND CONDITIONS:**

- Failure to comply with these conditions will result in immediate disqualification of your bid.
- The Merafong Local Municipality does not bind itself to accept the lowest bid or any other bid and reserves the right to accept the whole or part of the bid or to withdraw.
- Bids which are late, incomplete, unsigned, completed in pencil, use of correction pen/tippex, submitted by facsimile or electronically, will not be accepted.
- Bids submitted are to hold good for a period of 90 working days.
- Bids must only be submitted on the documentation provided by the Merafong Local Municipality; (original bid documents)

**D.D. Mabuza**  
**Municipal Manager**  
**Merafong Local Municipality**

## **INTRODUCTION**

The Merafong Local Municipality is a category B municipality as defined in the Municipal Structures Act. The area size of the municipality is 1631,7 km<sup>2</sup> and it comprises of 28 wards in terms of Section 18 (3) of the local government: Municipal Structures Act, 1998 (Act 117 of 1998), which constitutes 28 Ward Councillors and 24 Proportional Representative Councillors.

The municipality is situated in the southwestern part of Gauteng Province and form a part of West Rand District Municipality, which consists of three local municipalities namely, Mogale City, Rand West and Merafong Local Municipality which incorporates the following areas: Carletonville, Khutsong, Fochville, Kokosi, Greenspark, Welverdiend, Wedela, Blybank and Mining Towns.

Merafong Local Municipality has an Executive Mayor that is supported by 10 full time Mayoral committee members who are responsible for heading their respective portfolios. MCLM consists of 28 wards.

### **VISION**

To be an economically sustainable, community oriented and safe city.

### **MISSION**

To create an enabling environment that is transparent and accountable to the community, by providing excellent, effective and efficient services.

### **VALUES**

- Accountable: constitutionally democratic responsibility
- Transparency: open, good governance

- Responsive: empathetic to community needs, caring, empowering, enabling, facilitating
- Integrity: honest, reliable conduct
- Professionalism: knowledge-driven, non-partisan, ethical, flexible, teamwork, inclusiveness
- Excellence: effective, efficient, enhanced, innovative, above average performance

## **VALUE PROPOSITION “COMMITMENT”**

Our municipality is committed to provide quality services to our community through accountable governance and applying all interventions, opinions and strategies approved. The municipality still operates under section 154 intervention which gradually improves the basic services to our people. The municipality is upholding to the values and practices that reflect the core guidelines and constitutional obligations for the provision of basic services to the community.

## **PURPOSE OF THE BID**

- The MCLM seeks to establish a panel of suitably qualified firms of Attorneys (“Panel of Attorneys”) to provide various legal services to the municipality through a competitive bidding process.
- The establishment of the Panel of Attorneys is not only aimed at ensuring easy access and availability of the appointed firms of Attorneys on an “as and when required” basis, but also to ensure a panel comprising of qualified law firms that will assist the MCLM to execute its mandate in an efficient and effective manner.
- The purpose of this bid is therefore; to outline the MCLM’s requirements and/or criteria for the appointment of such suitably qualified firms of Attorneys to the Panel of Attorneys for a period of three (03) years.

## LEGAL EXPERTISE AND EXPERIENCE

The firm of Attorneys **MUST** have a working knowledge in, amongst others, the following areas of law.

No	Category	Indicate the Firm's area of specialty
1	Construction Law, including the Built Environment Legislative Framework;	
2	Public Finance Management Legislative Framework	
3	Information Technology Law	
4	Property Law	
5	Company Law	
6	Insolvency Law	
7	Labour Law	
8	Law of Contract	
9	Interpretation of Statutes	
10	Administrative Law	
11	Arbitration proceedings	
12	Debt Collection	
13	Access to Information Regulatory Framework	
14	Protection of Personal Information Regulatory Framework	
15	Intellectual Property Law	
16	General Litigation	

## SCOPE OF WORK

- The successful firms of Attorneys will as and when required render legal services to the MCLM on a wide range of specialized areas, including but not limited to:
- Provision of Corporate, Commercial and Regulatory Compliance legal advice;
- Representing and acting on behalf of the MCLM on litigation matters in various Courts including handling applications for Interdicts against defaulting residents;
- Reviewing, Negotiating and Drafting of Contracts;
- Representing and acting on behalf of the MCLM at the Commission for Conciliation Mediation, Arbitration, Labour Court as well as Labour Appeal Courts;
- Representing and acting on behalf of the MCLM in Arbitration and other forms of Alternative Dispute Resolution mechanisms and Quasi-Judicial Forums;
- Chairing and/or representing the MCLM during Employee Disciplinary Hearings;
- Representing and acting on behalf of the MCLM during Disciplinary Hearing of Employees in terms of the Act;
- Investigation of Cases;
- Debt Collections including recovery of monies expended by the MCLM in respect of Remedial Works and Fines imposed by the MCLM's Disciplinary Committee;
- Legislative Review and Drafting;
- Training on various pieces of legislation and any other related legal issues; and
- Conducting Legal Due Diligence.
- The service provider has to develop a strategy that can be used to accomplish skill transfer and development of MCLM employees at the costs of service provider. The plan includes the resources, staffing, training, methods, milestones and tasks required to accomplish the knowledge transfer. Training materials must be provided during the skills transfer by the successful law firm.

## DOCUMENTS TO BE SUBMITTED

**NB: The firm of Attorneys must also submit the following documents:**

- Curriculum Vitae of the Lead Attorney and Key Staff (**together with certified copies of qualifications**) containing the following:
  - Area of specialization within the fields stated in section above;
  - Years of experience in the identified area of specialization; and
  - Five (5) projects undertaken in the area of specialization.
- Five (5) reference letters from clients whom the bidder has provided services undertaken in the identified areas of specialization as listed in section 5.
- The Lead Attorney must have at least ten (10) years of post-admission experience in the identified area of specialization.
- The firm of Attorneys must have a minimum of one (1) team member with at least three (3) years post- admission experience in the identified area of specialization.

**NB: The Bidders must ensure that the submitted Bid is properly Index and Paginated.**

- Jurisdiction: The legal services will be rendered across the municipality.

## SPECIAL TERMS AND CONDITIONS

The following are the special terms and conditions applicable to this bid:

- The appointment to the Panel of Attorneys will be for a period of three (03) years subject to performance review by the MCLM as set out in the Service Level Agreement between the MCLM and the successful law firm of Attorneys.
  - The successful firms of Attorneys will be required to sign a Service Level Agreement prior to providing the Services.
  - If the MCLM and the successful firm of Attorneys do not reach consensus on the Service Level Agreement, the said firm will cease to be on the Panel of Attorneys with immediate effect.
  - The successful firm of Attorneys may be instructed to provide Services as and when required.
- While the MCLM will use reasonable endeavors to achieve a fair allocation of work to the firms



of Attorneys on the Panel, the successful firm of Attorneys acknowledges that the appointment to the Panel does not guarantee allocation of work.

- The MCLM will as and when it requires the Services, in its sole discretion, issue an instruction letter to any firm of Attorneys on the Panel of Attorneys.
- The MCLM may, in its sole discretion, instruct attorneys on a matter or any part thereof to more than one successful firm of Attorneys.
- A firm of Attorneys assigned any work may not cede, assign or sub-contract any part thereof to any person unless with the prior written consent of the MCLM.
- Where a firm of Attorneys, is required to appoint a correspondent, it shall appoint Attorneys on the Panel and the correspondent fees shall not exceed the MCLM Tariff of Fees. In this regard, the MCLM will provide the firm of Attorneys with the relevant details of the firm of Attorneys on the Panel who are located in the said area. Where there are no Attorneys on the Panel in a specific area, the instructed Attorneys shall endeavor to negotiate fees, which do not exceed the MCLM Tariff of Fees.
- Service delivery levels and quality of work will be a critical factor for retaining the successful firm of Attorneys on the Panel.
- The successful firms of Attorneys shall report directly to the Legal Manager or any person delegated by the Municipal Manager or the MCLM with regard to finalizing court papers, further instructions, status update reports, all administration pertaining to any particular instruction and any matters arising from this BID.
- The MCLM shall be entitled in its sole discretion to remove a successful firm of Attorneys from the Panel of Attorneys before the expiry of the three (03) year's period by written notice for non-compliance with any continuous obligation with this BID, applicable laws and/or breach of the Service Level Agreement and recall all the files in the firm of Attorneys' possession.
- Notwithstanding the establishment of a Panel of Attorneys, the MCLM reserves the right to procure the provision of legal services from any firm of Attorneys outside the Panel in accordance with applicable or relevant laws.

## **SOCIAL TRANSFORMATION**

- The MCLM may require a firm of Attorneys to include a female Attorney as lead Attorney on any of the matters allocated to the firm of Attorneys.
- The successful firm of Attorneys shall, notwithstanding the above, of its volition, endeavor to allocate or ensure inclusion of female Attorneys on matters allocated by the MCLM in order to further the objectives of social transformation
- The successful firm of Attorneys will, as part of a social transformation imperative, also be expected to brief women, people with disabilities, military veterans, and youth. This would also be applicable in the appointment of Junior and Senior Advocates as requested from time to time. In this regard, the firm of Attorneys shall confer with the MCLM prior to briefing of any Senior or Junior Advocate and the respective fees thereof.
- As part of social transformation, the MCLM may in respect of certain instructions or matters, request a firm of Attorneys to enter into a twinning agreement with a small or medium size firm of Attorneys as determined by the MCLM from time to time.

## **TRAINING, SKILLS TRANSFER AND SKILLS DEVELOPMENT**

- The successful firm of Attorneys undertakes to provide the MCLM with continuous legal education and training, on reasonable notice to the MCLM, which shall include but not be limited to the provision of seminars, lectures, newsletters, workshops and regular legislative, case law and other updates. The firm of Attorneys shall provide such continuous legal education and training at no cost to the MCLM.
- The MCLM may invite firms of Attorneys on the Panel to present seminars, workshops or lectures to MCLM staff as when required.
- The successful firm of Attorneys undertakes to contribute towards skills transfer at no additional costs to the MCLM. Such skills transfer may take the form of but not limited to:
- The absorption of MCLM legal interns and other staff for article of clerkship to enable them

towards qualification for admission as an Attorneys;

- Secondment of MCLM Legal Staff to work on certain matters together with the relevant qualified and experienced staff of the firm of Attorneys;
- The firm of Attorneys must include a proposed Training and Skills transfer Bid and schedule based on the above criteria.
- The Training and Skills transfer will be at the firm of attorney's costs.

## PRICE

The firm of Attorneys **MUST** include their Fee Structure under the following categories:

Category	Post Admission Experience	Hourly Rate
Senior Director	10 Years and Above	R
Director	7 to 9 Years	R
Senior Associate	4 to 6 Years	R
Associate	1 to 3 Years	R
Candidate Attorney	0-1 year	R

- The firm of Attorneys acknowledges that the firm of Attorneys Fee Structure as per the above is indicative only and not binding on the MCLM but **MUST** be submitted with its Bid.
- Accordingly, the successful firm of Attorneys will be remunerated for services rendered to the MCLM, as per the Service Level Agreement, in accordance with the approved MCLM Tariff of Fees for both litigious and non-litigious matters. The said Tariff of Fees is non-negotiable.
- The Tariff of Fees excludes any debt recovery or collections in respect of which a Contingency Fee Agreement shall be entered into separately.
- The MCLM will share the Tariff of Fees with the successful firms of Attorneys during negotiation of the Service Level Agreement between the parties.

## TECHNICAL DATA TO BE SUBMITTED BY BIDDER

### Documents to be submitted

The bidder must submit details regarding the Projects/matters it completed in the area of specialization in the format below (Bidders can submit the below on a separate page if necessary and indicate on the form the relevant Annexure)

Legal Matter description	Legal Fees/(Inc. VAT) incurred	Duration of case	Start Date	End Date	Client Name	The outcome of the legal Matter	Client Contact Telephone Number

## TECHNICAL AND PRICE EVALUATION CRITERIA

In accordance with the MCLM Supply Chain Management Policy, the bid evaluation process shall be carried out in two (02) stages namely:

- Stage 1: Compliance check of Mandatory Requirements;
- Stage 2: Functional Evaluation;

### **Stage 1: Compliance check of Mandatory Requirements**

DOCUMENTS TO BE SUBMITTED		
No	Bidders shall take note of the following bid conditions / Mandatory Submissions	Yes/No
1.	Submission of bid in an envelope <b>MUST</b> include one (1) Original hard copy and one (1) memory stick/USB with scanned original documents of the Bid marked (Original hard copy and memory stick/USB) and deposited into the tender box. <b>NB:</b> The Original hard copy submission in the envelope <b>MUST</b> be the same as the electronic copy. <b>(Mandatory)</b>	
2.	MBD1 Invitation to bid, <b>MUST</b> be completed and signed, <b>failure to complete will result in the bidder being disqualified. (Mandatory)</b>	
3.	MBD 4 (Bidders Disclosure Form, <b>Must</b> be completed and signed), <b>failure to complete and signing the document will result in the bidder being disqualified. (Mandatory)</b>	
4.	MBD 5 Procurement above R10million should be completed and signed	
5.	MBD 6.1 Preference claim form should be completed and signed, regardless if points are claimed or not.	

6.	Certified copy of the valid Legal PR actioner's Fidelity Fund Certificate issued in terms of the Provisions of Chapter Six (6) of the Legal Practice Act No. 28 of 2014 <b>(Mandatory)</b>	
7.	Certified proof of Admission for each practicing Attorney. <b>(Mandatory)</b>	
8.	Proof of the law firm's registration with the relevant Practice Council. <b>(Mandatory)</b>	
9.	Letter of Good Standing for all practicing attorneys issued by the relevant Practice Council not older than six (6) months. <b>(Mandatory)</b>	
10.	Bidder should submit CSD (Central Supplier Database) Report/ MAAA Number	

**Note:** MCLM will be using General Conditions Contract (GCC) as issued by National Treasury and SLA for the management of the contract.

**Stage 2: Functionality in terms of the set technical evaluation criteria**

Bids must fully comply with all the Mandatory Requirements for the **Stage 1: Compliance check of Mandatory Requirements** in order to qualify for **Stage 2: Functional Evaluation** and those bids which failed to comply with all the requirements of **Stage 1** will be invalidated or disqualified from the process.

Item No	Evaluation Criteria	Description	Weight (%)
1.	Bidder Experience	The bidder <b>MUST</b> have experience of services rendered and demonstrate the firm's capacity and ability to carry instructions. Please attach company profile that demonstrate relevant	25

		<p><b>experience and list of projects.</b></p> <p><b><u>Scoring Allocation</u></b></p> <ul style="list-style-type: none"> <li>• 0 years' experience = 0 Points</li> <li>• 1 -5 years' experience = 10 Points</li> <li>• 6 - 7 years' experience = 15 Points</li> <li>• 8 – 9 years' experience = 20 Points</li> <li>• 10 years and more experience = 25 Points</li> </ul>	
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2.	Client  References	<p>The bidder must provide a positive written contactable reference letter indicating any work or project done or completed.</p> <p><b><u>The reference letters from the clients of a bidder MUST include:</u></b></p> <ol style="list-style-type: none"> <li>1. Company name</li> <li>2. Company letterhead</li> <li>3. Contact person and contact telephone numbers</li> <li>4. The letter must be signed by a duly authorized person</li> <li>5. Reference letters MUST indicate the period when the project was executed.</li> </ol> <p><b><u>Scoring Allocation</u></b></p> <ol style="list-style-type: none"> <li>i. 0 reference/instruction letter= 0 Points</li> <li>ii. 3 – 4 reference letters = 5 Points</li> <li>iii. 5 – 6 reference letters = 10 Points</li> <li>iv. 7 – 8 reference letters = 15 Points</li> <li>v. 9 and more reference letters = 20 Points</li> </ol> <p><b>NB: Reference letters will be inextricably linked to experience</b></p>	20
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3.	Experience and qualifications of the Lead attorney(s)	<p>Please provide a detailed CV (outlining experience) and qualifications of the Lead Attorney who will be directly involved in providing the required services specifying areas of specialization</p> <p>Attached certified qualifications not older than six months. NB qualifications and experience provided <b>MUST</b> be the same as listed on the CV</p> <p><b><u>Scoring Allocation</u></b></p> <ol style="list-style-type: none"> <li>1. No experience and qualifications = 0 points</li> <li>2. 3 years' experience and below including qualifications = 15 Points</li> <li>3. Above 4-9 years including qualifications = 20 points</li> <li>4. Above 10 years' experience and including qualifications = 25 points</li> </ol>	25
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Item No	Evaluation Criteria	Description	Weight (%)
4	Experience of the Team Member (s)	<p>Provide detailed CV's (outlining experience) and Certified Admission Certificate not older than six months of team members in the Firm of Attorneys.</p> <p><b><u>Scoring allocation</u></b></p> <ul style="list-style-type: none"> <li>• No experience and No Certified Admission Certificate = 0 points</li> <li>• 1 year experience and Certified Admission Certificate = 15 Points</li> <li>• 2 years' experience and below and Certified Admission Certificate = 20 points</li> <li>• 3 years' experience and above and Certified Admission Certificate = 30 points</li> </ul>	30
<b>SUBTOTAL</b>			<b>100 Points</b>
<b>MINIMUM QUALIFYING REQUIREMENT</b>			<b>70 Points</b>

The minimum threshold for functionality is 70 points or greater out of 100 points. Bidders who fail to meet minimum threshold will be disqualified. All the bidders scoring the minimum threshold 70 points or greater on technical evaluation will be listed on the MCLM Panel of Attorneys

## SUBMISSIONS OF PROPOSALS

- 19.1 Submission of bid **MUST include one (1) Original hard copy and one (1) memory stick/USB with scanned original documents of the Bid marked (Original hard copy and memory stick/USB) envelope and deposited into the tender box.** NB: The Original hard copy submission in the envelope MUST be the same as the electronic copy.

- All costs and expenses incurred by the Bidder relating to the participation in, and preparation of this Bid process shall be borne by the Bidder exclusively. All documentation and manuals submitted in respect of this bid shall be retained by MCLM, whether or not the Bid is accepted.

## POPIA

The MCLM is committed to adhere to the Protection of Personal Information Act 4 of 2013 and the Promotion of Access to Information Act 2 of 2000. To this end, the MCLM has published its Information Manual on its website, which regulates the manner in which MCLM processes information.

- The MCLM requires the information requested in bids for the purpose set out in paragraph 2.5 of the Manual. Further, the Manual confirms that MCLM processes the information requested in bids from prospective service providers and third parties at paragraph 3.4.
- Bidders should note that the MCLM is committed to securing all the information submitted from bidders, in terms of paragraph 6 of the Manual. (included on the MCLM website)
- Bidders are in turn required to comply with the tender requirements and when the information of third parties are required by MCLM, bidders are by law required to obtain the consent of such third parties for the sharing of such third parties' information with the MCLM.

FORM OF OFFER & ACCEPTANCE  
**MERAFONG CITY LOCAL MUNICIPALITY**

FORM OF OFFER

(Form of Offer & Acceptance)

THIS FORM MUST BE FILLED BY BOTH THE POTENTIAL TENDERER (PART 1) AND THE EMPLOYER/CLIENT (PART 2). BOTH FORMS MUST BE SIGNED IN THE ORIGINAL SO THAT THE SUCCESSFUL TENDERER AND THE EMPLOYER /CLIENT WOULD BE IN POSSESSION OF ORIGINALLY SIGNED CONTRACTS FOR THEIR RESPECTIVE RECORDS.

**PART 1 (to be filled in by the tenderer at time of tender)**

BID NO	MM(L&S)18/02/2425
BID DESCRIPTION	APPOINTMENT OF A PANEL OF ATTORNEYS ON AN AS AND REQUIRED BASIS FOR A PERIOD OF THREE YEARS

Having examined the General and the Special Conditions of Contract, Specifications and Schedule of Quantities for the works of Tender:

.....  
.....

I/We offer to provide the services in conformity with the General and the Special Conditions of Contract, Specifications and Schedule of Quantities, save as amended by Alterations by Tenderer (if any) attached hereto, for the sum of:

Description	Tender Amount (Incl. VAT)
APPOINTMENT OF A PANEL OF ATTORNEYS ON AN AS AND REQUIRED BASIS FOR A PERIOD OF THREE YEARS	

In words .....

NAME (PRINT)	
CAPACITY	
SIGNATURE	
NAME OF COMPANY	

DATE	
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My/our offer/s remains binding upon me and open for acceptance by the purchaser/client during the validity period (90 working days) indicated and calculated from the closing time of tender.

1. The following documents shall be deemed to form and be read and construed as part of this agreement:
  - (i) Bid documents, viz
    - Invitation to Quote
    - Returnable Schedules
    - B-BBEE Certificate
    - Declaration of interest
    - Special Conditions of Contract
    - Pricing schedules
    - Scope of Works
    - Central Supplier Database (CSD)
  - (ii) Other .....
2. Variances from and amendments to the documents listed in the Bill of Quantity and any addendum thereto as listed in the BID as well as any changes to the terms of the Offer agreed by the Tenderer and the Employer during the process of offer and acceptance, are contained in the Schedule of Deviations attached to and forming part of this Agreement. No amendments to or deviations from said documents are valid unless contained in the Service Level Agreement, which must be duly signed by the authorised representative(s) of both parties.
3. I/We confirm that we have satisfied ourselves as the correctness and validity of my tender, that the price(s) and rate(s) quoted cover all the goods and/or works specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I/We accept that any mistakes regarding price(s) and rate(s) and calculations will be at my/our own risk.
4. I/We confirm that Escalation will be applicable on this contract and will be calculated as per Contract Data & General Conditions of Contract 2017(GCC 2017)
5. I/We accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfilment of this contract. I/We undertake to complete and deliver the whole of the Works comprised in the Contract within the time stated in the Appendix adjusted in terms of the Contract.
6. The Tenderer shall within two weeks after receiving a completed copy of this Agreement, including the Schedule of Deviations (if any), contact the Employer's Agent (whose details are given in the Contract Data) to arrange the delivery of any bonds, guarantees, proof of insurance and any other documentation

to be provided in terms of the Conditions of Contract identified in the Contract Data. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this Agreement.

7. Unless and until a formal agreement is prepared and executed, this Tender, together with the written acceptance thereof by yourselves or the Representative acting on your behalf, shall constitute a binding Contract between us.
8. I/We understand that you are not bound to accept the lowest or any tender you may receive.
9. I/We further confirms that Merafong Local Municipality has the right to cancel the tender if the funds necessary to cover the total envisaged expenditure of the tender are not available for the current financial year.
10. I/We declare that I/We have no participation in any collusive practices with any tenderer or any other person regarding this or any other tender.
11. I/We confirm that I/We am duly authorised to sign this contract:

NAME (PRINT)	
CAPACITY	
SIGNATURE	
NAME OF COMPANY	
DATE	

WITNESS	
1.	.....
2.	.....
DATE:	.....

**MBD 1  
INVITATION TO BID**

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (MERAFONG CITY LOCAL MUNICIPALITY)					
BID NUMBER:	MM(L&S)18/02/2425	CLOSING DATE:	02 MAY 2025	CLOSING TIME:	10H00
DESCRIPTION	APPOINTMENT OF A PANEL OF ATTORNEYS ON AN AS AND REQUIRED BASIS FOR A PERIOD OF THREE YEARS				
THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (MBD7).					

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

<b>3 HALITE STREET</b>				
<b>CARLETONVILLE</b>				
<b>2499</b>				
<b>SUPPLIER INFORMATION</b>				
NAME OF BIDDER				
CSD NUMBER				
POSTAL ADDRESS				
STREET ADDRESS				
TELEPHONE NUMBER	CODE		NUMBER	
CELLPHONE NUMBER				
FACSIMILE NUMBER	CODE		NUMBER	
E-MAIL ADDRESS				
VAT REGISTRATION NUMBER				
TAX COMPLIANCE STATUS	TCS PIN:		OR	CSD No:
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]	<input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES &amp; QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]</b>				
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER PART B:3 ]
TOTAL NUMBER OF ITEMS OFFERED			TOTAL BID PRICE	R
SIGNATURE OF BIDDER	.....		DATE	
CAPACITY UNDER WHICH THIS BID IS SIGNED				
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:</b>			<b>TECHNICAL INFORMATION MAY BE DIRECTED TO:</b>	
DEPARTMENT	SUPPLY CHAIN MANAGEMENT		CONTACT PERSON	Mr. T Dassie
CONTACT PERSON	Ms. Babalwa Tsotso		TELEPHONE NUMBER	018 788 9500
TELEPHONE NUMBER	(018) 788 9500		Email	tdassie@merafong.gov.za

**PART B**  
**TERMS AND CONDITIONS FOR BIDDING**

<b>1. BID SUBMISSION:</b>
<p>1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.</p> <p>1.2. <b>ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR ONLINE</b></p> <p>1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.</p> <p>1.4. BIDDER MUST NOT BE IN ARREARS WITH THW MUNICIPAL RATES &amp; TAXES FOR MORE THAN 90 DAYS.</p>
<b>2. TAX COMPLIANCE REQUIREMENTS</b>
<p>2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.</p> <p>2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.</p> <p>2.3 APPLICATION FOR THE TAX COMPLIANCE STATUS (TCS) CERTIFICATE OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.</p> <p>2.4 FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART B:3.</p> <p>2.5 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.</p> <p>2.6 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.</p> <p>2.7 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.</p>
<b>3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>
<p>3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? <span style="float: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</span></p> <p>3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA? <span style="float: right;"><input type="checkbox"/> YES</span>  <div style="margin-left: 20px;"><input type="checkbox"/> NO</div></p> <p>3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? <span style="float: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</span></p> <p>3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? <span style="float: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</span></p> <p>3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? <span style="float: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</span></p> <p><b>IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE.</b></p>

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

SIGNATURE OF BIDDER: .....

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

DATE: .....



**PRICING SCHEDULE**  
(Professional Services)

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

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

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

1. The accompanying information must be used for the formulation of Bids.
2. Bidders are required to indicate a ceiling price based on the total estimated time for completion of all phases and including all expenses inclusive of all applicable taxes for the project.

R.....

3. PERSONS WHO WILL BE INVOLVED IN THE PROJECT AND RATES APPLICABLE  
(CERTIFIED INVOICES MUST BE RENDERED IN TERMS HEREOF)

4. PERSON AND POSITION	HOURLY RATE	DAILY RATE
-----	R-----	-----
-----	R-----	-----
-----	R-----	-----
-----	R-----	-----
-----	R-----	-----

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

Phase	Cost	Days
-----	R-----	----- days
-----	R-----	----- days
-----	R-----	----- days
-----	R-----	----- days

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

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

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

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

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

TOTAL: R.....

6. Period required for commencement with project after acceptance of bid

.....

7. Estimated man-days for completion of project

.....

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

.....

\*YES/ NO.

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

.....

.....

.....

\*Delete if not applicable

**MBD 4**  
**DECLARATION OF INTEREST**

1. No bid will be accepted from persons in the service of the state<sup>1</sup>.

2. Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to persons in service of the state, it is required that the bidder or their authorised representative declare their position in relation to the evaluating/adjudicating authority.

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

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

3.2 Identity Number: .....

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

3.4 Company Registration Number: .....

3.5 Tax Reference Number:.....

3.6 VAT Registration Number: .....

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

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

3.8.1 If yes, furnish particulars. ....  
.....

<sup>1</sup>MSCM Regulations: "in the service of the state" means to be –

(a) a member of –

(i) any municipal council;

(ii) any provincial legislature; or

(iii) the national Assembly or the national Council of provinces;

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

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

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

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

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

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

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

3.9.1 If yes, furnish particulars.....  
.....

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

3.10.1 If yes, furnish particulars.  
.....  
.....

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

3.11.1 If yes, furnish particulars  
.....  
.....

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

3.12.1 If yes, furnish particulars.  
.....  
.....

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

3.13.1 If yes, furnish particulars.  
.....  
.....

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

3.14.1 If yes, furnish particulars:  
.....  
.....

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

Full Name	Identity Number	State Employee Number

.....  
**Signature**

.....  
**Date**

.....  
**Capacity**

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

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

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

- 1 Are you by law required to prepare annual financial statements for auditing?  
\*YES / NO
- 1.1 If yes, submit audited annual financial statements for the past three years or since the date of establishment if established during the past three years.  
.....  
.....
- 2 Do you have any outstanding undisputed commitments for municipal services towards any municipality for more than three months or any other service provider in respect of which payment is overdue for more than 30 days?  
\*YES / NO
- 2.1 If no, this serves to certify that the bidder has no undisputed commitments for municipal services towards any municipality for more than three months or other service provider in respect of which payment is overdue for more than 30 days.

If yes, provide particulars.

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

\* Delete if not applicable

- 3 Has any contract been awarded to you by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract?  
\*YES / NO

If yes, furnish particulars

.....  
.....

Will any portion of goods or services be sourced from outside

\*YES / NO

the Republic, and, if so, what portion and whether any portion of payment from the municipality / municipal entity is expected to be transferred out of the Republic?

If yes, furnish particulars

.....

.....

#### CERTIFICATION

I, THE UNDERSIGNED (NAME)

.....

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

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

FALSE.

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

## MBD 6.1

### MBD 6.1: PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

This preference form must form part of all bids invited. It contains general information and serves as a claim for preference points for Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution

**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 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 exceed/not exceed R50 000 000 (all applicable taxes included) and therefore the ..... Preference point system shall be applicable; or  
b) Either the 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) RDP Goals (PPPR 2000) as depicted in the Merafong LM SCM Policy
- 1.4. The maximum points for this bid are allocated as follows:

	POINTS
<b>PRICE</b>	90
RDP Goals (PPPR 2000) as depicted in the Merafong LM SCM Policy	10
<b>Total points for Price and RDP Goals must not exceed</b>	<b>100</b>

- 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 preference points for RDP Goals are not claimed.
- 1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to 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 received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- 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 services, works or goods, through price quotations, advertised competitive bidding processes or Bids;





## 6. SPECIFIC GOALS CLAIMED IN TERMS OF PARAGRAPHS 1.3.1.2 AND 4.1

6.1 SPECIFIC GOALS : ..... = .....(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)

## 7. SUB-CONTRACTING

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

(Tick applicable box)

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

7.1.1 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, 2017:

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

## 8. DECLARATION WITH REGARD TO COMPANY/FIRM

8.1 Name of firm :.....

8.2 VAT registration number :.....

8.3 Company registration number  
.....

8.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

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

8.6 COMPANY CLASSIFICATION

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

[TICK APPLICABLE BOX]

8.7 MUNICIPAL INFORMATION

Municipality where business is situated .....  
Registered Account Number .....  
Stand Number .....

8.8 TOTAL NUMBER OF YEARS THE COMPANY/FIRM HAS BEEN IN BUSINESS? .....

8.9 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 contribution 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 municipality that the claims are correct;
- (iv) If the B-BBEE status level of contribution 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 BIDDER(S)  
  
DATE: .....  
  
ADDRESS: .....  
  
.....  
  
.....

# CONTRACT FORM - RENDERING OF SERVICES

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

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

1. I hereby undertake to render services described in the attached bidding documents to (name of the institution)..... in accordance with the requirements and task directives / Bids specifications stipulated in Bid Number..... at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the Purchaser during the validity period indicated and calculated from the closing date of the bid.
2. The following documents shall be deemed to form and be read and construed as part of this agreement:
  - (i) Bidding documents, viz
    - Invitation to bid;
    - Tax clearance certificate;
    - Pricing schedule(s);
    - Filled in task directive/Bid;
    - Preference claims for Broad Based Black Economic Empowerment Status Level of Contribution in terms of the Preferential Procurement Regulations 2011;
    - Declaration of interest;
    - Declaration of Bidder's past SCM practices;
    - Certificate of Independent Bid Determination;
    - Special Conditions of Contract;
  - (ii) General Conditions of Contract; and
  - (iii) Other (specify)
3. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the services specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfillment of this contract.
5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
6. I confirm that I am duly authorised to sign this contract.

NAME (PRINT) .....

CAPACITY .....

SIGNATURE .....

NAME OF FIRM .....

DATE .....

## WITNESSES

1 .....

2 .....

- - -

**CONTRACT FORM - RENDERING OF SERVICES**

**PART 2 (TO BE FILLED IN BY THE PURCHASER)**

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

DESCRIPTION OF SERVICE	PRICE (ALL APPLICABLE TAXES INCLUDED)	COMPLETION DATE	B-BBEE STATUS LEVEL OF CONTRIBUTION	MINIMUM THRESHOLD FOR LOCAL PRODUCTION AND CONTENT (if applicable)

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

SIGNED AT ..... ON .....

NAME (PRINT) .....

SIGNATURE .....

OFFICIAL STAMP

**WITNESSES**

1 .....

2 .....

— — —

**MBD 8**  
**DECLARATION OF BIDDER'S PAST SUPPLY CHAIN  
MANAGEMENT PRACTICES**

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

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

Item	Question	Yes	No
4.1	Is the bidder or any of its directors listed on the National Treasury's database as a company or person prohibited from doing business with the public sector? <b>(Companies or persons who are listed on this database were informed in writing of this restriction by the National Treasury after the <i>audi alteram partem</i> rule was applied).</b>	<input type="checkbox"/>	<input type="checkbox"/>
4.1.1 If so, furnish particulars:			
4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? <b>(To access this Register enter the National Treasury's website, <a href="http://www.treasury.gov.za">www.treasury.gov.za</a>, click on the icon "Register for Tender Defaulters" or submit your written request for a hard copy of the Register to facsimile number (012) 3265445).</b>	<input type="checkbox"/>	<input type="checkbox"/>
4.2.1 If so, furnish particulars:			

4.3	Was the bidder or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1 If so, furnish particulars:			

#### CERTIFICATION

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

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

.....  
**Signature**

.....  
**Date**

.....  
**Position**

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



**MBD 9**  
**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

1 This Municipal Bidding Document (MBD) must form part of all bids<sup>1</sup> invited.

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

3 Municipal Supply Regulation 38 (1) prescribes that a supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer, among others, to:

- a) take all reasonable steps to prevent such abuse;
- b) reject the bid of any bidder if that bidder or any of its directors has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system; and
- c) cancel a contract awarded to a person if the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.

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

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

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

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

**MBD 9**  
**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

I, the undersigned, in submitting the accompanying bid:

MM (L&S) 18/02/2425– APPOINTMENT OF A PANEL OF ATTORNEYS ON AN AS AND  
REQUIRED BASIS FOR A PERIOD OF THREE YEARS

(Bid Number and Description)

in response to the invitation for the bid made by:

MERAFONG CITY LOCAL MUNICIPALITY

(Name of Municipality)

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

I certify, on behalf of: \_\_\_\_\_ that:  
(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign, the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word “competitor” shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
  - (a) has been requested to submit a bid in response to this bid invitation;
  - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
  - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium<sup>3</sup> will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
  - (a) prices;
  - (b) geographical area where product or service will be rendered (market allocation)
  - (c) methods, factors or formulas used to calculate prices;
  - (d) the intention or decision to submit or not to submit, a bid;

- (e) the submission of a bid which does not meet the specifications and conditions of the bid;  
or  
(f) bidding with the intention not to win the bid.

8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.

9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

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

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

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

## **NATIONAL TREASURY GENERAL CONDITIONS OF CONTRACT (NT GCC)**

### **TABLE OF CLAUSES**

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# General Conditions of Contract

## 1. Definitions

1. The following terms shall be interpreted as indicated:

1.1 "Closing time" means the date and hour specified in the tender documents for the receipt of Tenders.

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

1.3 "Contract price" means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.

1.4 "Corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.

1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.

1.6 "Country of origin" means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.

1.7 "Day" means calendar day.

1.8 "Delivery" means delivery in compliance of the conditions of the contract or order.

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

1.10 "Delivery into consignees store or to his site" means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the goods are so delivered and a valid receipt is obtained.

1.11 "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.

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

1.13 "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among Bidders (prior to or after Tender submission) designed to establish Tender 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 tender price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the goods covered by the Tender will be manufactured.

1.17 "Local content" means that portion of the tender 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 tender documents.

1.21 "Purchaser" means the organization purchasing the goods.

- 1.22 "Republic" means the Republic of South Africa.
- 1.23 "SCC" means the Special Conditions of Contract.
- 1.24 "Services" means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.
- 1.25 "Supplier" means the successful bidder who is awarded the contract to maintain and administer the required and specified service(s) to the State.
- 1.26 "Tort" means in breach of contract.
- 1.27 "Turnkey" means a procurement process where one service provider assumes total responsibility for all aspects of the project and delivers the full end product / service required by the contract.
- 1.28 "Written" or "in writing" means hand-written in ink or any form of electronic or mechanical writing.

## **2. Application**

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

## **3. General**

- 3.1 Unless otherwise indicated in the tender documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a Tender. Where applicable a non-refundable fee for documents may be charged.
- 3.2 Invitations to Tender are usually published in locally distributed news media and on the municipality/municipal entity website.

## **4. Standards**

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

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

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

## **6. Patent Rights**

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

6.2 When a supplier developed documentation / projects for the municipality / municipal entity, the intellectual, copy and patent rights or ownership of such documents or projects will vest in the municipality / municipal entity.

## **7. Performance security**

7.1 Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.

7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.

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

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

(b) a cashier's or certified cheque

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

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

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

8.2 If it is a Tender condition that goods to be produced or services to be rendered should at any stage be subject to inspections, tests and analyses, the bidder or contractor's premises shall be open, at all reasonable hours, for inspection by a representative of the purchaser or organization acting on behalf of the purchaser.

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

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

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

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

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

8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 22 of GCC.

## **9. Packing**

9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the

contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size 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, and in any subsequent instructions ordered by the purchaser.

## **10. Delivery and documents**

10.1 Delivery of the goods and arrangements for shipping and clearance obligations shall be made by the supplier in accordance with the terms specified in the contract.

## **11. Insurance**

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

## **12. Transportation**

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

## **13. Incidental Services**

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

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

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

## **14. Spare parts**

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

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

## **15. Warranty**

15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants



that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.

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

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

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

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

## **16. Payment**

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

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

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

16.4 Payment will be made in Rand unless otherwise stipulated.

## **17. Prices**

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

## **18. Variation orders**

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

## **19. Assignment**

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

## **20. Subcontracts**

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

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

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

21.2 If at any time during performance of the contract, the supplier or its subcontractor(s)

should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.

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

21.4 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 22.2 without the application of penalties.

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

## **22. Penalties**

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

## **23. Termination for default**

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

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

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

(c) if the supplier, in the judgement 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.

## **24. Antidumping and countervailing duties and rights**

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

## **25. Force Majeure**

25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.

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

## **26. Termination for insolvency**

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

## **27. Settlement of Disputes**

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

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

## **28. Limitation of Liability**

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

28.2 Notwithstanding any reference to mediation and/or court proceedings herein, (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and

(b) the purchaser shall pay the supplier any monies due the supplier for goods delivered and / or services rendered according to the prescripts of the contract.

28.3 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.

## **31. Notices**

31.1 Every written acceptance of a Tender 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 Tender or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice

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

### **32. Taxes and duties**

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

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

32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a Tender SARS must have certified that the tax matters of the preferred bidder are in order.

32.4 No contract shall be concluded with any bidder whose municipal rates and taxes and municipal services charges are in arrears.

### **33. Transfer of contracts**

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

### **34. Amendment of contracts**

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

### **35. Prohibition of restricted practices**

35.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding.

35.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in section 59 of the Competition Act No. 89 of 1998.

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