

# **UMDONI MUNICIPALITY**

**THE J.E.W.E.L OF THE SOUTH COAST**

**PROVISION OF INDIGENT MANAGEMENT SERVICES FOR A PERIOD OF THREE (3) YEARS**

**BID NO: 15/2025**

**MN: 86/2025**

**NAME & ADDRESS OF BIDDER**

**Name:** \_\_\_\_\_

**Tel:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Fax:** \_\_\_\_\_

\_\_\_\_\_

**Cell:** \_\_\_\_\_

\_\_\_\_\_

**E-mail:** \_\_\_\_\_

**Postal code:** \_\_\_\_\_

**Amount:** \_\_\_\_\_



# UMDONI MUNICIPALITY

THE J.E.W.E.L OF THE SOUTH COAST

## INVITATION TO TENDER

### APPOINTMENT OF SERVICE PROVIDERS FOR THE FOLLOWING SERVICES/PROJECTS;

BID NU & MN	PROJECT	TECHNICAL ISSUES	Minimum points	Validity Period	START DATE	CLOSING DATE
10/2025 MN59/2025	REFURBISHMENT OF 25 X 6 M3 STAKEBLE INDUSTRIAL SKIP CONTAINER FOR UMDONI MUNICIPALITY	Mr K Subben: Waste Disposal - Manager Email: <a href="mailto:kavershens@umdoni.gov.za">kavershens@umdoni.gov.za</a> Tell: 078 552 1498 SCM ISSUES Mr D Nyathi: SCM Manager Email: <a href="mailto:davidn@umdoni.gov.za">davidn@umdoni.gov.za</a> Tell: 039 976 1202	60 %	120 days	26-03-2025	25-04-2025  At 12:00 pm
11/2025 MN61/2025	PROPOSAL FOR PANEL OF ELECTRICAL ENGINEERING CONSULTANTS FOR THE PERIOD OF THREE (3) YEARS	Mr S Xulu: PMU - Manager Email: <a href="mailto:sandilex@umdoni.gov.za">sandilex@umdoni.gov.za</a> Tell: 084 409 2017 SCM ISSUES Mr D Nyathi: SCM Manager Email: <a href="mailto:davidn@umdoni.gov.za">davidn@umdoni.gov.za</a> Tell: 039 976 1202	70%	120 days	26-03-2025	25-04-2025  At 12:00 pm
12/2025 MN62/2025	PROPOSAL FOR PANEL OF CIVIL ENGINEERING CONSULTANTS FOR THE PERIOD OF THREE (3) YEARS	Mr S Xulu: PMU - Manager Email: <a href="mailto:sandilex@umdoni.gov.za">sandilex@umdoni.gov.za</a> Tell: 084 409 2017 SCM ISSUES Mr D Nyathi: SCM Manager Email: <a href="mailto:davidn@umdoni.gov.za">davidn@umdoni.gov.za</a> Tell: 039 976 1202	70%	120 days	26-03-2025	25-04-2025  At 12:00 pm
09/2025 MN49/2025	EXPRESSION ON INTEREST FOR THE MANAGEMENT OF OUTDOOR ADVERTISING SERVICES AVAILABLE ON BEHALF OF UMDONI MUNICIPALITY FOR A PERIOD OF 3 YEARS	Mr M Khanyile: Building Control - Manager Email: <a href="mailto:mondlik@umdoni.gov.za">mondlik@umdoni.gov.za</a> Tell: 082 360 8527 SCM ISSUES Mr D Nyathi: SCM Manager Email: <a href="mailto:davidn@umdoni.gov.za">davidn@umdoni.gov.za</a> Tell: 039 976 1202	70%	120 days	26-03-2025	25-04-2025  At 12:00 pm

13/2025 MN84/2025	BUILDING AND CONTROL PROFESSIONAL SERVICES, MUNICIPAL PROPERTY MANAGEMENT FOR A PERIOD OF 3 YEARS	Mr M Khanyile: Building Control – Manager Email: <a href="mailto:mondlik@umdoni.gov.za">mondlik@umdoni.gov.za</a> Tel: 082 360 8527 SCM ISSUES Mr D Nyathi: SCM Manager Email: <a href="mailto:davidn@umdoni.gov.za">davidn@umdoni.gov.za</a> Tel: 039 976 1202	70%	120 days	26-03-2025	25-04-2025 At 12:00 pm
14/2025 MN85/2025	PROVISION OF DEBT COLLECTION SERVICES FOR A PERIOD OF THREE (3) YEARS	Ms F Sayed: Revenue – acting Manager Email: <a href="mailto:faheemas@umdoni.gov.za">faheemas@umdoni.gov.za</a> Tel: 039 976 1202 SCM ISSUES Mr D Nyathi: SCM Manager Email: <a href="mailto:davidn@umdoni.gov.za">davidn@umdoni.gov.za</a> Tel: 039 976 1202	70 points	120 days	26-03-2025	25-04-2025 At 12:00 pm
15/2025 MN86/2025	PROVISION OF INDIGENT MANAGEMENT SERVICES FOR A PERIOD OF THREE (3) YEARS	Ms F Sayed: Revenue – acting Manager Email: <a href="mailto:faheemas@umdoni.gov.za">faheemas@umdoni.gov.za</a> Tel: 039 976 1202 SCM ISSUES Mr D Nyathi: SCM Manager Email: <a href="mailto:davidn@umdoni.gov.za">davidn@umdoni.gov.za</a> Tel: 039 976 1202	60%	120 days	26-03-2025	25-04-2025 At 12:00 pm
16/2025 MN87/2025	PANEL OF SERVICE PROVIDERS FOR THE HIRE OF VEHICLES AND EARTHMOVING EQUIPMENT TO RENDER THE SERVICES TO THE UMDONI MUNICIPALITY FOR THE PERIOD OF THREE (3) YEARS	Mr M Thabethe: Technical Services – Superintendent(Roads) Email: <a href="mailto:mlungisit@umdoni.gov.za">mlungisit@umdoni.gov.za</a> 078 810 2876 SCM ISSUES Mr D Nyathi: SCM Manager Email: <a href="mailto:davidn@umdoni.gov.za">davidn@umdoni.gov.za</a> Tel: 039 976 1202	60%	120 days	26-03-2025	25-04-2025 At 12:00 pm
17/2025 MN88/2025	SUPPLY AND DELIVERY OF 30 x 6M <sup>3</sup> STACKABLE INDUSTRIAL SKIP CONTAINERS FOR THE UMDONI MUNICIPALITY	Mr K Subben: Waste Disposal - Manager Email: <a href="mailto:kavershens@umdoni.gov.za">kavershens@umdoni.gov.za</a> Tel: 078 552 1498 SCM ISSUES Mr D Nyathi: SCM Manager Email: <a href="mailto:davidn@umdoni.gov.za">davidn@umdoni.gov.za</a> Tel: 039 976 1202	70 %	120 days	26-03-2025	25-04-2025 At 12:00 pm

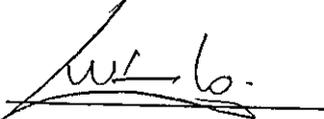
**MANDATORY DOCUMENTS TO BE SUBMITTED, FAILURE TO DO SO WILL LEAD TO THE TENDER BEING REGARDED AS NON-RESPONSIVE.**

Tender documents will be available in the Etender Publication Portal which can be obtained through the following website: [www.etenders.gov.za](http://www.etenders.gov.za) from the **26 MARCH 2025**.

**Umdoni Local Municipality subscribes to the Preferential Procurement Policy Framework Act, 2000, (Act No.5 of 2000).**

Bid documents, clearly marked with bid name and bid number must be deposited in the tender box inside the reception area of UMDONI MUNICIPALITY situated at Cnr of Bram Fischer and Williamson Street, Scottburgh, where bids will be opened in public. The name and address of the bidder must be clearly written on the sealed envelope containing the bid. Umdoni Municipality will not take responsibility for documents delivered or collected via courier services. Bids shall be valid for a period of **120 days** after closing date. **Late bids or Bids received by way of facsimile or e-mail will under no circumstances be considered.**

The Umdoni Municipality does not bind itself to accept the lowest, or any bid, either wholly or in part or give any reason for such action.

A handwritten signature in black ink, appearing to read 'N G Kumalo', is written over a horizontal line.

**Mr N G Kumalo**

**Acting MUNICIPAL MANAGER**



# **UMDONI MUNICIPALITY**

**THE J.E.W.E.L OF THE SOUTH COAST**

## **DOCUMENTS TO ACCOMPANY BID DOCUMENTS**

- Valid tax clearance certificate or SARS pin
- Central Supplier database proof of registration
- Bidding Proposal
- CK registration
- Certified copies of identity documents
- Proof the bidder is not in arrears for Municipal taxes (rates and refuse) for a period not exceeding 3 months)
- Originally certified copies of BBBEE Certificate or Affidavit
- MBD4
- Declaration of interest

**\*\* Certified documents must not be older than 6 months**

**\*\*\*Failure to submit all of the above documents will render your bid unresponsive**



# **UMDONI MUNICIPALITY**

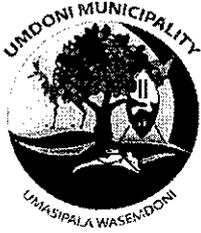
THE J.E.W.E.L OF THE SOUTH COAST

## **Functionality**

Service Providers functionality/quality will be evaluated based upon the table below and only those scoring **60%** and above will be retained for further evaluation on second stage.

Key Personnel/ Supervisor/ Managers	Qualifications of project team (attached certified proof- certificate) the points are accumulative. These points can be claimed if staff dealing with project have the necessary qualifications	Project Management qualification	10	20
		Degree NQF level 7 Software developer	10	
Competence and experience of the Service Provider/ data verification and Indigent Management	Submit at least five projects from different Municipalities- attached previous work done, e.g. Purchasing orders or appointment letters, (stamped by the municipality)	1-3 project – 10 points 4 > projects – 20 points		20
Approach and methodology	Detailed and executable Project plan taking into account the entire project duration Demonstrating an understanding of the required methodology	Demonstrate no methodology	0	40
		Re-stating the scope of work	10	
		Re-organising the scope of work into clear project plan	20	
		Re-organising the scope of work into a clear business plan	30	
		Re-organising the scope of work into a detailed, clear, simple and executable but flexible project plan, with a sound methodology plus value add	40	

Effectiveness of the proposed induction/training	<b>Acceptable:</b> One day training	5	<b>20</b>
	<b>Good:</b> Training and post-training assessment	10	
	<b>Very Good:</b> Training, Post training assessment and training tools provided	15	
	<b>Excellent:</b> Possible involvement of incumbents/project leader throughout project implementation, structured training, post-training assessment and post-training evaluation of the training provided effective training tools to be provided (manuals, guidelines etc.)	20	
<b>Total</b>			<b>100</b>



# UMDONI MUNICIPALITY

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## EVALUATION CRITERIA

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

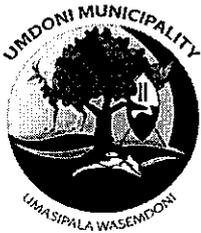
*(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.*

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

<b>The specific goals allocated points in terms of this tender</b>	<b>Number of points allocated (80/20 system) (To be completed by the</b>	<b>Number of points claimed (80/20 system) (To be completed by the tenderer)</b>
<p><b>Percentage by black owned.</b></p> <ul style="list-style-type: none"> <li>• 100% company owned/director/s/shareholders by people who are Black = 20 points</li> <li>• ≥51% and &lt;100% company owned/director/s/shareholders by people who are Black =10 points</li> <li>• &gt;0% and &lt;51% company owned/director/s/shareholders by people who are Black = 5</li> <li>• 0% company owned/director/s/shareholders</li> </ul>	<p>20</p>	<p>Proof of claim as declared on SBD 6.1 (one or more of the following will be used in verifying the tenderer's status</p> <ul style="list-style-type: none"> <li>• Company Registration Certification/document (CIPC)</li> <li>• Company Shareholders certificate</li> <li>• Certified identification documentation of company director/s</li> <li>• CSD report/ CSD registration number (MAAA number)</li> <li>• B-BBEE Certificate of the tendering company.</li> <li>• Consolidated B-BBEE certificated if the tendering company is a Consortium, Joint Venture, or Trust</li> </ul>

by people who are Black = 0 points		(Issued by verification agency accredited by the South African Accreditation System). • Agreement for a Consortium, Joint Venture, or Trust.
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***NB: Please attach proof of the above.***



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# **UMDONI MUNICIPALITY**

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## **PROVISION OF INDIGENT MANAGEMENT SERVICES FOR 3 YEARS**

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### **1. PURPOSE OF THE REPORT**

To obtain tenders for Indigent Management Mobile and Web based Management System at Umdoni Local municipality for a period of three years

### **2. SCOPE OF THE CONTRACT**

- a) The municipality intends to call for bids in respect of the Indigent Management, for a period of three (3) years.
- b) One Service provider will be appointed for the above purpose.
- c) The bidder will be appointed based on the functionality and the prices quoted as per specification.

### **2.1 SPECIFICATIONS**

#### **MOBILE APPS AND WEBBASED INDIGENT MANAGEMENT SYSTEM**

##### **Background**

The municipality hereby invites proposals for the appointment of Service provider to assist the municipality Indigent Management. The Municipality has a duty to develop, implement, monitor and review Indigent register as per its Indigent Policy adopted on an annual basis. The project is aimed at smart and electronic registering of qualifying indigent households and performing both web based and physical verification for all indigent applicants who are not able to afford basic services as per the approved indigent policy of the municipality.

##### **Purpose of the project**

The project purpose is to create paperless environment for Indigent Management which will in turn yield a Credible Indigent Register for the municipality.

### **Objectives of the projects**

Due to high levels of unemployment and inadequate economic development within the Municipality, there is a huge need for the provision of free basic service to the indigent households. Thus, the project aims at electronic mobile registration and desktop verification of indigent applicants to establish and maintain authentic indigent register and setting up communication links with the billing system. These smart technologies must assist municipality to determine which households qualify for free basic service and which household's gross income status has changes over time in which the Municipality might have to bill to increase its revenue collection.

### **2.2 The role of service provider**

The role of the service provider is to receive, verify data and present the findings. All activities and findings of this project must be in line with Municipality's Indigent Policy.

### **2.3 Project coverage**

The project targets all possibly qualifying households within the Municipality in line with the Indigent Policy.

### **2.4 Scope of work**

#### **Implementation of the mobile apps and web based electronic system used for indigent Management.**

- The bidder must make use of indigent management system to manage the indigent registrations and verification process on behalf of the municipality.
- The bidder must provide the municipality with viewing rights as well as rights to execute functions on the system.

#### **The indigent management system must be able to perform the following functions:**

- Smart and/or mobile indigent registrations.
- Mobile scanning of all supporting documents.
- The system must have a declaration by the applicant.
- Digitalised applicant signature through mobile app and web panel.
- Mobile App must be downloadable from google play and App Store etc. in the name of the App and description.
- Send SMSs notifications upon registration and approval stages.
- Download and print form submitted, reviewed and verified form in pdf format.
- The completed form must have date of capturing, time and date of the download and printing.
- Print supporting documents.
- The system must be in a South African currency.
- Mobile App should be able to create user accounts.

- Verify employment status of an applicant, spouse and occupant(s) (if application).
- Provide current and historic physical address of an applicant household.
- Provide employers address of an applicant or that occupant(s) (if applicable).
- Provide information about applicant business connection (if applicable).
- Provide bank information of an applicant, spouse and applicant(s) (if application).
- The system must be able to capture services linked to the applicant stand number.
- Inform the municipality if there is a change to the employment status of the applicant.
- The system must be able export files in formats required by the municipality.
- The system will be able to execute the whole Indigent Management process.
- Verify the occupant(s) status (if applicable).
- Verification of information provided by applicants for indigent subsidy for municipal services which include but is not limited to identify number, employment details, lifestyle audit, residential and property ownership, person tracing, contact details, income indicator, credit status and any other information disclosed on the application form that may have a bearing on the outcome of the application.
- The system must be able to perform third party verifications at least once quarterly.
- Re-assessments of existing indigent beneficiaries.
- Generate management reports (Indigent applications, indigent verifications, indigent register/listing etc.).

**2.5 The system must be a mobile App and web based indigent management solution.**

2.5.1 The requested information should be inserted and no changes to the layout should be made on the RFP.

2.5.2 Umdoni Local Municipality requires a clear, concise and factual response. Bidders shall consult, in writing, with the Umdoni Local Municipality official responsible should there appear to be any discrepancy, ambiguity or uncertainty pertaining to the meaning or effect of any description, quality, quantity or any other information contained in this RFP.

2.5.3 Proposals must be compiled in the following manner:

- a. Clear indexing of the proposal content must be included.  
One **(1)** original proposal (marked 'original')

2.5.4 All proposals must be delivered sealed. The following information must appear on the outside of the sealed proposal.

- a. Name of bidder
- b. Description of proposal
- c. RFP Number
- d. Closing date and time

2.5.5 In the case of Joint Ventures and consortium, proposals must contain:

- a. Teaming Agreements
- b. Consolidated B-BBEE certificate for all members of the Joint Venture and consortiums is required

2.5.6 Bid costs

The Bidder will be liable for all costs incurred in response to this request.

- a. The bidder is expected to fully acquaint themselves with the conditions, requirements and specifications of the Umdoni Local Municipality before submitting a completed response. Failure to do so will be at the bidder's own risk and the Bidder cannot secure relief on the grounds of any mistake.
- b. Bidders shall take into account that the Umdoni Local Municipality's total requirements.
- c. The selected bidder(s) will be required to enter into a written agreement with Umdoni Local Municipality. This RFP or any part thereof may be incorporated into and made part of such an agreement. Umdoni Local Municipality shall not incur any obligation or liability towards the selected bidder(s) until a written contract has been signed by the duly authorised Umdoni Local Municipality representative and the bidder(s).

### **3 TENDERING DETAILS**

3.1 Contact Details for administrative procurement enquiries

- Supply Chain Management Unit: Email:

#### 4. LATE SUBMISSIONS

Proposals submitted after the specified closing date and time will not be considered.

#### 5. Expected Benefits

The implementation of the Indigent management system must assist in addressing audit findings and maintaining a credible indigent register in line with the policy; which will assist in:

- Mobile App registration, verifying and approving indigent applicants;
- Establishing and maintaining credible indigent register;
- Providing technical support and assistance in maintaining the municipality's indigent register.
- Conducting quality control and monitoring.
- Addressing an overstatement of the indigent debtor which will enable us to confirm the accuracy of the reported amounts of indigent debtors. Proactively identify indigent citizens and accelerate the registration process through data-driven indigent status verification, as a precursor to tabling applications to Council for approval;
- Better enable the provision of free basic services to indigent citizens, thereby uplifting the poorest of the poor;
- Verify the validity of all information provided by applicant;
- Verify the indigence status of indigent on the current indigent register thereby reducing the risk of citizens enjoying indigent status when they do not qualify for it anymore.
- Create a verifiable Indigent Register which reduces performance audit risk through the provision of monthly controls and credible, third party, data driven evidence to support the validity of households registered as indigent.
- Utilise the insight provided regarding indigents to possibly make any necessary amendments to current Indigent Policy;
- Inspect, audit indigent household electricity meters to ensure.

#### PRICING SCHEDULE

The below table is pricing schedule, bidders must provide a detailed breakdown of its prices, costs and fees calculated per unit.

**VAT MUST BE INCLUDED IN THE TENDER PRICE.**

ITEM DESCRIPTION	UNIT	RATE PER UNIT <sup>®</sup>
Monthly Management Fee	Monthly	R

Electronic mobile data collection and mobile scanning of supporting documents of applicants	1	R
Third party verification of applicants (ID Validation, Employment Status, Directorship, Credit Status, Contact Details and Property Ownership)	1	R
Ad Hoc Audit as and when requested by the Municipality Per Household or Account (Unit)	1	R
Short Message (SMS) Per Household or Per Account (Unit)	1	R
SUB-TOTAL		R
VAT@15%		R
Total		R

**NB: All prices for the contract would be taken as fixed for the duration of the contract.**

## **6. TERMS AND CONDITIONS**

- 6.1 Particular project/service will be initiated by means of written instructions to the successful bidders.
- 6.2 Umdoni Local Municipality reserves the right to screen and vet shortlisted service providers before appointment.
- 6.3 Umdoni Local Municipality reserves the right to terminate the contract in the event that there is clear evidence of a breach of the agreed specifications.
- 6.4 Umdoni Local Municipality will appoint one service provider for this project.

## **7 PENALTIES/WARRANTIES**

- 7.1 Umdoni Local Municipality reserves the right to reject work that does not meet the required standard and engage a different service provider to complete the work. Umdoni Local Municipality shall serve thirty (30) days written notice for termination of contract in the case of non-performance.

7.2 Should any reference check, audit or inspection reveal that the Contractor has not complied with any of the terms of the previous contract, Umdoni Local Municipality reserves the right to reject the bid.

## **8. INSTRUCTIONS FOR THE BID PROPOSAL**

8.1 This Request for Proposal (RFP) does not constitute an offer. The RFP intends to provide *enough information for the preparation and submission of comparable prop*13.2 The requested information should be inserted and no changes to the layout should be made on the RFP.

8.2 Umdoni Local Municipality requires a clear, concise and factual response. Bidders shall consult, in writing, with the Umdoni Local Municipality official responsible should there appear to be any discrepancy, ambiguity or uncertainty pertaining to the meaning or effect of any description, quality, quantity or any other information contained in this RFP.

8.3 Proposals must be compiled in the following manner:

- b. Clear indexing of the proposal content must be included.  
One **(1)** original proposal (marked 'original')

8.4 All proposals must be delivered sealed. The following information must appear on the outside of the sealed proposal.

- e. Name of bidder
- f. Description of proposal
- g. RFP Number
- h. Closing date and time

8.5 In the case of Joint Ventures and consortium, proposals must contain:

- c. Teaming Agreements
- d. Consolidated B-BBEE certificate for all members of the Joint Venture and consortiums is required

## **9. Bid costs**

The Bidder will be liable for all costs incurred in response to this request.

- d. The bidder is expected to fully acquaint themselves with the conditions, requirements and specifications of the Umdoni Local Municipality before submitting a completed response. Failure to do so will be at the bidder's own risk and the Bidder cannot secure relief on the grounds of any mistake.
- e. Bidders shall take into account that the Umdoni Local Municipality's total requirements.
- f. The selected bidder(s) will be required to enter into a written agreement with Umdoni Local Municipality. This RFP or any part thereof may be incorporated into and made part of such an agreement. Umdoni Local Municipality shall not incur any obligation or liability towards the selected bidder(s) until a written contract has been signed by the duly authorised Umdoni Local Municipality representative and the bidder(s).

**10. SKILLS TRANSFER**

**11. PLACE OF DELIVERY**

Umdoni Municipality

**12. COMPLIANCE WITH ANY LEGISLATION, BYLAWS, ETC**

Indigent Policy

Rates Policy

Municipal Property Rates Act

**13. GUARANTEE/WARRANTY/DEFECTS LIABILITY PERIOD**

N/A

**14. CONTRACT PERIOD**

**3 YEARS**

**15. VALIDITY PERIOD**

120 days

**16. TENDER DOCUMENT PRICE**

Obtainable from the website/ E tender

**17. TENDER ADVERT PERIOD**

30 days

**PART A  
INVITATION TO BID**

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF MUNICIPALITY/ MUNICIPAL ENTITY)</b>			
BID NUMBER:	15/2025	CLOSING DATE:	25-04-2025
		CLOSING TIME:	12:00 PM
DESCRIPTION	PROVISION OF INDIGENT MANAGEMENT SERVICES FOR A PERIOD OF THREE (3) YEARS		
<b>THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (MBD7).</b>			

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

CNR BRAM FISCHER AND WILLIAMSON STREET
SCOTTBURGH
4180

<b>SUPPLIER INFORMATION</b>			
NAME OF BIDDER			
POSTAL ADDRESS			
STREET ADDRESS			
TELEPHONE NUMBER	CODE		NUMBER
CELLPHONE NUMBER			
FACSIMILE NUMBER	CODE		NUMBER
E-MAIL ADDRESS			
VAT REGISTRATION NUMBER			
TAX COMPLIANCE STATUS	TCS PIN:		OR CSD No:
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES 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	FINANCE	CONTACT PERSON	Ms Faheema Sayed
CONTACT PERSON	Mr David Nyathi	TELEPHONE NUMBER	039 976 1202
TELEPHONE NUMBER	039 976 1202	FACSIMILE NUMBER	039 976 0017
FACSIMILE NUMBER	039 976 0017	E-MAIL ADDRESS	faheemas@umdoni.gov.za
E-MAIL ADDRESS	davidn@umdoni.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. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED (NOT TO BE RE-TYPED) OR ONLINE</p> <p>1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.</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 <input type="checkbox"/> NO</span></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: .....

## 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.

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**

**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 form for preference points for specific goals.

**NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF SPECIFIC GOALS, 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 The value of this bid is estimated not to exceed R50 000 000 (all applicable taxes included) and therefore the 80/20 preference point system shall be applicable.

1.3 Preference points for this bid shall be awarded for:

(a) Price; and

(b) Specific goals

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

	<b>POINTS</b>
<b>PRICE</b>	80
<b>SPECIFIC GOALS OF CONTRIBUTION</b>	20
<b>Total points for Price and Specific Goals must not exceed</b>	<b>100</b>

1.5 Failure of a bidder to submit proof of specific goals claimed will be interpreted to mean that preference points for specific goals are not claimed.

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

## 2. DEFINITIONS

- (a) **“all applicable taxes”** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- (b) **“bid”** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation and “bid” has a corresponding meaning
- (c) **“comparative price”** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;
- (d) **“consortium or joint venture”** 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;
- (e) **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;
- (f) **“EME”** means an Exempted Micro Enterprise as defines by Codes of Good Practice issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (g) **“Firm price”** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- (h) **“non-firm prices”** means all prices other than “firm” prices;
- (i) **“person”** includes a juristic person;
- (j) **“QSE”** means a Qualifying Small Enterprise as defines by Codes of Good Practice issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 ( Act No. 53 of 2003);
- (k) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of the tender invitation;
- (l) **“Reconstruction and Development Programme”** the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994;
- (m) **“specific goals”** means specific goals as contemplated in section 2(1)(d) of the Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the

implementation of programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994;

- (n) "total revenue" bears the same meaning assigned to this expression in the Codes of Good Practice;
- (o) "trust" means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
- (p) "trustee" means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.
- (q) "Disability" means, in respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of, ability to perform an activity in the manner, or within the range, considered normal for a human being.
- (r) "tender for income-generating contracts" means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions.

### 3. ADJUDICATION USING A POINT SYSTEM

- 3.1 If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for specific goals.
- 3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts;
- 3.3 Points scored must be rounded off to the nearest 2 decimal places.
- 3.4 In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for specific goals.
- 3.5 If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

### 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:

$$\begin{array}{ccc} \mathbf{80/20} & \mathbf{or} & \mathbf{90/10} \\ P_s = 80\{1 - \frac{P_t - P_{min}}{P_t - P_{min}}\} & \mathbf{or} & P_s = 90\{1 - \frac{P_t - P_{min}}{P_t - P_{min}}\} \\ P_{min} & & P_{min} \end{array}$$

Where

Ps = Points scored for comparative price of bid under consideration  
 Pt = Comparative price of bid under consideration  
 Pmin = Comparative price of lowest acceptable bid

**5. POINTS AWARDED FOR LEVEL OF CONTRIBUTION TOWARDS SPECIFIC GOALS**

5.1 In terms of s2(b)(i) and (ii) of the Preferential Procurement Regulations Policy Framework Act, a preference points system must be followed for contracts with a Rand value above a prescribed amount a maximum of 10 or 20 points may be allocated for specific goals as contemplated in s2(d) of the Act provided that the lowest acceptable tender scores 90 or 80 points for price, respectively, in accordance with the table below:

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

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

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

<b>80/20 preference point system</b>			
<b>The specific goals allocated points in terms of this tender</b>	<b>Number of points allocated (20 points) (To be completed by the Municipality)</b>	<b>Proof required to Claim (20 points) (To be completed by the Municipality)</b>	<b>Number of points Claimed (20 points) (To be completed by the tenderer)</b>
an EME or QSE which is at least 51% owned by black	20	Fully completed and signed MBD 6.1; and full Central Suppliers Data Base report (CSD) not older than one month	20

**NB: No points will be claimed by the bidder if it fails to submit proof required to score points for specific goals**

<i>90/10 preference point system</i>			
The specific goals allocated points in terms of this tender	Number of points allocated (10 points) (To be completed by the Municipality)	Proof required to Claim (10 points) (To be completed by the Municipality)	Number of points Claimed (10 points) (To be completed by the Tenderer)

5.2 Bidders must submit valid proof for specific goals

5.3 If the municipality is of the view that a tenderer submitted false information regarding a specific goal, will —

- (a) inform the tenderer accordingly; and
- (b) give the tenderer an opportunity to make representations within 14 days as to why the tender may not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part.

5.4 After considering the representations referred to in sub regulation (1)(b), the municipality may, if concludes that such information is false—

- (a) disqualify the tenderer or terminate the contract in whole or in part; and
- (b) if applicable, claim damages from the tenderer.

**6. SPECIFIC GOALS CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 5.1**

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 5.1 and must be substantiated by means of the required proof of specific goals.

**7. SUB-CONTRACTING**

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

*(Tick applicable box)*

YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>
-----	--------------------------	----	-------------------------------------

7.1.1 If yes, indicate:

- i) What percentage of the contract will be subcontracted.....%
- ii) The name of the sub-contractor.....
- iii) Whether the sub-contractor is an EME.

*(Tick applicable box)*

YES		NO	X
-----	--	----	---

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

8.1 Name of company/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 specific goal declared in paragraph 6 , indicated in paragraph 7, 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 paragraph 7, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the 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) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
  - (e) Forward the matter for criminal prosecution.

WITNESSES

1. ....

2. ....

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

DATE: .....

ADDRESS .....

.....

.....

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

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

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

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

**CERTIFICATION**

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

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

.....  
**Signature**

.....  
**Date**

.....  
**Position**

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

**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

- 1 This Municipal Bidding Document (MBD) must form part of all bids<sup>1</sup> invited.
  
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).<sup>2</sup> Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
  
- 3 Municipal Supply Regulation 38 (1) prescribes that a supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer, among others, to:
  - a. take all reasonable steps to prevent such abuse;
  - b. reject the bid of any bidder if that bidder or any of its directors has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system; and
  - c. cancel a contract awarded to a person if the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.
  
- 4 This MBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
  
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (MBD 9) must be completed and submitted with the bid:

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

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

**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

I, the undersigned, in submitting the accompanying bid:

\_\_\_\_\_

(Bid Number and Description)

in response to the invitation for the bid made by:

\_\_\_\_\_

(Name of Municipality / Municipal Entity)

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

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

(Name of Bidder)

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

6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium<sup>3</sup> will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
  - (a) prices;
  - (b) geographical area where product or service will be rendered (market allocation)
  - (c) methods, factors or formulas used to calculate prices;
  - (d) the intention or decision to submit or not to submit, a bid;
  - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
  - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

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

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

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

Js9141w 4

### APPENDIX 3: TERMS AND CONDITIONS: GOODS

1. This purchase order, including these terms and conditions, constitutes the sole and entire agreement between the parties hereto.
2. The Vendor's quotation is incorporated in and made a part of this purchase order only to the extent of specifying the nature and description of the goods ordered and then only to the extent that such items are consistent with the order in terms of this purchase order. No other terms and conditions shall be binding upon the Purchaser unless accepted in writing.
3. An advice note or packing slip bearing the Purchaser's order number must be sent to the Purchaser on the same day that the goods are dispatched and a copy of such advice note or packing slip bearing the Purchaser's order number must be enclosed with the goods.
4. An invoice bearing the Purchaser's order number shall be sent to the Purchaser on the day on which goods are dispatched.
5. Payment will be effected within 30 days of receipt of invoice, provided that the Purchaser is satisfied with the goods rendered. The Purchaser shall not be responsible for delays in payment which are beyond its reasonable control.
6. The price herein specified, shall otherwise expressly stated include all taxes and duties of any kind which either party is required to pay with respect to the sale of goods rendered in terms of this agreement.
7. Ownership of and the risk in and to the goods shall pass to the Purchaser only upon receipt of the goods by the Purchaser in or on its premises and upon an authorized signatory certifying that the goods were received in good order.
8. Materials bought or obtained by the Vendor for use on contract works, shall become the property of the Purchaser immediately when the relevant portion of the actual price of the materials is paid to the contractor in accordance with the terms of payment as set out in this agreement. Property in and the title to the contract works shall pass to the Purchaser in proportion to the amount paid to the Vendor in accordance with the terms of payment.

9. The Vendor indemnifies the Purchaser against all loss of any kind whatsoever which may be occasioned by loss or damage to the material or works concerned in this agreement, whether these are the property of the Purchaser, the Vendor or of any other party.
10. The Purchaser shall not be liable for any loss, damage or expense arising from the Vendor's execution of the order with the Purchaser and the Vendor shall indemnify and keep the Purchase indemnified against any loss, damage, expense or injury to any property or any person in consequence of any defect in design (not originating with the Purchaser) work or material or from any negligence of the Vendor, its servant or agents. If the Purchaser becomes subject to any such claim, the Vendor shall render all reasonable assistance as required by the Purchaser to settle or defend any such claim or arbitration or proceeding arising there from and shall be liable for inter alia all legal fees incurred by the Purchaser in defending and/or settling such claims.
11. All delivery instructions of the Purchaser shall be strictly complied with and failure to do so will render the order subject to total or partial cancellation at the option of the Purchaser and the Purchaser shall be entitled to Purchase such goods elsewhere and debit the contractor with any loss, expense and cost thereby incurred.
12. The Vendor is required to acknowledge receipt and acceptance of this purchase order and the terms and conditions therein. Non-receipt of the Vendor's acknowledgment within three (3) working days from the date of this purchase order shall be deemed to signify acceptance by the Vendor of this purchase order and its conditions.
13. All goods delivered under any order of the Purchaser must be strictly to the quality control, engineering and building specifications, drawing, descriptions, samples or any other data furnished or adopted by the Purchaser and all goods must be in a new condition when delivered.
14. The Vendor warrants that all goods delivered under this order are fit and sufficient for the purpose for which they are intended to be used, that they are of merchantable quality and free from defects, whether they are patent or latent, in both material and workmanship.
15. The terms of all orders of the Purchaser or information supplied thereunder or derived therefrom are strictly confidential and shall not be divulged to any third party.

16. Failure by the Purchaser to enforce any of these issues shall not be construed as a waiver of any of the Purchaser's rights hereunder.

**Responsibilities of the Vendor:**

1. In accordance with the requirements of the Request for Quotation, provide Goods in the quantity, on or before the due date determined in or stated in a written order issued by the Purchaser.
2. Ensure that all goods shall be packaged with the provisions of the Request for Quotation. Where no provisions are made in the specifications for packaging, the goods shall be properly packed for long term storage in containers suitable to protect the contents against damage through rough handling and for over-storage in transit or whilst in stores.
3. Ensure that all containers (including packaging cases, boxes, tins, drum and wrappings) supplied by the Vendor shall be considered as non-returnable, and their cost having been included in the price of the goods.
4. Ensure that each consignment is clearly marked on the outside of the consignment or package with the Vendor's name and full details on the destination in accordance with the Purchaser's order and include a packaging note stating the contents thereof.
5. Ensure that on dispatch of each consignment, the Vendor shall send to the Purchaser at the address for delivery of the goods, an advice note specifying the means of transport, weight, number or volume as appropriate and the point and date of dispatch.
6. Send to the purchaser a detailed priced invoice as soon as reasonably practical after dispatch of the goods.
7. Ensure that the delivery of goods is effected within 7 days from receipt of the Purchaser's order, or if otherwise specified by the Purchaser. Should the Vendor have reason to suspect delays in delivery, the Vendor shall advise the Purchaser upon receipt of an order, in writing, of any anticipated delays citing reasons therefore and put forward a new anticipated delivery timeline. The Purchaser may extend the delivery date as it sees fit. Unless and until the Vendor receives a notification of the new, extended delivery date, there shall be no extension to the delivery date.



Signed on behalf of the Purchaser:

\_\_\_\_\_

Designation: \_\_\_\_\_

Date: \_\_\_\_\_

Signed on behalf of the Vendor:

\_\_\_\_\_

Designation: \_\_\_\_\_

Date: \_\_\_\_\_

**THE NATIONAL TREASURY**

**Republic of South Africa**



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**GOVERNMENT PROCUREMENT:  
GENERAL CONDITIONS OF CONTRACT**

July 2010

## TABLE OF CLAUSES

1. Definitions
2. Application
3. General
4. Standards
5. Use of contract documents and information inspection
6. Patent Rights
7. Performance security
8. Inspections, tests and analyses
9. Packing
10. Delivery and documents
11. Insurance
12. Transportation
13. Incidental Services
14. Spare parts
15. Warranty
16. Payment
17. Prices
18. Variation orders
19. Assignment
20. Subcontracts
21. Delays in the supplier's performance
22. Penalties
23. Termination for default
24. Anti-dumping and countervailing duties and rights
25. Force Majeure
26. Termination for insolvency
27. Settlement of Disputes
28. Limitation of Liability
29. Governing language
30. Applicable law
31. Notices
32. Taxes and duties
33. Transfer of contracts
34. Amendments of contracts
35. Prohibition of restrictive practices

## General Conditions of Contract

- 1. Definitions**
1. The following terms shall be interpreted as indicated:
    - 1.1 "Closing time" means the date and hour specified in the bidding documents for the receipt of bids.
    - 1.2 "Contract" means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
    - 1.3 "Contract price" means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
    - 1.4 "Corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.
    - 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
    - 1.6 "Country of origin" means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
    - 1.7 "Day" means calendar day.
    - 1.8 "Delivery" means delivery in compliance of the conditions of the contract or order.
    - 1.9 "Delivery ex stock" means immediate delivery directly from stock actually on hand.
    - 1.10 "Delivery into consignees store or to his site" means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the 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 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 goods covered by the bid will be manufactured.
- 1.17 "Local content" means that portion of the bidding price, which is not included in the imported content provided that local manufacture does take place.
- 1.18 "Manufacture" means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.19 "Order" means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20 "Project site," where applicable, means the place indicated in bidding documents.
- 1.21 "Purchaser" means the organization purchasing the goods.
- 1.22 "Republic" means the Republic of South Africa.
- 1.23 "SCC" means the Special Conditions of Contract.
- 1.24 "Services" means those functional services ancillary to the

supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.

1.25 "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 bids, contracts and orders including bids 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 bidding 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 bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.

3.2 Invitations to bid are usually published in locally distributed news media and on the municipality/municipal entity website.

## **4. Standards**

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

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

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

extend only 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 bidding documents or another form acceptable to the purchaser; or
  - (b) a cashier's or certified cheque.
- 7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified.

**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 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 bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the goods to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
- 8.5 Where the goods or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such goods or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 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

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 fulfillment of other obligations stipulated in the contract.

16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an 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 bid, with the exception of any price adjustments authorized or in the purchaser's request for bid validity extension, as the case may be.

**18. Variation orders**

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 this contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.

**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.

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.

**THE NATIONAL TREASURY: Republic of South Africa**

- 23.4 If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the supplier as having no objection and proceed with the restriction.
- 23.5 . Any restriction imposed on any person by the purchaser will, at the discretion of the purchaser, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the purchaser actively associated.
- 23.6 If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:
- (i) the name and address of the supplier and / or person restricted by the purchaser;
  - (ii) the date of commencement of the restriction
  - (iii) the period of restriction; and
  - (iv) the reasons for the restriction.

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

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

**24. Anti-dumping and countervailing duties and rights**

24.1 When, after the date of bid, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference shall on demand be paid forthwith by the 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.

- 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 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. Limitation of Liability**

- 28.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6;
- (a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and
  - (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

**29. Governing language**

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

**30. Applicable law**

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

**31. Notices**

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

**32. Taxes and duties**

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

- 32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- 32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid SARS must have certified that the tax matters of the preferred bidder are in order.
- 32.4 No contract shall be concluded with any bidder whose municipal rates and taxes and municipal services charges are in arrears.
- 33. Transfer of contracts** 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 restrictive practices** 35.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder(s) is / are or a contractor(s) was / were involved in collusive bidding.
- 35.2 If a bidder(s) or contractor(s) based on reasonable grounds or evidence obtained by the purchaser has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in section 59 of the Competition Act No 89 Of 1998.
- 35.3 If a bidder(s) or contractor(s) has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.