AMAJUBA DISTRICT MUNICIPALITY
INVITATION TO BID

BID No.: P2025/08
INVITATION TO REGISTER ON THE DATABASE PANEL OF SERVICE PROVIDERS FOR ATTORNEYS OR LAW FIRMS FOR A PERIOD OF 3 YEARS

Amajuba District Municipality requests service providers registered on the Central Supplier Database to submit applications to be registered on the database panel of service providers for attorneys/law firms for a period of 3 years a) Only legal practices established in accordance with the provisions of the Attorneys Act, 1979 (Act no.: 53 of 1979 amended) will be considered for this tender. Bid documents with detailed information can be downloaded from the website www.amajuba.gov.za / e-tender website.

NB: This panel will be evaluated based on the requirements and functionality stipulated in the Terms of Reference. The enclosed forms must be scrutinized, completed and submitted together with your bid.

The specific goals allocated points in terms of this tender	**Number of points allocated**	**Verification documents**
HDI Points: 1. Business owned more than 50% by black person. 2. Gender = Female 3. Youth 4. Disability Specific goals: 5. Promotion of business located within Amajuba District Municipality	5 5 2 3 5	1. CSD Report/ company registration certificate 2. ID copies 3. ID copies 4. Medical certificate 5. Attached municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is not older than 3 months

Bidders are required to submit original tax clearance certificates or Tax Compliance Status Pin or CSD number. Completed bid documents in sealed envelopes endorsed **"Bid No. P2025/08 INVITATION TO REGISTER ON THE DATABASE PANEL OF SERVICE PROVIDERS FOR ATTORNEYS OR LAW FIRMS FOR A PERIOD OF 3 YEARS"** must be deposited in the Municipality's tender box located in the reception of the Amajuba District Municipality on or before the closing date, whereby bids will be opened in public. Bids that are not sealed and numbered will not be considered.
Late bid documents will not be considered. Amajuba DM reserves the right not to award the lowest or any bid.
Technical enquiries must be directed to **Mr Mawandumusa Nzama** or by email mawanden@amajuba.gov.za and SCM related enquiries are to be directed to **Mr. Sabelo Zulu** on 034 329 7200 or by email sabeloz@amajuba.gov.za .

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Closing date: Monday, 01 December 2025 at 12h00 noon

MRS A.N DLAMINI
ACTING MUNICIPAL MANAGER

AMAJUBA
DISTRICT MUNICIPALITY

TERMS OF REFERENCES FOR THE AMAJUBA DISTRICT MUNICIPALITY

PANEL OF ATTORNEYS/LAW FIRMS

FOR A PERIOD OF 3 YEARS

1. INTRODUCTION

The purpose of appointing a panel of attorneys is to establish a database of legal skills available to the AMAJUBA DISTRICT MUNICIPALITY and which can be contracted by the AMAJUBA DISTRICT MUNICIPALITY **TO PROVIDE SPECIALIZED LEGAL ADVICE AND SERVICES** as and when instructed.

Firms of attorneys are invited to send proposals to the AMAJUBA DISTRICT MUNICIPALITY for consideration. In preparing a proposal, it is emphasized that a profile of the firm of attorneys together with demonstrated expertise in the particular fields of law be submitted.

2. SCOPE OF WORK

The successful applicants will be required to provide effective and competent legal service to the AMAJUBA DISTRICT MUNICIPALITY as and when instructed and must inter alia be able to execute and provide the following:-

- **Property Registration and Conveyancing**

- **Legal Opinion**
- **Labour litigation**
- **Compiling of Agreements**
- **Land Restitution**
- **Labour Disputes and Human Resources Management Issues**
- **Legislative Drafting and Review**
- **Town Planning Litigation**
- **By-law and Policy Formulation**
- **Litigation in the Magistrate's Court**
- **Litigation in High Court, Constitutional Court and Supreme Court**
- **Eviction**
- **Disciplinary Issues**
- **Debt Collection**
- **Service Level Agreement, General Contract, Procurement Contract, Confidentially Agreement, Commercial Leases and Building Contracts (Building & Construction Law).**
- **Corporate Governance**
- **Public Private Partnership**
- **Any other specialist field that the firm of attorneys has expertise in and that is relevant to the working environment of the AMAJUBA DISTRICT MUNICIPALITY.**

It is important that the firms of attorneys ensure continuous quality and consistency of services.

3. DURATION OF THE CONTRACT

The duration of the Panel of Attorneys contract is three (3) years. Successful applicants will be required to enter into a formal Service Level Agreement governing the activities of the panel of attorneys with **AMAJUBA DISTRICT MUNICIPALITY** within 30 (thirty) days of

receipt of a letter of appointment. The successful applicants will be required to provide effective and competent legal service as and when instructed.

Appointment to the panel does not in any way guarantee that the firm of attorneys will receive instruction and/or that it is due a portion of instruction.

4. REQUIREMENTS

a) Only legal practises established in accordance with the provisions of the Attorneys Act, 1979 (Act no.: 53 of 1979 amended) will be considered for this tender. **Proof of professional Registration must be submitted with the tender document.**

b) Bidders to submit a Certified copy of Attorneys' Fidelity Fund Certificate

c) Each proposal must include the specialist field of law of the firm. If a firm of attorneys has expertise in more than one field of law, all relevant field must be indicated in the proposal together with demonstrated experience in the specific areas of law.

d) Only Attorneys with 5 years or more of experience within the required fields of expertise will be considered. (attach signed curriculum vitaes)

e) Bidders must submit a letter of good standing with the relevant body/institution.

f) Bidders must show competency in all specialised fields by submitting their qualifications.

g) Bidders should have admitted attorneys in their firms and have no history of professional misconduct.

5. CONDITIONS OF CONTRACT

a) A contract will be concluded with each successful firm to the panel and be obliged to sign confidentially and indemnity agreements.

b) Panel members are not guaranteed any work under this tender proposal. The engagement will be on an assignment basis.

c) AMAJUBA DISTRICT MUNICIPALITY may, at its sole discretion, award an assignment or any part thereof to more than on panel member or may at its own discretion vary an instruction to include more work.

d) The firm of attorneys may not cede or sign any part of its agreement with the AMAJUBA DISTRICT MUNICIPALITY nor subcontract any part of the work assigned to them without prior written authorization of the AMAJUBA DISTRICT MUNICIPALITY.

e) The firm of attorneys must declare any interest it has in an assignment as well as declare any possible conflict of interest with the ADM in the pursuance of the proposed assignment. In the event that any conflict of interest is discovered during the assignment, the Council reserves the right to summarily cancel the agreement and demand that all information, documents and property of the council be returned forthwith.

f) The contract period of this tender is three (3) years; the assignments in the last three months of the contract period will be allowed to continue after expiry of this contract.

g) The respective firms of attorneys will report to the Municipal Manager or Acting Municipal Manager and the Director: Legal Service

h) Skill Transfers

The firms of attorneys will also be required to ensure transfer of skills/knowledge to in house legal team during the course of consultancy services.

i) Intellectual Property Right

All copyrights and intellectual property rights that may result as consequences of the work to be performed will become the property of the council.

Firms of attorneys must hand over all document and information in any format, including copies thereto, that it received from AMAJUBA DISTRICT MUNICIPALITY or that it had access to during the assignment immediately after completion of the assignment.

j) Procurement Procedures

- The general and special conditions of tender/contract and other relevant legislative frameworks will be applicable to this tender.
- The requirements of the Preferential Procurement Regulation, 2001 pertaining to Preferential Procurement Policy Framework Act, (act no.: 05 of 2000 will be applicable to the selection process in respect of this tender proposal.

k) Professional Fees

- The cost of every assignment will be negotiated with the relevant tendering panel members and a letter of engagement will be issued for each assignment awarded.
- Price quoted for assignment should include VAT and disbursements.
- The legal fees will be charged based on a High Court/Magistrates Court tariffs for each specific assignment.

l) The Council reserves the right to interview panel members that are shortlisted for specific assignment.

m) Failure to comply with any conditions of this request for proposal may invalidate the respective tender proposal.

6. EVALUATION CRITERIA

Submitted proposals will be evaluated on functionality.

No.	Competency	Point Allocation	Maximum
6.1	**Experience of Service Provider** Service providers to include a summary of previous Legal services work undertaken within 10 years – this must include appointment letters with traceable references)	0-1 letters - 0 points 2-5 letters - 30 points 6-9 letters - 40 points Above 10 letters - 50 points	80 points
6.2	**Financial viability** Bidders Must demonstrate availability of financial resources to successful deliver should they be awarded	Bank Rating A & B - 30 points Bank Rating C 25 points Bank Rating D 20 points	

	Bank Rating from Registered financial institutions.	Bank Rating E and below 0 points	

NB: A bidder that scores less than 50 points out of 80 points in respect of functionality will be regarded as submitting a non- responsive proposal.

7. LISTING CRITERIA

Appointment letters will be issued to all qualifying panel members and this appointment does not guarantee an appointment for procurement.

8. AWARDING OF QUOTATIONS

8.1 The request for quotations/bids will be sent to all members of the panel as and when required.

8.2 The 80/20 preference points system will be used to award quotations/bids in line with the Municipality Supply Chain policy.

9. RETURNABLE DOCUMENTS

Service provider are required to submit the following:

- Certified ID copies of all members/directors of company or sole proprietor
- Bank details (together with an original cancelled cheque/ bank stamp or original letter from financial institution)
- All Municipal Bid Documents (MBD) must be completed and returned, where applicable.
- Copy of CSD (Central Supplier Database).
- Copy of company registration documents.
- For Joint Venture Agreements, attach the CK's of each of the joint venture members (if applicable)
- ID(s) copies of company director(s).
- Copy of current municipal account for all Director/s and Company, not owing more than 90 days or copy of lease agreement from the relevant leasing authority. If the business is operated from the residence of one of the Director/s, an original affidavit, certified, must be submitted stating the address of the premises from your local SAPS office. In a case where the directors are not liable for the payment of rates/taxes, an affidavit commissioned by SAPS stating that the director is not liable for the payment of rates must be submitted. In case the director does not own property/is a tenant, leasing agreement should be submitted to confirm the place of

residence. Tenders who are not registered with any municipality for the payment of rates and services due to their location may submit proof of residence / business address certified by a Municipal Councillor, but only if the residence is the same address as the business address, accompanied by an affidavit commissioned by SAPS.

- If the bidder's place of work or the address is located in rural settlement under traditional council, the bidder must submit the proof of resident certified by the traditional council leader and proof of resident certified by ward councillor.
- Printed copy of SARS Tax Pin for further verification.
  Completed and signed Municipal Bidding Document attached to the tender document.
  Bids will be adjudicated in terms of the Council Supply Chain Management Policy on the 80/20 Preferential Point System. It is therefore compulsory that the municipal tender document be used. Amajuba District Municipality is not bound to accept the lowest or any quote.

TERMS OF REFERENCE APPROVED/NOT APPROVED BY:

ACTING MUNICIPAL MANAGER

MRS. A.N DLAMINI

PART A
INVITATION TO BID **MBD 1**

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF AMAJUBA DISTRICT MUNICIPALITY					
BID NUMBER:	**P2025/08**	**CLOSING DATE:**	**01 DECEMBER 2025**	**CLOSING TIME:**	**12h00 NOON**
DESCRIPTION	**INVITATION TO REGISTER ON THE DATABASE PANEL OF SERVICE PROVIDERS FOR ATTORNEYS OR LAW FIRMS FOR A PERIOD OF 3 YEARS**				
THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (MBD7).					

BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED
AT *(STREET ADDRESS* **RECEPTION AREA AT B9356, AMAJUBA ROAD, SECTION 1 MADADENI**

B9356 AMAJUBA DISTRICT MUNICIPALITY BUILDING, SECTION 1, MADADENI, 2951

SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	**CODE**		**NUMBER**		
CELLPHONE NUMBER					
FACSIMILE NUMBER	**CODE**		**NUMBER**		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
TAX COMPLIANCE STATUS	**TCS PIN:**		**OR**	**CSD No:**	

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	☐Yes ☐No [IF YES ENCLOSE PROOF]	**ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?**	☐Yes ☐No [IF YES, ANSWER PART B:3]
TOTAL NUMBER OF ITEMS OFFERED		**TOTAL BID PRICE**	**N/A**
SIGNATURE OF BIDDER	.....	**DATE**	
CAPACITY UNDER WHICH THIS BID IS SIGNED			

BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:		**TECHNICAL INFORMATION MAY BE DIRECTED TO:**	
DEPARTMENT	BTO	CONTACT PERSON	MAWANDUMUSA NZAMA
CONTACT PERSON	SABELO ZULU	TELEPHONE NUMBER	034 329 7200
TELEPHONE NUMBER	034 329 7200	FACSIMILE NUMBER	034 314 3785
FACSIMILE NUMBER	034 314 3785	E-MAIL ADDRESS	mawanden@amajuba.gov.za
E-MAIL ADDRESS	sabeloz@amajuba.gov.za		

PART B
TERMS AND CONDITIONS FOR BIDDING

MBD 1

1. BID SUBMISSION:

1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.

1.2. **ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR ONLINE**

1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.

2. TAX COMPLIANCE REQUIREMENTS

2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.

2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.

2.3 APPLICATION FOR THE TAX COMPLIANCE STATUS (TCS) CERTIFICATE OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.

2.4 FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART B:3.

2.5 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.

2.6 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED; EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.

2.7 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.

3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? ☐ YES ☐ NO

3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA? ☐ YES ☐ NO

3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? ☐ YES ☐ NO

3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? ☐ YES ☐ NO

3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? ☐ YES ☐ NO

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

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

SIGNATURE OF BIDDER: .....

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

DATE: .....

MBD 4

DECLARATION OF INTEREST

1. No bid will be accepted from persons in the service of the state[1].

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

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

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

3.2 Identity Number: …….

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

3.4 Company Registration Number: …….

3.5 Tax Reference Number:……

3.6 VAT Registration Number: ……

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

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

3.8.1 If yes, furnish particulars. ……

……..

[1]MSCM Regulations: "in the service of the state" means to be –

(a) a member of –

(i) any municipal council;

(ii) any provincial legislature; or

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

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

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

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

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

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

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

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

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

…….

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

3.10.1 If yes, furnish particulars.
……
……

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

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

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

3.12.1 If yes, furnish particulars.
……
……

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

3.13.1 If yes, furnish particulars.
……
……

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

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

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

Full Name	**Identity Number**	**State Employee Number**

…….. ……..
Signature **Date**

…… ……
Capacity **Name of Bidder**

MBD 6.1

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

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

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

1. GENERAL CONDITIONS

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

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

a) The applicable preference point system for this tender is the 80/20 preference point system.

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

(a) Price; and

(b) Specific Goals.

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

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

1.4 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.

1.5 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

2. DEFINITIONS

(a) **"tender"** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive

tendering process or any other method envisaged in legislation;

(b) **"price"** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;

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

(d) **"tender for income-generating contracts"** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and

(e) **"the Act"** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

3. FORMULA FOR PROCUREMENT OF SERVICES

3.1. POINTS AWARDED FOR PRICE

3.1.1 THE 80/20 PREFERENCE POINT SYSTEMS

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

80/20

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender.

4.2. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:

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

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

The specific goals allocated points in terms of this tender	**Number of points allocated (80/20 system) (To be completed by the organ of state)**	**Number of points claimed (80/20 system) (To be completed by the tenderer)**
HDI Points: Business owned more than 50% black person (5) Gender = Female(5) Youth(2) Disability(3) Specific goals: Promotion of business located within Amajuba District Municipality(5)	5 5 2 3 5	
TOTAL POINTS CLAIMED	**20**	

DECLARATION WITH REGARD TO COMPANY/FIRM

4.3. Name of company/firm…….

4.4. Company registration number: ……...

4.5. TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

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

i) The information furnished is true and correct;

ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;

iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;

iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –

(a) disqualify the person from the tendering process;

(b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;

(c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;

(d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and

(e) forward the matter for criminal prosecution, if deemed necessary.

……
SIGNATURE(S) OF TENDERER(S)

SURNAME AND NAME: ……
DATE: ……

ADDRESS: ……

……

……
……

MBD 8

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

1 This Municipal Bidding Document must form part of all bids invited.

2 It serves as a declaration to be used by municipalities and municipal entities in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.

3 The bid of any bidder may be rejected if that bidder, or any of its directors have:

a. abused the municipality's / municipal entity's supply chain management system or committed any improper conduct in relation to such system;

b. been convicted for fraud or corruption during the past five years;

c. willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or

d. been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).

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

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

CERTIFICATION

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

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

……... **……..**
Signature **Date**

…… **……..**
Position **Name of Bidder**

MBD 9

CERTIFICATE OF INDEPENDENT BID DETERMINATION

1 This Municipal Bidding Document (MBD) must form part of all bids[1] 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).[2] Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.

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

a. take all reasonable steps to prevent such abuse;

b. reject the bid of any bidder if that bidder or any of its directors has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system; and

c. cancel a contract awarded to a person if the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.

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

5 In order to give effect to the above, the attached Certificate of Bid Determination (MBD9) 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.

MBD 9

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

P2025/05: INVITATION TO REGISTER ON THE DATABASE PANEL OF SERVICE PROVIDERS FOR ATTORNEYS OR LAW FIRMS FOR A PERIOD OF 3 YEARS

(Bid Number and Description)

in response to the invitation for the bid made by:

AMAJUBA DISTRICT MUNICIPALITY

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

I certify, on behalf of: ----------that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign, the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word “competitor” shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:

(a) has been requested to submit a bid in response to this bid invitation;

(b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and

(c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder

MBD 9

6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium[3] will not be construed as collusive bidding.

7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:

(a) prices;

(b) geographical area where product or service will be rendered (market allocation)

(c) methods, factors or formulas used to calculate prices;

(d) the intention or decision to submit or not to submit, a bid;

(e) the submission of a bid which does not meet the specifications and conditions of the bid; or

(f) bidding with the intention not to win the bid.

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

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

[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.**

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

…… …….

Signature **Date:**

…….....

Position :

_____

Name of Bidder

GENERAL CONDITIONS OF CONTRACT TABLE OF CLAUSES

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1. DEFINITIONS

1. The following terms shall be interpreted as indicated:

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

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

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

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

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

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

1.7 “Day” means calendar day.

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

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

1.10 “Delivery into consignees store or to his site” means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the 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.

1.28.1 “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 nonrefundable fee for documents may be charged.

3.2 Invitations to bid are usually published in locally distributed news media and on the municipal 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, the intellectual, copy and patent rights or ownership of such documents or projects will vest in the municipality.

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 analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected goods shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with goods, which do comply with the requirements of the contract. Failing such removal the rejected goods shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute goods forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected goods, purchase such goods as may be necessary at the expense of the supplier.
8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 22 of GCC.

9. PACKING

9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.
9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, and in any subsequent instructions ordered by the purchaser.

10. DELIVERY AND DOCUMENTS

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

11. INSURANCE

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

12. TRANSPORTATION

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

13. INCIDENTAL SERVICES

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

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

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

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

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

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

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

14. SPARE PARTS

14.1 As specified, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier: (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and

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

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

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

15. WARRANTY

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

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

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

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

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

16. PAYMENT

16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified.
16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon 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.

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. ANTIDUMPING 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 favorable 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

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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

34.1.1 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 0f 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.

…… …….

Signature **Date:**

…….....

Position :

_____

Name of Bidder