



**UPGRADE & REHABILITATION OF MATTHEWS PHOSA ROAD  
AND ADJACENT STREETS  
CONTRACT NO.: ELM 01/2021**

**CIDB CLASSIFICATION GRADE 8CE/7CE PE or HIGHER  
PROCUREMENT DOCUMENT**

Name of Tenderer	_____
Telephone No.:	_____
Fax No.:	_____
Email Address	_____
Address:	_____ _____ _____
CSD No	_____
Tender Sum	_____ _____

**Employer**  
Emalahleni Local Municipality  
P.O Box 3  
**Emalahleni**  
1035  
  
Tel: 013 690 6911  
Fax: 013 690 6207  
Email: [enquiries@emalahleni.gov.za](mailto:enquiries@emalahleni.gov.za)

**Project Manager**  
Mafahleni Engineers & Project Managers  
Box 4147  
**Nelspruit**  
1200  
  
013 752 2937 (P)  
013 752 2915 (F)  
Email: [admin@mafahleni.co.za](mailto:admin@mafahleni.co.za)

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**EMALAHLENI LOCAL MUNICIPALITY**  
**CONTRACT NO.: ELM 01/2021**

**UPGRADE & REHABILITATION OF MATTHEWS PHOSA ROAD AND ADJACENT STREETS**

**PROCUREMENT DOCUMENT**

**FOREWORD**

This document consists of two distinct clusters, namely the **TENDER** and the **CONTRACT**.

The **TENDER** consists of two parts, namely:

- **T1: Tendering Procedures** to be complied with by every tenderer submitting a tender offer; and
- **T2: Documents to be returned by the Tenderer**, including the returnable schedules and forms to be completed by each tenderer, some of which will eventually be incorporated into the contract between the successful tenderer and the Employer.

The **CONTRACT** consists of seven parts, namely:

- **C1: Contract Data and Agreements.**
- **C2: Pricing Data.**
- **C3: Scope of Work**
- **C3.2: Project Specification**
- **C5.3: Particular Specification**
- **C4: Site Information**; and
- **C5: Annexures** (that may have a bearing on the contract).

Each part or volume is preceded by its own table of contents.

**TENDER**

## **T1: TENDERING PROCEDURES**

## T1.1: TENDER NOTICE AND INVITATION TO TENDER



### **UPGRADE & REHABILITATION OF MATTHEWS PHOSA ROAD AND ADJACENT STREETS** **Employer Tender Number: ELM 01/2021 (RE-ADVERT)** **cidb Reference Number: 100072968**

EMALAHLENI LOCAL MUNICIPALITY MPUMALANGA INVITES TENDERS FOR THE UPGRADE & REHABILITATION OF MATTHEWS PHOSA ROAD

It is estimated that tenderers should have a CIDB contractor grading of 8CE. 7CE Potentially Emerging Enterprises who satisfy criteria stated in the Tender Data may submit Tender offers.

Preferences are offered to tenderers who have a CIDB grading of 8CE/7CE PE or HIGHER

The Physical Address for collection of Tender documents is:  
Document will only be available online on the following websites  
[www.emalahleni.gov.za](http://www.emalahleni.gov.za) or  
[www.etenders.gov.za](http://www.etenders.gov.za)  
Documents may be collected during work hours after 10h00 on 2021/07/27.

A non-refundable tender deposit of R0.00 payable by is required on collection of the Tender documents.

To prevent the spread of the Covid-19 virus through interactions a non-compulsory virtual clarification meeting with representatives of the Employer will take place on 30 July 2021 starting at 11h00 via Microsoft Teams.  
Tenderers are required to register for attending the virtual briefing to be conducted by the Clients Representative by sending details (email address and representative name and surname) of the bidding entity to [mlungisit@mafahleni.co.za](mailto:mlungisit@mafahleni.co.za). A Microsoft Teams invite will be sent to the bidding entities registered not later than 29 July 2021 at 15:00. Minutes of the clarification meeting will be made available (published online) after the clarification meeting on 04 August 2021.

Tender documents will be downloadable on the following websites: [www.emalahleni.gov.za](http://www.emalahleni.gov.za) or [www.etenders.gov.za](http://www.etenders.gov.za).

Fully completed tender documents, clearly marked with the "NAME of the Tenderer" must be placed in a sealed envelope and placed in the tender box situated outside the Civic Centre, First floor, Emalahleni Local Municipality, 29 Mandela Street, eMalahleni 1035 or sent via courier services to the above-mentioned address. Couriers documents should be delivered to the First Floor, Supply Chain Management Offices at the afore-mentioned address. The envelope must be endorsed with the bid number, title of the bid and closing date as indicated in the document. Prospective bidders are requested to submit two (2) copies of the tender documents. One copy should be in an electronic format (memory stick) the other copy should be printed. Both copies should be in one envelope. This request comes as a preventative measure to reduce risks associated with the Covid-19 pandemic.

Queries relating to the issues of these documents may be addressed to:  
Mafahleni Engineers & Project Managers  
Tel No. 013 752 2937  
Fax No. 013 752 2915  
E-mail. [mlungisit@mafahleni.co.za](mailto:mlungisit@mafahleni.co.za)

or

Mr M.E Sedupane  
Tel No. 013 690 6298  
Fax No. 013 690 6207

E-mail. sedupaneme@emalahleni.gov.za

or

Mrs Z.Moroku  
Tel No. 013 690 6497  
Fax No. 013 690 6207

E-mail. masangonz@emalahleni.gov.za

A clarification meeting with representatives of the Employer will take place at Microsoft Teams on 2021/07/30 starting at 11h00.

The closing time for receipt of Tenders is 11h00 on Friday, 27 August 2021.

Telephonic, Telegraphic, Telex, Facsimile, Emailed and Late Tenders will not be accepted.

Tenders may only be submitted on the tender documentation that is issued.

Requirements for sealing, addressing, delivering, opening and assessment of Tenders are stated in the Tender Data.

**T1.2: TENDER DATA**

The Conditions of Tender are those contained in the latest edition of 10845-3. Construction Procurement Part.3. Standard Condition of Tender.

SANS 10845-3 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 provisions of SANS 10845-3. Each item of data given below is across referenced to the clause in SANS 10845-3 to which it mainly applies.

Clause No	Data
3.1	The Employer is Emalahleni Local Municipality
3.2	The Tender Documents issued by the Employer comprise the following documents <b>THE TENDER</b> <b>Part T1: Tendering procedures</b> T1.1 – Tender notice and invitation to tender T1.2 – Tender data <b>Part T2: Returnable documents</b> T2.1 List of returnable documents T2.2 – Returnable schedules  <b>THE CONTRACT</b> <b>Part C1: Agreements and Contract Data</b> C1.1 - Form of offer and acceptance C1.2 - Contract data C1.3 - Form of Guarantee C1.4 - Adjudicator's contract <b>Part C2: Pricing data</b> C2.1 - Pricing instructions C2.2 - Bill of Quantities <b>Part C3: Scope of work</b> C3 - Scope of work <b>Part C4: Site information</b> C4 - Site information
3.4	The Employer's Agent is: <b>The Employer's agent is:</b> Name: <b>Mr Mlungisi Tshuma</b> Company: Mafahleni Engineers & Project Managers Fax: <b>013 752 2915</b> Address: 49 Ferreira St Nelspruit, 1200 Tel. <b>013 752 2937</b> Email address: <b>mlungisit@mafahleni.co.za</b>
3.5	The language of communication is English
3.6	The competitive selection procedure shall be applied in awarding the tender.
4.1	Only those renders who satisfy the following eligibility criteria are eligible to submit tenders:
	The following tenders who are registered with the CIDB or are capable of being so registered prior to the evaluation of submissions, are eligible to submit tenders.  <b>a) CIDB registration</b> Contractors who have a contractor grading designation equal to or higher than a contractor grading designation determined in accordance with the sum tendered for an 8CE class of construction work. Contractors who have a grading 7CE Potentially Emerging (PE) and who satisfy the tender data may also tender; and Joint ventures are eligible to submit tenders provided that: <ol style="list-style-type: none"> <li>1. Every member of the joint venture is registered with the CIDB:</li> <li>2. The lead partner has a contractor grading designation in the <b>8CE or Higher</b> of construction work</li> </ol>

	<p>3. The combined contractor grading designation calculated in accordance with the Construction Industry Board the sum tendered for <b>8CE</b> class of construction or a value determine in accordance Regulations 25 (1B) or 25 (7A) of the Constriction Industry Development Regulations.</p> <p>b) Key Personnel</p> <p>In order to be considered for an appointment in terms of this tender, the tenderer must have in its permanent employment key personnel who will be the single accountability and responsibility for the management of the construction works. Such undertaking must be attached to <b>Form U</b> of the Returnable Documents.</p> <p>Individual must be identified for each of the key personnel listed under <b>Form U</b>. Where the Key personnel are no longer available to undertake the necessary work after the award of the Tender, the contractor shall within a period of 14 working days replace the key personnel listed in <b>Form U</b> with personnel with equivalent competencies and subject to approval by the Employer. Such approval shall not be unreasonable withheld.</p> <p>The key personnel shall be a suitable qualified and experience contract manager who will be the single point accountability and responsibility for the management of the construction works, and who is registered with SACPCMP as PrCM or ECSA as PrEng or PrTechEng or PrEngTechni shall be required as a minimum.</p> <p>Failure to satisfy the above legibility criteria is a breach of condition of tender as such, may result in a non-elicitable tender</p>									
4.7	<p>The arrangements for the clarification meeting are as stated in the Tender Notice and Invitation to Tender. A non-compulsory virtual Microsoft Teams tender briefing with representatives of the Employer will take place as follows:</p> <p><b>Date: 30 July 2021</b>  <b>Time: 11:00am</b></p> <p>Tenders must send an email confirming attendance indicating the name of the person attending the virtual briefing session a day before the briefing session i.e. before 1500 on 29 July 2021 to Employers Representative Mlungisi Tshuma on email: mlungisit@mafahleni.co.za (call 013 752 2937). This will form the attendance register.</p> <p>Minutes of the clarification meeting will be made available (published online) after the clarification meeting on 04 August 2021.</p> <p>The onus rests with the tenderer to ensure that the person attending the clarification meeting on its behalf is appropriately qualified to understand all directives and clarifications given at the meeting.</p> <p>There will be no combined site visit but tenderers willing to familiarise themselves with the site can visit the site and the co-ordinates of the site are listed hereunder:</p> <table border="1" data-bbox="407 1482 1263 1598"> <thead> <tr> <th></th> <th>Start</th> <th>End</th> </tr> </thead> <tbody> <tr> <td>Latitude</td> <td>25°52'21.90"S 25</td> <td>25°50'16.20"S</td> </tr> <tr> <td>Longitude</td> <td>29° 08'04.75"E</td> <td>29° 6'16.49"E</td> </tr> </tbody> </table>		Start	End	Latitude	25°52'21.90"S 25	25°50'16.20"S	Longitude	29° 08'04.75"E	29° 6'16.49"E
	Start	End								
Latitude	25°52'21.90"S 25	25°50'16.20"S								
Longitude	29° 08'04.75"E	29° 6'16.49"E								
4.12	Alternative tender will not be considered									
4.13	<p>The Employer's details and address for delivery of tender offers and identification details that are to be shown on each tender.</p> <p><b>Location of tender box:</b> Bid Box</p> <p><b>Physical address:</b> Emalahleni Municipal Offices at Corner Mandela and Arras Street, Emalahleni, 1035</p> <p><b>Identification details:</b> Tender reference number, Title of Tender, Name of Tenderer and the closing date and time of the tender</p>									
4.13	Telephonic, telegraphic, telex, facsimile or e-mailed offers will not be accepted									
4.13.4	Tenderers are required to submit all certificates as listed under returnable documents (Page T14)									

	Failure to provide these required particulars as per the above listed certificates implies a non- responsive tender and warrants rejection of the tender on account of non-compliance with the requirements of the Tender Data
4.13.5	A two – envelope system is <b>NOT</b> required however tenderers must submit an original tender document together with electronic format (memory stick) and attached and sealed in one envelope
4.15	The closing time for submission of tender offers is <b>1100 hours on Friday, 27 August 2021</b>
4.16	The tender offer validity period is <b>90 days</b>
4.19	Access shall be provided for inspections and testing by personnel acting on behalf of the Employer
5.1	Request clarifications at least 7 days before closing of tender i.e.by <b>20 August 2021</b>
5.2	Addendum (if any) will be issued at least 5 calendar days before closing of tender
5.4	Tenders are to be opened immediately after closing time as listed on <b>4.15</b>
5.11	The procedure for the evaluation of responsive tenders is <b>Method 4</b>
5.11.5	<p><b>Method 4: Financial offer, quality and preferences</b></p> <p>In this case of the financial offer, quality and preferences:</p> <p>a) Score each tender in respect of the financial offer made, the preference claimed, if any, and the quality offered in accordance with the provisions of 5.11.7 to 5.11.9, rejecting all tender offers that fail to score the minimum number of points for quality stated in the tender data, if any,</p> <p>b) Calculate the total number of tender evaluation points (<b>TEV</b>) in accordance with the following formula:</p> $TEV = N_{FO} + N_P + N_Q$ <p>Where;</p> <p><b>N<sub>FO</sub></b> is the number of tender evaluation points awarded for the financial offer made in accordance with 5.11.7</p> <p><b>N<sub>P</sub></b> is the number of tender evaluation points awarded for preferences claimed in accordance with 5.11.8:</p> <p><b>N<sub>Q</sub></b> is the number of tender evaluation points awarded for quality offered in accordance with 5.11.9,</p> <p>c) Rank tender offers from the highest number of tender evaluation point to the lowest, and</p> <p>d) Recommended 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.</p> <p>Resources and re- rank all tenders should there be compelling and justifiable reasons not to recommended the tenderer with the highest number of tender evaluation points, unless there are compelling and justifiable reasons not to do so, in which case the process set out in this subclause shall be repeated.</p> <p>If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for preference.</p> <p>If functionality /quality is part of the evaluation process and two or more tenderers score equal total points and equal preference points, the contract must be awarded to the tendered that scored the highest points for functionality/quality.</p> <p>If two or more tenders score equal total points in all respects, the award must be decided by the drawing of lots.</p> <p>Scores of financial offers, preference and quality, as relevant, to be given to two (2) decimal places.</p>
5.11.6	<p><b>Scoring Financial Offers</b></p> <p>Score the offers using the following formula:</p> $N_{FO} = W_1 \times A$ <p>Where</p> <p><b>N<sub>FO</sub></b> is the number of tender evaluation points awarded for the financial offer;</p> <p><b>W<sub>1</sub></b> is the maximum possible number of tender evaluation points awarded for the financial offers stated below:</p>
5.11.7	<p>The value of <b>W<sub>1</sub></b> is:</p> <p>80 where the financial value, inclusive of VAT, of the lowest responsive tender offer has a value that equals or less than R50 000 000.00</p>

5.11.8

The following formula shall be used to calculate the points for price **(A)**

$$A = (1 - \frac{P - P_m}{P_m}) W_1$$

Where:

**P** is the comparative offer of the tender offer under consideration and

**P<sub>m</sub>** is the comparative offer of the most favourable comparative offer

**W<sub>1</sub>** is the maximum number of points for price (in this case 80)

In the event that the calculated value is negative, the allocated score shall be 0 (zero)

**Scoring Preference**

**N<sub>P</sub>** shall be calculated as described below:

Up to 100 minus **W<sub>1</sub>** tender evaluation points will be awarded to tenders who submit responsive tenders and who are found to be eligible for the presence claimed. Points are based on a tender's scorecard measured in terms of the Broad-Based Black Economic Empowerment Act (B-BBEE, Act 53 of 2003) and the Regulation (2017) to the Preferential Procurement Policy Act (PPPFA, Act 5 of 2000)

Points awarded will be according to a tenderer's B-BBEE status level of contributor and summarised in the table below:

B-BBEE Status Level of Contributor	Number of points (80/20)	Number of points (90/10 system)
1	20	10
2	18	9
3	16	8
4	12	5
5	8	4
6	6	3
7	4	2
8	2	1
<b>Non-compliant contributor</b>	0	0

Eligibility for preference points is subject to the following:

- a) A tender's scorecard shall be a B-BBEE Verification Certificate issued in accordance with the revised Notice of Clarification published in the Notice 444 of 2015 published in Government Gazette 38799 on 15 May 2015 by the Department of Trade and Industry; and
- b) The scorecard shall be submitted as a certificate to Returnable Schedule **Annexure J**; and
- c) The certificate shall:
  - i. Be an original certified copy of the original; and
  - ii. Have been issued by a verification agency accredited by South African National Accreditation System (SANAS); or
  - iii. Have been issued prior to 30 September 2016 by a registered auditor who was approved by the Independent Regulatory Board of Auditors (IRBA); or
  - iv. Be in the form of sworn affidavit in the case of Exempted Micro Enterprise (EME) or Qualifying Small Enterprise (QSE); and
  - v. Be valid at the tender closing date; and
  - vi. Have a date of issue less than 12 (twelve) months prior to the tender closing date (see Tender Data 4.15); and

- d) Compliance with any other information requested to be attached to Returnable Schedule Annexure P, and
  - e) If a tenderer claims a preference score without submitting an acceptable verification in compliance with Returnable **Schedule Annexure J**, will result in the award of 0 (zero) points preference; and
- Failure to submit a valid verification certificate(s) and or / all the information in compliance with Returnable Schedule **Annexure J**, will result in the award of 0 (zero)points for preference; and
- g) In the event of a Joint Venture (JV), a consolidated B-BBEE Verification Certificate in the name of the JV shall be submitted, as well as valid B-BBEE verification certificate for each member of the JV; and
  - h) If the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tendered qualities for, 0 (zero) points for preference will be awarded, unless the intended subcontractor is an EME that has capability to execute the subcontract.

**Scoring Quality**

Score each of the criteria and sub criteria for quality in accordance with the provision of the tender data. Calculate the total number of tender evaluation points for quality ( $N_q$ ) Using the following Formula:

$$N_q = W_2 \times S_0 / M_s$$

Where

$W_2$  is the maximum possible number of tender evaluation points awarded for quality

$S_0$  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 (using the table given below)

5.11.9

The quality criteria and maximum score in respect of each of the criteria are as follows:

Quality criteria	Maximum number of points
<b>Experience of the Bidder</b>	20
<b>Personnel:</b>	
Qualification and experience of contracts/projects manager	10
Qualification and experience of site agent	5
Experience of Foreman	5
Safety Officer	5
<b>Construction Approach</b>	
Method Statement and <b>Preliminary Programme</b>	15
Quality Management	5
Health & Safety (incl. COVID regulations)	5
<b>Plant and Equipment</b>	20
<b>Financial Capacity</b>	10
<b>Maximum possible score for quality (<math>M_s</math>)</b>	<b>100</b>

The minimum number of evaluation points for quality is **75**

Key aspect of criterion	Basis for points allocation	Max Points	Verification Method														
<b>Experience of the Bidder:</b> (Name of traceable references with contact details to be included for verification)	<b>Tenderers are to demonstrate relevant project experience similar to this scope of work:</b> Five completed roads and stormwater related projects in the last 10 years. Tenderers to submit a letter of appointment and completion certificate. <b>4 points per completed project over R 40m</b> <table border="1"> <thead> <tr> <th>Project</th> <th>Points</th> </tr> </thead> <tbody> <tr> <td>Project 1</td> <td>4</td> </tr> <tr> <td>Project 2</td> <td>4</td> </tr> <tr> <td>Project 3</td> <td>4</td> </tr> <tr> <td>Project 4</td> <td>4</td> </tr> <tr> <td>Project 5</td> <td>4</td> </tr> <tr> <td><b>Total</b></td> <td><b>20</b></td> </tr> </tbody> </table>	Project	Points	Project 1	4	Project 2	4	Project 3	4	Project 4	4	Project 5	4	<b>Total</b>	<b>20</b>	20	Appointment letters and completion certificates  <i>Refer to Form T</i>
Project	Points																
Project 1	4																
Project 2	4																
Project 3	4																
Project 4	4																
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<b>Total</b>	<b>20</b>																
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Personnel	Points																
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<b>Qualifications and experience of key personnel:</b> <b>Site agent</b> (must be available full time on site)	<table border="1"> <tbody> <tr> <td>National Diploma or higher in Civil Engineering with 10 years exp on roads and stormwater related projects and professionally registered with ECSA or SACPCMP</td> <td>5</td> </tr> <tr> <td>National Diploma or higher in Civil Engineering with 5-9 years exp on roads and stormwater related projects and professionally registered with ECSA or SACPCMP</td> <td>3</td> </tr> <tr> <td>National Diploma in Civil Engineering with 3-4 years exp on roads and stormwater related projects and professionally registered with ECSA or SACPCMP</td> <td>1</td> </tr> <tr> <td>National Diploma or higher in Civil Engineering with 1-2 years exp on roads and stormwater related projects</td> <td>0</td> </tr> </tbody> </table>	National Diploma or higher in Civil Engineering with 10 years exp on roads and stormwater related projects and professionally registered with ECSA or SACPCMP	5	National Diploma or higher in Civil Engineering with 5-9 years exp on roads and stormwater related projects and professionally registered with ECSA or SACPCMP	3	National Diploma in Civil Engineering with 3-4 years exp on roads and stormwater related projects and professionally registered with ECSA or SACPCMP	1	National Diploma or higher in Civil Engineering with 1-2 years exp on roads and stormwater related projects	0	5	Certified copy of qualification, CV and letter from company confirming employment in company letterhead to be attached  <i>Refer to Form U</i>						
National Diploma or higher in Civil Engineering with 10 years exp on roads and stormwater related projects and professionally registered with ECSA or SACPCMP	5																
National Diploma or higher in Civil Engineering with 5-9 years exp on roads and stormwater related projects and professionally registered with ECSA or SACPCMP	3																
National Diploma in Civil Engineering with 3-4 years exp on roads and stormwater related projects and professionally registered with ECSA or SACPCMP	1																
National Diploma or higher in Civil Engineering with 1-2 years exp on roads and stormwater related projects	0																
<b>Qualifications and experience of key personnel:</b>	10 or more years exp. on roads and stormwater related projects	5	Certified copy of qualification(s)/certificates, CV and letter from														

	<b>Site Foreman</b>	5 or more years exp. on roads and stormwater related projects	3		<b>company confirming employment in company letterhead to be attached</b> <i>Refer to Form U</i>
		3 or more years exp. on roads and stormwater related projects	1		
	<b>Qualifications and experience of key personnel: Safety Officer</b> The Safety Officer with road/bridge construction experience, post qualification, will be assessed as follows:	10 or more years exp. on roads and stormwater related projects	5	5	Qualified Safety Officer must be registered and active with SACPCMP as a Safety Officer or Safety Manager (Candidate registration is not acceptable), must be permanently based on the site for the duration of the project. Certified copy of qualification, CV and <b>letter from company confirming employment in company letterhead to be attached</b> <i>Refer to Form U</i>
		5 or more years exp. on roads and stormwater related projects	3		
		1-4 years exp. on roads and stormwater related projects	1		
	<b>Construction Method Statement:</b> The method statement must include the following subheadings: Construction management, bulk earthworks, layer-works, surfacing social conflict management and attach preliminary programme.	<b>Item</b>	<b>Points</b>	15	Relevant to the tendered project (maximum 8 pages)  <i>Refer to Form W</i>
		Construction management and administration	2		
		Site setting out	2		
		Bulk earthworks	2		
		Layer-works (incl. stabilization and processing crusher run)	2		
		Surfacing (priming and asphaltting)	2		
		Socio-economic conflict management (project related social challenges)	2		
		Preliminary programme	3		
		<b>Total</b>	<b>15</b>		
	<b>Quality Management plan</b>	<b>Item</b>	<b>Points</b>	5	ISO Certificate or include Project specific quality management plan document <i>Refer to Form Y</i>
		Quality control management	2		
		Quality assurance management	1		
		Quality management	2		
		<b>Total</b>	<b>5</b>		
	<b>Health &amp; Safety Management Plan</b>	<b>Item</b>	<b>Points</b>	5	Health & safety management  Refer to Form X
		Health & safety plan according to OHS Act	2		
		Covid-19 regulation compliance	1		
		Traffic accommodation plan	2		
	<b>Total</b>	<b>5</b>			
	<b>Plant and Equipment</b> Relevant ownership document copies are to be included in this tender for verification purposes.	<b>Plant</b>	<b>Points</b>	20	Copies of Plant ownership documents ( <b>in company name</b> ) to be attached Hired plant will not be awarded points. <i>Refer to Appendix Z plant numbers &amp; points allocations.</i>
		Recycler	3		
		Grader (120 or higher)	4		
		TLB (48 kw capacity)	4		
		Vibrator Roller 12 ton or higher	3		
		Tipper truck (6m <sup>3</sup> )	3		
		Water tanker (8000 litre of higher)	3		
		<b>Total</b>	<b>20</b>		
	<b>Financial Capacity</b> Bank rating & 3 years audited financial statement	<b>Item</b>	<b>Points</b>	5	Bidders will be scored based on bank rating up to a maximum of 5 points & 3 years audited financial statement ( <b>include bank</b>
		<b>Bank rating</b>			
		A= 5 points	5		
		B= 4 points	4		
		C= 3 points	3		

		D= 2 points	2	5	rating and management accounts should you wish to qualify the above) up to 5 points respectively  <i>Refer to Form V</i>
		E = 1 point	1		
		F- G= 0 points	0		
		<b>Financial Statement</b>			
		Net profit percentage ○ > 10% - (1.00 points) ○ 7.5% - (0.75 points) ○ 5% - (0.50 points) ○ 2.5% - (0.25 points)	1		
		Current ratio ○ 3% - (2.00 points) ○ 2% - (1.50 points) ○ 1.5% - (1.00 points) ○ 1% - (0.50 points)	2		
		Quick ratio ○ 1 - (1.00 points) ○ 0.75% - (0.75 points) ○ 0.5% - (0.50 points) ○ 0.25% - (0.25 points)	1		
		Debt ratio ○ 0.3% - (1.00 points) ○ 0.4% - (0.75 points) ○ 0.5% - (0.50 points) ○ 0.6% - (0.25 points)	1		
5.13	<p><b>Tender offers will only be accepted if:</b></p> <p>a) the tenderer is in good standing with the South African Revenue Services on his tax obligations</p> <p>b) the tenderer is registered on the Central Supplier Database (CSD) for the South African government (see <a href="https://secure.csd.gov.za">https://secure.csd.gov.za</a>)</p> <p>c) is registered with the Construction Industry Development Board in an appropriate contractor grading designation, by tender closing date;</p> <p>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;</p> <p>e) the tenderer has not</p> <p style="padding-left: 20px;">(i) abused the Employer's Supply Chain Management System; or</p> <p style="padding-left: 20px;">(ii) failed to perform on any previous contract and has been given a written notice to this effect; and</p> <p>f) has completed the Compulsory Enterprise Questionnaires and there are no conflicts of interest which may impact on the Tenderer's ability to perform the contract in the best interest of the employer or potentially compromise the tender process and persons in the employ of the state are <b>not</b> permitted to submit tenders or participate in the contract.</p> <p>g) The tenderer is registered and in good standing with the compensation fund or with a licensed compensation insurer;</p> <p>h) The employer is reasonably satisfied that the tenderer has in terms of the Construction Regulations, 2003, issued in terms of the Occupational Health and Safety Act, 1993, the necessary competencies and resources to carry out the work safely.</p>				

5.13.1	<p><b>Acceptance of a tender offer (Additional conditions)</b></p> <p>The Employer shall accept a tender offer should it be considered not to present any unacceptable commercial risk, only if the tenderer:</p> <ul style="list-style-type: none"><li>a) is not under restrictions, or has principals who are under restrictions preventing participation in the Employers procurement</li><li>b) can as necessary and in relation to the proposed contract demonstrate the possession of the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and personnel to perform the contract</li><li>c) has the legal capacity to enter into a contract,</li><li>d) is not insolvent, in receivership, bankrupt or being liquidated, does not have any affairs administered by a court or judicial officer, does not have suspended business activities, or is subject to legal proceedings with respect to any of the foregoing,</li><li>e) complies with the legal requirements if any stated in the tender data, and</li><li>f) is able in the opinion of the Employer to perform the contract free of conflict of interest.</li></ul>
5.17	The number of paper copies of the signed contract to be provided by the Employer is ONE (1)

## **T2: RETURNABLES DOCUMENTS**

**T2.1 LIST OF RETURNABLE DOCUMENTS**

The Tender Document must be submitted as a whole. All forms must be properly completed as required, and the document shall not be taken apart or altered in any way whatsoever.

The list of returnable documents comprises the following: tick ✓

**T2.1.1 List of compulsory returnable documents**

- A Certificate of Attendance at Clarification Meeting .....
- B Record of Addenda to Tender Documents.....
- C Proposed Amendments, Qualifications & Alternatives .....
- D Company Registration Certificates.....
- E Certificate of Authority .....
- F Details of Registration with CIDB .....
- G Tax Clearance Certificate Requirements and Application Form MBD 2 .....
- H Declaration of Interest MBD 4 .....
- I Declaration for Procurement above R10 million (All applicable taxes included) MBD 5 .....
- J Preferential Procurement/ BBBEE Certificate MBD 6.1 .....
- K Declaration of Local Content MBD 6.2.....
- L Declaration of Bidder's Past Supply Chain Management Practises MBD 8.....
- M Certificate of Independent BID Determination MBD 9.....
- N Compulsory Enterprise Questionnaire .....
- O Rates and Municipal Service Clearance Certificate .....
- P Compulsory Training Programme .....
- Q Present Commitments.....
- R Contractors Health & Safety Declaration .....
- S Proposed Subcontractors .....

*NOTE: (The Tenderer is required to complete each and every schedule listed above on item T.2.1.A and that failure to comply with the request will deem the tender disqualified.)*

**T2.1.2 List of returnable documents for evaluation purposes**

- T Company Experience in relation to Scope of Works .....
- U Schedule of Key Personnel .....
- V Tender's Financial Standing and Banking Ratings .....
- W Construction Method Statement and Preliminary Programme .....
- X Contractors Safety Plan .....
- Y Quality Management Questionnaire .....
- Z Plant and Equipment .....

**A. CERTIFICATION OF ATTENDANCE AT NON-COMPULSORY CLARIFICATION MEETING**

**Notes to Tenderer:**

1. *Tenderers must send an email confirming attendance indicating the name of the person attending the virtual briefing session a day before the briefing session i.e. before 1500 on 29 July 2021 to Employers Representative Mlungisi Tshuma on email: mlungisit@mafahleni.co.za (call 013 752 2937). This will form the attendance register.*
2. *Tenderer must complete the details of the attendee to the Microsoft Teams briefing session. Details of attendee to be checked against confirmation email of attendee and company as per the confirmation email sent to Employers' Representative a day prior to briefing session.*

This is to certify that (*tenderer*)

.....

of (*address*)

.....

..... was represented by the persons(s) named below at the Microsoft Teams non-compulsory meeting for Emalahleni Municipality, TENDER No.: 01/2021 on 30 July 2021 starting at 11h00

I / We acknowledge that the purpose of the meeting was to acquaint myself / ourselves with the site of the works and / or matters incidental to doing the work specified in the tender documents in order for me / us to take account of everything necessary when compiling our rates and prices included in the tender:

**Particulars of person (s) attending the meeting:**

Name: ..... Signature: .....

Capacity: .....

Name: ..... Signature: .....

Capacity: .....

Attendance of the above persons at the meeting is confirmed by the Employer's representative, namely:

Name: ..... Signature: .....

Capacity: ..... Date and time: .....

**B. RECORD OF ADDENDUM TO TENDER DOCUMENTS**

I / We confirm that the following communications received from the Employer or his representative before the date of submission of the tender offer, amending the tender documents have been considered in this tender offer.

ADD. No	DATE	TITLE OR DETAILS
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		

SIGNATURE: ..... DATE: .....  
*(of person authorised to sign on behalf of the Tenderer)*

### C. AMENDMENTS, QUALIFICATIONS AND ALTERNATIVES

The tenderer should record any deviations or qualifications he may wish to make to the tender documents in this returnable schedule. Alternatively, a tenderer may state such deviations and qualifications in a covering letter to his tender and reference such letter in this schedule.

The Tenderers attention is drawn to clause 5.8 of SANS 10845-3 regarding the employers handling of material deviations and qualifications.

#### (a) AMENDMENTS

PAGE, CLAUSE OR ITEM NO	PROPOSED AMENDMENTS

[Notes: (1) Amendments to General and Special Conditions of Contract are not acceptable.

(2) The Tenderer must give full details of all the financial implications of the amendments and qualifications in a covering letter attached to his tender.

**This is not an invitation for alternatives** but should the Tenderer desire to make any departure for the provision of this contract he shall detail out his proposals clearly hereunder

#### (b) ALTERNATIVES

PROPOSED ALTERNATIVE	DESCRIPTION OF ALTERNATIVE

[Notes: (1) Individual alternative items that do not justify an alternative tender and an alternative offer for time for completion should be listed here.

(2) In the case of a major alternative to any part of the work, separate Bill of Quantities, programme, etc, and a detailed statement setting out the salient features of the proposed alternative must accompany the tender

(3) Alternative tenders involving technical modifications to the design of the works and methods of construction shall be treated separately from the main tender offer.

SIGNATURE: .....  
(of person authorised to sign on behalf of the Tenderer)

DATE .....

---

**D. COMPANY REGISTRATION CERTIFICATES**

*(The tenderer must submit with his tender whichever is applicable)*

- **For Closed Corporation**

CSD Certificate  
BEE Certificate

**OR**

- **For Companies**

CSD Certificate  
BEE Certificate

**OR**

- **For Joint Venture Agreements**

Joint Venture Agreement between all the parties,  
CSD Certificate (s) for both parties  
BEE Certificate(s)

**OR**

- **For Partnership**

CSD Certificate  
BEE Certificate

**OR**

- **One-person Business/ Sole Trader**

CSD Certificate  
BEE Certificate

**E. CERTIFICATE OF AUTHORITY**

Indicate the status of the Tender by ticking the appropriate box hereunder. The Tender must complete the certificate set out below for the relevant category.

<b>(i) COMPANY</b>	<b>(ii) CLOSE CORPORATION</b>	<b>(iii) PARTNERSHIP</b>	<b>(iv) JOINT VENTURE</b>	<b>(v) SOLE PROPRIETOR</b>

**(i) CERTIFICATE FOR COMPANY**

I..... chairperson of the Board of Directors of ..... hereby confirm that by resolution of the Board (copy attached) taken on .....20.....

Mr/Ms ..... acting in the capacity of ....., was authorised to sign all documents in connection with this tender for Contract No ELM 01/2021 any contract resulting from it on behalf of the company.

Chairman: .....

**As Witnesses:** 1.....  
 2.....

**Date:** .....

**(ii) CERTIFICATE FOR CLOSE CORPORATION**

We, the undersigned, being the key members in the business trading as.....

..... hereby authorise Mr/Ms.....

acting in the capacity of .....to sign all documents in connection with the tender for Contract No ELM 01/2021 and any contract resulting from it on our behalf.

NAME	ADDRESS	SIGNATURE	DATE
	..... ..... .....		
	..... ..... .....		

**Note:** This certificate is to be completed and signed by all of the key members upon whom rests the direction of the affairs of the Close Corporation as a whole.

**(iii) CERTIFICATE FOR PARTNERSHIP**

We, the undersigned being the key partners in the business trading as,

.....

hereby authorise Mr/Ms .....

acting in the capacity of ....., to sign all documents in connection with the tender for Contract No ELM 01/2021 and any contract resulting from it on our behalf.

NAME	ADDRESS	SIGNATURE	DATE

**Note: This certificate is to be completed and signed by all of the key partners upon whom rests the direction of the affairs of the Partnership as a whole.**

**(iv) CERTIFICATE FOR JOINT VENTURE**

We, the undersigned are submitting this tender offer in Joint Venture and hereby authorize Mr/Ms ....., authorized of the company, ..... acting in the capacity of lead partner, sign all documents in connection with the tender offer for Contract No ELM 01/2021 and any contract resulting from it on our behalf.

This authorization is evidenced by the attached power of attorney signed by legally authorized signatories of all the partners to the Joint Venture.

NAME OF FIRM	ADDRESS	AUTHORISING SIGNATURE, NAME AND CAPACITY
Lead partner	..... ..... .....	
	..... ..... .....	

**Note: This certificate is to be completed and signed by all of the key partners upon whom rests the direction of the affairs of the Partnership as a whole.**

(v) **CERTIFICATE FOR SOLE PROPRIETOR**

I, ..... hereby confirm that I am the sole owner of the business trading as  
.....  
acting in the capacity of ....., to sign all documents in connection  
with the tender for Contract No ELM 01/2021 and any contract resulting from it on our behalf.

Signature of Sole owner .....

**As Witnesses:**

1. ....

2. ....

Date: .....

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**F. DETAILS OF REGISTRATION WITH CIDB**

**PRIMARY CONTRACTOR**

Contractors Name: .....

Contractors CIDB Registration Number: .....

Contractors CIDB Registration Classification: .....

**JOINT VENTURE PARTNERS 1 (Where Applicable)**

Contractors Name: .....

Contractors CIDB Registration Number: .....

Contractors CIDB Registration Classification.....

**JOINT VENTURE PARTNERS 2 (Where Applicable)**

Contractors Name: .....

Contractors CIDB Registration Number: .....

Contractors CIDB Registration Classification.....

**Note: This information will be checked on the CIDB Website**

*[Attach CIDB Registration Certificate here]*

## G. TAX CLEARANCE CERTIFICATE REQUIREMENTS AND APPLICATION FORM

### MBD2

It is a condition of bid that the taxes of the successful bidder must be in order, or that satisfactory arrangements have been with South African Revenue Services (SARS) to meet the bidder's tax obligations.

1. In order to meet this requirement, bidders are required to complete in full the TCC 0001 form.
2. Applications for the Tax Clearance Certificates may also be made via e-filing. In order to use this provision, taxpayers will need to register with SARS as e-Fileers through the website [www.sars.gov.za](http://www.sars.gov.za)
3. SARS will then furnish the bidder with a Tax Clearance Certificate that will be valid for a period of 1 (one) year from the date of approval.
4. In bids where Consortia / Joint Ventures / Sub-Contractors are involved each party must submit a separate Tax Clearance Certificate.
5. Tax Compliance Status (TCS) Pin as of 18 April 2016
  - a) In terms of the new Tax Compliance Status System implement by SARS on 18 April 2016 bidder's status online via SARS E-filing.
  - b) The taxpayers must issue the municipality with the following:

Bidders who not possession of an original Tax Clearance Certificate must provide at least 2 of the 3 numbers listed below in order to verify the Tax Clearance Certificate via SARS e-filing.

<b>1. Tax Reference Number</b>	
<b>2. Tax Compliance Status Pin</b>	
<b>3. Tax Clearance Certificate Number</b>	

- c) If a bidder is registered on the Emalahleni Municipality Supplier's Database and the Municipality is already in an original tax clearance certificate which is valid on closing dare of bid, it MUST be indicated as such on this page hereby the attaching a copy of a new tax clearance certificate to this page will not be needed.
6. Should a Tax Clearance Certificate not be verifiable on the SARS e-filing system the bidder will be afforded an opportunity to submit a valid, verifiable Tax Clearance Certificate. It will result in the invalidation of the bid, should the bidder fail to provide a valid, verifiable Tax Certificate

*[Tax Clearance Certificate obtained from SARS to be inserted here]*

## H. DECLARATION OF INTEREST

### MBD 4

1. No bid will be accepted from persons in the service of the state. 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 relation to the evaluating/adjudicating authority and/or take an oath declaring his/her interest.

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

2.1 Full Name: \_\_\_\_\_

2.2 Identity Number: \_\_\_\_\_

2.3 Company Registration Number \_\_\_\_\_

2.4 Tax Reference Number \_\_\_\_\_

2.5 VAT Registration Number \_\_\_\_\_

2.6 Are you presently in the service of the state\* **YES/NO**

2.6.1 If so, furnish particulars.

\_\_\_\_\_

2.7 Have you presently in the service of the state for the past twelve months? **YES/NO**

2.7.1 If so, furnish particulars.

2.8.1 If so, furnish particulars.

\_\_\_\_\_

2.9 Are you, aware of any relationship (family, friend, other)  
Between a bidder and any persons in the service of the state  
Who may be involved with the evaluation and or adjudication of this bid?

\_\_\_\_\_

2.8 Do you, have any relationship (family, friend, other) with persons in the service **YES/NO**

\*SCM 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 of provincial department, national 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 of the state and who may be involved with the evaluation and or adjudication of this bid?

2.9.1 If so, furnish particulars

\_\_\_\_\_

**YES/NO**

2.10 Are any of the company directors, managers, principal shareholders or stakeholders in service of the state?

2.10.1 If so, furnish particulars

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---

2.11 Are any spouse, child or parent of the company's directors, managers, principle shareholders in service of the state?

**YES/NO**

2.11.1 If so, furnish particulars.

---

---

**CERTIFICATION**

I, \_\_\_\_\_ THE UNDERSIGNED CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS CORRECT. ACCEPT THAT THE COUNCIL MAY ACT AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

---

**SIGNATURE**

---

**POSITION**

---

**DATE**

---

**I. DECLARATION FOR PROCUREMENT ABOVE 10 MILLION (ALL APPLICABLE TAXES INCLUDED)  
MBD5**

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

1. Are you by law required to prepare annual financial statements for auditing? **Yes/ No**

1.1 If yes, submit audited annual financial statements for the past three years or since the date of establishment if established during the past three years

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

2. Do you have any outstanding undisputed commitments for municipal services towards any municipality for more than three months or any other service provider in respect of which payment is overdue for more than 30 days **Yes/ No**

2.1 If no, this serves to certify that the bidder has no undisputed commitments for municipal services towards any municipality for more than three months or other service provider in respect of which payment is overdue for more than 30 days.

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, furnish 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, furnish particulars

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

---

**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.

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

## J. PREFERENTIAL PROCUREMENT / BBBEE CERTIFICATE

### MBD 6.1

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, 2011.**

#### 1. GENERAL CONDITIONS

- 1.1 The following preference point systems are applicable to all bids:  
-the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and  
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).
- 1.2 The value of this bid is estimated to exceed R50 000 000 (all applicable taxes included) and therefore the **90/10 system shall be applicable.**
- 1.3 Preference points for this bid shall be awarded for:  
(a) Price; and  
(b) B-BBEE Status Level of Contribution.
- 1.3.1 The maximum points for this bid are allocated as follows:

	<b>POINTS</b>
<b>1.3.1.1 PRICE</b>	.....90.....
<b>1.3.1.2 B-BBEE STATUS LEVEL OF CONTRIBUTION</b>	.....10.....
<b>Total points for Price and B-BBEE must not exceed</b>	<b>100</b>

- 1.4 Failure on the part of a bidder to fill in and/or to sign this form and submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System (SANAS) or a Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA) or an Accounting Officer as contemplated in the Close Corporation Act (CCA) 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.

#### 2. DEFINITIONS

- 2.1 “**all applicable taxes**” includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- 2.2 “**B-BBEE**” means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- 2.3 “**B-BBEE status level of contributor**” means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- 2.4 “**bid**” means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
- 2.5 “**Broad-Based Black Economic Empowerment Act**” means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

- 2.6 “**comparative price**” means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;
- 2.7 “**consortium or joint venture**” means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;
- 2.8 “**contract**” means the agreement that results from the acceptance of a bid by an organ of state;
- 2.9 “**EME**” means any enterprise with annual total revenue of R5 million or less.
- 2.10 “**Firm price**” means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- 2.11 “**functionality**” means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
- 2.12 “**non-firm prices**” means all prices other than “firm” prices;
- 2.13 “**person**” includes a juristic person;
- 2.14 “**rand value**” means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;
- 2.15 “**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;
- 2.16 “**total revenue**” bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the *Government Gazette* on 9 February 2007;
- 2.17 “**trust**” means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and 2.18 “**trustee**” means any person, including the founder of a trust, to whom property is bequashed in order for such property to be administered for the benefit of another person.

### 3. ADJUDICATION USING A POINT SYSTEM

- 1.1 The bidder obtaining the highest number of total points will be awarded the contract.
- 1.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts;.
- 3.3 Points scored must be rounded off to the nearest 2 decimal places.
- 3.4 In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for B-BBEE.
- 3.5 However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal preference points for B-BBEE, the successful bid must be the one scoring the highest score for functionality.
- 3.6 Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

**4. POINTS AWARDED FOR PRICE**

**4.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS**

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

$$Ps = 80 \cdot 1 - \left( \frac{Pt - P_{min}}{P_{min}} \right)^{80/20} \quad \text{or} \quad Ps = 90 \cdot 1 - \left( \frac{Pt - P_{min}}{P_{min}} \right)^{90/10}$$

Where

Ps = Points scored for comparative price of bid under consideration

Pt = Comparative price of bid under consideration

Pmin = Comparative price of lowest acceptable bid

**5. Points awarded for B-BBEE Status Level of Contribution**

5.1 In terms of Regulation 5 (2) and 6 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Contributor	Status Level of	Number of points (90/10 system)	Number of points (80/20 system)
1		10	20
2		9	18
3		8	16
4		5	12
5		4	8
6		3	6
7		2	4
8		1	2
Non-compliant contributor		0	0

5.2 Bidders who qualify as EMEs in terms of the B-BBEE Act must submit a certificate issued by an Accounting Officer as contemplated in the CCA or a Verification Agency accredited by SANAS or a Registered Auditor. Registered auditors do not need to meet the prerequisite for IRBA's approval for the purpose of conducting verification and issuing EMEs with B-BBEE Status Level Certificates.

5.3 Bidders other than EMEs must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.

5.4 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.

5.5 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.

5.6 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.

5.7 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended subcontractors are EMEs that have the capability and ability to execute the sub-contract.

5.8 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.

**6. BID DECLARATION**

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

**7. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.3.1.2 AND 5.1**

7.1 B-BBEE Status Level of Contribution: ..... = ..... (Maximum of 10 points)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or an Accounting Officer as contemplated in the CCA).

**8 SUB-CONTRACTING**

8.1 Will any portion of the contract be sub-contracted? YES / NO (delete which is not applicable)

8.1.1 If yes, indicate:

- (i) what percentage of the contract will be subcontracted? .....%
- (ii) the name of the sub-contractor? .....
- (iii) the B-BBEE status level of the sub-contractor? .....
- (iv) whether the sub-contractor is an EME? YES / NO (delete which is not applicable)

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

9.1 Name of company/firm.....

9.2 VAT registration number: .....

9.3 Company registration number .....

9.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

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

9.6 COMPANY CLASSIFICATION

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

[TICK APPLICABLE BOX]

9.7 Total number of years the company/firm has been in business? .....

9.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contribution indicated in paragraph 7 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 paragraph 7, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- (iv) If the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
  - (a) disqualify the person from the bidding process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favorable arrangements due to such cancellation;
  - (d) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after the Audi alteram partem (hear the other side) rule has been applied; and
  - (e) forward the matter for criminal prosecution

**WITNESSES:**

1 \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE(S) OF BIDDER(S)

2 \_\_\_\_\_ DATE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## K. DECLARATION OF LOCAL CONTENT

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_development/ip.jsp) at no cost.**

- 1.6. A bid may be disqualified if –
  - (a) this Declaration Certificate and the Annex C (Local Content Declaration: Summary Schedule) are not submitted as part of the bid documentation; and
  - (b) the bidder fails to declare that the Local Content Declaration Templates (Annex C, D and E) have been audited and certified as correct.

**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 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 designated 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 labor 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 goods offered have any imported content?

**(Tick applicable box)**

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

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.

The relevant rates of exchange information is accessible on [www.reservebank.co.za](http://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. Were the Local Content Declaration Templates (Annex C, D and E) audited and certified as correct?  
 (**Tick applicable box**)

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

5.1. If yes, provide the following particulars:

- (a) Full name of auditor: .....
- (b) Practice number: .....
- (c) Telephone and cell number: .....
- (d) Email address: .....

(Documentary proof regarding the declaration will, when required, be submitted to the satisfaction of the Accounting Officer / Accounting Authority)

6. 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:** (Emalahleni Local Municipality): .....

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](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), the following:

- (a) The facts contained herein are within my own personal knowledge.
- (b) I have satisfied myself that
  - (i) 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; and
  - (ii) the declaration templates have been audited and certified to be correct.

(c) 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.**

- (d) I accept that Emalahleni Municipality has the right to request that the local content be verified in terms of the requirements of SATS 1286:2011.
- (e) 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 Emalahleni Municipality 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:** \_\_\_\_\_

**WITNESS No. 1** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**WITNESS No. 2** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**L. DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTISES**

**MBD 8**

- 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. wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years: or
  - d. been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)
- 4 **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

Item	Question	Yes	No
4.1	<p><b>Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as a companies or persons prohibited from doing business with the public sector?</b>  <i>(Companies or persons who are listed on this Database were informed in writing of this restriction by the audi alteram partem rule was applied).</i></p> <p>The Database of Restricted Suppliers now resides on the National Treasury's website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) and can be accessed by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	<p>Is the bidder or any its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?  <b>The Register for Tender Defaulters can be accessed on the National Treasury's website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) by clicking on its link ay the bottom of the home page</b></p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars		
4.3	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
4.4	Does the bidder or any of its directors owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to other municipality /municipal entity, that is in areas for more than three months?	Yes	No
4.4.1	If so, furnish particulars (Attach certified proof of good standing from the Municipality)		
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 on or copy with the contract	Yes	No
4.5.1	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

.....

Position

.....

Date

.....

Name of bidder

**M. CERTIFICATE OF INDEPENDENT BID DETERMINATION**

**MBD 9**

1. This Municipal Bidding Document (MBD) must form part of all bids<sup>1</sup> invited.
2. Section 4 (1) (b) (iii) of the Competition Act No .89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging)<sup>2</sup>. Collusive bidding is a pe se prohibition meaning that it cannot be justify 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 if the committed any corrupt or fraudulent act during the bidding process or the execution of the contract.
4. This MBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
5. In order to give effect to the above, the attached Certificate of Bid Determination (MBD 9) must be completed and submitted with the bid:

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

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

I, the undersigned, in submitting the accompanying bid:

**Contract No: ELM 01/2021, REHABILITATION & UPGRADE OF MATTHEWS PHOSA ROAD**

\_\_\_\_\_  
*(Bid Number and Description)*

In response to the invitation for the bid made by:

**EMALAHLENI LOCAL MUNICIPALITY**

\_\_\_\_\_  
*(Name of the Municipality / Municipal Entity)*

do hereby make 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 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 authorised by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder
4. Each person whose signature appears of this Certificate and the accompanying bid has been authorised 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 "competition " shall include any individuals or organisation, other than the bidder, whether or not affiliated with the bidder, who:
  - a) Has been requested to submit a bid in response to this bid invitation:
  - b) Could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience, and
  - c) Provides the same goods and services as the bidder and/or is in the same line of business as the bidder.
6. The bidder has arrived at the accompanying bid independently from, and without Consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium<sup>3</sup> will not be construed as collusive bidding:
7. In particular without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
  - a) prices
  - b) geographical area where product or serve will be rendered (market allocation)
  - c) method, factors or formulas used to calculate prices:
  - d) the intention or decision to submit or not submit, a bid:
  - e) the submission of a bid which does not meet the specification and condition 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 quantity, specification and conditions or delivery particulars of the products or services to which this bid invitation rates.
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.
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 of Corrupt Activities Act No. 12 of 2004 or any other applicable legislation.

\_\_\_\_\_  
**SIGNATURE**

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**POSITION**

\_\_\_\_\_  
**NAME OF BIDDER**

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

## N. 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. CIDB registration number, if any:** \_\_\_\_\_

**Section 4. Particulars of sole proprietors and partners in partnership.**

Name*	Identity number*	Personal income tax number*

\*Complete only if sole proprietor or partnership and attach separate page if more than three partners.

**Section 5. Particulars of companies and close corporations**

Company registration number: \_\_\_\_\_

Close corporation number: \_\_\_\_\_

Tax reference number: \_\_\_\_\_

**Section 6. Record in the service of the state**

Indicate by making 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 the municipal council
- a member of the National Assembly or the National Council of Provinces
- a member of the board of directors of any municipal; entity
- an official of any municipal entity
- a member of an accounting authority of any national or provincial public entity
- an employee of Parliament or a provincial legislature
- an employee of any provincial department, national or provincial public entity or constitutional institution with the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999)

If any of the above boxes are marked, disclose the following \*

\*Insert separate page if necessary.

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

**Section 7. Record of spouses, children and parents in the service of the state**

Indicate by marking the relevant boxes with a cross, if any spouse, child or parent of 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 the municipal council
- a member of the National Assembly or the National Council of Provinces
- a member of the board of directors of any municipal; entity
- an official of any municipal entity
- a member of an accounting authority of any national or provincial public entity
- an employee of Parliament or a provincial legislature
- an employee of any provincial department, national or provincial public entity or constitutional institution with the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999)

If any of the above boxes are marked, disclose the following \*

Name of spouse, child or parent	Name of institution, public offices, 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 authorised to do so on behalf of the enterprise :

- i. Authorizes the Employer to obtain a tax clearance certificate from the South African Revenue Services to confirm that my/our tax matters are in order;
- ii. Confirms that neither the name of the enterprise or the name of any partner manager, director or other person, who wholly or partly exercise, 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 2001;
- iii. Confirms that no partner, member, director or other person who wholly or partly exercises, or may exercise, control over the enterprise, has within the last five years been convicted of fraud or corruption;
- iv. Confirms that I / we are not associated, linked or involved with any other tendering entities submitting tender offers and have no other relationship with any of the tenderers, or those responsible for compiling the scope of work, that could cause, or be interpreted as, a conflict of interest;
- v. Confirm that the contents of this questionnaire are within my personal knowledge and are to the best of my belief both true and correct.

*\*Insert separate page if necessary.*

Signed: \_\_\_\_\_

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

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

Position: \_\_\_\_\_

Enterprise name: \_\_\_\_\_

---

### O. RATES AND MUNICIPAL SERVICES CLEARANCE CERTIFICATE

**The tenderer is to affix to this page:**

- Proof that they are not in arrears for more than 3 months with municipal rates and taxes and municipal service charges. The latest municipal account/statement is to be attached.
- Signed copy of the lease agreement if the tenderer is currently leasing premises and not responsible paying municipal accounts together with a letter from the landlord stating that no levies are in arrears (only if applicable).

**Note:**

1. Failure to affix such documentation as prescribed to this page shall result in this tender not being further considered for the award of the contract.
2. Should this tender be considered for award of the contract, based on proof of submission and should proof of such submission be found to be invalid, erroneous or inaccurate, then this tender will no longer be considered for the award of this contract.
3. Statement must not be older than three months from the closing date of this tender.

**Attach latest municipal account statement behind this page. The Statement must not be older than three months from the close of this tender.**

**P. PRESENT COMMITMENTS**

**Notes to Tenderer:**

- (a) The tenderer shall list below all contracts currently under construction or awarded and about to commence and tenders for which offers been submitted but awards not yet made.
- (b) In the event of a Joint Venture enterprise, details of all the members of the Joint Venture shall similarly be attached to this form.
- (c) The lists must be restricted to not more than 5 contracts and 5 tenders. If a tenderer's actual commitments or potential commitments are greater than 5 each, those listed should be in descending order or expected final contact value or sun tendered

Contracts Awarded				
Employer	Project	Expected Value of contract (Inclusive of VAT)	Duration (Months)	Expected Completion Date

Tenders not Yet Awarded				
Employer	Project	Tendered Amount (Inclusive of VAT)	Tendered Duration (Months)	Expected Commencement Date

Date .....

Signature of Tenderer .....

**Q. COMPULSORY TRAINING PROGRAMME**

Set out the details of the proposed training for Labours and QSEs and QSEs and EMEs in the schedule below:

<b>A: TRAINING OF LOCAL LABOURERS OF THE CONTRACTOR'S AND HIS SUB-CONTRACTOR'S WORKFORCE</b>				
<b>TOTAL ESTIMATED COSTS</b>				

<b>B: TRAINING OF LOCAL QSE &amp; EME CONTRACTORS</b>					
<b>LIST OF COURSES FOR BUSINESS DEVELOPMENT</b>	<b>LIST OF COURSES FOR MANAGEMENT SKILLS</b>	<b>LIST OF OTHER COURSES (SPECIFY)</b>	<b>ACCREDITED INSTITUTIONS THAT WILL PRESENT THE COURSES</b>	<b>DURATION OF EACH COURSE (DAYS)</b>	<b>ESTIMATED COST</b>
<b>TOTAL ESTIMATED COST</b>					

**R. CONTRACTOR'S HEALTH AND SAFETY DECLARATION**

In terms of Clause 4(4) of the OHS Act 1993 Construction Regulations 2003 (referred to as 'the Regulations' hereafter) a Contractor may only be appointed to perform construction work if the Employer is satisfied that the Contractor has necessary competencies and resources to carry out the work safely in accordance with the Occupational Health and Safety Act No. 85 of 1993 and the OHS Act 1993 Construction Regulations 2003.

To that effect a person duly authorised by the Tenderer must complete and sign the declaration hereafter in detail.

**Declaration by Tenderer**

1. I, the undersigned hereby declare and confirm that I am fully conversant with the Occupational Health AND Safety Act No 85 of 1993 (as amended by the Occupational Health and Safety Amendments Act No 181 of 1993), and the OHS Act 1993 Construction Regulations 2003.
2. I hereby declare that my company has the competence and the necessary resources to safely carry out the construction work under this contract in compliance with the construction regulations and the employer's health and safety specifications.
3. I propose to achieve compliance with the regulations by one of the following:
  - (a) From my own competent resources as detailed in 4(a) hereafters: ..... **\*Yes / No**
  - (b) From my own resources still to be appointed or trained until competency is achieved as detailed in 4(b) hereafters: ..... **\*Yes / No**
  - (c) From outside sources by appointment of competent specialist subcontracts as detailed in 4(c) hereafters: ..... **\*Yes / No**

(\*= delete whatever is not applicable)

4. Details of resources I propose:

*(Note: Competent resources shall include safety personnel such as a construction supervisor and construction safety officer as defined in regulation 6, and competent persons as defined in regulations 7,8,10, 11, 12, 14, 15, 18, 21 (1),22,26 and 27 as applicable to this contract)*

- (a) Details of the competent and qualified key persons from my company's own resources, who will form part of the contract team:

NAMES OF COMPETENT PERSONS	POSITIONS TO BE FILLED BY COMPETENT PERSONS

Details of training of persons from my company's own resources (or to be hired) who still have to be trained to achieve the necessary competency:

- (i) By whom will training be provided? .....
- (ii) When will training to be undertaken? .....
- (iii) List the positions to be filled by persons to be trained or hired:  
 .....

.....  
.....  
(b) Details of competent resources to be appointed as subcontractors if competent persons cannot be supplied from own company:

Name of proposed subcontractor: .....  
Qualifications or details of competency of the subcontractor:.....  
.....  
.....

5. I hereby undertake, if my tender is accepted, to provide, before commencement of the works under the contract, a suitable and sufficiently documented Health and Safety Plan in accordance with Regulations 5(1) of the Construction Regulations, which plan shall be subjected to approval by the employer
6. I confirm that copies of my company's approval Health and Safety Plan. The Employer's Safety Specification as well as the OHS Act 1993 Construction Regulations 2003 will be provided on site and will at all times be available for inspectors of the Department of Labour.
7. I hereby confirm that adequate provision has been made in my tendered rates and prices in the schedule of quantities to cover the cost of all resources, actions, training and health and safety measures envisaged in the OHS Act 1993 Construction Regulations 2003, and that I will be liable for any penalties that may be applied by the Employer in terms of the said Regulations (Regulations 30) for failure on the contractors part to comply with the provisions of the Act and the Regulations.
8. I agree that my failure to complete and execute this declaration to the satisfaction of the Employer will mean that I am unable to comply with the requirements of the OHS Act 1993 Construction Regulations 2003, and accept that my tender will be prejudiced and may be rejected at the discretion of the Employer.

SIGNATURE: ..... DATE .....  
*(of person authorised to sign on behalf of the Tenderer)*

**S. PROPOSED SUBCONTRACTORS**

Notes to tenderer:

1. The tenderer shall list below the specialist items of work on this contract. Alternatives may be mentioned.
2. The tenderer shall state whether he intends to carry out any specialised work himself

Acceptance of this tender shall not be constructed as approval of all or any of the listed specialist subcontractor. Should any or all the specialist subcontractors not approved subsequent to the acceptance of the tender. It shall in no way invalidate this tender, and the tendered unit rates for the various items of work shall remain final and binding, even in the event of subcontractor not listed below being approved by the engineer.

SPECIALISED ITEM	INDICATE IF SUB-CONTRACTED (Tick correct option)	
	YES	NO

In order to complete the works under this contract. I/We propose to employ the following sub-contractors to carry out the portion/ type of work as detailed. **Affix original or certified proof of 3 previous projects for each sub-contractor**

Sub-contractor: Name, Address and Telephone No	Portion/ Type of work to be undertaken	
		Previous Value of Work:
		Previous Experience:
		Previous Value of Work:
		Previous Experience:
		Previous Value of Work:
		Previous Experience:
		Previous Value of Work:
		Previous Experience:

		Previous Value of Work:
		Previous Experience:

SIGNATURE: ..... DATE: .....  
*(of person authorised to sign on behalf of the Tenderer)*

## **T2.1.2 LIST OF RETURNABLE DOCUMENTS FOR EVALUATION PURPOSES**

**T. COMPANY EXPERIENCE IN RELATION TO SCOPE OF WORKS**

The Tenderer will receive a maximum of 20 points based on information provided in this schedule.

The following is a statement of work of similar nature recently successfully executed by myself/ ourselves:

1. Points will be given for projects completed of similar nature and size (Road Works Culvert Rehabilitation, work under similar traffic condition). No points will be allocated for building projects and/or water projects.
2. The tenderer must list at least 5 road rehabilitation projects (similar size and nature) completed in the last 10 years.
3. The tenderer will receive a maximum 4 Quality Points for each project listed.
4. The maximum Quality points for each criterion are listed below.
5. Positive feedback from the Consulting Engineer from the designated/ listed contact person will contribute towards points allocated for the attached certified certificates of completion.
6. Positive feedback from the Employer from the designated/ listed contact person will contribute towards points allocated for the attached certified certificates of completion.
7. Only projects of similar or higher value are applicable.
8. Points for certified completion certificates attached will be given for similar nature and size projects. Negative feedback will forfeit all points, meaning zero (0) points will be allocated for the attached certificates of completion.
9. Failure to submit all relevant information per project will result in the forfeiture of all points for that relevant project.
10. The experience of the Tenderer or Joint Venture partners in a consortium will be evaluated on the basis of experience in similar projects or similar areas and conditions in relation to the scope of work required for this project.

Certified Appointment letter of Relevant Work (to be attached) (max 1 points/ project)	Consulting Engineer: Contact Person and Telephone Number	Employer Contact Person and Telephone Number	Value of Work (inclusive of VAT)	Date Completed (Attach Certified Completion Certificate) (max 3 points/ project)	Points awarded by the Engineer
Attach additional pages if more spaces are required	Total Points				

\_\_\_\_\_  
 DATE

\_\_\_\_\_  
 SIGNATURE OF BIDDER

**U. SCHEDULE OF KEY PERSONNEL**

**Note to tenderer:**

The tenderer shall provide details of previous experience required for this project. The tenderer is referred to the tender data clause 4.1.1 (b) and shall insert in the space provided below details of the key personnel required be in employment of the tenderer, in order for the tenderer to be eligible to submit a tender for this project. Proof of registration, **if applicable**, must be appended to this form.

**KEY PERSONNEL EXPERIENCE (CONTRACTS/PROJECTS MANAGER)**

The tenderer shall provide details of previous experience required for this project. Proof of registration must be attached for this form.

Name	Position in team	ECSA Reg No	Category	SACPCMP Reg No	Category	No of Year Experience
	CONTRACTS MANAGER					

**Technical / Managerial Experience**

(List only the most recent 5 projects of the key staff that the tenderer considers relevant to the specified scope of work.

Description of Project	Position held	Project Start Date	Project Completion Date	Contract value	Client and Contact Person	Contact No

**(DETAILED CV MUST BE ATTACHED HERETO)**

**KEY PERSONNEL EXPERIENCE (SITE AGENT)**

The tenderer shall provide details of previous experience required for this project. Proof of registration must be attached for this form.

Name	Position in team	ECSA Reg No	Category	SACPCMP Reg No	Category	No of Year Experience
	SITE AGENT					

**Technical / Managerial Experience**

(List only the most recent 5 projects of the key staff that the tenderer considers relevant to the specified scope of work.

Description of Project	Position held	Project Start Date	Project Completion Date	Contract value	Client and Contact Person	Contact No

**(DETAILED CV MUST BE ATTACHED HERETO)**

**KEY PERSONNEL EXPERIENCE (FOREMAN)**

The tenderer shall provide details of previous experience required for this project. Proof of registration must be attached for this form.

Name	Position in team	ECSA Reg No*	Category	SACPCMP Reg No*	Category	No of Year Experience
	FOREMAN					

*\*Although not a requirement it would be advantageous if the foreman is registered with any of these bodies and such certificates must be attached*

**Technical Experience**

(List only the most recent 5 projects of the key staff that the tenderer considers relevant to the specified scope of work.

Description of Project	Position held	Project Start Date	Project Completion Date	Contract value	Client and Contact Person	Contact No

**(DETAILED CV MUST BE ATTACHED HERETO)**

**KEY PERSONNEL EXPERIENCE (SAFETY OFFICER)**

The tenderer shall provide details of previous experience required for this project. Proof of registration must be attached for this form.

Name	Position in team	Category	SACPCMP Reg No*	Category	No of Year Experience
	SAFETY OFFICER				

**Technical Experience**

(List only the most recent 5 projects of the key staff that the tenderer considers relevant to the specified scope of work.)

Description of Project	Position held	Project Start Date	Project Completion Date	Contract value	Client and Contact Person	Contact No

**(DETAILED CV MUST BE ATTACHED HERETO)**

**V. TENDER 'S FINANCIAL STANDING AND BANK RATINGS**

Notes of tenderer

- The tenderer shall attach to this form 3 year audited financial statement together with a bank rating confirming tenderers financial position
- Should the tender wish to qualify the audited financial statement an original letter management accounts shall be acceptable.
- Failure to provide the 3year audited financial statement and/ bank rating shall render the tenderer's offer non-responsive.
- In the event that the tenderer is a Joint Venture enterprise, details of all the members of all the members of the Joint Venture shall be provided and the lead partners financial details will be considered for evaluation.
- Points will be allocated as below:

**a) Bank Rating**

Rating	Points Allocated
A	5
B	4
C	3
D	2
E	1
F-G	0

**b) Financial Statement**

Item	Max Points
<b>Net profit percentage</b> <input type="radio"/> > 10% - (1.00 points) <input type="radio"/> 7.5% - (0.75 points) <input type="radio"/> 5% - (0.50 points) <input type="radio"/> 2.5% - (0.25 points)	1
<b>Current ratio</b> <input type="radio"/> 3% - (2 points) <input type="radio"/> 2% - (1.5 points) <input type="radio"/> 1.5% - (1 points) <input type="radio"/> 1% - (0.5 points)	2
<b>Quick ratio</b> <input type="radio"/> 1% - (1.00 points) <input type="radio"/> 0.75% - (0.75 points) <input type="radio"/> 0.5% - (0.50 points) <input type="radio"/> 0.25% - (0.25 points)	1
<b>Debt ratio</b> <input type="radio"/> 0.3% - (1.00 points) <input type="radio"/> 0.4% - (0.75 points) <input type="radio"/> 0.5% - (0.50 points) <input type="radio"/> 0.6% - (0.25 points)	1
<b>TOTAL</b>	<b>5</b>

**W. CONSTRUCTION METHOD STATEMENT & PRELIMINARY PROGRAMME**

**a) CONSTRUCTION METHOD STATEMENT**

**The tenderer will receive a maximum of 12 points based on information provided in this schedule.**

The construction of Matthew Phosa road consists of the reconstruction of the existing road. This covers a total length of approximately 5km. The work also rehabilitation of adjacent streets named in the contract data.

**The quality criteria will be as follows (maximum 8 pages):**

- |                                                        |   |          |
|--------------------------------------------------------|---|----------|
| 1) Construction management & administration            | = | 2 points |
| 2) Site setting out works                              | = | 2 points |
| 3) Bulk earthworks                                     | = | 2 points |
| 4) Layer-works (including stabilisation & crusher run) | = | 2 points |
| 5) Surfacing (priming & asphaltting)                   | = | 2 points |
| 6) Socio economic conflict management                  | = | 2 points |

The Tenderer shall attach a method statement reflecting the execution of the various activities, construction methods and quality control comprising the rehabilitation work for this contract, including accommodation of traffic during construction. The statement shall be in accordance with the information supplied in the Contract, requirements of the Project Specifications and with all other aspects of this Tender.

**b) PRELIMINARY PROGRAMME**

**The tenderer will receive a maximum of 3 points based on the executive programme.**

The quality criteria will be as follow:

1. Applicable activities / tasks (showing more than 10 (ten) tasks) = 1.0 points
2. Float indicated = 0.5 points
3. Resources allocation indicated =0.5 points
4. Critical path= 1.0 points

The tenderer shall detail below or attach a preliminary programme reflecting the proposed sequence and tempo of execution of the various activities comprising the work for this contract. The programme shall be in accordance with the information supplied in the Contract, requirements of the Project Specifications and with all other aspects of this Tender.

The Execution Programme must be based on the completion time as specified in the Contract Data.

**PLEASE NOTE:** the cash flow projection from the contractor (to be submitted before commencement of the execution of the contract) must be in accordance with this execution plan in order to ensure proper cash flow management by the Employer and to minimise delayed payments

Programme										
Activity and Resource	Month									


*\*Attach additional pages if more space is required*

SIGNATURE: .....  
*(of person authorised to sign on behalf of the Tenderer)*

DATE .....

## **X. CONTRACTOR'S SAFETY PLAN**

**The tenderer will receive a maximum of 5 points based on information provided in this schedule.**

[The tenderer shall attach to this page (or submit it separately) the Contractor's Health and Safety Plan as required in terms of Regulation 5 of the Occupational Health and Safety Act 1993 Construction Regulations 2003, and referred to in Form R and in T21]



**Z. PLANT AND EQUIPMENT**

**The tender will receive a maximum of 20 points based on information provided in this schedule.**

1. The following are lists of major items of relevant equipment that I/ we presently own or lease and will have available for this contract if my/our tender is accepted.
2. The tenderer will receive Quality points for listing of plant available for this specific contract as follows:
  - Major plant for construction works if well identified and 100% is owned and available at start of contract – 10 points maximum.
  - Plant correctly identified and owned will be calculated according to allocated points
3. Proof of ownership to be submitted.

Description, Size, Capacity etc.	Quantity	Max Points Provided	Indicate No.
Recycler	1	3.0	
Grader (120 or higher)	2	4.0	
TLB (48kw capacity)	2	4.0	
Vibratory Roller (12 ton or higher)	1	3.0	
Tipper Trucks (6m <sup>3</sup> or higher)	3	3.0	
Water Tanker (8000 litres or higher)	1	3.0	
<b>Total</b>		<b>20.0</b>	

*\*Attach additional pages if more space is required.*

SIGNATURE: ..... DATE .....

*(of person authorised to sign on behalf of the Tenderer)*

# THE NATIONAL TREASURY

Republic of South Africa



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## 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.