



EMALAHLENI LOCAL MUNICIPALITY

TENDER NO. ELM 24/2021

APPOINTMENT OF A SHORT-TERM INSURANCE BROKER FOR A PERIOD OF 36 MONTHS

CLOSING DATE:	22 JULY 2022	TIME	11:00
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NAME OF TENDERER	
TOTAL AMOUNT (MBD 3.1)	
CENTRAL SUPPLIER DATABASE NUMBER	MAAA
TAX COMPLIANCE STATUS PIN	
CONTACT PERSON	
TELEPHONE NUMBER	
FAX NUMBER	

ENQUIRIES REGARDING BID PROCEDURES/		TECHNICAL ENQUIRIES	
DIRECTORATE FINANCIAL SERVICES SUPPLY CHAIN MANAGEMENT UNIT		DIRECTORATE FINANCIAL SERVICES	
Mr. LD NKOSI		Mr. S MAHLANGU	
MANAGER SCM		INSURANCE	
TEL. NUMBER	013 690 6505	TEL. NUMBER	(013) 690 6246
TENDER ISSUED BY			
MR. S. MAHLANGU		FINANCE : BUDGET OFFICE	
ADMINISTRATIVE OFFICER		TEL. NUMBER	013 690 6246
EMALAHLENI LOCAL MUNICIPALITY		P.O. BOX 3 eMALAHLENI, 1035	

EMALAHLENI LOCAL MUNICIPALITY

TENDER DETAILS						
TENDER NUMBER	ELM 24/2021					
TENDER TITLE	APPOINTMENT OF A SHORT-TERM INSURANCE BROKER FOR A PERIOD OF 36 MONTHS					
CLOSING DATE	22 JULY 2022		CLOSING TIME		11:00	
SITE MEETING	DATE	N/A	TIME	N/A	COMPULSORY	YES
SITE MEETING ADDRESS	A COMPULSORY BRIEFING WILL NOT BE CONDUCTED FOR THIS TENDER					
CIDB GRADING REQUIRED	N/A		LEVEL AND CATEGORY		N/A	
TENDER DOCUMENT FEE	N/A		PREFERENCE POINT SYSTEM		90/10	
BID BOX SITUATED AT	Ground floor, Emalahleni Municipality, Civic Centre, Corner Mandela & Arras Street, eMalahleni 1035					
OPERATING HOURS	The SCM Office is open during office hours, Monday to Thursdays from 7h30 to 16h30 and Fridays from 7h30 to 13h30.					
OFFER TO BE VALID FOR	90	DAYS FROM THE CLOSING DATE OF TENDER.				

PLEASE NOTE:

1. Prospective suppliers must be registered on CSD prior to submitting bid (open tender)
2. **Tenders that are deposited in the incorrect box will not be considered.**
3. This bid is subject to the Preferential Procurement Policy Framework Act and the Preferential Procurement Regulations, 2017, the General Conditions of contract (GCC) and, if applicable, any other special conditions of contract
4. Mailed, telegraphic, telex, or faxed tenders will not be accepted.
5. No late bids after closing date and time will be accepted.
6. Bids not clearly marked and unnamed will not be accepted.
7. Bids may only be submitted on the bid documentation provided by the municipality.
8. No awards will be made to a person:
 - i. Who is in the service of the state,
 - ii. If that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state
 - iii. Who is an advisor or consultant contracted with the municipality or municipal entity

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BIDDER'S TENDER DOCUMENTATION DECLARATION

* N/A These schedules do not need to be completed
Draw solid line through schedules if not applicable

	Question	Requirement	Bidder's Response
1	Have you initialed all the pages of the tender document?	YES	*YES / NO
2	Have you completed and signed the returnable schedules?		
2.1	▪ Schedule 1 : Resolution of board of directors	YES	*YES / NO
2.2	▪ Schedule 2 : Resolution to enter into consortia or JV's	YES	*YES / NO
2.3	▪ Schedule 3 : Special resolution of consortia or JV's	YES	*YES / NO
2.4	▪ Schedule 4 : Schedule of proposed sub-contractors	YES	*YES / NO
2.5	▪ Schedule 5 : Commitments of tenderer	YES	*YES / NO
2.6	▪ Schedule 6 : Tenderer's experience evaluation	YES	*YES / NO
2.7	▪ Schedule 7 : Tenderer's proposed organization, structure and physical resources	YES	*YES / NO
2.8	▪ Schedule 8 : Tenderer's key staff experience	YES	*YES / NO
2.9	▪ Schedule 9		
2.10	▪ Schedule 10 : Record of addenda to tender documents	YES	*YES / NO
2.11	▪ Schedule 11 : Clarification meeting and attendance certificate	YES	* YES / NO
2.12	▪ Schedule 12 : Compulsory enterprise questionnaire	YES	*YES / NO
2.13	▪ Schedule 13 : Clearance certificate for water and lights	YES	*YES / NO
2.14	▪ Schedule 14 : Tenderer's registration on the Central Supplier Database	YES	*YES / NO
3	▪ Have you completed / signed and submitted all relevant information as requested by the evaluation schedules? (as and when required)	YES	*YES / NO
4	Have you completed and signed the MBD 4 form - Declaration of Interest?	YES	*YES / NO
5	Have you completed the questionnaire (MBD 5) regarding the declaration for procurement above R10-million and submitted your company's latest three years audited financial statements (as and when required)?	YES	*YES / NO
6	Have you take note of the contents of par 5 of MBD 6.1 to substantiate your B-BBEE rating claims. Have you submitted an original, valid or certified copy of your company's B-BBEE certificate to qualify for preference points?	YES	*YES / NO
7	Have you completed and signed the following form: MBD 7.1 Form - Contract form for purchase of goods / works? MBD 7.2 Form - Contract Form for rendering of services? (as and when required)	YES	*YES / NO
8	Have you completed and signed the MBD 8 – Declaration of bidder's past Supply Chain Management Practices and MBD 9 – Certificate of Independent Bid Determination?	YES	*YES / NO
10	Do you understand the Special Conditions of Contract / Specifications / Terms of Reference and/or Scope of Works?	YES	*YES / NO
11	Have you completed the Form of Offer (C1.1) in WORDS as well as in FIGURES ?	YES	*YES / NO
12	Have you completed and signed Part 2 of C1.2 (Contract Data)?	YES	*YES / NO
13	Have you completed the MBD 3.3 form and carried over your tendered price (VAT exclusive) to Form of Offer (C1.1)?	YES	*YES / NO
15	Have you submitted the compulsory documents	YES	*YES / NO

TENDER NO.				
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BIDDER'S TENDER DOCUMENTATION DECLARATION CERTIFICATION

I, the undersigned certify that the information furnished on this declaration form is correct, completed and submitted.

NAME OF REPRESENTATIVE	
POSITION / DESIGNATION	
SIGNATURE	
DATE	

TENDER NO.					
	BIDDER	WITNESS	EMPLOYER	WITNESS	

SCHEDULE OF DOCUMENTS

The tender documents for this contract comprises of the following:

THE TENDER

T1: Tendering procedures

- T1.1. Tender Notice and Invitation to Tender
- T1.2. Tender Data
- T1.3. Standard Conditions of Tender

T2: Returnable documents

- T2.1 List of Returnable Documents
- T2.2 Returnable Schedules
 - T2.2.1 Returnable Schedules Required for Tender Evaluation Purposes
 - Schedule 1 : Resolution of Board of Directors
 - Schedule 2 : Resolution of Board of Directors to enter into consortia or JV's
 - Schedule 3 : Special Resolution of Consortia or JV's
 - Schedule 4 : Schedule of proposed sub-contractors
 - Schedule 5 : Commitments of Tenderer
 - Schedule 6 : Tenderer's experience evaluation
 - Schedule 7 : Tenderer's proposed organization, structure and physical resources
 - Schedule 8 : Tenderer's key staff experience
 - Schedule 9 : Tenderer's implementation plan and methodology for project
 - Schedule 10 : Record of addenda to tender documents
 - Schedule 11 : Clarification meeting and attendance certificate
 - Schedule 12 : Compulsory enterprise questionnaire
 - Schedule 13 : Clearance certificate for water and lights
 - Schedule 14 : Tenderer's registration on the Central Supplier Database

T2.2.2 Compulsory Municipal Bid Documentation

- MBD 1 : Tax compliance requirements
- MBD 4 : Declaration of Interest
- MBD 5 : Declaration for procurement above R10-million
- MBD 6.1 : Preference Claims Form and B-BBEE status level
- MBD 6.2 : Declaration certificate for local production and content for designated sectors
- MBD 7.1 : Contract form for purchasing of goods / works
- MBD 7.2 : Contract form for rendering of services
- MBD 8 : Declaration of bidder's past supply chain management practices
- MBD 9 : Certificate of Independent Bid Determination

TENDER NO.				
	BIDDER	WITNESS	EMPLOYER	WITNESS

THE CONTRACT

C1: Agreement and Contract Data

C1.1 Form of Offer and Acceptance

C1.1.1 Form of Offer

C1.1.2 Form of Acceptance

C1.1.3 Schedule of Deviations

C1.2 Contract Data

C1.2.1 Part 1: Data provided by the Employer

C1.2.2 Part 2: Data provided by the Service Provider

C1.2.3 Part 3: Specifications

C2: Pricing Schedule

C2.1 MBD 3.1: Pricing Schedule

C3: Terms of Reference

TENDER NO.					
	BIDDER	WITNESS	EMPLOYER	WITNESS	

THE TENDER

TENDER NO.					
		BIDDER	WITNESS	EMPLOYER	WITNESS

T1 TENDERING PROCEDURES

TENDER NO.					
		BIDDER	WITNESS	EMPLOYER	WITNESS



T1.1 TENDER NOTICE & INVITATION

EMALAHLENI LOCAL MUNICIPALITY TENDER NO.: ELM 24/2021 CLOSING DATE: 22 JULY 2022

APPOINTMENT OF A SHORT-TERM INSURANCE BROKER FOR A PERIOD OF 36 MONTHS

In terms of Section 110 of the Municipal Finance Management Act, 2003 (No. 56 of 2003), tenders are hereby invited for the appointment of a short-term insurance broker for a period of 36 months.

Tender documents with full specifications will be available on www.emalahleni.gov.za or www.etenders.gov.za as from **Monday, 20 June 2022**.

A compulsory briefing will not be conducted for this tender. Bidders may send electronic mails for any enquiries related to this bid.

The closing time for receipt of tenders is **11:00 on Friday, 22 July 2022**. Telegraphic, telephonic, telex, facsimile, e-mail, unmarked and **late tenders** will under no circumstances be considered and accepted. The tender box will be emptied just after closing time on the closing date. The register for all bids received may be requested thereafter and will furthermore be published on the municipal website.

Any technical enquiries relating to the tender document may be directed to Mr. Smanga Mahlangu at telephone number 013 690 6246 or cellphone 083 380 3975, Ms Martha Nkosi telephone number 013 690 6523 during working hours or e-mails may be sent to: mahlanguss@emalahleni.gov.za/nkosimk@emalahleni.gov.za. Supply Chain Management Office may also be contacted on (013) 690 6483/ 6497/ 6484 or on masangonz@emalahleni.gov.za

Fully completed tender documents, clearly marked "**Tender No. ELM 24/2021 APPOINTMENT OF A SHORT-TERM INSURANCE BROKER FOR A PERIOD OF 36 MONTHS**" with "**NAME of TENDERER**" must be placed in a sealed envelope and placed in the **tender box** on the **Ground floor**, Emalahleni Municipality, Civic Centre, Corner Mandela & Arras Street, eMalahleni 1035 **by no later than 11h00 on 22/07/2022**. The envelope must be endorsed with number, title and closing date as indicated above..

Bidders will be evaluated on functionality whereby 70 points will have to be attained before financial proposals can be considered. A preferential point system shall apply whereby a contract will be allocated to a tenderer in accordance with the Preferential Procurement Policy Framework Act, Act No. 5 of 2000 and as defined in the Conditions of Tender in the tender document, read in conjunction with the Supply Chain Management Policy of Emalahleni Local Municipality where **90** points will be allocated in respect of price and **10** points in respect of B-BBEE Status Level of Contribution.

No awards will be made to a person:

- Who is not registered on the Central Supplier Database;
- Who is in the service of the state;
- If that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; and/or
- Who is an advisor or consultant contracted with the municipality or municipal entity.

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

TENDER NO.					
	BIDDER	WITNESS	EMPLOYER	WITNESS	

The following documents have to be attached (Bidders that fail to submit documents indicated as compulsory will be disqualified)

- Original certified copy of valid BBBEE Certificate (non-compulsory, failure to submit no points will be awarded) only SANAS accredited or Affidavits will be accepted.
- Valid SARS Pin reference pin issued- Compulsory
- Copy of current municipal account (not older than 3 months)/ copy of Lease Agreement – Compulsory
- CSD summary report – Compulsory
- Audited annual financial statements for the past 3 years for the Bid above R10m
- Certified copy of Bank rating document (bids with a value above R2-million)

To view and download the Municipality’s Asset Register of both infrastructure and movables assets visit our website at w.w.w. Emalahleni.gov.za. Hard copies of same also available at our offices.

H.S MAYISELA
MUNICIPAL MANAGER
EMALAHLENI LOCAL MUNICIPALITY
Civic Centre
29 Mandela Street
eMalahleni
1035

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		BIDDER	WITNESS	EMPLOYER	WITNESS

T1.2 TENDER DATA

CLAUSE NO.													
	<p>The Standard Conditions of Tender for procurement makes several references to the tender data for details that apply specifically to this tender. The tender data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the standard conditions of tender for procurement other than disposals.</p> <p>Each item of data given below is cross-referenced to the relevant clause in the above mentioned Standard Conditions of Tender.</p>												
1.1	The employer is the Emalahleni Local Municipality												
1.2	<p>The employer's agent is:</p> <p>Name : Smanga Mahlangu Capacity : Manager: Budget & Insurance Address : Emalahleni Local Municipality P.O. Box 3, eMalahleni 1035 Tel: (013) 690 6911 or 083 380 3975 Fax: (013) 690 6207 E-mail: mahlangusm@emalahleni.gov.za</p>												
2.1.1	<p>Only those tenderers who satisfy the following eligibility criteria are eligible to submit tenders:</p> <ol style="list-style-type: none"> 1. Tenderer is registered on the Central Supplier Database 2. Tenderer is qualified and professionally registered for the service to be provided 3. Tenderer has the managerial capacity, reliability and experience regarding the nature of the project <p>Only those tenderers who score a minimum score of 70 points in respect of the following functionality criteria will proceed to the price and preference goals.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #f4a460;">Description of Quality Criteria</th> <th style="background-color: #f4a460;">Maximum number of tender evaluation points</th> </tr> </thead> <tbody> <tr> <td>Schedule 6 - Evaluation Schedule: Tenderer's experience</td> <td style="text-align: center;">25</td> </tr> <tr> <td>Schedule 7 - Evaluation Schedule: Organisation, Structure and Physical Resources</td> <td style="text-align: center;">30</td> </tr> <tr> <td>Schedule 8 - Evaluation Schedule: Experience of Key Staff</td> <td style="text-align: center;">15</td> </tr> <tr> <td>Schedule 9 - Evaluation Schedule: Capacity to execute and implement the project</td> <td style="text-align: center;">30</td> </tr> <tr> <td style="text-align: center;">Maximum total evaluation points for quality (70 points)</td> <td style="text-align: center;">100</td> </tr> </tbody> </table>	Description of Quality Criteria	Maximum number of tender evaluation points	Schedule 6 - Evaluation Schedule: Tenderer's experience	25	Schedule 7 - Evaluation Schedule: Organisation, Structure and Physical Resources	30	Schedule 8 - Evaluation Schedule: Experience of Key Staff	15	Schedule 9 - Evaluation Schedule: Capacity to execute and implement the project	30	Maximum total evaluation points for quality (70 points)	100
Description of Quality Criteria	Maximum number of tender evaluation points												
Schedule 6 - Evaluation Schedule: Tenderer's experience	25												
Schedule 7 - Evaluation Schedule: Organisation, Structure and Physical Resources	30												
Schedule 8 - Evaluation Schedule: Experience of Key Staff	15												
Schedule 9 - Evaluation Schedule: Capacity to execute and implement the project	30												
Maximum total evaluation points for quality (70 points)	100												
2.7	<p>No briefing and for clarity on the tender the below personnel can be contacted:</p> <p>Smanga Mahlangu Capacity : Manager: Budget & Insurance Address : Emalahleni Local Municipality</p>												

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CLAUSE NO.	
	<p>P.O. Box 3, eMalahleni 1035 Tel: (013) 690 6911 or 083 380 3975 Fax: (013) 690 6207 E-mail: mahlangusm@emalahleni.gov.za</p> <p>Martha Nkosi Capacity : Chief Accountant Insurance Address : Emalahleni Local Municipality P.O. Box 3, eMalahleni 1035 Tel: (013) 690 6523 Fax: (013) 690 6207 E-mail: nkosimk@emalahleni.gov.za</p>
	The closing time for submission of tender offers is as indicated in the tender notice and invite
2.12.1	Alternative offers may be accepted if beneficial to the municipality. Alternative offers should be attached as annexures to the tender document.
2.13.3	Additional copies of the tender offer, document will not be required
2.13.5 2.13.7	<p>The employer's address for delivery of tender offers and identification details to be shown on such tender offer package are:</p> <p>Location of tender box : Emalahleni Local Municipality Physical address : 1st floor, Civic Centre, Corner of Mandela & Arras Street, eMlahleni</p> <p><u>Identification details:</u> As indicated in the tender notice</p> <p><u>Tender No. ELM 24/2021 APPOINTMENT OF A SHORT-TERM INSURANCE BROKER FOR A PERIOD OF 36 MONTHS</u></p>
2.13.6 3.5	A two-envelope procedure will not be followed
2.19	The site of works is located at Emalahleni Local Municipality, Civic Centre, Nelson Mandela Avenue, eMalahleni, Mpumalanga, 1035
2.22	Not a requirement
3.4	<p>The location for opening of the tender offers, immediately after the closing time thereof shall be at: Emalahleni Local Municipality: Tender Cubicle Room, situated outside in the Municipality.</p> <p>Time: 11:00</p> <p>Location: Civic Centre, Nelson Mandela Avenue, eMalahleni, Mpumalanga, 1035 Should the details of the room location where tenders will be opened change; it can be obtained on the day from the Supply Chain Office, 1st Floor</p>
3.11	The procedure for the evaluation of responsive tenders is Method 1.

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BIDDER

WITNESS

EMPLOYER

WITNESS

CLAUSE NO.	
	The total number of tender evaluation points for preferences to may be claimed is indicated in MBD 6.1
3.13.1	<p>Tender offers will only be accepted if:</p> <ul style="list-style-type: none"> a) the tenderer is registered on the Central Supplier Database; b) the tenderer has in his or her possession a copy / print of valid tax clearance certificate or tax compliance status pin issued by the South African Revenue Services; c) the tenderer is not in arrears for more than 3 months with municipal rates and taxes and municipal service charges; d) the tenderer or any of its directors is not listed on the Register of Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector; and e) the tenderer has not: <ul style="list-style-type: none"> i) abused the employer's Supply Chain Management System; or ii) failed to perform on any previous contract and has been given written notice to this effect; f) it is considered that the performance of the services will not be compromised through any conflict of interest.
3.17	The number of paper copies of the signed Contract to be provided by the employer is one

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T1.3 STANDARD CONDITIONS OF TENDER

1 GENERAL

1.1 Actions

1.1.1 The employer and each tenderer submitting a tender offer shall comply with these conditions of tender. In their dealings with each other, they shall discharge their duties and obligations as set out in clause 2 and clause 3, timeously and with integrity, and behave equitably, honestly and transparently, comply with all legal obligations and not engage in anticompetitive practices

1.1.2 The employer and the tenderer and all their agents and employees involved in the tender process shall avoid conflicts of interest and where a conflict of interest is perceived or known, declare any such conflict of interest, indicating the nature of such conflict. Tenderers shall declare any potential conflict of interest in their tender submissions. Employees, agents and advisors of the employer shall declare any conflict of interest to whoever is responsible for overseeing the procurement process at the start of any deliberations relating to the procurement process or as soon as they become aware of such conflict, and abstain from any decisions where such conflict exists or recuse themselves from the procurement process, as appropriate.

Note:

- a) A conflict of interest may arise due to a conflict of roles which might provide an incentive for improper acts in some circumstances. A conflict of interest can create an appearance of impropriety that can undermine confidence in the ability of that person to act properly in his or her position even if no improper acts result.
- b) Conflicts of interest in respect of those engaged in the procurement process include direct, indirect or family interests in the tender or outcome of the procurement process and any personal bias, inclination, obligation, allegiance or loyalty which would in any way affect any decisions taken.

1.1.3 The employer shall not seek and a tenderer shall not submit a tender without having a firm intention and the capacity to proceed with the contract

1.2 Tender Documents

The documents issued by the employer for the purpose of a tender offer are listed in the tender data.

1.3 Interpretation

1.3.1 The tender data and additional requirements contained in the tender schedules that are included in the returnable documents are deemed to be part of these conditions of tender.

1.3.2 These conditions of tender, the tender data and tender schedules which are only required for tender evaluation purposes, shall not form part of any contract arising from the invitation to tender.

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1.3.3 For the purposes of these conditions of tender, the following definitions apply:

- a) **conflict of interest** means any situation in which:
 - i) someone in a position of trust has competing professional or personal interests which make it difficult to fulfill his or her duties impartially;
 - ii) an individual or organization is in a position to exploit a professional or official capacity in some way for their personal or corporate benefit; or
 - iii) Incompatibility or contradictory interests exist between an employee and the organization which employs that employee.
- b) **comparative offer** means the tenderer's financial offer after all tendered parameters that will affect the value of the financial offer have been taken into consideration in order to enable comparisons to be made between offers on a comparative basis
- c) **corrupt practice** means the offering, giving, receiving or soliciting of anything of value to influence the action of the employer or his staff or agents in the tender process; and
- d) **fraudulent practice** means the misrepresentation of the facts in order to influence the tender process or the award of a contract arising from a tender offer to the detriment of the employer, including collusive practices intended to establish prices at artificial levels
- e) **organization** means a company, firm, enterprise, association or other legal entity, whether incorporated or not, or a public body
- f) **quality (functionality)** means the totality of features and characteristics of a product or service that bear on its ability to satisfy stated or implied needs

1.4 **Communication and employer's agent**

Each communication between the employer and a tenderer shall be to or from the employer's agent only, and in a form that can be read, copied and recorded. Writing shall be in the English language. The employer shall not take any responsibility for non-receipt of communications from or by a tenderer. The name and contact details of the employer's agent are stated in the tender data.

1.5 **The employer's right to accept or reject any tender offer**

- 1.5.1 The employer may accept or reject any variation, deviation, tender offer, or alternative tender offer, and may cancel the tender process and reject all tender offers at any time before the formation of a contract. The employer shall not accept or incur any liability to a tenderer for such cancellation and rejection, but will give written reasons for such action upon written request to do so.
- 1.5.2 The employer may not subsequent to the cancellation or abandonment of a tender process or the rejection of all responsive tender offers re-issue a tender covering substantially the same scope of work within a period of six months unless only one tender was received and such tender was returned unopened to the tenderer.

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1.6 Procurement procedures

1.6.1 General

Unless otherwise stated in the tender data, a contract will, subject to **clause 3.13**, be concluded with the tenderer who in terms of **clause 3.11** is the highest ranked or the tenderer scoring the highest number of tender evaluation points, as relevant, based on the tender submissions that are received at the closing time for tenders.

1.6.2 Competitive negotiation procedure

1.6.2.1 Where the tender data require that the competitive negotiation procedure is to be followed, tenderers shall submit tender offers in response to the proposed contract in the first round of submissions. Notwithstanding the requirements of clause 3.4, the employer shall announce only the names of the tenderers who make a submission. The requirements of clause 3.8 relating to the material deviations or qualifications which affect the competitive position of tenderers shall not apply.

1.6.2.2 All responsive tenderers, or not less than three responsive tenderers that are highest ranked in terms of the evaluation method and evaluation criteria stated in the tender data, shall be invited in each round to enter into competitive negotiations, based on the principle of equal treatment and keeping confidential the proposed solutions and associated information. Notwithstanding the provisions of clause 2.17, the employer may request that tenders be clarified, specified and fine-tuned in order to improve a tenderer's competitive position provided that such clarification, specification, fine-tuning or additional information does not alter any fundamental aspects of the offers or impose substantial new requirements which restrict or distort competition or have a discriminatory effect.

1.6.2.3 At the conclusion of each round of negotiations, tenderers shall be invited by the employer to make a fresh tender offer, based on the same evaluation criteria, with or without adjusted weightings. Tenderers shall be advised when they are to submit their best and final offer.

1.6.2.4 The contract shall be awarded in accordance with the provisions of clause 3.11 and clause 3.13 after tenderers have been requested to submit their best and final offer.

2 TENDERER'S OBLIGATIONS

2.1 Eligibility

2.1.1 Submit a tender offer only if the tenderer satisfies the criteria stated in the tender data and the tenderer, or any of his principals, is not under any restriction to do business with employer.

2.1.2 Submit a tender offer only if the tenderer satisfies that the minimum score for functionality criteria will be met.

2.1.3 Notify the employer of any proposed material change in the capabilities or formation of the tendering entity (or both) or any other criteria which formed part of the qualifying requirements used by the employer as the basis in a prior process to invite the tenderer to submit a tender offer and obtain the employer's written approval to do so prior to the closing time for tenders.

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2.2 **Cost of tendering**

Accept that, unless otherwise stated in the tender data, the employer will not compensate the tenderer for any costs incurred in the preparation and submission of a tender offer, including the costs of any testing necessary to demonstrate that aspects of the offer complies with requirements.

2.3 **Check documents**

Check the tender documents on receipt for completeness and notify the employer of any discrepancy or omission.

2.4 **Confidentiality and copyright of documents**

Treat as confidential all matters arising in connection with the tender. Use and copy the documents issued by the employer only for the purpose of preparing and submitting a tender offer in response to the invitation.

2.5 **Reference documents**

Obtain, as necessary for submitting a tender offer, copies of the latest versions of standards, specifications, conditions of contract and other publications, which are not attached but which are incorporated into the tender documents by reference.

2.6 **Acknowledge addenda**

Acknowledge receipt of addenda to the tender documents, which the employer may issue, and if necessary apply for an extension to the closing time stated in the tender data, in order to take the addenda into account.

2.7 **Clarification meeting**

Attend, where required, a clarification meeting at which tenderers may familiarize themselves with aspects of the proposed work, services or supply and raise questions. Details of the meeting(s) are stated in the tender data.

2.8 **Seek clarification**

Request clarification of the tender documents, if necessary, by notifying the employer at least five working days before the closing time stated in the tender data.

2.9 **Insurance**

Be aware that the extent of insurance to be provided by the employer (if any) may not be for the full cover required in terms of the conditions of contract identified in the contract data. The tenderer is advised to seek qualified advice regarding insurance.

2.10 **Pricing the tender offer**

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

2.10.2 Show VAT payable by the employer separately as an addition to the tendered total of the prices.

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- 2.10.3 Provide rates and prices that are fixed for the duration of the contract and not subject to adjustment except as provided for in the conditions of contract identified in the contract data.
- 2.10.4 State the rates and prices in Rand unless instructed otherwise in the tender data. The conditions of contract identified in the contract data may provide for part payment in other currencies.
- 2.10.5 Ensure 100% cover of all assets in the asset register at replacement cost.
- 2.10.6 All tenderers must provide pricing for the tender without aggregate.**

2.11 **Alterations to documents**

Not make any alterations or additions to the tender documents, except to comply with instructions issued by the employer, or necessary to correct errors made by the tenderer. All signatories to the tender offer shall initial all such alterations. Erasures and the use of masking fluid are prohibited.

2.12 **Alternative tender offers**

- 2.12.1 Unless otherwise stated in the tender data, submit alternative tender offers only if a main tender offer, strictly in accordance with all the requirements of the tender documents, is also submitted as well as a schedule that compares the requirements of the tender documents with the alternative requirements that are proposed.
- 2.12.2 Accept that an alternative tender offer may be based only on the criteria stated in the tender data or criteria otherwise acceptable to the employer.

2.13 **Submitting a tender offer**

- 2.13.1 Submit one tender offer only, either as a single tendering entity or as a member in a joint venture to provide the whole of the works, services or supply identified in the contract data and described in the scope of works, unless stated otherwise in the tender data.
- 2.13.2 Return all returnable documents to the employer after completing them in their entirety, either electronically (if they were issued in electronic format) or by writing legibly in non-erasable ink.
- 2.13.3 Submit the parts of the tender offer communicated on paper as an original plus the number of copies stated in the tender data, with an English translation of any documentation in a language other than English, and the parts communicated electronically in the same format as they were issued by the employer.
- 2.13.4 Sign the original and all copies of the tender offer where required In terms of the tender data. The employer will hold all authorized signatories liable on behalf of the tenderer. Signatories for tenderers proposing to contract as joint ventures shall state which of the signatories is the lead partner whom the employer shall hold liable for the purpose of the tender offer.
- 2.13.5 Seal the original and each copy of the tender offer as separate packages marking the packages as "ORIGINAL" and "COPY". Each package shall state on the outside the employer's address and identification details stated in the tender data, as well as the tenderer's name and contact address.
- 2.13.6 Where a two-envelope system is required in terms of the tender data, place and seal the returnable documents listed in the tender data in an envelope marked "financial proposal"

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and place the remaining returnable documents in an envelope marked "technical proposal". Each envelope shall state on the outside the employer's address and identification details stated in the tender data, as well as the tenderer's name and contact address.

2.13.7 Seal the original tender offer and copy packages together in an outer package that states on the outside only the employer's address and identification details as stated in the tender data.

2.13.8 Accept that the employer will not assume any responsibility for the misplacement or premature opening of the tender offer if the outer package is not sealed and marked as stated.

2.13.9 Accept that tender offers submitted by facsimile or e-mail will be rejected by the employer, unless stated otherwise in the tender data.

2.14 **Information and data to be completed in all respects**

Accept that tender offers, which do not provide all the data or information requested completely and in the form required, may be regarded by the employer as non-responsive.

2.15 **Closing time**

2.15.1 Ensure that the employer receives the tender offer at the address specified in the tender data not later than the closing time stated in the tender data. Accept that proof of posting shall not be accepted as proof of delivery

2.15.2 Accept that, if the employer extends the closing time stated in the tender data for any reason, the requirements of these conditions of tender apply equally to the extended deadline.

2.16 **Tender offer validity**

2.16.1 Hold the tender offer(s) valid for acceptance by the employer at any time during the validity period (not less than 90 days) stated in the tender data after the closing time stated in the tender data.

2.16.2 If requested by the employer, consider extending the validity period stated in the tender data for an agreed additional period with or without any conditions attached to such extension.

2.16.3 Accept that a tender submission that has been submitted to the employer may only be withdrawn or substituted by giving the employer's agent written notice before the closing time for tenders that a tender is to be withdrawn or substituted.

2.16.4 Where a tender submission is to be substituted, submit a substitute tender in accordance with the requirements of **clause 2.13** with the packages clearly marked as "SUBSTITUTE".

2.17 **Clarification of tender offer after submission**

2.17.1 Provide clarification of a tender offer in response to a request to do so from the employer during the evaluation of tender offers. This may include providing a breakdown of rates or prices and correction of arithmetical errors by the adjustment of certain rates or item prices (or both). No change in the competitive position of tenderers or substance of the tender offer is sought, offered, or permitted.

Note:

Clause 2.17.1 does not preclude the negotiation of the final terms of the contract with a preferred tenderer following a competitive selection process, should the employer elect to do so.

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2.18 **Provide other material**

2.18.1 Provide, on request by the employer, any other material that has a bearing on the tender offer, the tenderer's commercial position (including notarized joint venture agreements), preferencing arrangements, or samples of materials, considered necessary by the employer for the purpose of a full and fair risk assessment. Should the tenderer not provide the material, or a satisfactory reason as to why it cannot be provided, by the time for submission stated in the employer's request, the employer may regard the tender offer as non-responsive.

2.18.2 Dispose of samples of materials provided for evaluation by the employer, where required.

2.19 **Inspections, tests and analysis**

Provide access during working hours to premises for inspections, tests and analysis as provided for in the tender data.

2.20 **Submit securities, bonds, policies etc.**

If requested, submit for the employer's acceptance before formation of the contract, all securities, bonds, guarantees, policies and certificates of insurance required in terms of the conditions of contract identified in the contract data.

2.21 **Check final draft**

Check the final draft of the contract provided by the employer within the time available for the employer to issue the contract.

2.22 **Return of other tender documents**

If so instructed by the employer, return all retained tender documents within 28 days after the expiry of the validity period stated in the tender data.

2.23 **Certificates**

Include in the tender submission or provide the employer with any certificates as stated in the tender data.

3 **THE EMPLOYER'S UNDERTAKINGS**

3.1 **Respond to requests from the tenderer**

3.1.1 Unless otherwise stated in the tender data, respond to a request for clarification received up to five working days before the tender closing time stated in the tender data and notify all tenderers who drew procurement documents.

3.1.2 Consider any request to make a material change in the capabilities or formation of the tendering entity (or both) or any other criteria which formed part of the qualifying requirements used to prequalify a tenderer to submit a tender offer in terms of a previous procurement process and deny any such request if as a consequence:

- a) an individual firm, or a joint venture as a whole, or any individual member of the joint venture fails to meet any of the collective or individual qualifying requirements;
- b) the new partners to a joint venture were not prequalified in the first instance, either as individual firms or as another joint venture; or
- c) in the opinion of the Employer, acceptance of the material change would compromise the outcome of the prequalification process.

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3.2 **Issue Addenda**

If necessary, issue addenda that may amend or amplify the tender documents to each tenderer during the period from the date that tender documents are available until three days before the tender closing time stated in the tender data. If, as a result a tenderer applies for an extension to the closing time stated in the tender data, the employer may grant such extension and, shall then notify all tenderers who drew documents.

3.3 **Return late tender offers**

Return tender offers received after the closing time stated in the tender data, unopened, (unless it is necessary to open a tender submission to obtain a forwarding address), to the tenderer concerned.

3.4 **Opening of tender submissions**

3.4.1 Unless the two-envelope system is to be followed, open valid tender submissions in the presence of tenderers' agents who choose to attend at the time and place stated in the tender data. Tender submissions for which acceptable reasons for withdrawal have been submitted will not be opened.

3.4.2 Announce at the meeting held immediately after the opening of tender submissions, at a venue indicated in the tender data, the name of each tenderer whose tender offer is opened and, where applicable, the total of his prices, preferences claimed and time for completion for the main tender offer only.

3.4.3 Make available the record outlined in **clause 3.4.2** to all interested persons upon request.

3.5 **Two-envelope system**

3.5.1 Where stated in the tender data that a two-envelope system is to be followed, open only the technical proposal of valid tenders in the presence of tenderers' agents who choose to attend at the time and place stated in the tender data and announce the name of each tenderer whose technical proposal is opened.

3.5.2 Evaluate the quality of the technical proposals offered by tenderers, then advice tenderers who remain in contention for the award of the contract of the time and place when the financial proposals will be opened. Open only the financial proposals of tenderers, who score in the quality evaluation more than the minimum number of points for quality stated in the tender data, and announce the score obtained for the technical proposals and the total price and any preferences claimed. Return unopened financial proposals to tenderers whose technical proposals failed to achieve the minimum number of points for quality.

3.6 **Non-disclosure**

Not disclose to tenderers, or to any other person not officially concerned with such processes, information relating to the evaluation and comparison of tender offers, the final evaluation price and recommendations for the award of a contract, until after the award of the contract to the successful tenderer.

3.7 **Grounds for rejection and disqualification**

Determine whether there has been any effort by a tenderer to influence the processing of tender offers and instantly disqualify a tenderer (and his tender offer) if it is established that he engaged in corrupt or fraudulent practices.

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3.8 **Test for responsiveness**

3.8.1 Determine, after opening and before detailed evaluation, whether each tender offer properly received:

- a) complies with the requirements of these Conditions of Tender,
- b) has been properly and fully completed and signed, and
- c) is responsive to the other requirements of the tender documents.

3.8.2 A responsive tender is one that conforms to all the terms, conditions, and specifications of the tender documents without material deviation or qualification. A material deviation or qualification is one which, in the Employer's opinion, would:

- a) detrimentally affect the scope, quality, or performance of the works, services or supply identified in the Scope of Work,
- b) significantly change the employer's or the tenderer's risks and responsibilities under the contract, or
- c) affect the competitive position of other tenderers presenting responsive tenders, if it were to be rectified.

3.8.3 Reject a non-responsive tender offer, and not allow it to be subsequently made responsive by correction or withdrawal of the non-conforming deviation or reservation.

3.9 **Arithmetical errors, omissions and discrepancies**

3.9.1 Check responsive tenders for discrepancies between amounts in words and amounts in figures. Where there is a discrepancy between the amounts in figures and the amount in words, the amount in words shall govern.

3.9.2 Check the highest ranked tender or tenderer with the highest number of tender evaluation points after the evaluation of tender offers in accordance with **clause 3.11** for:

- a) the gross misplacement of the decimal point in any unit rate;
- b) omissions made in completing the pricing schedule or bills of quantities; or
- c) arithmetic errors in:
 - i) line item totals resulting from the product of a unit rate and a quantity in bills of quantities or schedules of prices; or
 - ii) the summation of the prices.

3.9.3 Notify the tenderer of all errors or omissions that are identified in the tender offer and invite the tenderer to either confirm the tender offer as tendered or accept the corrected total of prices.

3.9.4 Where the tenderer elects to confirm the tender offer as tendered, correct the errors as follows:

- a) If bills of quantities or pricing schedules apply and there is an error in the line item total resulting from the product of the unit rate and the quantity, the line item total shall govern and the rate shall be corrected. Where there is an obviously gross misplacement of the decimal point in the unit rate, the line item total as quoted shall govern, and the unit rate shall be corrected.

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- b) Where there is an error in the total of the prices either as a result of other corrections required by this checking process or in the tenderer's addition of prices, the total of the prices shall govern and the tenderer will be asked to revise selected item prices (and their rates if bills of quantities apply) to achieve the tendered total of the prices.

3.10 **Clarification of a tender offer**

Obtain clarification from a tenderer on any matter that could give rise to ambiguity in a contract arising from the tender offer.

3.11 **Evaluation of Tender Offers**

3.11.1 **General**

Appoint an evaluation panel of not less than three persons. Reduce each responsive tender offer to a comparative offer and evaluate them using the tender evaluation methods and associated evaluation criteria and weightings that are specified in the tender data.

3.11.2 **Methods 1: Financial offer, quality and preference**

In the case of a financial offer, quality and preferences:

- a) Score each tender in respect of the financial offer made, quality and preferences claimed, if any, in accordance with the provisions of **clause 3.11.3, clause 3.11.4 and clause 3.11.5**
- b) Score each of the criteria and sub-criteria for quality in accordance with the provisions of the tender data. Calculate the total number of tender evaluation points for quality using the formula in clause 3.11.5.
- c) Only tender who score the minimum required points will proceed to price and preference evaluation stage.
- d) Score the financial offers of remaining responsive tender offers using the formula in clause 3.11.3.
- e) Calculate the total number of tender evaluation points for preferences claimed in accordance with the provisions of the tender data.
- f) Calculate the total number of tender evaluation points (T_{EV}) in accordance with the following formula:

$$T_{EV} = N_{FO} + N_P$$

where: N_{FO} is the number of tender evaluation points awarded for the financial offer made in accordance with **clause 3.11.3**;

N_P is the number of tender evaluation points awarded for preferences claimed in accordance with **clause 3.11.4**.

- g) Rank tender offers from the highest number of tender evaluation points to the lowest.
- h) Recommend the tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.

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- i) Re-score and re-rank all tenderers should there be compelling and justifiable reasons not to recommend the tenderer with the highest number of tender evaluation points, and recommend the tenderer with the highest number of tender evaluation points, unless there are compelling and justifiable reasons not to do so and the process set out in this sub-clause is repeated

3.11.2 **Decimal places**

Score financial offers, preferences and quality, as relevant, to two decimal places.

3.11.3 **Scoring Financial Offers**

Score the financial offers of remaining responsive tender offers using the following formula:

$$N_{FO} = W_1 \times A$$

where: N_{FO} is the number of tender evaluation points awarded for the financial offer.

W_1 is the maximum possible number of tender evaluation points awarded for the financial offer as stated in the tender data.

A is a number calculated using either formulas 1 or 2 below as stated in the Tender Data.

Formula	Comparison aimed at achieving	Option 1	Option 2
1	Highest price or discount	$A = 1 + \frac{(P-P_m)}{P_m}$	$A = \frac{P}{P_m}$
2	Lowest price or percentage commission / fee	$A = 1 - \frac{(P-P_m)}{P_m}$	$A = \frac{P_m}{P}$
P_m	=	the comparative offer of the most favourable tender offer.	
P	=	the comparative offer of tender offer under consideration	

3.11.4 **Scoring preferences**

Confirm that tenderers are eligible for the preferences claimed in accordance with the provisions of the tender data and reject all claims for preferences where tenderers are not eligible for such preferences.

Calculate the total number of tender evaluation points for preferences claimed in accordance with the provisions of the tender data.

3.11.5 **Scoring quality**

Score each of the criteria and sub criteria for quality in accordance with the provisions of the tender data.

Calculate the total number of tender evaluation points for quality using the following formula:

$$N_Q = W_2 \times S_Q / M_S$$

Where: S_Q is the score for quality allocated to the submission under consideration; M_S is the maximum possible score for quality in respect of a submission; and W_2 is the maximum possible number of tender evaluation points awarded for the quality as stated in the tender data

3.12 **Insurance provided by the employer**

If requested by the proposed successful tenderer, submit for the tenderer's information the policies and / or certificates of insurance which the conditions of contract identified in the contract data, require the employer to provide.

3.13 **Acceptance of tender offer**

Accept the tender offer, if in the opinion of the employer, it does not present any unacceptable commercial risk and only if the tenderer:

- a) is not under restrictions, or has principals who are under restrictions, preventing participating in the employer's procurement,
- b) can, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract,
- c) has the legal capacity to enter into the contract,
- d) is not insolvent, in receivership, bankrupt or being wound up, has his affairs administered by a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings in respect of any of the foregoing,
- e) complies with the legal requirements, if any, stated in the tender data, and
- f) is able, in the opinion of the employer, to perform the contract free of conflicts of interest.

3.14 **Prepare contract documents**

3.14.1 If necessary, revise documents that shall form part of the contract and that were issued by the employer as part of the tender documents to take account of:

- a) addenda issued during the tender period,
- b) inclusion of some of the returnable documents, and
- c) other revisions agreed between the employer and the successful tenderer.

3.14.2 Complete the schedule of deviations attached to the form of offer and acceptance, if any.

3.15 **Complete adjudicator's contract**

Unless alternative arrangements have been agreed or otherwise provided for in the contract, arrange for both parties to complete formalities for appointing the selected adjudicator at the same time as the main contract is signed.

3.16 **Notice to unsuccessful tenderers**

3.16.1 Notify the successful tenderer of the employer's acceptance of his tender offer by completing and returning one copy of the form of offer and acceptance before the expiry of the validity period stated in the tender data, or agreed additional period.

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3.16.2 After the successful tenderer has been notified of the employer's acceptance of the tender, notify other tenderers that their tender offers have not been accepted.

3.16.3 Unsuccessful forms / documents will be disposed of after 24 months.

3.17 **Provide copies of the contracts**

Provide to the successful tenderer the number of copies stated in the tender data of the signed copy of the contract as soon as possible after completion and signing of the form of offer and acceptance.

3.18 **Provide written reasons for actions taken**

Provide upon request written reasons to tenderers for any action that is taken in applying these conditions of tender, but withhold information, which is not in the public interest to be divulged, which is considered to prejudice the legitimate commercial interests of tenderers or might prejudice fair competition between tenderers.

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T2 RETURNABLE DOCUMENTS

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T2.1 LIST OF RETURNABLE DOCUMENTS

1 RETURNABLE SCHEDULES REQUIRED FOR TENDER EVALUATION PURPOSES

- 1.1 Schedule 1 : Resolution of Board of Directors
- 1.2 Schedule 2 : Resolution of Board of Directors to enter into consortia or JV's
- 1.3 Schedule 3 : Special Resolution of Consortia or JV's
- 1.4 Schedule 4 : Schedule of proposed sub-contractors
- 1.5 Schedule 5 : Commitments of tenderer
- 1.6 Schedule 6 : Tenderer's experience evaluation
- 1.7 Schedule 7 : Tenderer's proposed organization, structure and physical resources
- 1.8 Schedule 8 : Tenderer's key staff experience
- 1.9 Schedule 9 : Tenderer's implementation plan for the project
- 1.10 Schedule 10 : Compulsory enterprise questionnaire
- 1.11 Schedule 11 : Clearance certificate for water & lights
- 1.12 Schedule 12 : Registration on Central Supplier Database
- 1.13 Schedule 13 : Record of addenda to tender documents
- 1.14 Schedule 14 : Clarification meeting and attendance certificate
- 1.15 Schedule 13 : Clearance certificate for water and lights
- 1.16 Schedule 14 : Tenderer's registration on the Central Supplier Database

2 COMPULSORY MUNICIPAL BID DOCUMENTATION

- 2.1 MBD 1 : Tax compliance requirements
- 2.2 MBD 4 : Declaration of interest
- 2.3 MBD 5 : Declaration for procurement above R10-million
- 2.4 MBD 6.1 : Preference certificate
- 2.5 MBD 7.2 : Contract form for purchase of goods / works
- 2.6 MBD 7.1 : Contract form for rendering of Services
- 2.7 MBD 8 : Declaration of bidder's past supply chain management practices
- 2.8 MBD 9 : Certificate of Independent Bid Determine

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T2.2 RETURNABLE SCHEDULES

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**T2.2.1 RETURNABLE SCHEDULES FOR TENDER EVALUATION
PURPOSES**

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		BIDDER	WITNESS	EMPLOYER	WITNESS

SCHEDULE 1

RESOLUTION OF BOARD OF DIRECTORS

Resolution of a meeting of the Board of *Directors / Members / Partners of:

(Enterprise Name)	
Held at	(place)
On	(date)

RESOLVED that:

1.	The enterprise submits a bid / tender to the Emalahleni Local Municipality in respect of the following project:	
	TENDER ELM 24/2021 : APPOINTMENT OF A SHORT-TERM INSURANCE BROKER_FOR A PERIOD OF 36 MONTHS	
2.	Mr/Mrs/Ms	
	in his/her capacity a:	(Position in the Enterprise)
	and who will sign as follows:	(Authorized Signature)
be, and is hereby, authorized to sign the bid / tender, and any and all other documents and/or correspondence in connection with and relating to the bid /tender, as well as to sign any contract, and any and all documentation, resulting from the award of the bid / tender to the enterprise mentioned above.		

Directors / Members / Partners of:

	Name	Capacity	Signature
1			
2			
3			
5			

Note:

1. * Delete which is not applicable
2. **NB.** This resolution must be signed by all the Directors / Members / Partners of the Bidding Enterprise
3. Should the number of Directors / Members / Partners exceed the space available above, additional names and signatures must be sup

ENTERPRISE STAMP

TENDER NO.					
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SCHEDULE 2

RESOLUTION OF BOARD OF DIRECTORS TO ENTER INTO CONSORTIA OR JOINT VENTURES

RESOLUTION of a meeting of the Board of *Directors / Members / Partners of:

		(Enterprise Name)
Held at		
	(place)	
On		
	(date)	

RESOLVED that:

1.	The enterprise submits a bid / tender, in consortium / joint venture with the following enterprises: (List all the legally correct full names and registration numbers, if applicable, of the enterprises forming the consortium / joint venture)	
	To the to the Emalahleni Local Municipality in respect of the following project	
	TENDER ELM 24/2021: APPOINTMENT OF A SHORT-TERM INSURANCE BROKER FOR A PERIOD OF 36 MONTHS	
2.	Mr/Mrs/Ms	
	in his/her capacity as	(Position in the Enterprise)
	and who will sign as follows	(Authorized Signature)
2.1	be, and is hereby, authorized to sign a consortium / joint venture agreement with the parties listed under item 1 above, and any and all other documents and/or correspondence in connection with and relating to the consortium / joint venture, in respect of the project described under item 1 above.	
2.2	The enterprise accepts joint and several liability with the parties listed under item 2 above for the due fulfillment of the obligations of the joint venture deriving from, and in any way connected with, the contract to be entered into with the department in respect of the project described under item 1 above.	
2.3	The enterprise chooses as its <i>domicilium citandi et executandi</i> for all purposes arising from this joint venture agreement and the contract with the department in respect of the project under item 1 above	
	i) Physical address	
	ii) Postal address	
		(Code)
	iii) Telephone number	
	iv) Fax Number	

TENDER NO.	BS19/03/2018			
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BIDDER

WITNESS

EMPLOYER

WITNESS

RESOLUTION OF BOARD OF DIRECTORS TO ENTER INTO CONSORTIA OR JOINT VENTURES

Directors / Members / Partners of:

	Name	Capacity	Signature
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			

Note:

1. *Delete which is not applicable*
2. **NB.** *This resolution must be signed by all the Directors / Members / Partners of the Bidding Enterprise*
3. *Should the number of Directors / Members / Partners exceed the space available above, additional names and signatures must be supplied on a separate page*

Enterprise Stamp

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BIDDER

WITNESS

EMPLOYER

WITNESS

SCHEDULE 3

SPECIAL RESOLUTION OF CONSORTIA OR JOINT VENTURES

RESOLUTION of a meeting of the duly authorized representatives of the following legal entities who have entered into a consortium/joint venture to jointly bid for the project mentioned below:

	Legal Entities (Enterprise) Name	Entity Registration Number	Authorized Signature
1			
2			
3			
4			

Held at	
	(place)
On	
	(date)

RESOLVED that:

1.	The above-mentioned enterprises submit a bid in consortium / joint venture to the Emalahleni Municipality in respect of the following project	
	TENDER. ELM 24/2021: APPOINTMENT OF A SHORT-TERM INSURANCE BROKER FOR A PERIOD OF 36 MONTHS	
2.	Mr/Mrs/Ms	
	in his/her capacity as	(Position in the Enterprise)
	and who will sign as follows	(Authorized Signature)
<p>be, and is hereby, authorized to sign the bid, and any and all other documents and/or correspondence in connection with and relating to the bid, as well as to sign any contract, and any and all documentation, resulting from the award of the bid to the enterprises in consortium /joint venture mentioned above.</p>		

(a) The enterprises constituting the consortium / joint venture, notwithstanding its composition, shall conduct all business under the name and style of:

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- (b) The enterprises to the consortium / joint venture accept joint and several liabilities for the due fulfillment of the obligations of the consortium / joint venture deriving from, and in any way connected with, the contract entered into with the municipality in respect of the project described under item 1 above.

Any of the enterprises to the consortium / joint venture intending to terminate the consortium / joint venture agreement, for whatever reason, shall give the department 30 days written notice of such intention. Notwithstanding such decision to terminate, the enterprises shall remain jointly and severally liable to the

- (c) municipality for the due fulfillment of the obligations of the consortium / joint venture as mentioned under item C above.
- (d) No enterprise to the consortium / joint venture shall, without the prior written consent of the other enterprises to the consortium / joint venture and of the municipality, cede any of its rights or assign any of its obligations under the consortium / joint venture agreement in relation to the contract with the municipality referred to herein.
- (e) The enterprises choose as the *domicilium citandi et executandi* of the consortium / joint venture for all purposes arising from the consortium / joint venture agreement and the contract with the municipality in respect of the project under item A above:

Physical address	
Postal address	
	(Code)
Telephone number	
Fax Number	

Note

1. Delete which is not applicable
2. **NB.** This resolution must be signed by all the duly authorized representatives of the Legal Entities to the consortium / joint venture submitting this bid
3. Should the number of duly authorized representatives of the legal entities joining forces in this Bid exceed the space available above, additional names and signatures must be supplied on a separate page
4. Resolutions, duly completed and signed, from the separate enterprises who participate in this consortium / joint venture must be attached to the special resolution.

SCHEDULE 4

SCHEDULE OF PROPOSED SUB-CONTRACTORS

We notify you that it is our intention to employ the following sub-contractors for work in this contract. If we are awarded a contract we agree that this notification does not change the requirement for us to submit the names of proposed sub-consultants in accordance with requirements in the contract for such appointments. If there are no such requirements in the contract, then your written acceptance of this list shall be binding between us. We agree we will not subcontract more than 25% of the value of the contract to a person who is not an HDI or does not qualify for such preference.

	Name and address of proposed sub-contractor	Nature and extent of work	Previous experience with sub-contractor
1	N/A		
2			
3			
4			
5			

NAME OF REPRESENTATIVE	SIGNATURE	CAPACITY	DATE

NAME OF ORGANIZATION	
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SCHEDULE 5

COMMITMENTS OF TENDERER

Kindly provide particulars of commitments which the tenderer is presently engaged and/or involved with:

	Current Projects / Contract	Organization	Contact Person Name	Contact Tel. No.	Contract Amount	Contract Period	Date of Commence-ment	Scheduled Date of Completion
1.								
2.								
3.								
4.								
5.								

NAME OF REPRESENTATIVE	SIGNATURE	DATE

TENDER NO.	BS19/03/2018				
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SCHEDULE 6

EVALUATION SCHEDULE: TENDERER'S EXPERIENCE

The experience of the tenderer as opposed to the key staff members / experts in similar projects or similar areas and conditions in relation to the scope of work will be evaluated.

1. Has the organisation been appointed as a short term insurance broker on a municipal portfolio? (Tenderers should very briefly describe his or her experience in this regard and attach this to this schedule).

The description should be put in tabular form with the following headings:

Employer	Contact person and telephone number	Service Rendered	Value of service rendered inclusive of VAT (Rand)	Contract period, applicable dates

The scoring of the tenderer's experience will be as follows:

Non-responsive (score 0)	Tenderer has no experience as an insurance broker in the municipal environment or no information has been provided (zero years)
Poor (score 5)	Tenderer has limited experience as an insurance broker in the municipal environment (less than or equal to 1(one) year)
Satisfactory (score 10)	Tenderer has relevant experience but has not dealt sufficiently as insurance broker in the municipal environment. (between (1) one and (3) three years)
Good (score 15)	Tenderer has extensive experience as an insurance broker in the municipal environment (between (3) three and (6) six years)
Very good (score 20)	Tenderer has outstanding experience as insurance broker in the municipal environment (> 6 (six) years)

Portfolio Value	Maximum Evaluation Points	Points Allocated
2. Have you handled an insurance portfolio in excess of R 2 billion? (Data to be provided in previous question)		
Portfolio value handled more than R 5 billion	5	
Portfolio value handled between R 1 billion and R 5 billion	3	
Portfolio value handled between R 500 million and R 1 billion	1	
Portfolio value handled less than R 500 million	0	

The undersigned, who warrants that he/she is duly authorised to do so on behalf of the enterprise, confirms that the contents of this schedule are within my personal knowledge and are to the best of my belief both true and correct.

Signed: _____

Date: _____

Name: _____

Position: _____

TENDER NO.	BS19/03/2018			
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SCHEDULE 7

EVALUATION SCHEDULE: ORGANISATION, STRUCTURE AND PHYSICAL RESOURCES

LOCATION	Maximum evaluation points	Points allocated
1. Is the organisation a South African based short term insurance broker: (Attach Company Profile)		
Nationally based office	5	
No information provided	0	

ONLINE CLAIM SYSTEM	Maximum evaluation points	Points allocated
2. Does the organisation have an online claim system? (Proof of 2 claims submitted through an online system and responses from the organization)		
With an online claim system	5	
Without online claim system	0	

INDEMNITY COVER	Maximum evaluation points	Points allocated
3. Do you have professional indemnity cover to a minimum value of R 50 million (attach a copy)		
Professional indemnity cover (R 50 million and above)	5	
Professional indemnity cover (between R 30 and R 50 million)	3	
Professional indemnity cover (less than R 30 million)	0	

FIDELITY COVER	Maximum evaluation points	Points allocated
4. Do you have fidelity guarantee cover to a minimum value of R 50 million (attach a copy)		
Fidelity guarantee cover (R 50 million and above)	5	
Fidelity guarantee cover (between R 30 and R 50 million)	3	
Fidelity guarantee cover (less than R 30 million)	0	

FINANCIAL SERVICES BOARD	Maximum evaluation points	Points allocated
5. Is the organisation registered with the Financial Services Board and Financial Intermediaries Association of South Africa or any other reputable association recognised by the FSB to be considered for this type of tender? (attach proof)		
FSB and FIA/other association registered	10	
Not FSB and FIA/other association registered	0	

TENDER NO.	BS19/03/2018				
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Signed: _____

Date: _____

Name: _____

Position: _____

TENDER NO.	BS19/03/2018				
		BIDDER	WITNESS	EMPLOYER	WITNESS

SCHEDULE 8

EVALUATION SCHEDULE: EXPERIENCE OF KEY STAFF

The tenderer should propose the structure and composition of their team i.e. the main disciplines involved, the key staff member/ expert responsible for each discipline, and the proposed technical and support staff. The roles and responsible of each key staff member/ expert should be set out as job descriptions.

Experience of the key staff (assigned personnel) in relation to the scope of work will be evaluated from three different points of view:

- 1) General experience (total duration of professional activity), level of education and training and positions held of each staff member/ expert member.
- 2) The education, training and experience of the key staff members/ experts, in the specific sector, field, subject, etc. which is directly linked to the scope of work.
- 3) The key staff members/ experts knowledge of issues which the tenderer considers pertinent to the project e.g. local conditions, affected communities, legislation, techniques etc.

The tenderer must attach the organisation's organogram and a CV of not more than 2 pages of each member that will be part of the team assigned to this project. The CV should be structured under the following headings:

1. Personal particulars
 - Name
 - Date and place of birth
 - Place(s) of tertiary education and dates associated therewith
 - Professional awards
2. Qualifications (degrees, diplomas, grades of membership of professional societies and professional registrations)
3. Name of current employer and position in enterprise
4. Overview of postgraduate/ diploma experience (year, organisation and position)
5. Outline of recent assignments/ experience that has a bearing on the scope of work

The scoring of the experience of key staff will be as follows:

	Qualifications:	Years of experience:
Project Manager (max 6 points)	Minimum BCom degree Insurance& Risk Management and Fais accredited	At least 10 years of experience and above: 6 points 5 – 9 years of experience: 3 points. 1 – 4 years of experience: 1 points.
Qualified Claims Manager (max 4 points)	Minimum of BCom degree and FAIS accredited	At least 6 years of experience and above: 4 points 3 – 5 years of experience: 2 points. 1 – 2 years of experience: 1 points.
Underwriting Managers x2 (Max 3 points)	Minimum Diploma and Fais accredited (NQF Level 5 Certificate)	At least 5 years of experience and above: 3 points 1 – 4 years of experience: 1 points.
Vendor Procurement Manager (Max 2 points)	Minimum BCom degree	At least 5 years of experience and above: 2 points 1 – 4 years of experience: 1 points.

The undersigned, who warrants that he/she is duly authorised to do so on behalf of the enterprise, confirms that the contents of this schedule are within my personal knowledge and are to the best of my belief both true and correct.

Signed: _____

Date: _____

Name: _____

Position: _____

SCHEDULE 9

IMPLEMENTATION PLAN & METHODOLOGY TO IMPLEMENT THE PROJECT

NB: Only bidders who score a minimum of 70 points will be further evaluated on price and BBEE.

The tenderer should describe briefly the process and methodology which will be followed to implement the project with key timeframes. The main disciplines and roles of responsibilities must be highlighted and indicate the technical support that will be provided on the project etc. The information must be attached to the tender document.

METHODOLOGY APPROACH AND IMPLEMENTATION PLAN		
Demonstrate approach and methodology of project implementation applied on similar project executed by your company in the past 6 years		Maximum Points - 30
Methodology Comprehensive and detailed		Max 10 points
Implementation Plan Work breakdown structure= 10 points Time-bound indicators = 10 points		Max 20 points

The undersigned, who warrants that he / she is duly authorized to do so on behalf of the enterprise, confirms that the contents of this schedule are within my personal knowledge and are to the best of my belief both true and correct.

SIGNED AT	AUTHORIZED SIGNATURE (UNDERSIGNED)
DATE	NAME AND CAPACITY

TENDER NO.	BS19/03/2018				
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SCHEDULE 10

RECORD OF ADDENDA TO TENDER DOCUMENTS

I / we confirm that the following communications received from the Emalahleni Municipality before the submission of this tender offer, amending the tender documents, have been taken into account in this tender offer: *(Attach additional pages if more space is required)*

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

I / we confirm that no communications were received from the Emalahleni Municipality before the submission of this tender offer, amending the tender documents.

NAME OF REPRESENTATIVE	SIGNATURE	DATE

TENDER NO.	BS19/03/2018				
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SCHEDULE 11

CLARIFICATION MEETING ATTENDANCE CERTIFICATE

This is to certify that, I	
Representing	
in the company of	
attended the clarification meeting on	

I have made myself familiar with all conditions likely to influence the work and the cost thereof. I further certify that I am satisfied with the description of the work and explanations given at the clarification meeting and that I understand perfectly the work to be done, as specified and implied, in the execution of this contract.

NAME OF REPRESENTATIVE	SIGNATURE	DATE

NAME OF MUNICIPAL REPRESENTATIVE	SIGNATURE	DATE

TENDER NO.	BS19/03/2018				
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SCHEDULE 12

COMPULSORY ENTERPRISE QUESTIONNAIRE

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

Section 1: Name of enterprise

Section 2: VAT registration number, if any

Section 3: Particulars of sole proprietors and partners in partnerships

No	Name*	Identity Number*	Personal Income Tax Number*
3.1			
3.2			
3.3			

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

Section 4: Particulars of companies and close corporations

4.1	Company Registration number	
4.2	Close corporation number	
4.3	Tax reference number	

Section 5: Record in the service of the state

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

A member of any municipal council		An employee of any provincial department, national or provincial public entity or constitutional institution within the meaning of the Public finance Management Act, 1999 (Act 1 of 1999)	
A member of any provincial legislation		A member of an accounting authority of any national or provincial public entity	
A member of the National Assembly or the National Council of Province		An employee of Parliament or a provincial legislature	
A member of the board of directors of any municipal entity		An official of any municipality or municipal entity	

TENDER NO.	BS19/03/2018				
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Name of sole proprietor, partner in a partnership or director, manager, principal shareholder or stakeholder	Name of institution, public office, board or organ of state and position held	Status of service (tick appropriate column)	
		Current	Within last 12 months

Section 6: Records of spouses, children and parents in the service of the state

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

A member of any municipal council		An employee of any provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management act, 1999 (act 1 of 1999)	
A member of any provincial legislature		A member of an accounting authority of any national or provincial public entity	
A member of the National Assembly or the National Council of Province.		An employee of Parliament or a provincial legislature	
A member of the board of directors of any municipal entity		An official of any municipality or municipal entity	

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

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

- i) authorizes the Employer to obtain a tax clearance certificate from the South African Revenue Services that my / our tax matters are in order;
- ii) confirms that the neither the name of the enterprise or the name of any partner, manager, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears on the Register of Tender Defaulters established in terms of the Prevention and Combating of Corrupt Activities Act of 2004.
- iii) confirms that no partner, member, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears, has within the last five years been convicted of frauds or corruption;
- iv) confirms that I / we are not associated, linked or involved with any other tendering entities submitting tender offers and have no other relationship with any of the tenderers or those responsible for compiling the scope of work that could cause or be interpreted as a conflict of interest; and
- v) confirms that the contents of this questionnaire are within my personal knowledge and are to the best of my belief both true and correct.

Note: insert separate page if necessary

TENDER NO.	BS19/03/2018				
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NAME OF REPRESENTATIVE	AUTHORIZED SIGNATURE (UNDERSIGNED)
CAPACITY	DATE

TENDER NO.	BS19/03/2018				
		BIDDER	WITNESS	EMPLOYER	WITNESS

SCHEDULE 13

CLEARANCE CERTIFICATE FOR WATER & LIGHTS

Section 45(1)(d) of Municipal Supply Chain Regulations requires that the municipality must reject a bidder whose municipal rates and taxes are in arrears for more than three months.

The purpose of this schedule is to obtain proof that municipal services, rates and taxes of the service provider are not in arrears for more than three months, with the relevant municipality / landlord in the municipal area where the service provider conduct his / her business.

Each bidder must complete the below checklist. Important: if you fail to complete this form, the bid will be non-responsive. (Please tick with **X** where appropriate):

QUESTIONS		YES	NO
1.	Is your municipal rates and taxes account up to date / current (not in arrears for more than three months)?		
2.	If yes, provide the following details:		
2.1	▪ Municipality name		
2.2	▪ Municipal account number		
3.	If yes, please attached proof in the form of the original or certified copy of the bidder's municipal rates and taxes account not older than 3 months		
4.	Does the bidder lease / rent the property where the business is situated?		
5.	If yes, provide the following details:		
5.1	▪ Landlord name		
5.2	▪ Address property is situated		
5.3	▪ Contact number of landlord		
6.	Please attach the copy of the lease agreement signed by the landlord / lessor and the tenant / lessee as proof		
I, (Insert full name)			
of (insert physical address)			
being a Director, Principal Shareholder, owner of company (Insert company name)			
Hereby confirms that, the information submitted in this form is accurate, to the best of my knowledge			
SIGNATURE			

SCHEDULE 14

NOTICE OF SUPPLY CHAIN MANAGEMENT APPLICATION FOR REGISTRATION ON CENTRAL SUPPLIER DATABASE

Par 14(1)(a) of the municipal supply chain management policy states that the municipality must keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements.

The purpose of this notice is to obtain proof that the service provider is registered on the Central Supplier Database. **Registration is COMPULSORY in order to conduct business with Emalahleni Local Municipality.** The database will be used to verify the accreditation of a supplier before an award can be made.

Each bidder must complete the below checklist (please tick with an X where appropriate).

QUESTIONS		YES	NO
1.	Is your company registered on the Central Supplier Database?		
2.	If yes, provide the following details:		
2.1	▪ CSD registration number	MAAA	
2.2	▪ Unique CSD number		
3.	Enquiries related to par. 2.1 and 2.2 can be made to Ms. Zinhle Moruku or Connie Mashego at (013) 690 6487 / 690 6484		
4.	If no, please register on Central Supplier Database ,website, www.csd.gov.za , before submitting tender document		
I, (insert full name)			
of (insert physical address)			
being a Director, Principal Shareholder, owner of company (insert company name)			
hereby confirms that, the information submitted in this form is accurate, to the best of my knowledge			
SIGNATURE			
5.	VERIFICATION BY EMALAHLENI LOCAL MUNICIPALITY OFFICIAL		
I, (insert full name)			
in the capacity as			
hereby confirms that the information submitted by the service provider was verified with the Central Supplier Database and found as correct to be the best of my knowledge			
SIGNATURE			

T2.2.2 COMPULSORY MUNICIPAL BID DOCUMENT

TENDER NO.	BS19/03/2018				
		BIDDER	WITNESS	EMPLOYER	WITNESS

MBD 1

1. TAX COMPLIANCE REQUIREMENTS

1. Bidders must ensure compliance with their tax obligations.
2. Bidders are required to submit their unique personal identification number(PIN) issued by SARS to enable Organ of state to view the taxpayer's profile and tax status.
3. Application for the tax compliance status (TCS) certificate or PIN may 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
4. Foreign suppliers have must complete the pre-award questionnaire in part 2.
5. Bidders may also submit a printed TCS certificate together with the bid.
6. In bids where Consortia / Joint Ventures / Sub-contractors are involved, each party must submit a separate TCS certificate / pin / CSD number.
7. Where no TCS is available but the bidder is registered on the Central Supplier Database (CSD), a CSD number must be provided.

2. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

- | | |
|---|----------|
| 1. Is the entity a resident of the Republic of South Africa? | YES / NO |
| 2. Does the entity have a branch in the RSA? | YES / NO |
| 3. Does the entity have a permanent establishment in the RSA? | YES / NO |
| 4. Does the entity have any source of income in RSA? | YES / NO |
| 5. Is the entity liable in the RSA for any form of Taxation? | YES / NO |

(IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM SARS AND IF NOT REGISTER AS PER 1.3. ABOVE)

NB: Failure to provide any of the above particulars may render the bid invalid.

.....
Signature of BIDDER

.....
Date

.....
Capacity under which this bid is signed

MBD 4

DECLARATION OF INTEREST

1. No bid will be accepted from persons in the service of the state¹.
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.

No.	Information	Please provide detail	
3.1	Full name of bidder or his or her representative		
3.2	Identity number		
3.3	Position occupied in the company (director, trustee, hareholder ²)		
3.4	Company registration number		
3.5	Tax reference number		
3.6	VAT registration number		
Note	<i>(The names of all directors / trustees / shareholders members, their individual identity numbers and state employee numbers must be indicated in paragraph 4 below.)</i>		
3.7	Are you presently in the service of the state? If yes, please furnish particulars :	Yes	No
3.7.1	Name of director		
3.7.2	Service of state organization		

3.8	Have you been in the service of the state for the past twelve months? If yes, please furnish particulars :	Yes	No
3.8.1	Name of director		
3.8.2	Service of state organization		
3.9	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? If yes, please furnish particulars :	Yes	No
3.9.1	Name of person in the service of state		
3.9.2	Relationship		
3.10	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? If yes, please furnish particulars :	Yes	No
3.10.1	Name of person in the service of state		
3.10.2	Relationship		
3.11	<i>Are any of the company's directors, trustees, managers, principle shareholders or stakeholders in service of the state?</i> If yes, please furnish particulars :	Yes	No
3.11.1	Name of director		
3.11.2	Service of state organization		
3.12	Is any spouse, child or parent of the company's director trustees, managers, principle shareholders or stakeholders in service of the state? If yes, please furnish particulars:	Yes	No
3.12.1	Name of director		
3.12.2	Name of relative		

3.12.3	Relationship		
3.13	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? If yes, please furnish particulars:	Yes	No
3.13.1	Name of director		
3.13.2	Related company		
Note:	<p>SCM Regulations:</p> <p>“¹In the service of the state” means to be –</p> <ul style="list-style-type: none"> (a) a member of – <ul style="list-style-type: none"> (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. <p>“² Shareholder” means a person who owns shares in the company and is actively involved in the management of the company or business and exercises control over the company.</p>		

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

Full Name	Identity Number	State Employee Number

5. I, the undersigned certify that the information furnished on this declaration form is correct.

I accept that the state may act against me should this declaration prove to be false.

NAME OF REPRESENTATIVE	AUTHORIZED SIGNATURE (UNDERSIGNED)
DATE	CAPACITY

TENDER NO.	BS19/03/2018				
		BIDDER	WITNESS	EMPLOYER	WITNESS

MBD 5

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

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

		Tick applicable box	
1.	Are you by law required to prepare annual financial statements for auditing?	Yes	No
1.1	If yes, submit audited annual financial statements for the past three years or since the date of establishment if established during the past three years.	Yes	No
2.	Do you have any outstanding undisputed commitments for municipal services towards any municipality for more than three months or any other service provider in respect of which payment is overdue for more than 30 days?	Yes	No
2.1	If no, this serves to certify that the bidder has no undisputed commitments for municipal services towards any municipality for more than three months or other service provider in respect of which payment is overdue for more than 30 days.	Yes	No
2.2	If yes, provide particulars:		
3.	Has any contract been awarded to you by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract?	Yes	No
3.1	If yes, provide particulars:		
4.	Will any portion of goods or services be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality / municipal entity is expected to be transferred out of the Republic?	Yes	No
4.1	If yes, provide particulars:		

TENDER NO.	BS19/03/2018				
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BIDDER

WITNESS

EMPLOYER

WITNESS

CERTIFICATION

I, the undersigned certify that the information furnished on this declaration form is correct.

I accept that the state may act against me should this declaration prove to be false.

NAME OF REPRESENTATIVE	AUTHORIZED SIGNATURE (UNDERSIGNED)
DATE	CAPACITY

TENDER NO.	BS19/03/2018				
		BIDDER	WITNESS	EMPLOYER	WITNESS

MBD 6.1

BROAD-BASED BLACK ECONOMIC EMPOWERMENT (B-BBEE) STATUS LEVEL CERTIFICATES

Bidders are required to submit original and valid B-BBEE Status Level Verification Certificates or certified copies thereof together with their bids, to substantiate their B-BBEE rating claims.

Bidders who do not submit B-BBEE Status Level Verification Certificates or are non-compliant contributors to B-BBEE do not qualify for preference points for B-BBEE but should not be disqualified from the bidding process. They will score points for out of 90 or 80 for price only and **zero** points out of 10 or 20 for B-BBEE.

TENDER NO.	BS19/03/2018				
		BIDDER	WITNESS	EMPLOYER	WITNESS

MBD 6.1

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017

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

NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.

1. GENERAL CONDITIONS

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

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

1.2

- a) The value of this bid is estimated to exceed R50 000 000 (all applicable taxes included) and therefore the 90/10 preference point system shall be applicable; or
- b) The 90/10 preference point system will be applicable to this tender. Points for this bid shall be awarded for:

- (a) Price; and
- (b) B-BBEE Status Level of Contributor.

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

	POINTS
PRICE	90
B-BBEE STATUS LEVEL OF CONTRIBUTOR	10
Total points for Price and B-BBEE must not exceed	100

1.4 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

1.5 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.

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

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:.....

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

8.9 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
 - (a) disqualify the person from the bidding process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution.

WITNESSES	
1.
2.

.....	
SIGNATURE(S) OF BIDDERS(S)	
DATE:
ADDRESS

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		BIDDER	WITNESS	EMPLOYER	WITNESS

MBD 6.2

DECLARATION CERTIFICATE FOR LOCAL PRODUCTION AND CONTENT FOR DESIGNATED SECTORS

This municipal bidding document (MBD) must form part of all bids invited. It contains general information and serves as a declaration form for local content (local production and local content are used interchangeably).

Before completing this declaration, bidders must study the general conditions, definitions, directives applicable in respect of local content as prescribed in the Preferential Procurement Regulations, 2011 and the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:2011 (Edition 1) and the Guidance on the Calculation of Local Content together with the Local Content Declaration Templates [Annex C (Local Content Declaration: Summary Schedule), D (Imported Content Declaration: Supporting Schedule to Annex C) and E (Local Content Declaration: Supporting Schedule to Annex C)].

1. General Conditions

- 1.1. Preferential Procurement Regulations, 2011 (Regulation 9) makes provision for the promotion of local production and content.
- 1.2. Regulation 9.(1) prescribes that in the case of designated sectors, where in the award of bids local production and content is of critical importance, such bids must be advertised with the specific bidding condition that only locally produced goods, services or works or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered.
- 1.3. Where necessary, for bids referred to in paragraph 1.2 above, a two stage bidding process may be followed, where the first stage involves a minimum threshold for local production and content and the second stage price and B-BBEE.
- 1.4. A person awarded a contract in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- 1.5. The local content (LC) expressed as a percentage of the bid price must be calculated in accordance with the SABS approved technical specification number SATS 1286: 2011 as follows:

$$LC = [1 - x / y] * 100$$

Where

x is the imported content in Rand

y is the bid price in Rand excluding value added tax (VAT)

Prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by the South African Reserve Bank (SARB) at 12:00 on the date of advertisement of the bid as required in paragraph 4.1 below.

The SABS approved technical specification number SATS 1286:2011 is accessible on [http://www.thedti.gov.za/industrial development/ip.jsp](http://www.thedti.gov.za/industrial%20development/ip.jsp) at no cost.

- 1.6. A bid may be disqualified if this Declaration Certificate and the Annex C (Local Content Declaration: Summary Schedule) are not submitted as part of the bid documentation;

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		BIDDER	WITNESS	EMPLOYER	WITNESS

2. **Definitions**

- 2.1. **“bid”** includes written price quotations, advertised competitive bids or proposals;
- 2.2. **“bid price”** price offered by the bidder, excluding value added tax (VAT);
- 2.3. **“contract”** means the agreement that designated results from the acceptance of a bid by an organ of state;
- 2.4. **“designated sector”** means a sector, sub-sector or industry that has been by the Department of Trade and Industry in line with national development and industrial policies for local production, where only locally produced services, works or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content;
- 2.5. **“duly sign”** means a Declaration Certificate for Local Content that has been signed by the Chief Financial Officer or other legally responsible person nominated in writing by the Chief Executive, or senior member / person with management responsibility (close corporation, partnership or individual).
- 2.6. **“imported content”** means that portion of the bid price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its subcontractors) and which costs are inclusive of the costs abroad (this includes labour and intellectual property costs), plus freight and other direct importation costs, such as landing costs, dock duties, import duty, sales duty or other similar tax or duty at the South African port of entry;
- 2.7. **“local content”** means that portion of the bid price which is not included in the imported content, provided that local manufacture does take place;
- 2.8. **“stipulated minimum threshold”** means that portion of local production and content as determined by the Department of Trade and Industry; and
- 2.9. **“sub-contract”** means the primary contractor’s assigning, leasing, making out work to, or employing another person to support such primary contractor in the execution of part of a project in terms of the contract.

3. **The stipulated minimum threshold(s) for local production and content (refer to Annex A of SATS 1286:2011) for this bid is/are as follows:**

<u>Description of services, works or goods</u>	<u>Stipulated minimum threshold</u>
_____	_____ %
_____	_____ %
_____	_____ %

4. Does any portion of the services, works or good offered have any imported content?

(tick applicable box)

YES		NO	
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- 4.1 If yes, the rate(s) of exchange to be used in this bid to calculate the local content as prescribed in paragraph 1.5 of the general conditions must be the rate(s) published by the SARB for the specific currency at 12:00 on the date of advertisement of the bid.

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The relevant rates of exchange information is accessible on www.reservebank.co.za

Indicate the rate(s) of exchange against the appropriate currency in the table below (refer to Annex A of SATS 1286:2011):

Currency	Rates of exchange
US Dollar	
Pound Sterling	
Euro	
Yen	
Other	

NB: Bidders must submit proof of the SARB rate (s) of exchange used.

5. Where, after the award of a bid, challenges are experienced in meeting the stipulated minimum threshold for local content the dti must be informed accordingly in order for the dti to verify and in consultation with the Accounting Officer / Accounting Authority provide directives in this regard.

**LOCAL CONTENT DECLARATION
(REFER TO ANNEX B OF SATS 1286:2011)**

LOCAL CONTENT DECLARATION BY CHIEF FINANCIAL OFFICER OR OTHER LEGALLY RESPONSIBLE PERSON NOMINATED IN WRITING BY THE CHIEF EXECUTIVE OR SENIOR MEMBER/PERSON WITH MANAGEMENT RESPONSIBILITY (CLOSE CORPORATION, PARTNERSHIP OR INDIVIDUAL)

IN RESPECT OF BID NO. _____

ISSUED BY Procurement Authority / Name of Municipality / Municipal Entity

NB:

- 1 The obligation to complete, duly sign and submit this declaration cannot be transferred to an external authorized representative, auditor or any other third party acting on behalf of the bidder.
- 2 Guidance on the Calculation of Local Content together with Local Content Declaration Templates (Annex C, D and E) is accessible on http://www.thedti.gov.za/industrial_development/ip.jsp. Bidders should first complete Declaration D. After completing Declaration D, bidders should complete Declaration E and then consolidate the information on Declaration C. **Declaration C should be submitted with the bid documentation at the closing date and time of the bid in order to substantiate the declaration made in paragraph (c) below.** Declarations D and E should be kept by the bidders for verification purposes for a period of at least 5 years. The successful bidder is required to continuously update Declarations C, D and E with the actual values for the duration of the contract.

I, the undersigned, _____ (full names),

do hereby declare, in my capacity as _____

of _____ (name of bidder entity),

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the following:

- The facts contained herein are within my own personal knowledge.
- I have satisfied myself that:
 1. the goods/services/works to be delivered in terms of the above-specified bid comply with the minimum local content requirements as specified in the bid, and as measured in terms of SATS 1286:2011;.
- The local content percentages (%) indicated below has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E which has been consolidated in Declaration C.

Bid price, excluding VAT (y)	R
Imported content (x), as calculated in terms of SATS 1286:2011	R
Stipulated minimum threshold for local content (paragraph 3 above)	
Local content %, as calculated in terms of SATS 1286:2011	

If the bid is for more than one product, the local content percentages for each product contained in Declaration C shall be used instead of the table above. The local content percentages for each product has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E.

- (a) I accept that the Procurement Authority / Municipality / Municipal Entity has the right to request that the local content be verified in terms of the requirements of SATS 1286:2011.
- (b) I understand that the awarding of the bid is dependent on the accuracy of the information furnished in this application. I also understand that the submission of incorrect data, or data that are not verifiable as described in SATS 1286:2011, may result in the Procurement Authority / Municipal / Municipal Entity imposing any or all of the remedies as provided for in Regulation 13 of the Preferential Procurement Regulations, 2011 promulgated under the Preferential Policy Framework Act (PPPFA), 2000 (Act No. 5 of 2000).

SIGNATURE		DATE	
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WITNESS NO. 1		DATE	
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WITNESS NO. 2		DATE	
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MBD 7.1

CONTRACT FORM – PURCHASE OF GOODS / WORKS

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

PART 1 (TO BE FILLED IN BY THE BIDDER)

10. I hereby undertake to supply all or any of the goods and/or works described in the attached bidding documents to Emalahleni Local Municipality in accordance with the requirements and task directives / proposals specifications stipulated in bid number **BS19/03/2018** at the price/s quoted. My offer/s remains binding upon me and open for acceptance by the purchaser during the validity period indicated and calculated from the closing date of the bid.
1. The following documents shall be deemed to form and be read and construed as part of this agreement:
- 2.1 Bidding documents, viz
 - Invitation to bid;
 - Tax clearance certificate;
 - Pricing schedule(s);
 - Technical specification(s);
 - Preference claims for Broad Based Black Economic Empowerment Status Level of Contribution in terms of the Preferential Procurement Regulations 2011;
 - Declaration of interest;
 - Declaration of Bidder's past SCM practices;
 - Certificate of Independent Bid Determination;
 - Special Conditions of Contract;
 - 1.2 General Conditions of Contract;
 - 1.3 Other (specify)
2. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the services specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
3. I accept full responsibility for the proper execution and fulfillment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfillment of this contract.
4. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
5. I confirm that I am duly authorized to sign this contract.

SIGNED AT	AUTHORIZED SIGNATURE (UNDERSIGNED)
DATE	NAME AND CAPACITY
WITNESSES: (SIGNATURE)	DATE
1.	
2.	

TENDER NO.	BS19/03/2018				
		BIDDER	WITNESS	EMPLOYER	WITNESS

MBD 7.2

CONTRACT FORM - RENDERING OF SERVICES

THIS FORM MUST BE FILLED IN BY BOTH THE SERVICE PROVIDER (PART 1) AND THE EMPLOYER / MUNICIPALITY (PART 2) AND SIGNED IN THE ORIGINAL.

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

- I hereby undertake to render the services as described in the attached bidding documents to Emalahleni Local Municipality in accordance with the requirements and task directives / proposals specifications stipulated in bid number ELM 24/2021 at the price/s quoted. My offer/s remains binding upon me and open for acceptance by the Employer / Municipality during the validity period indicated and calculated from the closing date of the bid.
1. The following documents shall be deemed to form and be read and construed as part of this agreement:
 - 2.1 Bidding documents, viz
 - Invitation to bid;
 - Tax clearance certificate;
 - Pricing schedule(s);
 - Filled in task directive/proposal;
 - Preference claims for Broad Based Black Economic Empowerment Status Level of Contribution in terms of the Preferential Procurement Regulations 2011;
 - Declaration of interest;
 - Declaration of Bidder's past SCM practices;
 - Certificate of Independent Bid Determination;
 - Special Conditions of Contract;
 - Service Level Agreement
 - 1.2 General Conditions of Contract;
 - 1.3 Other (specify)
 2. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the services specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
 3. I accept full responsibility for the proper execution and fulfillment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfillment of this contract.
 4. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
 5. I confirm that I am duly authorized to sign this contract.

SIGNED AT	AUTHORIZED SIGNATURE (UNDERSIGNED)
DATE	NAME AND CAPACITY
WITNESSES: (SIGNATURE)	DATE
1.	
2.	

TENDER NO.	BS19/03/2018				
		BIDDER	WITNESS	EMPLOYER	WITNESS

MBD 7.2

CONTRACT FORM - RENDERING OF SERVICES

PART 2 (TO BE FILLED IN BY THE EMPLOYER / MUNICIPALITY)

I _____ in my capacity
 as _____ accept your bid under
 reference number _____ dated _____

for the rendering of services hereunder and/or further specified in the annexures.

1. An official order indicating service delivery instructions is forthcoming.
2. I undertake to make payment for the services rendered in accordance with the terms and conditions of the contract, within 30 (thirty) days after receipt of an invoice.

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

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

SIGNED AT	AUTHORIZED SIGNATURE (UNDERSIGNED)
DATE	NAME AND CAPACITY
WITNESSES: (SIGNATURE)	OFFICIAL STAMP
1.	

TENDER NO.	BS19/03/2018				
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MBD 8

DECLARATION OF BIDDERS 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:
 - 3.1 abused the municipality's / municipal entity's supply chain management system or committed any improper conduct in relation to such system;
 - 3.2 been convicted for fraud or corruption during the past five years;
 - 3.3 willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - 3.4 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>The Database of Restricted Suppliers now resides on the National Treasury's website www.treasury.gov.za and can be accessed by clicking on its link at the bottom of the home page</p>	Yes	No
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>The Register for Tender Defaulters can be accessed on the National Treasury's website www.treasury.gov.za by clicking on its link at the bottom of the home page.</p>	Yes	No
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?	Yes	No

Item	Question	Yes	No
4.3.1	If so, furnish particulars:		
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	No
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	No
4.5.1	If so, furnish particulars:		

CERTIFICATION

I, the undersigned 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.

NAME OF REPRESENTATIVE	AUTHORIZED SIGNATURE (UNDERSIGNED)
DATE	CAPACITY

TENDER NO.	BS19/03/2018				
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MBD 9

CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This municipal bidding document (MBD) must form part of all bids¹ invited.
- 2 Section 4(1)(b)(iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging). ²Collusive 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:
 - 3.1. take all reasonable steps to prevent such abuse;
 - 3.2. 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
 - 3.3. 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:
 - 1 **Includes price quotations, advertised competitive bids, limited bids and proposals.**
 - 2 **Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.**

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		BIDDER	WITNESS	EMPLOYER	WITNESS

MBD 9

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

TENDER ELM : APPOINTMENT OF A SHORT-TERM INSURANCE BROKER FOR A PERIOD OF 36 MONTHS

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:

NAME OF REPRESENTATIVE

that:

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.

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		BIDDER	WITNESS	EMPLOYER	WITNESS

6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.
 7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - 7.1 Prices;
 - 7.2 Geographical area where product or service will be rendered (market allocation);
 - 7.3 Methods, factors or formulas used to calculate prices;
 - 7.4 The intention or decision to submit or not to submit a bid;
 - 7.5 The submission of a bid which does not meet the specifications and conditions of the bid;
or
 - 7.6 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.
- ³ **Joint venture or consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.**
11. 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.

NAME OF REPRESENTATIVE	AUTHORIZED SIGNATURE (UNDERSIGNED)
DATE	CAPACITY

THE CONTRACT

TENDER NO.	BS19/03/2018				
		BIDDER	WITNESS	EMPLOYER	WITNESS

C1 AGREEMENTS AND CONTRACT DATA

TENDER NO.	BS19/03/2018				
		BIDDER	WITNESS	EMPLOYER	WITNESS

C1.1 FORM OF OFFER & ACCEPTANCE

C1.1.1 FORM OF OFFER

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

Bid / Tender Number	
Tender Title	APPOINTMENT OF A SHORT-TERM INSURANCE BROKER FOR A PERIOD OF 36 MONTHS

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

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

THE OFFERED TOTAL OF THE PRICES INCLUSIVE OF VALUE ADDED TAX IS THE FOLLOWING:

AMOUNT IN WORDS (INCL. VAT)	AMOUNT IN FIGURES (INCL VAT)
RAND	R

****AMOUNT MUST BE IN WORDS AS WELL AS FIGURES**

This offer may be accepted by the employer by communicating such acceptance in writing to the tenderer or by signing the acceptance part of this Form of Offer and Acceptance and returning one copy thereof to the tenderer, whereupon the tenderer becomes the party named as the provider / consultant in the conditions of contract identified in the contract data.

Signature Block: Tenderer			
Signature		Date	
Name			
Capacity			
Name of organization			
Address of organization			
Signature of witness		Date	
Name of witness			

TENDER NO.	BS19/03/2018				
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C1.1.2 FORM OF ACCEPTANCE

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

The terms of the contract, are contained in:

- Part C1 Agreements and contract data, (which includes this agreement)
- Part C2 Pricing data
- Part C3 Scope of work.
- Service Level of Agreement attached to this document (if any) as amended (if applicable) and signed by the parties.

and documents or parts thereof, which may be incorporated by reference into Parts C1 to C3 above.

Deviations from and amendments to the Service Level Agreement and documents listed in the tender data and any addenda thereto as listed in the tender schedules, will only be valid if reduced to writing and signed by both parties.

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

Unless otherwise specified elsewhere in this bidding document or any subsequent written agreement entered into between the parties, this agreement comes into effect on the date when the Employer communicates the acceptance and/or conditions of acceptance of the tenderer's offer in writing or signs the acceptance part of the Offer and Acceptance, whichever occurs first.

Signature Block: Employer			
Signature		Date	
Name			
Capacity			
Name of organization	Emalahleni Local Municipality		
Address of organization	P.O. Box 3, eMalahleni, 1035		
Signature of witness		Date	
Name of witness			

C1.1.3 SCHEDULE OF DEVIATIONS

STANDARIZED ITEMS OF SCHEDULE OF DEVIATIONS:

- Any clarification of the terms of the offer provided by the tenderer in writing
- Any clarification, confirmation or changes to the documents provided by the Employer in writing prior to or simultaneous with award / written acceptance of the offer,
- Any amendments to the draft Service Level Agreement included in the tender document as agreed and undersigned by the parties after award / written acceptance of offer.

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

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

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

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C1.2 CONTRACT DATA

PART 1 - DATA PROVIDED BY THE EMPLOYER

The employer is the Emalahleni Local Municipality.	
The authorized and designated representative of the employer is:	
Name:	Smanga Mahlangu
The address for receipt of communications is:	Emalahleni Local Municipality Civic Centre P.O. Box 3 eMalahleni 1035
Telephone:	(013) 690 6911
Facsimile:	
Email:	mahlangusm@emalahleni.gov.za
The project is:	APPOINTMENT OF A SHORT-TERM INSURANCE BROKER FOR A PERIOD OF 36 MONTHS
<p>Note :</p> <p>The location for the performance of the Project is the municipal area of Emalahleni. The service provider is required to provide the Service with all reasonable care, diligence and skill in accordance with generally accepted professional techniques and standards. The service provider is required to obtain the employer's prior approval in writing before taking any of the following actions: Appointing subcontractors for the performance of any part of the services, Appointing key persons or personnel not listed by name in the contract data. Copyright of documents prepared for the project shall be vested with the employer.</p>	

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PART 2 - DATA PROVIDED BY THE SERVICE PROVIDER

The service provider is	
Name	
Address	
Telephone:	
Facsimile:	
The authorized and designated representative of the service provider is	
Name	
The address for receipt of communications is	
Telephone	
Facsimile	
Email	
Address	

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C2 PRICING SCHEDULE

C2.1 PRICING INSTRUCTIONS

- a) These pricing instructions provide the tenderer with guidelines and requirements with regard to the completion of the pricing schedule. These pricing instructions also describe the criteria and assumptions which will be assumed in the contract to have been taken into account by the tenderer when developing his prices.
- b) The pricing schedule shall be read with all the documents which form part of this contract.
- c) The following words have the meaning hereby assigned to them:

Words/Abbreviation	Meaning

- d) The rates to be inserted in the pricing schedule are to be full inclusive for the work described under the specification. Such rates shall cover all costs and expenses that may be required in and for the execution of the work described, and shall cover the cost of all general risks, liabilities, and obligations set forth or implied in the documents on which the tender is based, as well as overhead charges and profit.
- e) A rate is to be entered against each item in the Schedule of Fees and Disbursements. An item against which no rate is entered will be accepted as a rate of nil having been entered against such items and covered by the other prices or rates in the schedule.
- f) All rates and sums of money quoted in the pricing schedule shall be in Rands and whole cents. Fractions of a cent shall be discarded.
- g) All travelling costs, accommodation, meals and other incidental costs are to be included in the time based costs.
- h) Provisional amounts shall only be expended on the specific instruction of the Employer.
- i) All prices and rates entered in the pricing schedule must be **exclusive of Value Added Tax (VAT)**.
- j) If registered VAT is should be added at below the schedule. If not VAT registered indicate zero or “-“
- k) Only firm prices will be accepted. Non-firm prices (including prices subject to rates of exchange variations) will not be considered.
- l) In cases where different delivery points influence the pricing, a separate pricing schedule must be submitted for each delivery point.
- m) In cases of contract periods longer than 12 months and price adjustments is applicable, it will be based on CPI. If higher inflation is required indicate CPI + number %.
- n) If the tender required firm (fixed prices) the amount indicated in Colum D will be the tender amount.
- o) If the tender amount is payable at end of contract on delivery of goods and services, Scratch out total per month with N/A or “-“
- p) If the tender amount is based on rates (Column B), the tender will be awarded to the rate and the total contract amount will only be used for evaluation purposes

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C2.2 MBD 3.1 BID PRICE SUMMARY

Bid Number

(Note : Contract amount to be carried over to Form of Offer C1.1.1)

CLASS	PREMIUM (EXCLUSIVE OF VAT)	BROKERAGE % (INCLUDED IN PREMIUM EXCLUSIVE OF VAT)	BROKERAGE (INCLUDED IN PREMIUM EXCLUSIVE OF VAT)	TOTAL TENDER AMOUNT (EXCLUSIVE OF VAT)
1. Combined				
2. House Owners				
3. Business Interruption				
4. Office Contents				
5. Business All Risk				
6. Theft				
7. Money				
8. Fidelity Guarantee				
9. Accidental Damage				
10. Goods in Transit				
11. Stated Benefits				
12. Electronic Equipment				
13. Machinery Breakdown				
14. Machinery Breakdown Business Interruption				
15. Public Liability				
16. Employers Liability				
17. Motor Fleet				
18. Municipal Management Liability				
19. SASRIA Non-motor				
20. SASRIA Motor				
21. Accounts Receivable				
				VAT(15%)
				GRAND TOTAL

OFFER TO BE VALID FOR 90 DAYS FROM THE CLOSING DATE OF BID

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C3 SCOPE OF WORKS

1. INTRODUCTION AND BACKGROUND

The tender will call for technical and performance specifications of a Short Term Insurance Broker with effect from 1 December 2022 to 30 November 2025. The provisions of Section 33(1) of Act No. 56 of 2003 will be complied with. The submitted tenders will be adjudicated in accordance with the technical and performance specifications as outline in the tender.

Evaluation of tenders will follow the requirement of the Preferential Procurement Policy Framework Act (Act 5 of 2000) and Regulation 8(5) of No. 275 Preferential Procurement Regulations, 2001.

It will be required from the selected short term insurance broker to broker the insurance portfolio of the Emalahleni Local Municipality in the local insurance market in accordance with specific criteria. The emphasis will be on technical proposals made to Emalahleni Local Municipality on the most cost –effective placement of the insurance portfolio in the insurance market, taking into consideration the mitigation of business risks and financial risks exposures. It will be required from the short term insurance brokers to obtain quotations from the insurance market valid for a minimum period of at least 90 (ninety) days in order for the municipality to accommodate presentations and recommendations from selected short term insurance brokers before final approval of premium and appointment of the short term insurance brokers for a period of 3 (three) years.

Cognisance should be taken that the appointed short term insurance broker will not be allowed to increase the insurance premium from year 2 (two) and onwards with more than CPI, unless substantiating proof from the quotations received from the insurers reflected a hardening insurance market or which is based on an adverse/increase on claims incidents/values. In the event of organic growth of the portfolio including but not limited to inflationary increase of the sums insured and inclusion of additional cover and services that afore going rule limiting the premium growth to CPI shall not apply. Quotations received by short term insurance broker from insurers must annually with renewal be made available to the Emalahleni Local Municipality for scrutiny and approval by the Chief Financial Officer.

MANDATE

- a) Tenderers may approach all insurers complying with the relevant statutory solvency and other requirements.
- b) Tenderers must provide the solvency margin of insurers.
- c) Tenderers proposals should be accompanied by a detailed summary of the salient features of the municipality's recommended insurance structure.
- d) Support for the tenderers proposals should be evidenced by a signed participation confirmation letter from insurers/re-insurers that will support the recommended structure and the terms, conditions and exceptions proposed by the municipality.
- e) All premiums are to be rounded off to the next full Rand. Where extensions are granted free of charge, please state "free" in the premium column. Where a line of cover or an extension is not tendered for, please state "no tender" in the premium column. All premiums quoted are to be **EXCLUSIVE OF VAT**.
- f) Tenderers proposals should be accompanied by a detailed premium calculation for each class of insurance submitted.
- g) The tenderer must disclose the insurer or consortium of insurers on each policy type as well as the type of policy wording as indicated in the tender documents.
- h) Failure to comply with the above requirements may render the tender invalid at the option of the Council.
- i) Particulars of property, sums insured and limits of indemnity are based on existing sums insured/limits. However, the Council reserves the right to adjust details, if necessary, at the final placement of the insurance, as well as during the period of the contract.
- j) The minimum requirement in respect of policy conditions, limitations and expectations are equal to a Multimark III policy wording. Policy wordings that are tailor made for local authorities with wider cover would be an advantage.
- k) If any limitations and/or uncommon conditions and exclusions are to be imposed, this must be stated very clearly in respect of each class of insurance of the policies.
- l) Deductibles are to be shown clearly, otherwise the Council will assume that no deductible will apply and this may not be rectified afterwards.

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- m) The premium payment for the period from 1 December 2022 will be made upon receipt of all tax invoices by Council. In the event of an increase or decrease in assets and insurable interests, the premium will be adjusted accordingly.
- n) The detailed schedule of the specific policy sections applicable together with annual premiums payable, should be provided within a period of no more than three months after the financial year has commenced.
- o) Alternative proposals should be attached to this tender document as annexures.
- p) Council reserves the right to consider one or none of the proposals.
- q) Sums insured will be negotiated with tenderer by the 1st of June each year.

2. PURPOSE AND RECIPIENTS

The service to be rendered as a short term insurance broker over the 3 (three) year period should include general services related to the placement, maintenance and administration of the insurance portfolio. A service plan should be drawn annually with inception of a new insurance period detailing the actions to be taken in accordance with annual placement programme as well as an annual maintenance programme for claims administration. The portfolio service and maintenance plan should reflect at least the following general insurance actions:

- Internal and external discussions to set renewal and maintenance strategy;
- Internal strategy meetings;
- Review existing cover;
- Established uninsured risks and internal self-insurance capacity;
- Review cover, limits and sums insured;
- Review uninsured risks and exposure;
- Re-broking and market exercise to obtain renewal terms;
- Alignment of insurance and risk management philosophy;
- Pre-renewal meeting to discuss excess structures and alternatives for renewal;
- Renewal follow-up on alternative quotations;
- Presentation of renewal terms and recommended aggregates and service fees;
- Confirmation of placement and 100% cover;
- Confirmation of credit rating of insurance and re-insurance markets;
- Compilation of detailed insurance manual as well as full summary of cover, limits, conditions and exclusions;
- Check and provide issued policy as well as legal confirmation of statutory compliance;
- Compilation of claims procedural manual;
- Ad hoc adjustments and endorsements on sums insured and declarations to insurers/re-insurers;
- Day-to-day correspondence and queries;
- Monitor premium payments and refunds in accordance with accounts and statement;
- Ad hoc training where required in terms of policy and procedural manual.

COMPULSARY DOCUMENTS TO BE PROVIDED BY THE TENDERER

- Valid certified Global Credit Rating of Underwriter from a reputable ratings agency.
- Valid certified Bank Rating of both Underwriter and Broker
- Valid certified proof that the organisation is a South African based insurance broker
- Valid certified copy of tenderer’s registration with Financial Services Board and Financial Intermediaries Association of South Africa or any other reputable association recognised by FSB to be considered for this type of tender.
- Valid certified copy of professional indemnity cover to the minimum value of R 50 million
- Valid certified copy of fidelity guarantee cover to the minimum value of R 50 million
- Valid certified copy of an organogram of service team and their relevant curriculum vitae
- Valid proof of appointment as short term insurance broker on a municipal portfolio during the past 3(three) years
- Audited annual financial statements for previous three years.
- Tenderers who do not submit all compulsory documents will be regarded as non-responsive bids and will not be evaluated further.

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3. TERMS OF REFERENCE

CLAIMS ADMINISTRATION

2. Administration of claims reported to the insurance broker:

- The insurance broker will acknowledge receipt of claim forms, confirm all claims in writing, as well as provide a claim number for each claim to the client within 2 (two) working days from receipt of the notification of the incident.
- If the claim is accepted by the insurer an agreement of loss will be generated and forwarded to the insurance section of the municipality within 10 (ten) working days from receipt of all the applicable documentation.
- On the insurance broker receiving the signed agreement of loss from the municipality where an asset has been lost, stolen or damaged the insurance broker should replace the asset and not forward funds to the municipality.
- Notice of repudiated/rejected claims will be forwarded to the insurance section of the municipality within 10 (ten) working days.
- The insurance broker will assist the insurance section with administration of claims in order to finalise all outstanding claims i.e. obtaining of reports, invoices, quotations etc.
- The insurance broker will provide statistics on all claims/declarations made per month no later than the 10th working day of the following month to the insurance section.
- The insurance broker should assist the insurance section in ensuring that where all documents have been submitted to the insurer, claims are finalised within one (1) month.
- The insurance broker should play an active role in ensuring that claims are finalised as quickly as possible so that Council's service delivery does not get affected for a long period.
- The insurance broker should provide reasons for delay on all claims that are outstanding for more than 6 months

3. Scheduling and coordinating of claims meetings:

- The insurance broker will schedule and co-ordinate monthly claim meetings, and ad-hoc meetings as and when required by the Finance Department of Emalahleni Local Municipality.
- The purpose of the meeting will be to discuss all claims as per the applicable insurance policies reported by the Finance Department to the insurance broker and to monitor the progress of all insurance claims reported to and authorised by the insurance broker.
- The insurance broker will bring their own scribe to take, prepare and distribute minutes of the meetings.

3. Electronic claims administration system to administrate short term insurance claims.

4. LOCATION OF WORKS

The location for the performance of the Project is the Municipal area of Emalahleni Local Municipality.

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5. **THREE YEAR CLAIMS HISTORY OF EMALAHLENI LOCAL MUNICIPALITY**

CLASS	2019/2020	2020/2021	2021/2022
Combined Section	R 150,424.29	R 5,846,726.55	R 1,053,000.00
Houseowners			
Business Interruption			
Office Content			
Business All Risk	R 15,168.52	R 79,859.10	R 890.00
Theft			
Electronic Equipment	R 2,000.00		R 4,500.00
Money			
Fidelity Guarantee			
Machinery Breakdown		R 1,074,667.20	
Motor Fleet	R 824,711.66	R 1,262,653.32	R 485,728.13
General Liability	R 2,727,147.23	R 750,648.87	R 1,715,642.37
Motor Liability	R 125,466.11	R 130,856.42	R 178,985.86
SASRIA	R 5720.00		
Stated Benefit	R 691,326.44	R 1,705,605.17	
Group Personal Accident			
	R 4,541,964.25	R 10,851,016.63	R 3,438,746.36

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6. KEY PERFORMANCE INDICATORS

The following Key Performance Indicators will be used to assess the performance of the service provider:

- The insurance broker will assist the insurance section with administration of claims in order to finalise all outstanding claims i.e. obtaining of reports, invoices, quotations etc.
- The insurance broker should ensure that a claim is registered within two (2) working days from receipt of claim.
- The insurance broker should assist the insurance section in ensuring that where all documents have been submitted to the insurer, claims are finalised within one (1) month.
- The insurance broker should provide reasons for delay on all claims that are outstanding for more than 3 months.

7. PAYMENTS

Payment will be made within thirty (30) days from receipt of invoice by the Finance Department.

8. ELIGIBILITY CRITERIA

Only those tenderers who satisfy the following eligibility criteria are eligible to submit tenders:

- 8.1 Tenderer receives the minimum required points for functionality.
- 8.2 Tenderer has the managerial capacity, reliability and experience regarding the nature of the tender.
- 8.3 The tenderer has in his or her possession an original valid tax clearance certificate issued by the South African Revenue Services.
- 8.4 The tenderer is not in arrears for more than 3 months with municipal rates and taxes and municipal service charges;
- 8.5 The tenderer or any of its directors is not listed on the Register of Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector; and
- 8.6 The tenderer has not:
 - Abused the Employer’s Supply Chain Management System; or
 - Failed to perform on any previous contract and has been given written notice to this effect.
 - It is considered that the performance of the services will not be compromised through any conflict of interest.)
- 8.7 Tenderer should be registered on the Central Supplier Database.

9. JOINT VENTURES AND CONSORTIUMS

No joint ventures or consortia’s or any sub-contracting will be accepted on this tender.

10. PERIOD OF TENDER

The period of the tender will be 3 years (1 December 2022 to 30 November 2025)

11. SERVICE LEVEL AGREEMENT

A service level agreement will be entered into on appointment of the contract.

11. ACCEPTANCE OF OFFER

The municipality reserves the right not to award the tender or any part of the tender subject to the

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availability of budgetary funds and supply chain requirements.

12. EVALUATION

Tenders will be evaluated on functionality first. Only tender s who receives the minimum eligible points will be further evaluated on price and preference points.

13. VALIDITY PERIOD

The tender shall be valid for 90 days from date of opening the tender.

GENERAL CONDITIONS OF CONTRACT

The General Conditions of Contract are not included in this document and may be downloaded from the following website – www.treasury.gov.za/legislation.

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SERVICE LEVEL AGREEMENT

MEMORANDUM OF AGREEMENT MADE AND ENTERED INTO BY AND BETWEEN

EMALAHLENI LOCAL MUNICIPALITY

herein represented by **SIZWE MAYISELA** in his capacity as **MUNICIPAL MANAGER**

(hereinafter referred to as the “**MUNICIPALITY**”)

and

REGISTRATION NO.: _____

herein represented by _____ with identity number

_____ in his/her capacity as _____ of the Close

Corporation / Company and duly authorised hereto

(hereinafter referred to as the “**SERVICE PROVIDER**”)

WHEREAS the SERVICE PROVIDER was awarded a tender for the **APPOINTMENT OF A SHORT-TERM INSURANCE BROKER FOR A PERIOD OF 36 MONTHS** in terms and accordance with resolution _____;

AND WHEREAS the said award was communicated by award letter no. _____ **(ANNEXURE C)** the conditions of which are hereby accepted by the SERVICE PROVIDER;

AND WHEREAS the parties wish to enter into this Agreement to ensure a mutual understanding and to clarify and formalize the expectation of both parties with regard to the service expectations and commitments between the two parties;

NOW THEREFORE the PARTIES agree as follows:

1.

DEFINITIONS AND TERMINOLOGY:

In this Agreement, unless the context otherwise indicates, the under mentioned words and expressions shall bear the following meanings:

Agreement: Means this Agreement with all annexures and schedules attached hereto as duly signed by the parties. It is an express term of this Agreement that it will be read together with the award letter, the Tender

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document and any Addendum thereto.

Department: Means the relevant implementing Department of the Emalahleni Local Municipality as determined from time to time.

Effective date: Means the date upon which the representative of the last party signing this Agreement affixed his/her signature hereto.

Commencement date: Means **XXXXXX** notwithstanding the date of signature of this Agreement;

End date: Means **XXXXXX**;

Municipality: Means the Emalahleni Local Municipality as defined above and any reference to “ELM”, “Employer” or “Customer” will have a corresponding meaning;

Party/-ies: means the parties or either of the parties to this Agreement mentioned hereinabove;

Relevant Authorised Person: Director and/or Acting Director of the Department as defined hereinabove of the Emalahleni Local Municipality or any other person delegated by the Municipal Manager or Acting Municipal Manager;

Service Provider: Means the Service Provider as defined above and any reference to “the / a broker”, “tenderer” or “bidder” will have a corresponding meaning;

Services and/or Goods: means the goods, works, services and/or labour to be provided by the SERVICE PROVIDER as specified in the Tender document;

Site and Target Area: means the area at which the Service Provider has to deliver or render the goods and/or services, being **the Emalahleni Local Municipality area**;

Tender document / Municipal Bidding Document: means the municipal bidding document / tender document (as submitted by the SERVICE PROVIDER and any Addendum thereto.

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2.

INTERPRETATION:

- 2.1 The clause headings in this Agreement shall be deemed to have been included for purposes of reference and convenience only and shall not influence the interpretation or the contents of this Agreement.
- 2.2 In this Agreement, unless the context otherwise indicates, a reference to:
 - 2.2.1 the singular shall be deemed to include a reference to the plural and *vice versa*;
 - 2.2.2 any one gender shall be deemed to include a reference to the other gender; and
 - 2.2.3 a natural person shall be deemed to include a reference to a legal entity (whether incorporated or unincorporated) and *vice versa*.
- 2.3 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of the Agreement.
- 2.4 Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 2.5 Reference to day, month or year shall be construed as calendar day, month or year. Where a number of days are prescribed, it shall consist of calendar days, unless expressly indicated otherwise, and shall be reckoned exclusively of the first and inclusively of the last day.
- 2.6 Expressions defined in this Agreement shall bear the meanings in schedules or annexures to this Agreement or the Tender document which do not themselves contain their own definitions.
- 2.7 All schedules and annexures hereto shall be deemed to be incorporated herein and shall form an integral part hereof.
- 2.8 It is an express term of this Agreement that it will be read in conjunction with the municipal bidding document / tender document, any Addendum thereto, the General or Special Conditions of Contract and award letter and should in no way be construed as a replacement and/or waiver of the bidding document as a whole or any portion thereof. The parties confirm that they have in their possession copies of all relevant documents / sections of the tender document.
- 2.9 If there is any conflict between this Agreement and the tender document or the General or Special Conditions of Contract, the contradicting condition / stipulation in this Agreement

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shall prevail, unless otherwise specified in this Agreement.

2.10 If there is any conflict between this Agreement and any of the documents specified in 2.9 above, such conflict or contradiction shall not render this Agreement or any of such specified documents ineffective or null and void *in toto*.

2.11 References in this Agreement to any statute or statutory provision shall include any statute or statutory provision which amends, extends, consolidates or replaces the same and shall include any orders, regulations, instrument or other subordinate legislations made under the relevant statute or statutory provision.

3.

DURATION:

3.1 Notwithstanding the date of signature of this Agreement or the Effective Date, the goods and/or services will be delivered and/or rendered within / during the period commencing on the Commencement Date and ending on the End Date, unless this Agreement is properly terminated prior to the end date in accordance with the provisions of this Agreement.

3.2 No extension of the period stated in 3.1 will be valid unless reduced to writing and duly signed by the parties.

4.

SCOPE OF SERVICES & OBLIGATION OF PARTIES:

4.1 The SERVICE PROVIDER shall and hereby undertakes to deliver the goods and/or execute the Services to the MUNICIPALITY as listed or set out in and in the manner and within the time frames set out more fully in the Tender document, subject to the terms and conditions of this Agreement for and/or during the period commencing on the Commencement Date and ending on the End Date.

4.2 The SERVICE PROVIDER is obliged to hand over the Services by and in accordance with the specifications set out in the Tender document.

4.3 Unless otherwise agreed upon in writing, the SERVICE PROVIDER shall at its own risk and expense, provide all resources such as labour (including employees) and equipment required to execute or render the Services and/or deliver the goods set out in the Tender document.

4.4 The SERVICE PROVIDER is further obliged:

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- 4.4.1 to perform and/or execute all its obligations set out in this Agreement read with the Tender document;
- 4.4.2 to perform and/or provide the services and/or goods with all reasonable care, diligence and skill in accordance with the specifications and stipulations set out herein, in compliance with the Key Performance indicators specified in the Tender document, as well as the generally accepted professional techniques and standards;
- 4.4.3 to regularly inspect the goods and/or services to satisfy itself that it is being rendered and/or delivered in line with this Agreement, the municipal bidding / tender document, prevailing legislations and industry standards;
- 4.4.4 to give any instructions and/or explanations and/or variations to its employees and/or subcontractors including any relevant advice to perform the services or deliver the goods in line with this Agreement as well as the prevailing legislation and industry standards; and
- 4.4.5 to comply with and hereby subjects itself to the penalty clause set out in **ANNEXURE A** hereto.

4.6 The MUNICIPALITY is obliged to:

- 4.6.1 to perform and/or execute all its obligations set out in this Agreement; and to
- 4.6.2 make payment in terms of **ANNEXURE A and B** for goods delivered and/or services rendered in terms of this Agreement which are found to be in good order, in terms of the conditions set out in the Tender document.

4.7 The MUNICIPALITY is entitled to continuously monitor and inspect the Goods and/or Services at any reasonable time for compliance and quality control purposes and may reject same if found not to comply with the requirements of the Agreement or the specifications in the Tender document.

4.8 Payment of the SERVICE PROVIDER will be made in accordance with the provisions and determinations set out in **ANNEXURE A and B** hereto.

5.

SUBCONTRACTORS, CESSION & ASSIGNMENT:

5.1 The SERVICE PROVIDER is not entitled to subcontract the Services or any part thereof to

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a subcontractor without the prior written consent of the MUNICIPALITY.

5.2 The SERVICE PROVIDER may not assign, transfer, cede or relinquish in any manner any of its rights or obligations without the written permission from the MUNICIPALITY.

5.3 Any such sub-contracting permitted by the MUNICIPALITY shall not relieve the SERVICE PROVIDER of its liability in terms of this Agreement.

6.

FORCE MAJEURE:

6.1 Notwithstanding anything to the contrary herein contained, should either of the parties be prevented from fulfilling in whole or in part its obligation in terms of this Agreement, whether such prevention arises from *force majeure*, Acts of God, war, civil commotion, curtailment of electricity, strikes, lockouts, revolutions, fires, explosions, floods, political disturbances, act of any Governmental or local authority, or any other cause whatsoever over which that party has no reasonable control, such Party shall be relieved from liability to the extent and for the period it is thereby prevented from fulfilling its obligations.

6.2 The abovementioned term is subject to the conditions that the Party so prevented from fulfilling its obligations hereunder shall immediately notify the other party to that effect in writing, giving a full and complete explanation of the circumstances responsible for such failure or occurrence as well the estimated duration thereof. If requested, the party shall furthermore set out in writing the actions such Party is taking or proposes to take to remove the said circumstances with the least possible delay.

7.

GOVERNING LAW:

7.1 All the provisions of this Agreement will be governed by and interpreted in accordance with the laws of the Republic of South Africa.

7.2 Both parties shall at its own expense comply with all applicable laws, regulations, by laws and requirements of local and other authorities, as well as all relevant policies that may be applicable to this Agreement and both parties hereby guarantees knowledge of and adherence to all such relevant and applicable laws, regulation by-laws and requirements of local and other authorities.

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8.

WARRANTY:

8.1 The SERVICE PROVIDER warrants that:

8.1.1 it and its employees and/or subcontractor/-s can and is fit, capable and competent to execute the Services;

8.1.2 all goods and/or service supplied or rendered in terms of this Agreement shall comply with the specifications set out herein and in the Tender document; and

8.1.3 any additional warranties (if any) specified in the Tender document.

8.2 The MUNICIPALITY shall promptly notify the SERVICE PROVIDER in writing of any claims arising under this warranty.

8.3 Upon receipt of such notice, the SERVICE PROVIDER shall, within the reasonable period specified in the notice and with all reasonable speed, repair or replace the defective goods or services or parts thereof, without costs to the MUNICIPALITY.

8.4 If the SERVICE PROVIDER, having been notified, fails to remedy the defect(s) within the specified period, the MUNICIPALITY may proceed to take such remedial action as may be necessary, at the SERVICE PROVIDER’S risk and expense and without prejudice to any other rights which the MUNICIPALITY may have against the SERVICE PROVIDER under the Agreement.

9.

JURISDICTION:

The parties also hereby agree to the non-exclusive jurisdiction of the Magistrate’s Court in respect of any claims which may arise from any of the parties’ breach of any of the terms of this Agreement, any remedies available to the aggrieved party in terms of the Agreement, applicable legislation or the common law notwithstanding that such claim or dispute may fall outside the jurisdiction of the said Court.

10.

BREACH:

10.1 If any of the parties commit a breach of any provision of this Agreement, the other Party may call in writing on the Party in breach to remedy the breach within a period of 14 (fourteen) days;

10.2 If the breach remains unremedied after the aforesaid notice period has expired, the Party

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calling on the breach will be entitled in addition to any right it may have in terms of this Agreement, the General or Special Conditions of Contract and/or common law, but not compelled, to terminate this Agreement in whole or in part with immediate effect in writing to the Party in breach and claim damages from the defaulting Party.

10.3 If this Agreement is terminated in part, the SERVICE PROVIDER shall continue performance in terms of this Agreement to the extent not terminated.

10.4 Where the MUNICIPALITY terminates the contract in whole or in part, the MUNICIPALITY may decide to impose a restriction penalty on the SERVICE PROVIDER as set out more fully in **ANNEXURE A**.

11.

DISPUTE RESOLUTION:

11.1 In the event of a dispute between the parties in respect of any condition / stipulation contained in this agreement or the interpretation thereof:

11.1.1 The aggrieved party will notify the other party in writing about the existence and nature of the dispute and thereafter the parties will negotiate in good faith to settle the dispute in question as expeditiously as possible but in any event within a period of 30 (thirty) days of the matter being referred to them, or any further period agreed to by the parties in writing.

11.1.2 Should the other party be unsuccessful in settling such dispute within the aforesaid period or such longer period as the parties may agree to, either party may and will be entitled to refer the dispute to arbitration to be determined under the provisions of the Arbitration Act No. 42 of 1965 and is required to notify the other party of its intention to do so within 10 (ten) days of the expiry of the period specified in clause 11.1.1 above. Should both parties fail to give notice as aforesaid, both parties will be regarded as having waived their rights in terms of this clause.

11.1.3 The decision of the arbitrator shall be final in all respects and the parties' agreement to such decision may be made an order of court on application by either party. The costs of any such arbitration shall be awarded by the arbitrator.

11.1.4 The arbitrator shall be an independent person mutually nominated by both parties. Should the parties not agree on a specific arbitrator within 10 (ten) days of notice being given of a dispute and request for arbitration, the selection shall be made by

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the President or his nominee of the Law Society of the Northern Provinces as soon as possible after the expiry of the 10 (ten) day period referred to herein.

- 11.2 This clause is severable from the rest of this Agreement and will remain in effect even if this agreement is terminated or cancelled for any reason.
- 11.3 This clause will not preclude any party from obtaining interim relief on an urgent basis from a court of competent jurisdiction pending the finalization of the arbitration process.
- 11.4 Notwithstanding any dispute being referred to arbitration in terms of this clause, both parties will continue to carry out their obligations under this agreement, pending the resolution of such dispute or difference.
- 11.5 If there is any contradiction between this clause and any alternative dispute resolution clause contained in the tender document and/or General or Special Conditions of Contract, this clause of this Agreement shall prevail.

12.

NOTICES AND DOMICILIA:

12.1 Any notice, request, order, statement or other communication required or permitted to be given in terms of this Agreement shall be in writing and may be given by means of registered post, facsimile or electronic mail to the following addresses:

12.1.1 Notices addressed to the SERVICE PROVIDER:

Postal address: _____

Fax: _____

E-mail: _____

12.1.2 Notices addressed to the MUNICIPALITY:

P.O. Box 3
eMALAHLENI
1035
Fax: 013 690 6207

12.2 For the purposes of this agreement and all actions arising there from, the parties accept the

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following addresses as their respective *domicilium citandi et executandi*:

12.2.1 *Domicilium* of the SERVICE PROVIDER:

Physical address: _____

12.2.2 *Domicilium* of the MUNICIPALITY:

12.3 The SERVICE PROVIDER undertakes to notify the MUNICIPALITY in writing within 10 (ten) days of a change of *domicilium*. The SERVICE PROVIDER also undertakes to notify the MUNICIPALITY of a change of management within the same period as above.

13.

NO WAIVER:

The failure of either Party to insist upon the strict performance of any provision of this Agreement or to exercise any right, power or remedy in the event of a breach of this Agreement, will not be a waiver by such Party to require strict and punctual compliance with every provision of this Agreement.

14.

SEVERABILITY:

If any clause or term of this Agreement should be invalid, unenforceable, defective or illegal for any reason whatsoever, then the remaining terms and provisions of this Agreement will be deemed to be severable from such clause and will continue in full force and effect unless such invalidity, unenforceability, defect or illegality goes to the root of this Agreement.

15.

ENTIRE AGREEMENT & VARIATION:

15.1 This agreement, read together with the award letter, General and/or Special Conditions of Contract and the Tender document, as amended (if applicable), embodies the entire Agreement between the Parties and no alteration, addition or variation of any of the terms or conditions of this Agreement shall be of any force or effect unless it is recorded in writing and signed by both Parties.

15.2 The Parties, by signing this Agreement, shall be deemed to have satisfied themselves as to all the terms and conditions of this Agreement.

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THUS DONE AND SIGNED AT _____ ON THIS THE _____ DAY
OF _____ 20____.

AS WITNESSES:

1. _____
2. _____

SERVICE PROVIDER

THUS DONE AND SIGNED AT _____ ON THIS THE _____ DAY
OF _____ 20____.

AS WITNESSES:

1. _____
2. _____

MUNICIPALITY

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ANNEXURE A: PAYMENT AND PENALTIES

1. PAYMENTS

- 1.1 All payments due to the Service Provider for goods delivered and/or services rendered will be in accordance with the award letter attached as **ANNEXURE C**, the pricing schedule set out in **ANNEXURE B** to this Agreement and the Key Performance Indicators (subject to the deduction of any penalties to be paid or invoked or any other monies to be deducted in terms of this Agreement).
- 1.2 A valid invoice must be submitted by the SERVICE PROVIDER with all mandatory information and reporting as indicated in the scope of work or as determined by the MUNICIPALITY from time to time. Payment will be made within 30 (thirty) days from receipt of a valid and acceptable invoice by the Finance Department in respect of which the work has been certified to have been satisfactorily completed and/or executed. It is recorded and the SERVICE PROVIDER agrees that no payments will be processed or made by the MUNICIPALITY if the work has not been certified.

2. PENALTIES

- 1.1 Penalties for which the Service Provider will be liable in terms of this Agreement, will include non-performance and/or failure to timeously deliver on the key performance indicators in point 6 of the tender specifications. The events or requirements for which penalties shall be applied, and the corresponding values of the penalties are as follows:

- Failure by the Service Provider to finalise claims (third party claims excluded) within 6 months from date in which all documents required to finalise the claim have been submitted by the Insurance section of the Finance Department, and where no reason for the delay has been provided by the Service Provider:

0.05% of the claim value for each day, on every claim that remains open and where no reason for the delay has been provided. The penalty shall be capped at R 3 000.00 per claim.

- 1.2 It remains the municipality's prerogative to decide whether the reason for a delay on claims is acceptable.
- 1.3 The penalties shall be invoiced to the SERVICE PROVIDER on a quarterly basis.
- 1.4 The SERVICE PROVIDER will be notified at the end of month 5 of any claim that may exceed the prescribed period in which the claim should be finalized. If a claim is not settled within the prescribed period, the MUNICIPALITY reserves the right to impose penalties against the SERVICE PROVIDER.
- 1.5 Should the SERVICE PROVIDER make itself liable for the imposition of penalties, it will also make itself liable to the termination of the Agreement. In addition to the imposing of penalties, the MUNICIPALITY may therefore also consider termination of the Agreement. Once the SERVICE PROVIDER makes itself liable for the imposition of penalties, a notice of poor performance may be issued by the MUNICIPALITY. On reoccurrence of the imposition of a penalty after the

above-mentioned notice has been issued, the Agreement may summarily be terminated by the MUNICIPALITY.

- 1.6 The Relevant Authorised Person and/or MUNICIPALITY may, without prejudice to any other method of recovery, deduct the amount of the penalty or penalties from any payment due to the SERVICE PROVIDER in terms of this Agreement. The payment or deduction of such penalty or penalties shall not relieve the SERVICE PROVIDER of its obligations and responsibilities under the Agreement and in particular for any damages or losses suffered by the MUNICIPALITY as a result of the SERVICE PROVIDER's default.
- 1.7 In the event of difficulties which result in the application of penalties being due to industrial and strike action, the MUNICIPALITY will be entitled to waive such penalties should the SERVICE PROVIDER prove to the satisfaction of the MUNICIPALITY and/or Relevant Authorised Person that the cause was beyond the SERVICE PROVIDER'S control.

3. RESTRICTION PENALTIES

- 3.1 Where the MUNICIPALITY terminates the contract in whole or in part, the MUNICIPALITY may decide to impose a restriction penalty on the SERVICE PROVIDER by prohibiting the SERVICE PROVIDER from doing business with the MUNICIPALITY or public sector.
- 3.2 Such restriction or blacklisting will be executed according to the guidelines and procedures stipulated in the General Conditions of Contract and the MUNICIPALITY'S policies, such as Council's Supply Chain Management Policy, Blacklisting Policy, etc.
- 3.3 Any restriction imposed on any person by the MUNICIPALITY will, at the discretion of the MUNICIPALITY, 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 SERVICE PROVIDER, and with which enterprise or person the SERVICE PROVIDER, is or was in the opinion of the MUNICIPALITY actively associated.

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THE NATIONAL TREASURY

Republic of South Africa



GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT

July 2010

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General Conditions of Contract

1. Definitions

1. The following terms shall be interpreted as indicated:
 - 1.1 "Closing time" means the date and hour specified in the 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.

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- 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.