

# GREATER GIYANI MUNICIPALITY



CONTRACT NUMBER: G/G/M/6115/005/2021

## BID DOCUMENT

FOR THE

POOL OF PROFESSIONAL SERVICE PROVIDERS, PROFESSIONAL LAND SURVEYORS TO BE APPOINTED IN THE GREATER GIYANI MUNICIPALITY FOR THE PERIOD OF THREE (3) YEARS

(THREE YEARS CONTRACT)

NAME OF BIDDER	:			
CONTACT PERSON	:			
TEL NUMBER	:			
FAX NUMBER	:			
CSD NUMBER	:			
TOTAL BID OFFER RATES (INCL VAT)	:	Year 1	Year 2	Year 3

MUNICIPAL MANAGER

GREATER GIYANI MUNICIPALITY

Private Bag X 9559

GIYANI

0826

CLOSING DATE: 30<sup>TH</sup> JUNE 2021@12H00

# R 615.85

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# SCHEDULE OF DOCUMENTS

## TERMS OF REFERENCE

### 1. OBJECTIVE

The terms of references for the appointment of a Panel of Professional Service Providers to assist Greater Giyani Local Municipality to fulfil its obligations in terms of the Municipal Finance Management Act (MFMA) by providing the below-mentioned professional services on an 'as and when required' basis.

Greater Giyani Local Municipality requires, from time to time, external assistance to complement its current capacity in order to fulfil its obligations in terms of the MFMA. Most of the assistance is required at short notice and it is therefore the intention of Greater Giyani Local Municipality to compile a list of experienced and competent service providers in the various fields of Town and Regional Planning and Land Surveying and Geomatics.

The successful service providers will report to the Director of Planning and Local Economic Development on assignments given to them. The qualifying service providers will be listed on a pre-approved panel of service providers. When a need is identified for external support, the municipality will develop detailed terms of reference and request all service providers in the field of the required expertise to submit a comprehensive proposal to execute the terms of reference. These proposals will then be evaluated, and the best service provider will be considered for appointment through the SCM committee system.

### 2. SCOPE OF WORK

The following categories of services have been identified as the Scope of Work to be performed during the financial years 2020/21 to 2023/24. These are considered the main areas of focus and are not intended to be exhaustive.

Bidders need to demonstrate, through their proposals and previous experience, their capabilities in undertaking assignments in the following categories of service and completing them satisfactorily.

## CATEGORY OF SERVICES

- ❖ Surveying work within Giyani Jurisdiction Pegging of internal roads sites.
- ❖ Pegging of sites
- ❖ Site Identification of Properties
- ❖ Preparation of S.G Diagram as in when required by the Municipality.
- ❖ Preparation of Subdivisions and Consolidation as per the Greater Giyani By Laws
- ❖ Amendments of other general plans for Subdivision to S.G
- ❖ Preparation of other surveying related work to the Surveyor General

### 3. DELIVERABLES

- The outputs required will be specified for each individual project in the relevant Terms of Reference and will be related to the 'Description of Service' in the categories above.
- The service providers will be required to sign specific agreements for individual projects. The approved list of service providers must have the capacity, functional skills and experience, to provide the services required at a level acceptable to the Greater Giyani Local Municipality.

#### 4. COMPETENCY / EXPERTISE REQUIRED

- Comprehensive knowledge of the Geomatics and related Surveying Legislations and Practicality
- Thorough knowledge and understanding of National Treasury Guidelines in respect of processes in municipalities,
- Knowledge and experience in the application of process and procedures related to the SPLUMA By Laws in municipalities, again related to surveying
- Knowledge, expertise, and practical experience in contributing to improved sustainability and well-integrated development viability through the conduct of projects with reference to the scope of work identified.
- Ability to transfer skills to municipal staff, and
- A clear understanding of the dynamics of the Municipality such as Greater Giyani Local Municipality.

#### 5. COMMUNICATION AND REPORTING

The successful bidders will report to the Director of Planning and Local Economic Development on assignments in accordance with the terms and conditions documented in service level agreements, letters of engagement or contracts,

- Projects may be initiated by means of service level agreements and letters of engagement.

The Bid Documents for this Contract comprise the following:

##### **Issued to Bidders**

This Document, comprising:

#### 6. THE BID

##### **REQUIREMENTS TO BE MET BY SERVICE PROVIDERS**

- Preference will be given to service providers within the Republic of South Africa
- No bidder whose tax matters are not in order will be appointed on the panel of financial service providers. Valid tax clearance certificate from SARS or with a pin number
- Copies of the company registration certificates, issued by the Companies and Intellectual Property Commission (CIPC) must be attached to the proposal
- In case of a Joint Venture, valid tax clearance certificates (or SARS PINS) for each member of the Joint Venture; company registration certificates for each member, and a joint venture agreement of the parties involved must also be part of the proposals.
- Bidders are also required to provide their company profiles as well.
- Submitted proposals need to reflect on the track record of the company and where possible, proof of experience in similar projects must be provided.
- Certified copies of South African accreditation certificates in Bookkeeping, Accounting or Auditing from credible institutions must be attached to the proposal
- Proof of bank account which is in the name of the company must also be provided
- Bidders must complete all relevant MBD forms and ensure that signatures are provided where required.
- Shareholders and directors must provide certified copies of their Identity Documents.
- A valid and original or certified copy of company's BBB-EE certificate issued by a SANAS accredited institute or body must be attached to the proposal, or alternatively, an Affidavit for EME's.
- Recent proof of payment for municipal rates and taxes (from the billing municipality) which are not in arrears for more than three months in line with regulation no. 38 of Municipal Supply Chain Management Regulations / recent and original proof of residence from Traditional Authority or Induna only if the business is located in a non-rateable area / valid lease agreement accompanied by three (3) months proof of payments for municipal rates and taxes of the lessor before the closing date of the advert.
- The bidders must complete the bill of quantities (BOQ) in black ink. Please note that cancellations/alterations in the BOQ must be signed off by the appointed person who had authority to sign.
- The bid document must be properly completed in black ink and every page must be initialled.
- Proof of Bank rating.

**NB:** Certification on the documents should not be older than three months. Bidders will be disqualified for failure to submit any of the returnable documents listed above (except for BBBEE status level certificate where points will be forfeited).

## 7. FUNCTIONALITY ASSESSMENT

	Criteria	Weights																					
1	<div>QUALIFICATIONS OF THE DIRECTOR (CURRICULLUM VITAE AND CERTIFIED COPIES OF QUALIFICATIONS MUST BE ATTACHED AS PROOF)</div> <table><tr><td>Qualifications</td><td>Score</td></tr><tr><td>B-tech in Land Surveying</td><td>08 Points</td></tr><tr><td>Masters in Land Surveying</td><td>10 Points</td></tr><tr><td>Total</td><td>10 Points</td></tr></table>	Qualifications	Score	B-tech in Land Surveying	08 Points	Masters in Land Surveying	10 Points	Total	10 Points	10													
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2	<div>QUALIFICATIONS OF PROJECT MANAGER (CURRICULLUM VITAE AND CERTIFIED COPIES OF QUALIFICATIONS MUST BE ATTACHED AS PROOF)</div> <table><tr><td>Qualifications</td><td>Score</td></tr><tr><td>Diploma in Land Surveying</td><td>05 Points</td></tr><tr><td>B-tech in Land Surveying</td><td>10 Points</td></tr><tr><td>Total</td><td>10 Points</td></tr></table>	Qualifications	Score	Diploma in Land Surveying	05 Points	B-tech in Land Surveying	10 Points	Total	10 Points	10													
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	A	10 points		10	
	B	8 points			
	C	6 points			
	D	4 points			
	E	2 points			
	F and Below	0 points			
6	PROJECT PLAN			10	
	Detailed Programme of works	Scores			
	Risk Factor Management	05 points			
	Availability for site inspection	05 points			
7	Company Profile and Organogram			30	
	Company Experience and Referral Letters	Scores			
	Below 4 years with 1-3 referral letters	20 points			
	5 years with 3 and more referral letters	30 points			
	Total	30 Points			
	Total points			100	

**NB: Only bidders who obtain a minimum of 70 points in functionality will be on panel of professional service providers for the period of three (3) years in a pool. This bid will not be evaluated on price as the municipality is appointing a panel for 36 months. Rates will be used upon your selection once you are in a panel.**

#### **Bidding procedures**

Bid Notice and Invitation to Bid  
Conditions of Bid

#### **Returnable documents**

List of Returnable Documents and Returnable Schedules

##### **1. Returnable Schedules Required for Bid Evaluation Purposes**

- 1.1. Resolution of Board of Directors
- 1.2. Resolution of Board of Directors to enter into consortia or JV's
- 1.3. Special Resolution of Consortia or JV's
- 1.4. Schedule of proposed sub-contractors
- 1.5. MBD 1-9
- 1.6. Central Supplier Database Summary Report printed within the period of the advert.
- 1.7. Certified copy of BBBEE certificate
- 1.8. Certified copy of director's or member's identity document
- 1.9. Proof of purchase of tender documents
- 1.10. Technical proposal
- 1.11. Director's and company Statement of Account for municipal rates and taxes as indicated on the CK and CSD report/ Letter from traditional authority that is not in arrears for than 90 days (three Months) or if rented Lease agreement must be submitted together with the latest invoice as a proof (Proof of residence from the

- ward councilor is not allowed).
- 1.12. Proof of registration with relevant body
- 1.13. List of qualified members in case of firm/consortium
- 1.14. Qualifications of list of members
- 1.15. Proof of additional qualifications
- 1.16. Resolutions where the bidder is not a natural person
- 1.17. Only service provider that are Listed as Accredited Prospective Provider on the Central Supplier Database will be considered.
- 1.18. Copy of company registration certificate.
- 1.19. The bidder must comply with all terms, conditions and requirements as stipulated in the tender document.
- 1.20. Tax Clearance Certificate and SARS pin.
- 1.21. The proposal should include a client reference list with contact details and original copy/copies of each completed related project.
- 1.22. Three years audited financial statement.
- 1.23. The bidder must demonstrate to the municipality capacity to deliver on the project.
- 1.24. Professional Registration Certificate of Project Leader/Director (SAGC)

## **2. Other documents that will be incorporated into the Contract**

Schedules of Fees and Disbursements

### **Please note:**

- No bid will be accepted from the person in the service of the state.
- Municipality reserves the right to accept or reject any bid or part thereof and is not obliged to accept the lowest bid.
- Municipality reserves the right to accept a bid in part.
- **This document must be completed in detail and each page must be initialized.**
- Bids shall remain valid for a period of 90 (ninety) days after the closing date.
- Telegraphic, telephonic, telex, facsimile, email and late bids will not be accepted.
- Bids may only be submitted on the original bid documentation that is issued by Greater Giyani Municipality.
- Preference is given to bidders who enhance the local economy, create jobs and who promote broad –based black economy empowerment (BBBEE).

## **THE CONTRACT**

### **Agreement and Contract Data**

- Form of Offer and Acceptance
- Form of Offer
- Form of Acceptance

Part 1: Data provided by the Employer

Part 2: Data provided by the Service Provider

## INVITATION TO BID



### GREATER GIYANI LOCAL MUNICIPALITY

RFP NO: G/G/M/6115/005/2021

CLOSING DATE: 30<sup>th</sup> June 2021

#### INVITATION FOR THE

### **POOL OF PROFESSIONAL SERVICE PROVIDERS, PROFESSIONAL LAND SURVEYORS TO BE APPOINTED IN THE GREATER GIYANI MUNICIPALITY FOR THE PERIOD OF THREE (3) YEARS**

The Greater Giyani Local Municipality hereby invites bids from experienced and suitably qualified service provider for Pool of Professional Service Providers, Town, and Regional Planners to be appointed on "as and when required basis".

Bid documents may be collected from 10<sup>th</sup> of June 2021 at Greater Giyani Municipal Offices in during working hours from 07H00 to 16H00, Ground floor, Civic Centre, Giyani Main Road (Opposite old Nkhensani Hospital) upon payment of a non-refundable bid amount of R 615.85. Only bank guaranteed cheques or cash will be accepted. Cheques shall be made payable to the Greater Giyani Local Municipality.

No briefing session will be held due to covid-19 any inquiries should be directed to [sitholeKV@greatergiyani.gov.za](mailto:sitholeKV@greatergiyani.gov.za). Telegraphic, telephonic, telex, facsimile, e-mail and late bids will not be accepted.

Duly fully completed bids enclosed in a sealed envelope marked "Tender No. G/G/M/6115/005/2021: POOL OF PROFESSIONAL SERVICE PROVIDERS, LAND SURVEYORS TO BE APPOINTED IN THE GREATER GIYANI MUNICIPALITY FOR THE PERIOD OF THREE (3) YEARS. With the name of the bidder shall be deposited in the bid box at the foyer provided at the Civic Centre. The bids will be opened in public. Bids may only be submitted on the bid documentation that is issued. The closing date is the 30<sup>th</sup> of June 2021 at 12H00.

A preferential point system shall apply whereby a contract will be allocated to a bidder in accordance with the Preferential Procurement Policy Framework Act, Act No 5 of 2000 and as defined in the Conditions of Bid in the bid document.

Enquiries related to this bid must be addressed to Ms Sithole KV at 015 811 5537

Employer: The Municipal Manager  
Greater Giyani Municipality  
PRIVATE BAG X 9559  
GIYANI  
0826



THE FOLLOWING PARTICULARS MUST BE FURNISHED  
(FAILURE TO DO SO MAY RESULT IN YOUR BID BEING DISQUALIFIED)

NAME OF BIDDER: .....

POSTAL ADDRESS: .....

STREET ADDRESS: .....

TELEPHONE NUMBER: CODE.....NUMBER.....

CELLPHONE NUMBER: .....

FACSIMILE NUMBER: CODE ..... NUMBER.....

E-MAIL ADDRESS: .....

VAT REGISTRATION NUMBER:.....

HAS AN ORIGINAL AND VALID TAX CLEARANCE CERTIFICATE BEEN ATTACHED? (MBD 2) YES / NO

HAS A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE BEEN SUBMITTED? (MBD 6.1) YES / NO

IF YES, WHO ISSUED THE CERTIFICATE? (Tick applicable box)

AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA) ☐

A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN NATIONAL ACCREDITATION SYSTEM (SANAS) ☐

A REGISTERED AUDITOR ☐

**(A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE)**

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS/SERVICES/WORKS OFFERED?

YES / NO

(IF YES ENCLOSE PROOF)

SIGNATURE OF BIDDER .....

DATE: .....

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

TOTAL BID PRICE..... TOTAL NUMBER OF ITEMS OFFERED.....

\_\_\_\_\_

## **LIST OF RETURNABLE DOCUMENTS**

### **1. RETURNABLE SCHEDULES REQUIRED FOR BID EVALUATION PURPOSES**

- 1.1. Resolution of Board of Directors to enter into consortia or JV's
- 1.2. Special Resolution of Consortia or JV's
- 1.3. Schedule of proposed sub-contractors
- 1.4. MBD 1-9
- 1.5. Central Supplier Database Summary Report printed within the period of the advert.
- 1.6. Certified copy of BBBEE certificate
- 1.7. Certified copy of director's or member's identity document
- 1.8. Proof of purchase of tender documents
- 1.9. Technical proposal
- 1.10. Director's and company Statement of Account for municipal rates and taxes as indicated on the CK and CSD report/ Letter from traditional authority that is not in arrears for than 90 days (three Months) or if rented Lease agreement must be submitted together with the latest invoice as a proof (Proof of residence from the ward councilor is not allowed).
- 1.11. Proof of registration with relevant body
- 1.12. List of qualified members in case of firm/consortium
- 1.13. Qualifications of list of members
- 1.14. Proof of additional qualifications
- 1.15. Resolutions where the bidder is not a natural person
- 1.16. Only service provider that are Listed as Accredited Prospective Provider on the Central Supplier Database will be considered.
- 1.17. Copy of company registration certificate.
- 1.18. The bidder must comply with all terms, conditions and requirements as stipulated in the tender document.
- 1.19. Tax Clearance Certificate and SARS pin.
- 1.20. The proposal should include a client reference list with contact details and original copy/copies of each completed related project.
- 1.21. Three years audited Annual Financial statement
- 1.22. The bidder must demonstrate to the municipality capacity to deliver on the project.
- 1.23. Professional Registration Certificate of the project leader/ Director (SAGC)

### **2. RETURNABLE SCHEDULES THAT WILL BE INCORPORATED INTO THE CONTRACT**

- 2.1. Record of Addenda to bid documents

### **3. OTHER DOCUMENTS THAT WILL BE INCORPORATED INTO THE CONTRACT**

- 3.1. MBD 3.1: Pricing Schedule
- 3.2. Quotation under company letterhead

# RETURNABLE SCHEDULE

## SCHEDULE 1.1

### RESOLUTION OF BOARD OF DIRECTORS

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

\_\_\_\_\_

Held at \_\_\_\_\_ (place) On \_\_\_\_\_ (date)

#### **RESOLVED that:**

1. The Enterprise submits a Bid / Bid to the Greater Giyani Local Municipality in respect of the following project: POOL OF PROFESSIONAL SERVICE PROVIDERS, LAND SURVEYORS TO BE APPOINTED ON "AS AND WHEN REQUIRED BASIS"  
: Bid / Bid Number: G/G/M/6115/005/2021
2. \*Mr/Mrs/Ms: \_\_\_\_\_

in \*his/her Capacity as: \_\_\_\_\_  
(Position in the Enterprise)

and who will sign as follows: \_\_\_\_\_

be, and is hereby, authorised to sign the Bid / Bid, and any and all other documents and/or correspondence in connection with and relating to the Bid / Bid, as well as to sign any Contract, and any and all documentation, resulting from the award of the Bid / Bid to the Enterprise mentioned above.

No	Name	Capacity	Signature
1			
2			
3			
5			
6			

#### **Note:**

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

#### **ENTERPRISE STAMP**

## SCHEDULE 1.2

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

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

\_\_\_\_\_  
(Legally correct full name and registration number, if applicable, of the Enterprise)

Held at \_\_\_\_\_ (place) on \_\_\_\_\_ (date)

**RESOLVED that:**

1. The Enterprise submits a Bid /Bid, in consortium/Joint Venture with the following Enterprises:

\_\_\_\_\_  
(List all the legally correct full names and registration numbers, if applicable, of the Enterprises forming the Consortium/Joint Venture)

2. **The Enterprise submits a Bid / Bid to the Greater Giyani Local Municipality in respect of the following project:**  
POOL OF PROFESSIONAL SERVICE PROVIDERS, LAND SURVEYORS "AS AND WHEN REQUIRED BASIS: Bid / Bid Number:  
G/G/M/6115/005/2021

3. \*Mr/Mrs/Ms: \_\_\_\_\_

in \*his/her Capacity as: \_\_\_\_\_  
(Position in the Enterprise)

and who will sign as follows: \_\_\_\_\_

be, and is hereby, authorised to sign a consortium/joint venture agreement with the parties listed under item 1 above, and any and all other documents and/or correspondence in connection with and relating to the consortium/joint venture, in respect of the project described under item 1 above.

4. The Enterprise accepts joint and several liability with the parties listed under item 1 above for the due fulfilment of the obligations of the joint venture deriving from, and in any way connected with, the Contract to be entered into with the Department in respect of the project described under item 1 above.
5. The Enterprise chooses as its *domicilium citandi et executandi* for all purposes arising from this joint venture agreement and the Contract with the Department in respect of the project under item 1 above:

Physical address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ Code \_\_\_\_\_

Postal Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ code \_\_\_\_\_

Telephone number: \_\_\_\_\_ (code) \_\_\_\_\_

Fax number: \_\_\_\_\_ (code) \_\_\_\_\_

No	Name	Capacity	Signature
1			
2			

**Note:**

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

**ENTERPRISE STAMP**

### SCHEDULE 1.3:

#### SPECIAL RESOLUTION OF CONSORTIA OR JOINT VENTURES

**RESOLUTION** of a meeting of the duly authorised representatives of the following legal entities who have entered into a consortium/joint venture to jointly bid for the project mentioned below: *(legally correct full names and registration numbers, if applicable, of the Enterprises forming a Consortium/Joint Venture)*

1. \_\_\_\_\_

2. \_\_\_\_\_

Held at \_\_\_\_\_ (place) on \_\_\_\_\_ (date)

#### **RESOLVED that:**

The above-mentioned Enterprises submit a Bid in Consortium/Joint Venture to the Greater Giyani Local Municipality in respect of the following project POOL OF PROFESSIONAL SERVICE PROVIDERS, LAND SURVEYORS "AS AND WHEN REQUIRED BASIS" : Bid / Bid Number: G/G/M/6115/005/2021

A. Mr/Mrs/Ms: \_\_\_\_\_

in \*his/her Capacity as: \_\_\_\_\_  
(Position in the Enterprise)

and who will sign as follows: \_\_\_\_\_

be, and is hereby, authorised to sign the Bid, and any and all other documents and/or correspondence in connection with and relating to the Bid, as well as to sign any Contract, and any and all documentation, resulting from the award of the Bid to the Enterprises in Consortium/Joint Venture mentioned above.

B. The Enterprises constituting the Consortium/Joint Venture, notwithstanding its composition, shall conduct all business under the name and style of: \_\_\_\_\_

C. The Enterprises to the Consortium/Joint Venture accept joint and several liability for the due fulfilment of the obligations of the Consortium/Joint Venture deriving from, and in any way connected with, the Contract entered into with the municipality in respect of the project described under item A above.

D. Any of the Enterprises to the Consortium/Joint Venture intending to terminate the consortium/joint venture agreement, for whatever reason, shall give Greater Giyani Municipality 30 days written notice of such intention. Notwithstanding such decision to terminate, the Enterprises shall remain jointly and severally liable to the municipality for the due fulfilment of the obligations of the Consortium/Joint Venture as mentioned under item C above.

E. No Enterprise to the Consortium/Joint Venture shall, without the prior written consent of the other Enterprises to the Consortium/Joint Venture and of the municipality, cede any of its rights or assign any of its obligations under the consortium/joint venture agreement in relation to the Contract with the municipality referred to herein.

F. The Enterprises choose as the *domicilium citandi et executandi* of the Consortium/Joint Venture for all purposes arising from the consortium/joint venture agreement and the Contract with the municipality in respect of the project under item A above:

Physical address: \_\_\_\_\_

Postal Address: \_\_\_\_\_

\_\_\_\_\_ Code \_\_\_\_\_

\_\_\_\_\_ Code \_\_\_\_\_

Telephone number: \_\_\_\_\_ (code) \_\_\_\_\_

Fax number: \_\_\_\_\_ (code) \_\_\_\_\_

	NAME	CAPACITY	SIGNATURE
1			
2			

#### *Note:*

- \* Delete which is not applicable*
- NB.** *This resolution must be signed by all the Duly Authorised Representatives of the Legal Entities to the Consortium/Joint Venture submitting this Bid*
- Should the number of Duly Authorised Representatives of the Legal Entities joining forces in this Bid exceed the space available above, additional names and signatures must be supplied on a separate page*
- Resolutions, duly completed and signed, from the separate Enterprises who participate in this Consortium/Joint Venture must be attached to the Special Resolution.*

## TAX CLEARANCE REQUIREMENTS

### IT IS A CONDITION OF BIDDING THAT -

1. The taxes of the successful bidder must be in order, or that satisfactory arrangements have been made with the Receiver of Revenue to meet his / her tax obligations.
  
2. The attached form "Application for Tax Clearance Certificate (in respect of bidders)", must be completed in all respects and submitted to the Receiver of Revenue where the bidder is registered for tax purposes. The Receiver of Revenue will then furnish the bidder with a Tax Clearance Certificate that will be valid for a period of twelve (12) months from date of issue. This Tax Clearance Certificate must be submitted in the original together with the bid. Failure to submit the original and valid Tax Clearance Certificate may invalidate the bid.
  
3. In bids where Consortia / Joint Ventures / Sub-contractors are involved each party must submit a separate Tax Clearance Certificate. Copies of the Application for Tax Clearance Certificates are available at any Receiver's Office.

MBD2/ Application for tax Certificate...

## APPLICATION FOR TAX CLEARANCE CERTIFICATE (IN RESPECT OF BIDDERS)

1. Name of taxpayer / bidder: .....

2. Trade name: .....

3. Identification number: 

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

4. Company / Close Corporation registration number: 

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

5. Income tax reference number: 

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

6. VAT registration number (if applicable): 

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

7. PAYE employer's registration number (if applicable): 

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Signature of contact person requiring Tax Clearance Certificate: .....

Name: .....

Telephone number: Code: ..... Number: .....

Address: .....

.....

.....

DATE: 20 \_\_\_\_ / \_\_\_\_ / \_\_\_\_

PLEASE NOTE THAT THE COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE (SARS) WILL NOT EXERCISE HIS DISCRETIONARY POWERS IN FAVOUR OF ANY PERSON WITH REGARD TO ANY INTEREST, PENALTIES AND / OR ADDITIONAL TAX LEVIABLE DUE TO THE LATE- OR UNDERPAYMENT OF TAXES, DUTIES OR LEVIES OR THE RENDITION RETURNS BY ANY PERSON AS A RESULT OF ANY SYSTEM NOT BEING YEAR 2000 COMPLIANT.

**The successful bidder will be required to fill in and sign a written Contract Form (MBD 7).**

**ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS – (NOT TO BE RE-TYPED)**

THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2011, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT

**NB: NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE (as defined in Regulation 1 of the Local Government: Municipal Supply Chain Management Regulations)**

**THE FOLLOWING PARTICULARS MUST BE FURNISHED  
(FAILURE TO DO SO MAY RESULT IN YOUR BID BEING DISQUALIFIED)**

NAME OF BIDDER .....

POSTAL ADDRESS .....

STREET ADDRESS .....

TELEPHONE NUMBER CODE.....NUMBER.....

CELLPHONE NUMBER .....

FACSIMILE NUMBER CODE ..... NUMBER.....

E-MAIL ADDRESS .....

VAT REGISTRATION NUMBER .....

HAS AN ORIGINAL AND VALID TAX CLEARANCE CERTIFICATE BEEN ATTACHED? (MBD 2) YES / NO

HAS A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE BEEN SUBMITTED? (MBD 6.1) YES / NO

IF YES, WHO WAS THE CERTIFICATE ISSUED BY? (Tick applicable box)

AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA) ☐

A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN NATIONAL ACCREDITATION SYSTEM (SANAS) ☐

A REGISTERED AUDITOR ☐

(A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE)

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS/SERVICES/WORKS OFFERED ? YES/NO

(IF YES ENCLOSE PROOF)

SIGNATURE OF BIDDER .....

DATE.....

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

TOTAL BID PRICE..... TOTAL NUMBER OF ITEMS OFFERED.....



**ANY ENQUIRIES REGARDING THE BIDDING PROCEDURE MAY BE DIRECTED TO:**

**Greater Giyani Municipality**

**Supply Chain Management**

**Ms Maluleke GP**

**Tel: 015 811 5563**

**Fax: 086 523 4550**

**ANY ENQUIRIES REGARDING TECHNICAL INFORMATION MAY BE DIRECTED TO:**

**Ms Sithole K.V**

**Tel: 015 811 5537**

**Fax: 015 812 0268**

## FORM OF OFFER AND ACCEPTANCE

### FORM OF OFFER

The employer, identified in the acceptance signature block, has solicited offers to enter into a contract for the following project:  
POOL OF PROFESSIONAL SERVICE PROVIDERS, LAND SURVEYORS to be Appointed on "As and When Required Basis":  
Bid / Bid Number: G/G/M/6115/005/2021

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

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

The offered bided fee percentages, calculated in accordance with the Guideline Tariff of Fees as per the Guideline Scope of Work and Tariff of Fees for Persons Registered and the Total Cost of the service required is as follows:

#### **MBD 3.1: Inclusive of VAT**

**1. Year 2021/2022:**

RATES.....

(in figures)

and

.....  
.....

(in words)

**2. Year 2022/2023: RATES**

.....

(in figures)

and

.....  
.....

(in words)

**3. Year 2023/2024: RATES**

.....

(in figures)

and

.....  
.....

(in words)

This offer may be accepted by the employer by signing the acceptance part of this Form of Offer and Acceptance and returning one copy of this document to the bidder before the end of the period of validity stated in the bid data, whereupon the bidder becomes the party named as the provider / consultant in the conditions of contract identified in the contract data.

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

Capacity: .....

for the bidder: .....

(Name and address of organization)

Name and signature of witness ..... Date .....

### **FORM OF ACCEPTANCE**

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

The terms of the contract, are contained in:

- Pricing data
- Scope of work.

and documents or parts thereof, which may be incorporated by reference into pricing data and scope of work above.

Deviations from and amendments to the documents listed in the bid data and any addenda thereto as listed in the bid schedules as well as any changes to the terms of the offer agreed by the bidder and the employer during this process of offer and acceptance, are contained in the schedule of deviations attached to and forming part of this agreement. No amendments to or deviations from said documents are valid unless contained in this schedule.

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

Notwithstanding anything contained herein, this agreement comes into effect on the date when the bidder receives one fully completed original copy of this document, including the schedule of deviations (if any). Unless the bidder (now contractor) within five working days of the date of such receipt notifies the employer in writing of any reason why he cannot accept the contents of this agreement, this agreement shall constitute a binding contract between the parties.

Signature: .....

Name : .....

Capacity : .....

for the Employer, the Greater Giyani Municipality, Private Bag X9559, Giyani, 0826

Name and signature of witness ..... Date .....

### **SCHEDULE OF DEVIATIONS**

1. Subject: .....

Details: .....

2. Subject: .....

Details: .....

By the duly authorised representatives signing this agreement, the employer and the bidder agree to and accept the foregoing schedule of deviations as the only deviations from and amendments to the documents listed in the bid data and addenda thereto as listed in the bid schedules, as well as any confirmation,

clarification or changes to the terms of the offer agreed by the bidder and the employer during this process of offer and acceptance.

It is expressly agreed that no other matter whether in writing, oral communication or implied during the period between the issue of the bid documents and the receipt by the bidder of a completed signed copy of this Agreement shall have any meaning or effect in the contract between the parties arising from this agreement.

**MBD 3.1**

**PRICING SCHEDULE – FIRM PRICES**

**(PURCHASES)**

**NOTE: ONLY FIRM PRICES WILL BE ACCEPTED. NON-FIRM PRICES (INCLUDING PRICES SUBJECT TO RATES OF EXCHANGE VARIATIONS WILL NOT BE CONSIDERED)**

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

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

	Year 1	Year 2	Year 3
Level	Professional rate VAT exclusive	Professional rate VAT exclusive	Professional rate VAT exclusive
Project Director			
Project Manager			
Junior Land Surveyors			
Other personnel:			

**NB:** The municipality retains the right to negotiate competitive rates with the successful bidders who would have been listed on the panel with budget considerations considered. The professional rates for year 2 and 3 will be assessed at the time of the request for quotations. The rates increase must not be more than the South African Reserve Bank's **Official CPI index** and the end of December each of the previous year.

**(All costs must exclude VAT)**

- Does offer comply with specification? \*YES/NO
- If not to specification, indicate deviation(s).....
- Period required for delivery.....

## DECLARATION OF INTEREST

1. No bid will be accepted from persons in the service of the state<sup>1</sup>.
2. Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to persons in service of the state, it is required that the bidder or their authorised representative declare their position in relation to the evaluating/adjudicating authority.
3. In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

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

3.2 Identity Number: .....

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

3.4 Company Registration Number: .....

3.5 Tax Reference Number:.....

3.6 VAT Registration Number: .....

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

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

3.8.1 If yes, furnish particulars. ....

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

- (a) a member of –
  - (i) any municipal council;
  - (ii) any provincial legislature; or
  - (iii) the national Assembly or the national Council of provinces;
- (b) a member of the board of directors of any municipal entity;
- (c) an official of any municipality or municipal entity;
- (d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);
- (e) a member of the accounting authority of any national or provincial public entity; or
- (f) an employee of Parliament or a provincial legislature.

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

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

3.9.1 If yes, furnish particulars.....

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

3.10.1 If yes, furnish particulars. ....

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

3.11.1 If yes, furnish particulars. ....

3.12 Are any of the company's directors, trustees, managers,

principle shareholders or stakeholders in service of the state? **YES / NO**

3.12.1 If yes, furnish particulars.

.....  
.....

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

3.13.1 If yes, furnish particulars.

.....  
.....

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

3.14.1 If yes, furnish particulars:

.....  
.....

4. [Full details of directors / trustees / members / shareholders.](#)

Full Name	Identity Number	State Employee Number

.....  
**Signature**

.....  
**Date**

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

..... **Capacity**

## PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2011

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 not to exceed R50 000 000 (all applicable taxes included) and therefore the 80/20 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:

	POINTS
1.3.1.1 PRICE	80
1.3.1.2 B-BBEE STATUS LEVEL OF CONTRIBUTION	20
<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 an 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 bequeathed in order for such property to be administered for the benefit of another person.

### 3. ADJUDICATION USING A POINT SYSTEM

- 3.1 The bidder obtaining the highest number of total points will be awarded the contract.
- 3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts;.
- 3.3 Points scored must be rounded off to the nearest 2 decimal places.
- 3.4 In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for 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:

$$P_s = 80 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right) \quad \text{or} \quad P_s = 90 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

- $P_s$  = Points scored for comparative price of bid under consideration
- $P_t$  = Comparative price of bid under consideration
- $P_{\min}$  = 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 Status Level of Contributor	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 sub-contractor is an EME that has 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:

### 6. 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 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 MUNICIPAL INFORMATION**

**DECLARATION ON STATE OF MUNICIPAL ACCOUNTS**

**A** Any bid will be rejected if:

Any municipal rates and taxes or municipal service charges owed by the bidder or any of the directors to the municipality or a municipal entity, or to any other municipality or municipal entity, are in arrears for more than three months.

**B** Bid Information

- i. Municipality where business is situated.....
- ii. Municipal account number for rates, water and electricity.....
- iv. Names of all directors, their ID numbers and municipal account number.
1. ....
2. ....
3. ....

**C** Documents to be attached.

- i. A copy of municipal account mentioned in B (ii) & (iv) (Not older than 3 months)
- ii. A copy of municipal accounts of all directors mentioned in B(vi) (Not older than 3 months)
- iii. Proof of directors

I/We declare that the abovementioned information is true and correct and that the following documents are attached to this form: .....

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

- 9.9 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contribution indicated in 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 favourable arrangements due to such cancellation;
  - (d) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after the audi alteram partem (hear the other side) rule has been applied; and
  - (e) forward the matter for criminal prosecution

**WITNESSES:**

1. ....

.....

SIGNATURE(S) OF BIDDER(S)

2. ....

DATE:.....

ADDRESS:.....

.....

.....

.....

DECLARATION CERTIFICATE FOR LOCAL PRODUCTION AND CONTENT

**NB: 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 1286:201x.**

1. General Conditions
- 1.1. Preferential Procurement Regulations, 2011 (Regulation 9.(1) and 9.(3) make 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. Regulation 9.(3) prescribes that where there is no designated sector, a specific bidding condition may be included, that only locally produced services, works or goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered.
- 1.4. Where necessary, for bids referred to in paragraphs 1.2 and 1.3 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.
- 1.5. 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.
- 1.6. The local content (LC) as a percentage of the bid price must be calculated in accordance with the SABS approved technical specification number SATS 1286: 201x as follows:

$$LC = 1 - \left( \frac{x}{y} \right) \times 100$$

Where

x imported content

y bid price 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, one week (7 calendar days) prior to the closing date of the bid as required in paragraph 4.1 below.

- 1.7. A bid will be disqualified if:
  - the bidder fails to achieve the stipulated minimum threshold for local production and content indicated in paragraph 3 below; and.
  - this declaration certificate is not submitted as part of the bid documentation.

2. Definitions-

- 2.1. **"bid"** includes advertised competitive bids, written price quotations 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, 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 for this bid is/are as follows:**

Description of services, works or goods	Stipulated minimum threshold
_____	_____ %
_____	_____ %
_____	_____ %

4. Does any portion of the services, works or goods offered have any imported content? 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 1.6 of the general conditions must be the rate(s) published by the SARB for the specific currency at 12:00 on the date, one week (7 calendar days) prior to the closing date 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:

Currency	Rates of exchange
US Dollar	
Pound Sterling	
Euro	
Yen	
Other	

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

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

**IN RESPECT OF BID No. ....**

**ISSUED BY: (Procurement Authority / Name of Municipality / Municipal Entity):**

**NB** 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.

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 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.

- (c) The local content has been calculated using the formula given in clause 3 of SATS 1286, the rates of exchange indicated in paragraph 4.1 above and the following figures:

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

If the bid is for more than one product, a schedule of the local content by product shall be attached.

- (d) I accept that the Procurement Authority / Municipality /Municipal Entity has the right to request that the local content be verified in terms of the requirements of SATS 1286.

- (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, may result in the Procurement Authority / Municipal / Municipal Entity imposing any or all of the remedies as provided for in Regulation 13 of the Preferential Procurement Regulations, 2011 promulgated under the Policy Framework Act (PPFA), 2000 (Act No. 5 of 2000).

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

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

**WITNESS No. 1** \_\_\_\_\_

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

**WITNESS No. 2** \_\_\_\_\_

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

**CONTRACT FORM - RENDERING OF SERVICES**

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

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

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

NAME (PRINT) .....

CAPACITY .....

SIGNATURE .....

NAME OF FIRM .....

DATE .....

**WITNESSES**

1 .....

2 .....

DATE: .....

**CONTRACT FORM - RENDERING OF SERVICES**

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

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

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

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

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

NAME (PRINT) .....

SIGNATURE .....

OFFICIAL STAMP

--

WITNESSES

1 .....

2 .....

DATE: .....

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

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

Item	Question	Yes	No
4.1	Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?  (Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).  <b>The Database of Restricted Suppliers now resides on the National Treasury's website(<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) and can be accessed by clicking on its link at the bottom of the home page.</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? <b>The Register for Tender Defaulters can be accessed on the National Treasury's website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) by clicking on its link at the bottom of the home page.</b>	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 <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
4.4	Does the bidder or any of its directors owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		
4.5	Was any contract between the bidder and the municipality / municipal entity or any other organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.7.1	If so, furnish particulars:		

## CERTIFICATION

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

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

SIGNATURE

DATE

POSITION

NAME OF BIDDER



### CERTIFICATE OF INDEPENDENT BID DETERMINATION

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

I, the undersigned, in submitting the accompanying bid:

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

in response to the invitation for the bid made by:

\_\_\_\_\_  
(Name of Municipality )

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

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

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign, the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
  - (a) has been requested to submit a bid in response to this bid invitation;
  - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
  - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder
5. 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.
6. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
  - (a) prices;
  - (b) geographical area where product or service will be rendered (market allocation)
  - (c) methods, factors or formulas used to calculate prices;
  - (d) the intention or decision to submit or not to submit, a bid;
  - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
  - (f) bidding with the intention not to win the bid.
7. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
8. 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 business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

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

## **SPECIAL CONDITIONS OF CONTRACT**

### **F.1 GENERAL**

#### **F.1.1 Actions**

The employer and each bidder submitting a bid offer shall comply with these conditions of bid. In their dealings with each other, they shall discharge their duties and obligations as set out in F.2 and F.3, timeously and with integrity, and behave equitably, honestly and transparently.

#### **F.1.2 Bid Documents**

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

#### **F.1.3 Interpretation**

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

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

**F.1.3.3** For the purposes of these conditions for the calling for expressions of interest, the following definitions apply:

- a) **comparative offer** means the bidder's financial offer after the factors of non-firm prices, all unconditional discounts and any other bided parameters that will affect the value of the financial offer have been taken into consideration
- b) **corrupt practice** means the offering, giving, receiving or soliciting of anything of value to influence the action of the employer or his staff or agents in the bid process; and
- c) **Fraudulent practice** means the misrepresentation of the facts in order to influence the bid process or the award of a contract arising from a bid offer to the detriment of the employer, including collusive practices intended to establish prices at artificial levels
- d) **Quality (functionality)** means the totality of features and characteristics of a product or service that bear on its ability to satisfy stated or implied needs

#### **F.1.4 Communication and employer's agent**

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

#### **F.1.5 The employer's right to accept or reject any bid offer**

**F.1.5.1** The employer may accept or reject any variation, deviation, bid offer, or alternative bid offer, and may cancel the bid process and reject all bid offers at any time before the formation of a contract. The employer shall not accept or incur any liability to a bidder for such cancellation and rejection, but will give written reasons for such action upon written request to do so.

**F.1.5.2** The employer may not subsequent to the cancellation or abandonment of a bid process or the rejection of all responsive bid offers re-issue a bid covering substantially the same scope of work within a period of six months unless only one bid was received and such bid was returned unopened to the bidder.

### **F.2 BIDDER'S OBLIGATIONS**

#### **F.2.1 Eligibility**

Submit a bid offer only if the bidder complies with the criteria stated in the bid data and the bidder, or any of his principals, is not under any restriction to do business with employer.

#### **F.2.2 Cost of bidding**

Accept that the employer will not compensate the bidder for any costs incurred in the preparation and submission of a bid offer, including the costs of any testing necessary to demonstrate that aspects of the offer satisfy requirements.

#### **F.2.3 Check documents**

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

#### **F.2.4 Confidentiality and copyright of documents**

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

#### **F.2.5 Reference documents**

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

#### **F.2.6 Acknowledge addenda**

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

#### **F.2.7 Clarification meeting**

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

#### **F.2.8 Seek clarification**

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

#### **F.2.9 Insurance**

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

#### **F.2.10 Pricing the bid offer**

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

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

**F.2.10.3** Provide rates and prices that are fixed for the duration of the contract and not subject to adjustment except as provided for in the conditions of contract identified in the contract data.

**F.2.10.4** State the rates and prices in Rand unless instructed otherwise in the bid data. The conditions of contract identified in the contract data may provide for part payment in other currencies.

#### **F.2.11 Alterations to documents**

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

#### **F.2.12 Alternative bid offers**

**F.2.12.1** Submit alternative bid offers only if a main bid offer, strictly in accordance with all the requirements of the bid documents, is also submitted. The alternative bid offer is to be submitted with the main bid offer together with a schedule that compares the requirements of the bid documents with the alternative requirements the bidder proposes.

**F.2.12.2** Accept that an alternative bid offer may be based only on the criteria stated in the bid data or criteria otherwise acceptable to the employer.

#### **F.2.13 Submitting a bid offer**

**F.2.13.1** Submit a bid offer to provide the whole of the works, services or supply identified in the contract data and described in the scope of works, unless stated otherwise in the bid data.

**F.2.13.2** Return all returnable documents to the employer after completing them in their entirety, either electronically (if they were issued in electronic format) or by writing in black ink.

**F.2.13.3** Submit the parts of the bid offer communicated on paper as an original plus the number of copies stated in the bid data, with an English translation of any documentation in a language other than English, and the parts communicated electronically in the same format as they were issued by the employer.

**F.2.13.4** Sign the original and all copies of the bid offer where required in terms of the bid data. The employer will hold all authorized signatories liable on behalf of the bidder. Signatories for bidders proposing to contract as joint ventures shall state which of the signatories is the lead partner whom the employer shall hold liable for the purpose of the bid offer.

**F.2.13.5** Seal the original and each copy of the bid offer as separate packages marking the packages as "ORIGINAL" and "COPY". Each package shall state on the outside the employer's address and identification details stated in the bid data, as well as the bidder's name and contact address.

**F.2.13.6** Where a two-envelope system is required in terms of the bid data, place and seal the returnable documents listed in the bid data in an envelope marked "financial proposal" and place the remaining returnable documents in an envelope marked "technical proposal". Each envelope shall state on the outside the employer's address and identification details stated in the bid data, as well as the bidder's name and contact address.

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

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

#### **F.2.14 Information and data to be completed in all respects**

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

#### **F.2.15 Closing time**

**F.2.15.1** Ensure that the employer receives the bid offer at the address specified in the bid data not later than the closing time stated in the bid data. Proof of posting shall not be accepted as proof of delivery. The employer shall not accept bid offers submitted by telegraph, telex, facsimile or e-mail, unless stated otherwise in the bid data.

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

#### **F.2.16 Bid offer validity**

**F.2.16.1** Hold the bid offer(s) valid for acceptance by the employer at any time during the validity period stated in the bid data after the closing time stated in the bid data.

**F.2.16.2** If requested by the employer, consider extending the validity period stated in the bid data for an agreed additional period.

#### **F.2.17 Clarification of bid offer after submission**

Provide clarification of a bid offer in response to a request to do so from the employer during the evaluation of bid offers. This may include providing a breakdown of rates or prices and correction of arithmetical errors by the adjustment of certain rates or item prices (or both). No change in the total of the prices or substance of the bid offer is sought, offered, or permitted. The total of the prices stated by the bidder shall be binding upon the bidder.

**Note:** Sub-clause F.2.17 does not preclude the negotiation of the final terms of the contract with a preferred bidder following a competitive selection process, should the Employer elect to do so.

#### **F.2.18 Provide other material**

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

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

**F.2.19 Inspections, tests and analysis**

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

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

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

**F.2.21 Check final draft**

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

**F.2.22 Return of other bid documents**

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

**F.2.23 Certificates**

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

**F.3 THE EMPLOYER'S UNDERTAKINGS**

**F.3.1 Respond to clarification**

Respond to a request for clarification received up to five working days prior to the bid closing time stated in the Bid Data and notify all bidders who drew procurement documents.

**F.3.2 Issue Addenda**

If necessary, issue addenda that may amend or amplify the bid documents to each bidder during the period from the date of the Bid Notice until seven days before the bid closing time stated in the Bid Data. If, as a result a bidder applies for an extension to the closing time stated in the Bid Data, the Employer may grant such extension and, will then notify it to all bidders who drew documents.

**F.3.3 Return late bid offers**

Return bid offers received after the closing time stated in the Bid Data, unopened, (unless it is necessary to open a bid submission to obtain a forwarding address), to the bidder concerned.

**F.3.4 Opening of bid submissions**

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

**F.3.4.2** Announce at the opening held immediately after the opening of bid submissions, at a venue indicated in the bid data, the name of each bidder whose bid offer is opened, the total of his prices, preferences claimed and time for completion, if any, for the main bid offer only.

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

**F.3.5 Two-envelope system**

**F.3.5.1** Where stated in the bid data that a two-envelope system is to be followed, open only the technical proposal of valid bids in the presence of bidders' agents who choose to attend at the time and place stated in the bid data and announce the name of each bidder whose technical proposal is opened.

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

**F.3.6 Non-disclosure**

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

**F.3.7 Grounds for rejection and disqualification**

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

**F.3.8 Test for responsiveness**

Determine, on opening and before detailed evaluation, whether each bid offer properly received:

- a) meets the requirements of these Conditions of Bid,
- b) has been properly and fully completed and signed, and
- c) is responsive to the other requirements of the bid documents.

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

- detrimentally affect the scope, quality, or performance of the works, services or supply identified in the Scope of Work,
- change the Employer's or the bidder's risks and responsibilities under the contract, or
- affect the competitive position of other bidders presenting responsive bids, if it were to be rectified.

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

#### F.3.9 Arithmetical errors

Check responsive bid offers for arithmetical errors, correcting them in the following manner:

- Where there is a discrepancy between the amounts in figures and in words, the amount in words shall govern.
- If a bill of quantities (or schedule of rates) apply and there is an error in the line item total resulting from the product of the unit rate and the quantity, the line item total shall govern and the rate shall be corrected. Where there is an obviously gross misplacement of the decimal point in the unit rate, the line item total as quoted shall govern, and the unit rate will be corrected.
- Where there is an error in the total of the prices either as a result of other corrections required by this checking process or in the bidder's addition of prices, the total of the prices shall govern and the bidder will be asked to revise selected item prices (and their rates if a bills of quantities applies) to achieve the bided total of the prices.

Consider the rejection of a bid offer if the bidder does not correct or accept the correction of his arithmetical errors in the manner described above.

#### F.3.10 Clarification of a bid offer

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

#### F.3.11 CRITERIA TO BE USED FOR THE EVALUATION AND ADJUDICATION OF BIDS

##### GUIDE TO RESPOND

All bids will be evaluated in terms of the attached evaluation criteria. The 80/20 evaluation criteria, specifically, will be used. The evaluation has three (3) phases:

- Phase 1 – Administrative Requirement;
- Phase 2 – Functionality / Technical Requirement;
- Phase 3 – Price and Reference.

Bidders will only be considered for the evaluation of phase 2 after meeting the requirements for phase 1 and will be then only be considered for phase 3 after meeting the minimum qualifying threshold of 65% in phase 2.

Functionality / Technical Evaluation

Bidders should take note of the different elements within the evaluation of the technical phase, which are:

- Capability;
- Footprint;
- Service Offering;

##### Capability

A minimum of two years experience in the relevant industry is a requirement. Additional years will result in a higher score.

Current client reference letters, which include the value of the projects, are required.

The number of reference letters will be a determining factor when allocating scores here. Similarly the value of the projects will be considered.

##### Footprint

The greater the Greater Giyani Municipality jurisdiction Footprint of the bidder the greater the advantage of the bidder.

##### Service Offering

Bidders should address all three areas indicated in the evaluation criteria. The proposal should distinguish these three areas (delivery methodology; supplier arrangement / outsourcing arrangement; and order placement methodology or approach).

Bidder should use the weightings as a guide to respond.

The Technical Proposal should include and index which reflects the relevant sections being evaluated. Pages should also be numbered for ease of reference. Any Annexure should be cross referenced to the relevant element within the evaluation criteria.

The distribution of points will be as follows:

Item No.	Evaluation Criteria Items 80/20 Principle	
A - Phase 1: Administrative compliance:		
The following compulsory statutory documents:		
2.1 - Completed MBD1;		
2.2 – CSD summary report / (MBD2		
2.3 - Completed MBD 3.1;		
2.4 -Completed MBD 4;		
2.5 - Completed MBD 6.1; 6.2		
2.6-completed MBD 7.2		
2.6 - Completed MBD 8;		
2.7 - Completed MBD 9;		
2.8 – Technical Response.		
NB – This document must be completed in detailed and each page must be initialized		
Failure to comply with the administrative required documents will render your bid non responsive, and will lead to disqualification.		
B - Phase 2: Functionality:		
Item No.	Evaluation Criteria Items	Weight

1. Qualification	<div>QUALIFICATIONS OF THE DIRECTOR (CURRICULLUM VITAE AND CERTIFIED COPIES OF QUALIFICATIONS MUST BE ATTACHED AS PROOF)</div> <table><tr><td>Qualifications</td><td>Score</td></tr><tr><td>B-tech in Land Surveying</td><td>08 Points</td></tr><tr><td>Masters in Land Surveying</td><td>10 Points</td></tr><tr><td>Total</td><td>10 Points</td></tr></table>	Qualifications	Score	B-tech in Land Surveying	08 Points	Masters in Land Surveying	10 Points	Total	10 Points	10												
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2. Qualification	<div>QUALIFICATIONS OF PROJECT MANAGER (CURRICULLUM VITAE AND CERTIFIED COPIES OF QUALIFICATIONS MUST BE ATTACHED AS PROOF)</div> <table><tr><td>Qualifications</td><td>Score</td></tr><tr><td>Diploma in Land Surveying</td><td>05 Points</td></tr><tr><td>B-tech in Land Surveying</td><td>10 Points</td></tr><tr><td>Total</td><td>10 Points</td></tr></table>	Qualifications	Score	Diploma in Land Surveying	05 Points	B-tech in Land Surveying	10 Points	Total	10 Points	10												
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B-tech in Land Surveying	10 Points																					
Total	10 Points																					
3. Experience and Registration with Professional Bodies	<div>EXPERIENCE AND REGISTRATION WITH PROFESSIONAL BODIES OF THE DIRECTOR IN LAND SURVEYING (ATTACH APPOINTMENT LETTERS)</div> <table><tr><td>EXPERIENCE IN SURVEYING PLUS REGISTRATION WITH PROFESSIONAL BODY (SAGC—SOUTH AFRICAN GEOMATICS COUNCIL)</td><td>Score</td></tr><tr><td>1-2 Years of experience</td><td>01 Points</td></tr><tr><td>3-4 Years of experience</td><td>03 Points</td></tr><tr><td>5 Years of experience and above</td><td>10 Points</td></tr><tr><td>Total</td><td>10 Points</td></tr></table> <div>EXPERIENCE AND REGISTRATION WITH PROFESSIONAL BODIES OF THE OF THE PROJECT MANAGER IN LAND SURVEYING (ATTACH APPOINTMENT LETTERS)</div> <table><tr><td>EXPERIENCE IN LANDSURVEYING PLUS REGISTRATION WITH PROFESSIONAL BODY (SAGC—SOUTH AFRICAN GEOMATICS COUNCIL)</td><td>Score</td></tr><tr><td>1-2Years of experience</td><td>01 Points</td></tr><tr><td>3-4 Years of experience</td><td>03 Points</td></tr><tr><td>5 Years of experience and Higher</td><td>10 Points</td></tr><tr><td>Total</td><td>10 Points</td></tr></table>	EXPERIENCE IN SURVEYING PLUS REGISTRATION WITH PROFESSIONAL BODY (SAGC—SOUTH AFRICAN GEOMATICS COUNCIL)	Score	1-2 Years of experience	01 Points	3-4 Years of experience	03 Points	5 Years of experience and above	10 Points	Total	10 Points	EXPERIENCE IN LANDSURVEYING PLUS REGISTRATION WITH PROFESSIONAL BODY (SAGC—SOUTH AFRICAN GEOMATICS COUNCIL)	Score	1-2Years of experience	01 Points	3-4 Years of experience	03 Points	5 Years of experience and Higher	10 Points	Total	10 Points	10
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5. Bank rating and bank confirmation letter	<div>BANK RATING</div> <table><tr><td>Bank Ratings</td><td>Scores</td></tr><tr><td>A</td><td>10 points</td></tr><tr><td>B</td><td>8 points</td></tr><tr><td>C</td><td>6 points</td></tr><tr><td>D</td><td>4 points</td></tr><tr><td>E</td><td>2 points</td></tr><tr><td>F and Below</td><td>0 points</td></tr></table>	Bank Ratings	Scores	A	10 points	B	8 points	C	6 points	D	4 points	E	2 points	F and Below	0 points	10						
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TOTAL POINTS		100																				

#### F.3.11.1 General

Greater Giyani Municipality Supply Chain Management committees shall evaluate the bid. Reduce each responsive bid offer to a comparative offer and evaluate it using the bid

evaluation method that is indicated in the Bid Data and described below as contained in the Supply Chain Management Policy:

Method 1: Financial offer	1) Rank bid offers from the most favourable to the least favourable comparative offer. 2) Recommend highest ranked bidder for the award of the contract, unless there are compelling and justifiable reasons not to do so.
Method 2: Financial offer and preferences	1) Score bid evaluation points for financial offer. 2) Confirm that bidders are eligible for the preferences claimed and if so, score bid evaluation points for preferencing. 3) Calculate total bid evaluation points. 4) Rank bid offers from the highest number of bid evaluation points to the lowest. 5) Recommend bidder with the highest number of bid evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.
Method 3: Financial offer and quality	1) Score quality, rejecting all bid offers that fail to score the minimum number of points for quality stated in the Bid data. 2) Score bid evaluation points for financial offer. 3) Calculate total bid evaluation points. 4) Rank bid offers from the highest number of bid evaluation points to the lowest. 5) Recommend bidder with the highest number of bid evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.
Method 4: Financial offer, quality and preferences	1) Score quality, rejecting all bid offers that fail to score the minimum number of points for quality stated in the Bid data. 2) Score bid evaluation points for financial offer. 3) Confirm that bidders are eligible for the preferences claimed, and if so, score bid evaluation points for preferencing. 4) Calculate total bid evaluation points. 5) Rank bid offers from the highest number of bid evaluation points to the lowest. 6) Recommend bidder with the highest number of bid evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.

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

### F.3.11.2 Scoring Financial Offers

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

$N_{FO} = W_1 \times A$  where:  
 $N_{FO}$  = the number of bid evaluation points awarded for the financial offer.  
 $W_1$  = the maximum possible number of bid evaluation points awarded for the financial offer as stated in the Bid Data.  
 $A$  = a number calculated using either formulas 1 or 2 below as stated in the Bid Data.

Formula	Comparison aimed at achieving	Option 1	Option 2
1	Highest price or discount	$A = (1 + \frac{P - P_m}{P_m})$	$A = P / P_m$
2	Lowest price or percentage commission / fee	$A = (1 - \frac{P - P_m}{P_m})$	$A = P_m / P$

where:

$P_m$  = the comparative offer of the most favourable bid offer.  
 $P$  = the comparative offer of bid offer under consideration.

### F.3.11.3 Scoring quality (functionality)

Score quality in each of the categories stated in the Bid Data and calculate total score for quality.

### F.3.12 Insurance provided by the employer

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

### F.3.13 Acceptance of bid offer

**F.3.13.1** Accept bid offer only if the bidder satisfies the legal requirements stated in the Bid Data.

**F.3.13.2** Notify the successful bidder of the employer's acceptance of his bid offer by completing and returning one copy of the form of offer and acceptance before the expiry of the validity period stated in the bid data, or agreed additional period. Providing the form of offer and acceptance does not contain any qualifying statements, it will constitute the formation of a contract between the employer and the successful bidder as described in the form of offer and acceptance.

### F.3.14 Notice to unsuccessful bidders

After the successful bidder has acknowledged the employer's notice of acceptance, notify other bidders that their bid offers have not been accepted.

### F.3.15 Prepare contract documents

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

- addenda issued during the bid period,
- inclusion of some of the returnable documents,
- other revisions agreed between the employer and the successful bidder, and
- the schedule of deviations attached to the form of offer and acceptance, if any.

### F.3.16 Issue final contract

Prepare and issue the final draft of contract documents to the successful bidder for acceptance as soon as possible after the date of the employer's signing of the form of offer and acceptance (including the schedule of deviations, if any). Only those documents that the conditions of bid require the bidder to submit, after acceptance by the employer, shall be included.

### F.3.17 Complete adjudicator's contract

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

**F.3.18 Provide copies of the contracts**

Provide to the successful bidder the number of copies stated in the Bid Data of the signed copy of the contract as soon as possible after completion and signing of the form of offer and acceptance.

**F.3.19 General Condition**

**Failure to comply with the conditions below will result in your bid not being responsive**

- (a) Bidders submitting two or more offers on the same bid under different names without declaring interest shall be disqualified.
- (b) Bidders submitting two or more offers on the same bid, the highest offer will not be considered.
- (c) Bid prices that are more than the budget will not be considered
- (d) Proper completions and signing of all prescribed parts of the bid form is a compulsory requirement. This document must be completed in detail and each page must be initialized. Any bid offer that does not provide all the required information completely and in a form that is required, may be regarded as non-responsive.
- (e) It is a condition of this bid that the taxes of the successful bidder must be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the bidder's tax obligations.
- (f) The bidder must ensure that the company name on the tax clearance certificate, company proof of registration and bid form are printed the same. Any inconsistency will result in disqualification of the bid.
- (g) Only the original bid form stamped by the Greater Giyani Municipality will be accepted. All MBD Form 1 to 9 must be completed in full as they form basis for evaluation
- (h) The bidder shall not make any alterations or additions to the bid document, except to comply with the instructions issued. Any necessary or corrected errors made by the bidder shall require the signatories of the company or firm to initial on all such alteration. Erasure and the use of masking fluid are prohibited.
- (i) The Greater Giyani Municipality shall upon awarding of the bid at the rand value of R1.5 million and above, require the bidder to provide a surety, securities and/or guarantees from an accredited financial institution prior to the signing of the contract and commencement of works.
- (j) The special conditions of contract take precedent on any of the conditions of contract that are to be applied.
- (k) The bidder shall familiarise him/herself with the relevant conditions of contract for the awarded bid and signing of such contracts before commencement of works.
- (l) In bids where Consortia / Joint Ventures / Sub-contractors are involved; each party must submit a separate Tax Clearance Certificate.

**GENERAL CONDITIONS OF CONTRACT (GCC)**

**NOTES:**

The purpose of this document is to:

- (i) Draw special attention to certain general conditions applicable to government Bids, contracts and orders; and
- (ii) To ensure that clients be familiar with regard to the rights and obligations of all parties involved in doing business with government.

In this document words in the singular also mean in the plural and vice versa and words in the masculine also mean in the feminine and neuter.

- The General Conditions of Contract (GCC) will form part of all Bid documents and may not be amended.



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## 1. Definitions

1. The following terms shall be interpreted as indicated:

- 1.1 **"Acceptable bid"** means any bid, which, in all respects, complies with the specifications and conditions of the bid as set out in the bid document.
- 1.2 **"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 goods, works or services.
- 1.3 **"Black enterprise"** means an enterprise that is 50,1% owned by black persons and where there is substantial management control. Ownership refers to economic interest while management refers to the membership of any board or similar governing body of the enterprise.
- 1.4 **"Black empowered enterprise"** means an enterprise that is at least 25,1% owned by black persons and where there is substantial management control. Ownership refers to economic interests. Management refers to executive directors. This is whether the black enterprise has control or not.
- 1.5 **"Black people"** includes all African, Coloured or Indian persons who are South African citizens by birth or by descent or who were naturalised prior to the commencement of the constitution in 1993. In addition, the term also includes black people who became South African citizens after the constitution's commencement but who would have been able to be naturalised prior to this, were it not for the Apartheid laws which prohibited naturalisation of certain persons. This means that an African, Coloured or Indian person who was not a South African citizen before the commencement of the constitution in 1993 but who would have been entitled to apply to be naturalised prior to 1993, will also be considered a black person and therefore a beneficiary of BEE.
- 1.6 **"Black woman-owned enterprise"** means an enterprise with at least 25, 1% representation of black women within the black equity and management portion.
- 1.7 **"Closing time"** means the date and hour specified in the bidding documents for the receipt of bids.
- 1.8 **"Comparative price"** means the price after the factors of a non-firm price and all unconditional discounts that can be utilised have been taken into consideration.
- 1.9 **"Community or broad-based enterprise"** means an enterprise that has an empowerment shareholder who represents a broad base of members such as a local community or where the benefits support a target group, for example black women, people living with disabilities, the youth and workers. Shares are held via direct equity, non-profit organisations and trusts. Benefits from the shareholding should in a measurable sense be directed towards the uplifting of the community through job creation, welfare, skills development, entrepreneurship and human rights. At the same time, directors and management of groups should significantly comprise black persons.  
These arrangements are appropriate in situations where the activities or operations of an enterprise or industry directly impact on a community or are located in a community, or may benefit a community. Notable examples are large industrial projects, mining and tourism. Other instances, which do assist in broadening the shareholder base, are employee share ownership schemes; these are a viable empowerment shareholder option. In this and other circumstances, these arrangements should not detract from the ability of the shareholder to exercise significant influence or control over the operations of the business.
- 1.10 **"Consortium or joint venture"** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skills and knowledge in an activity for the execution of a contract.
- 1.11 **"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.
- 1.12 **"Contract price"** means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
- 1.13 **"Control"** means the possession and exercise of legal authority and power to manage the assets, goodwill and daily operations of a business and the active and continuous exercise of appropriate managerial authority and power in determining the policies and directing the operations of the business.
- 1.14 **"Co-operative or collective enterprise"** is an autonomous association of persons who voluntarily join together to meet their economic, social and cultural needs and aspirations through the formation of a jointly-owned enterprise and democratically controlled enterprise.
- 1.15 **"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.
- 1.16 **"Countervailing duties"** are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
- 1.17 **"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.
- 1.18 **"Day"** means calendar day.
- 1.19 **"Delivery"** means delivery in compliance with the conditions of the contract or order.
- 1.20 **"Delivery ex stock"** means immediate delivery directly from stock actually on hand.
- 1.21 **"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 supplies are so delivered and a valid receipt is obtained.
- 1.22 **"Disability"** means, in respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of, ability to perform an activity in the manner, or within the range, considered normal for a human being.
- 1.23 **"Dumping"** occurs when a private enterprise abroad markets 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.
- 1.24 **"Equity Ownership"** means the percentage ownership and control, exercised by individuals within an enterprise.

- 1.25 **"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.
- 1.26 **"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.
- 1.27 **"GCC"** means the General Conditions of Contract.
- 1.28 **"Goods"** means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.29 **"Historically Disadvantaged Individual (HDI)"** means a South African citizen -
- 1.29.1 who, due to the Apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act 110 of 1983) or the Constitution of the Republic of South Africa, 1993, (Act 200 of 1993) ("the interim Constitution"); and/or
- 1.29.2 who is a female; and/or
- 1.29.3 Who has a disability: provided that a person who obtained South African citizenship on or after the coming to effect of the Interim Constitution, is deemed not to be a HDI.
- 1.30 **"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 supplies covered by the bid will be manufactured.
- 1.31 **"Local content"** means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- 1.32 **"Management"** means an activity inclusive of control and performed on a daily basis, by any person who is a principal executive officer of the company, by whatever name that person may be designated, and whether or not that person is a director.
- 1.33 **"Manufacture"** means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.34 **"Order"** means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.35 **"Owned"** means having all the customary elements of ownership, including the right of decision-making and sharing all the risks and profits commensurate with the degree of ownership interests as demonstrated by an examination of the substance, rather than the form of ownership arrangements.
- 1.36 **"Parliament"** means Parliament of the Republic of South Africa as set out in Chapter Four of the Constitution.
- 1.37 **"Person"** includes reference to a juristic person.
- 1.38 **"Project site"** where applicable, means the place indicated in bidding documents.
- 1.39 **"Purchaser"** means the organization purchasing the goods.
- 1.40 **"Rand value"** means the total estimated value of a contract in Rand denomination that is calculated at the time of the bid invitations, and includes all applicable taxes and excise duties.
- 1.41 **"Republic" or "RSA"** means the Republic of South Africa.
- 1.42 **"RFP"** means Request for Proposal.
- 1.43 **"RFT"** means Request for Tender.
- 1.44 **"RFQ"** means Request for Quotation.
- 1.45 **"SCC"** means the Special Conditions of Contract.
- 1.46 **"Secretary"** means the Secretary to Parliament.
- 1.47 **"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.
- 1.48 **"Specific contract participation goals"** means the goals as stipulated in the Preferential Procurement Regulations, 2001. In addition to above-mentioned goals, the Regulations [12. (1)] also make provision for organs of State to give particular consideration to procuring locally manufactured products.
- 1.49 **"Small, Medium and Micro Enterprises (SMMEs)"** bears the same meaning assigned to this expression in the National Small Business Act, 1996 (Act 102 of 1996).
- 1.50 **"Sub-contracting"** means the primary contractor's assigning or leasing or making out work to, or employing another person to support such a primary contractor in the execution of part of a project in terms of the contract.
- 1.51 **"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.
- 1.52 **"Trustee"** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.
- 1.53 **"Written" or "in writing"** means handwritten 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, 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 supplies, 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 With certain exceptions, invitations to bid can be accessed electronically from [www.greatergiyani.gov.za](http://www.greatergiyani.gov.za)

### **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 as 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.

### **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 in SCC.

### **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 supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of Parliament or an organisation acting on behalf of Parliament.
- 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 supplies 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 supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Supplies 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 supplies may on or after delivery be inspected, tested or analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies 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 supplies which do comply with the requirements

of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies 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 23 of GCC.

## **9. Packing**

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

## **10. Delivery and documents**

- 10.1 Delivery of the goods shall be made by the supplier in accordance with the terms specified in the contract. The details of shipping and/or other documents to be furnished by the supplier are specified in SCC.
- 10.2 Documents to be submitted by the supplier are specified in SCC.

## **11. Insurance**

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

## **12. Transportation**

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

## **13. Incidental services**

- 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:
- (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 in SCC, 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 in SCC.
- 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 in SCC 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 in SCC, 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 in SCC.
- 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 in SCC.

#### **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 in SCC 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 contract 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 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.
- 21.4 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 supplies are required, or the supplier's services are not readily available.
- 21.5 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 21.2 without the application of penalties.
- 21.6 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without canceling the contract, be entitled to purchase supplies 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 judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
- 23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.

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

- 24.1 When, after the date of bid, provisional payments are required, or antidumping 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 contractor to the State or the State may deduct such amounts from moneys (if any) which may otherwise be due to the contractor in regard to supplies 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 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.
- 27.5 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.

### **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

- (b) 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 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 in SCC.

## **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, Parliament must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services (SARS).

## **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.