



102 Main Street,  
Matatiele  
P.O. Box 35,  
Matatiele, 4730  
**Tel:** 039 737 3135  
**Fax:** 039 737 3611

## BID DOCUMENTS

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**BID NUMBER: MATAT/2020/2021-65**

**PROJECT NAME: APPOINTMENT OF MUNICIPAL PANEL OF ATTORNEYS/  
FIVE FIRM OF ATTORNEYS**

**NAME OF THE COMPANY:** \_\_\_\_\_

**CONTACT PERSON:** \_\_\_\_\_

**CENTRAL SUPPLIER DATA BASE NO (CSD):** \_\_\_\_\_

**BID AMOUNT: R** \_\_\_\_\_ **(AMOUNT TO BE INCLUSIVE OF VAT)**

**BID AMOUNT IN WORDS** \_\_\_\_\_

\_\_\_\_\_

**Issued by:**

**BUDGET AND TRESUARY OFFICE  
SUPPLY CHAIN MANAGEMENT UNIT  
MOUNTAIN VIEW OFFICES  
MATATIELE  
4730**

**Enquires:**

**Tel: 039 737 8100**

**Fax: 039737 3611**

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# 1. CHECKLIST

PLEASE ENSURE THAT THE FOLLOWING FORMS HAVE BEEN DULY COMPLETED AND SIGNED AND  
THAT ALL DOCUMENTS AS REQUESTED, ARE ATTACHED TO THE TENDER DOCUMENT:

<b>MBD 1 Invitation to tender?</b>	<b>Yes</b>		<b>No</b>	
<b>Authority to Sign a Bid</b> Is the form duly completed and is a <b>certified copy</b> of the <b>resolution</b> attached?	<b>Yes</b>		<b>No</b>	
<b>Tax Clearance Certificate</b> Is an <b>ORIGINAL</b> and <b>VALID</b> Tax Clearance Certificate attached?	<b>Yes</b>		<b>No</b>	
<b>MBD 4</b> (Declaration of Interest) Is the form duly completed and signed?	<b>Yes</b>		<b>No</b>	
<b>MBD 6.1</b> (Preference Points claim form for purchases/services) Is the form duly completed and signed? Is a <b>CERTIFIED</b> copy of the <b>B-BBEE Certificate</b> or the <b>original B-BBEE Certificate</b> attached?	<b>Yes</b>		<b>No</b>	
<b>MBD 7.2</b> (Contract form – Rendering a service) Is the form duly completed and signed?	(i)	(ii)	(iii)	(iv)
<b>MBD 8</b> (Declaration of Past Supply Chain Practices) Is the form duly completed and signed?	<b>Yes</b>		<b>No</b>	
<b>MBD 9</b> (Certificate of Independent Bid Determination) Is the form duly completed and signed?	<b>Yes</b>		<b>No</b>	
SCHEDULE A – CONFIRMATION OF REGISTRATION OF TENDERER ON NATIONAL TREASURY DATABASE				
SCHEDULE B – TENDERER'S PAST EXPERIENCE				

(v) <b>SIGNATURE</b>	(vi)	(vii) <b>NAME</b>	(viii)
(ix) <b>CAPACITY</b>	(x)	(xi) <b>DATE</b>	(xii)
(xiii) <b>NAME OF FIRM</b>	(xiv)		



### ERRATUM TO TENDENOTICE

The Matatiele Local Municipality would like to inform all the prospective bidders of the changes below which relate to the below notice:

BID NO	DESCRIPTION	ADVERTISING DATE	OLD CLOSING DATE	NEW CLOSING DATE
MATAT/ 2020/2021-65	APPOINTMENT OF MUNICIPAL PANEL OF ATTORNEYS/ FIVE FIRM OF ATTORNEYS	12 FEBRUARY 2021	03 MARCH 2021 @ 12h00	24 MARCH 2021 @12h00

NO	OLD FUNCTIONALITY DESCRIPTION	REVISED FUNCTIONALITY DESCRIPTION	TOTAL WEIGHT OF POINTS ALLOCATED
10.1.2	Five years' experience with traceable records of successful completion of a minimum of 3 municipal cases with Relevant expertise of any of the above specialties as referred to in clauses 2.6.1 to 2.6.7 <b>Bidder assessment form</b>	Proven experience with traceable records of successful completion of a minimum of 3 municipal cases with Relevant expertise of any of the following specialties: <b>1. Civil and Criminal law</b> <b>2. Labour Law</b> <b>3. Law of Contracts</b> <b>4.Engineering and Construction contracts</b> <b>5.Conveyancing and Property Law</b> <b>6.Procurement Law and Administrative Law</b> <b>7. Insurance Law</b> 5 Years and above = 40 4 Years = 30 3 Years =20  <b>NB: Complete assessment bidder form in full to earn points ,failure will result to zero points allocated for experience)</b>	<b>40</b>

➤ **Please note that evaluation criteria Number 10.1.6 on the functionality table is removed.**

The municipality would like to apologize for any inconvenience caused and other information remains unchanged.

Technical enquiries should be directed to Ms. O Sangoni (Senior Officer: Legal Services ) at [osangoni@matatiele.gov.za](mailto:osangoni@matatiele.gov.za) and SCM enquiries should be directed to Mr. Z. Mani (Manager: SCM) at [zmani@matatiele.gov.za](mailto:zmani@matatiele.gov.za) during office hours.

**MR. L. MATIWANE**  
**MUNICIPAL MANAGER**



## TENDER NOTICE

Bids are hereby invited from suitably experienced Service Providers for the project stated below:

BID NO	DESCRIPTION	ADVERTISING DATE	CLOSING DATE
MATAT/ 2020/2021-65	APPOINTMENT OF MUNICIPAL PANEL OF ATTORNEYS/ FIVE FIRM OF ATTORNEYS	12 FEBRUARY 2021	03 MARCH 2021 @ 12h00

Bid Documents will be available at the **Municipal Website and BTO Offices** for a **non – refundable tender fee of R 398.48** payables in the Municipal bank account (Ned Bank 1011292106 branch code 198765, name of company and bid no as reference) are also available from Municipal website as from **16 FEBRUARY 2021. Opening of the bids will be under minimum requirements of the Covid-19 restrictions also no bidder with no face mask will be allowed.**

### **1. Notes to Prospective Bidders: Compulsory submissions (Failure to submit any of the following will result in disqualification)**

- 1.1 All bids submitted should remain valid for a period of 90 days after the bid closing date.
- 1.2 Municipal clearance certificate certifying that no municipal rates and service charges owed by the bidder and any of its directors to Matatiele Municipality or to any other municipality where the bidder's business operations are located are in arrears for more than three months. If you don't pay rates you must submit both affidavit and Proof of residence from Ward Councillor, if you submit one of the two required (bidder and its directors) you will be disqualified.
- 1.3 Certified copies of BBBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor or a Sworn Affidavit, Failure to submit will result in zero points score for BBBEE status level.
- 1.4 Authority to sign section must be signed and completed in full.
- 1.5 Copies of ID Documents must be certified.
- 1.6 The bid will be evaluated according to the preferential procurement model in the Preferential Procurement the bidders' attention is drawn to Form MBD6.1.
- 1.7 Company profile with traceable references
- 1.8 Bids received after the published closing date will not be considered and will not be opened.
- 1.9 All bidders should complete MBD 1, MBD 2, MBD 4, MBD 8, and MBD 9, Ethics Commitment for Suppliers of Matatiele Local Municipality.
- 1.10 All prospective service providers of goods and services and infrastructure procurement are to be registered on Central Database in order to do business with all organs of state in the Republic of South Africa.

### **2. Bidders are warned not to accept any person who request any amount for award for this bid, it is a scam and fraud, that person must be reported to the nearest police station.**

### **3. The Bids will be evaluated on the basis of the Preferential Procurement Policy Framework Act (Act No.5, 2000), and the regulations pertaining thereto (2017), as well as the Matatiele Local Municipality's Supply Chain Management policy. 80/20 preference point system will be used. The bids will be evaluated in two stages, namely:**

Stage 1-Functionality

Stage 2 -Price and BBBEE Points

Price (80)

BBBEE Points (20)

**FUNCTIONALITY 100 POINTS**

<b>NO</b>	<b>FUNCTIONALITY DESCRIPTION</b>	<b>TOTAL WEIGHT OF POINTS ALLOCATED</b>
<b>10.1.1</b>	The Director of the law firm must have an LLB degree or B.com Law with a minimum of 5 years post admission experience in specialties as referred to in clauses 2.6.1 to 2.6.7 Attach CV, certified admission certificate and certified certificates of qualification.	<b>20</b>
<b>10.1.2</b>	Five years' experience with traceable records of successful completion of a minimum of 3 municipal cases with Relevant expertise of any of the above specialties as referred to in clauses 2.6.1 to 2.6.7 <b>Bidder assessment form</b>	<b>20</b>
<b>10.1.3</b>	Employment of one or more professional assistants. Attach CV and certified copies of LLB qualification not older than 3 months.	<b>20</b>
<b>10.1.5</b>	Accredited member of the Law Society of South Africa and in possession of a valid fidelity fund certificate Attach Accreditation and certified fidelity fund certificate	<b>20</b>
<b>10.1.6</b>	Explain concisely the following: <ol style="list-style-type: none"><li>1. How effectively alternative dispute resolution (ADR) would be utilised to ensure speedily resolution of matters without compromising the merits of the case.</li><li>2. The appropriateness of the tools used by the law firm such as human capital availability for projects, time frame from the time of receiving instructions to the finalization of the matter.</li><li>3. Further, how reporting would be done for progress report in respect of pending cases.</li></ol>	<b>20</b>

**A bidder that scores less than 80 points out of 100 in respect of “functionality” will be regarded as submitting a non-responsive bid and will be disqualified.**

Bids must be submitted in a sealed envelope clearly marked “**APPOINTMENT OF MUNICIPAL PANEL OF ATTORNEYS/ FIVE FIRM OF ATTORNEYS “BID NO: 2020/2021-65”** must be deposited in the Bid Box located at the New Budget and Treasury Offices, Mountain View, Matatiele 4730.

*Matatiele Local Municipality does not bind itself to accept the lowest or any bid and reserves the right to accept the Bid in whole or part, at the rates quoted and also Matatiele Local Municipality may not appoint one service provider for more than one similar bids advertised and or evaluated on the same date, for the fair distribution of jobs to service providers.*

Technical enquiries should be directed to **MS O. Sangoni (Senior Officer: Legal Services)** at **OSangoni@matatiele.gov.za** and SCM enquiries to **Mr Z Mani** at **[ZMani@matatiele.gov.za](mailto:ZMani@matatiele.gov.za)**.

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**MR. L. MATIWANE**

**MUNICIPAL MANAGER**

**PART A**  
**INVITATION TO BID**

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF MUNICIPALITY/ MUNICIPAL ENTITY)</b>					
BID NUMBER:	MATAT:2020/2021-65	CLOSING DATE:	24 MARCH 2021	CLOSING TIME:	12h00
DESCRIPTION	<b>APPOINTMENT OF MUNICIPAL PANEL OF ATTORNEYS/ FIVE FIRM OF ATTORNEYS</b>				
<b>THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (MBD7).</b>					
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
Matatiele Local Municipality New BTO Offices Matatiele 4730					
<b>SUPPLIER INFORMATION</b>					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
TAX COMPLIANCE STATUS	TCS PIN:		OR	CSD No:	
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]	<input type="checkbox"/> Yes  <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT <input type="checkbox"/> Yes  <input type="checkbox"/> No		
<b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES &amp; QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]</b>					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES/WORKS OFFERED?		<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER PART B:3 ]
TOTAL NUMBER OF ITEMS OFFERED			TOTAL BID PRICE	R	
SIGNATURE OF BIDDER	.....		DATE		
CAPACITY UNDER WHICH THIS BID IS SIGNED					
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:</b>			<b>TECHNICAL INFORMATION MAY BE DIRECTED TO:</b>		
DEPARTMENT	BTO		CONTACT PERSON	MS O SANGONI	
CONTACT PERSON	MR Z MANI		TELEPHONE NUMBER	0397378100	
TELEPHONE NUMBER	0397378192		FACSIMILE NUMBER	0397373611	
FACSIMILE NUMBER	0397373611		E-MAIL ADDRESS	OSangoni@matatiele.gov.za	
E-MAIL ADDRESS	ZMani@matatiele.gov.za				



## PART B

### TERMS AND CONDITIONS FOR BIDDING

<b>1. BID SUBMISSION:</b>										
<p>1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.</p> <p>1.2. <b>ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR ONLINE</b></p> <p>1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.</p>										
<b>2. TAX COMPLIANCE REQUIREMENTS</b>										
<p>2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.</p> <p>2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.</p> <p>2.3 APPLICATION FOR THE TAX COMPLIANCE STATUS (TCS) CERTIFICATE OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.</p> <p>2.4 FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART B:3.</p> <p>2.5 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.</p> <p>2.6 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.</p> <p>2.7 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.</p>										
<b>3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>										
<table style="width: 100%; border: none;"> <tr> <td style="width: 70%;">3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?</td> <td style="width: 30%; text-align: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</td> </tr> <tr> <td>3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA?</td> <td style="text-align: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</td> </tr> <tr> <td>3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?</td> <td style="text-align: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</td> </tr> <tr> <td>3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?</td> <td style="text-align: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</td> </tr> <tr> <td>3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?</td> <td style="text-align: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</td> </tr> </table> <p><b>IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE.</b></p>	3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?	<input type="checkbox"/> YES <input type="checkbox"/> NO	3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO	3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO	3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO	3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?	<input type="checkbox"/> YES <input type="checkbox"/> NO
3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?	<input type="checkbox"/> YES <input type="checkbox"/> NO									
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3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO									
3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO									
3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?	<input type="checkbox"/> YES <input type="checkbox"/> NO									

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

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

**Municipality / Municipal Entity:** Matatiele Local Municipality

**Department:** Budget and Treasury Office

**Contact Person:** Supply Chain and Fleet Manager: Mr. Z Mani

**Email:** ZMani@matatiele.gov.za

**Fax:** 039 737 3611

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

**Contact Person:** Ms O Sangoni: LEGAL SERVICES

**Email:** OSangoni@matatiele.gov.za

**Fax:** 039 737 3611

### 3. AUTHORITY TO SIGN

#### 1. SOLE PROPRIETOR (SINGLE OWNER BUSINESS) AND NATURAL PERSON

1.1. I, \_\_\_\_\_, the undersigned, hereby confirm that I am the sole owner of the business trading as \_\_\_\_\_.

OR

1.2. I, \_\_\_\_\_, the undersigned, hereby confirm that I am submitting this tender in my capacity as natural person.

SIGNATURE:		DATE:	
PRINT NAME:			
WITNESS 1:		WITNESS 2:	

#### 2. COMPANIES AND CLOSE CORPORATIONS

2.1. If a Bidder is a **COMPANY**, a certified copy of the resolution by the board of directors, duly

signed, authorizing the person who signs this bid to do so, as well as to sign any contract resulting from this bid and any other documents and correspondence in connection with this bid and/or contract on behalf of the company **must be submitted with this bid**, that is, before the closing time and date of the bid

2.2. In the case of a **CLOSE CORPORATION (CC)** submitting a bid, a **resolution by its members**, authorizing a member or other official of the corporation to sign the documents on their behalf, **shall be included with the bid**.

#### PARTICULARS OF RESOLUTION BY BOARD OF DIRECTORS OF THE COMPANY/MEMBERS OF THE CC

Date Resolution was taken			
Resolution signed by (name and surname)			
Capacity			
Name and surname of delegated Authorised Signatory			
Capacity			
Specimen Signature			
Full name and surname of ALL Director(s) / Member (s)			
1.		2.	
3.		4.	
5.		6.	
7.		8.	
9.		10.	
Is a CERTIFIED COPY of the resolution attached?			



SIGNED ON BEHALF OF

COMPANY / CC:

DATE:

PRINT NAME:

WITNESS 1:

WITNESS 2:

### 3. PARTNERSHIP

We, the undersigned partners in the business trading as \_\_\_\_\_ hereby authorize Mr/Ms \_\_\_\_\_ to sign this bid as well as any contract resulting from the bid and any other documents and correspondence in connection with this bid and /or contract for and on behalf of the abovementioned partnership.

The following particulars in respect of every partner must be furnished and signed by every partner:

Full name of partner		Signature
SIGNED ON BEHALF OF		
PARTNERSHIP:	DATE:	
PRINT NAME:		

WITNESS 1:

WITNESS 2:

### 4. CONSORTIUM

We, the undersigned consortium partners, hereby authorize \_\_\_\_\_  
\_\_\_\_\_ (Name of entity) to act as lead consortium partner and further authorize Mr./Ms.

To sign this offer as well as any contract resulting from  
~~this tender and any other documents and correspondence~~ in connection with this tender and / or contract  
for and on behalf of the consortium.

The following particulars in respect of each consortium member must be provided and signed by each member:

Full Name of Consortium Member	Role of Consortium Member	% Participation	Signature
SIGNED ON BEHALF OF		DATE:	
PARTNERSHIP:			
PRINT NAME:			
WITNESS 1:		WITNESS 2:	



## **4. GENERAL CONDITIONS OF CONTRACT – GOVERNMENT PROCUREMENT**

### **1. DEFINITIONS**

The following terms shall be interpreted as indicated:

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

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

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

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

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

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

1.7. "Day" means calendar day.

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

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

1.10. "Delivery into consignees store or to his site" means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.

1.11. "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.

1.12. "Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable.

1.13. 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.

1.14. "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.

1.15. "GCC" means the General Conditions of Contract.

1.16. "Goods" means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.

1.17. "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.

1.18. "Local content" means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.

1.19. "Manufacture" means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.

1.20. "Order" means an official written order issued for the supply of goods or works or the rendering of a service.

1.21. "Project site" where applicable, means the place indicated in bidding documents.

1.22. "Purchaser" means the organization purchasing the goods.

1.23. "Republic" means the Republic of South Africa.

1.24. "SCC" means the Special Conditions of Contract.

1.25. "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.

1.26. "Supplier" means the successful bidder who is awarded the contract to maintain and administer the required and specified service(s) to the State.

1.27. "Tort" means in breach of contract.

1.28. "Turnkey" means a procurement process where one service provider assumes total responsibility for all aspects of the project and delivers the full end product / service required by the contract.

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

### **4. Standards**

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

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

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

6.2. When a supplier developed documentation / projects for the municipality / municipal entity, the intellectual, copy and patent rights or ownership of such documents or projects will vest in the municipality / municipal entity.

### **7. Performance security**

7.1. Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.

7.2. The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.

7.3. The performance security shall be denominated in the currency of the contract or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:

7.3.1. 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



7.3.2. a cashier's or certified cheque

7.4. The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified.

## **8. Inspections, tests and analyses**

8.1. All pre-bidding testing will be for the account of the bidder.

8.2. If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspections tests and analysis, the bidder or contractor's premises shall be open, at all reasonable hours, for inspection by a representative of the purchaser or an organization acting on behalf of the purchaser.

8.3. If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.

8.4. If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the goods to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.

8.5. Where the goods or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such goods or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.

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 goods may on or after delivery be inspected, tested or analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected goods shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with goods which do comply with the requirements of the contract. Failing such removal the rejected goods shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute goods forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected goods, purchase such goods as may be necessary at the expense of the supplier.

8.8. The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 22 of GCC.

## **9. Packing**

9.1. The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

9.2. The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, and in any subsequent instructions ordered by the purchaser.

## **10. Delivery**

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

## **11. Insurance**

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

## **12. Transportation**

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

## **13. Incidental**

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

13.1.1. performance or supervision of on-site assembly and/or commissioning of the supplied goods;

13.1.2. furnishing of tools required for assembly and/or maintenance of the supplied goods;

13.1.3. furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;

13.1.4. 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

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

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

## **14. Spare parts**

14.1. As specified, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:

14.1.1. 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;

14.1.2. in the event of termination of production of the spare parts:

14.1.2.1. advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and

14.1.2.2. 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, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

## 16. Payment

16.1. The method and conditions of payment to be made to the supplier under this contract shall be specified.

16.2. The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.

16.3. Payments shall be made by the purchaser **no later than thirty (30) days** after submission of an **invoice, statement** or claim by the supplier.

16.4. Payment will be made in Rand unless otherwise stipulated.

## 17. Prices

Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized or in the purchaser's request for bid validity extension, as the case may be.

## 18. Variation orders

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

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**

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. 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.

21.4. Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 22 without the application of penalties.

21.5. Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without cancelling 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**

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:

23.1.1. 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;

23.1.2. if the Supplier fails to perform any other obligation(s) under the contract; or

23.1.3. 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.

23.3. Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.

23.4. If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the supplier as having no objection and proceed with the restriction.

23.5. Any restriction imposed on any person by the purchaser will, at the discretion of the purchaser, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the purchase actively associated.

23.6. If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:

- 23.6.1. the name and address of the supplier and / or person restricted by the purchaser;
- 23.6.2. the date of commencement of the restriction
- 23.6.3. the period of restriction; and
- 23.6.4. the reasons for the restriction.

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

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

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

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**

The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the purchaser.

## **27. Settlement of Disputes**

27.1. If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.

27.2. If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.

27.3. Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.

27.4. Notwithstanding any reference to mediation and/or court proceedings herein,

27.4.1. the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and

27.4.2. the purchaser shall pay the supplier any monies due for goods delivered and / or services rendered according to the prescripts of the contract.

## **28. Limitation of liability**

28.1. Except in cases of criminal negligence or wilful misconduct, and in the case of infringement pursuant to Clause 6;

28.1.1. the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and

28.1.2. 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**

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**

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

## **31. Notices**

31.1. Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice

The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice

### **32. Taxes and duties**

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

32.2. A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.

32.3. No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid SARS must have certified that the tax matters of the preferred bidder are in order.

32.4. No contract shall be concluded with any bidder whose municipal rates and taxes and municipal services charges are in arrears.

### **33. Transfer of contracts**

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**

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.

## 5. GENERAL CONDITIONS OF TENDER

**ALL TENDER CONDITIONS AND/OR INSTRUCTIONS SET OUT BELOW MUST BE STRICTLY ADHERED TO, FAILING WHICH THIS TENDER SUBMISSION WILL BE DECLARED NON-RESPONSIVE**

1. No tender will be considered unless submitted on this MATATIELE tender document.
2. The whole original tender document, as issued by MATATIELE must be submitted. A tender will be considered invalid and will not be accepted, if any part of this tender document is not submitted.
3. Bidders must submit one tender offer only, either as a single tendering entity or as a member of a joint venture.
4. Telephonic, telegraphic, telex, facsimile or emailed tender offers will not be accepted.
5. Any portion of the tender document not completed will be interpreted as 'not applicable'. Notwithstanding the afore-going, failure to complete any compulsory portion of the tender document will result in the tender being declared non-responsive.
6. Tenders must be properly received and deposited, on or before the closing date and on or before the closing time, in the **Informal Tender Box** at the MATATIELE Supply Chain Management Unit ('SCMU')..... If the tender document is too large to fit in the allocated box, please enquire at the reception for assistance.
7. MATATIELE accepts no responsibility for ensuring that tenders are placed in the correct tender box, and should a tender be placed in the incorrect tender box, it will be not be accepted.
8. MATATIELE reserves the right to accept:
  - 8.1 the whole tender or part of a tender or any item or part of any item, or to accept more than one tender (in the event of a number of items being offered), and MATATIELE is not obliged to accept the lowest or any tender;
  - 8.2 a tender which is not substantially or materially different from the tender specification.
9. MATATIELE shall not consider tenders that are received after the closing date and time, as specified in the tender advertisement.
10. MATATIELE will not be held responsible for any expenses incurred by tenderers in preparing and submitting tenders.
11. MATATIELE may, after the tender closing date, request additional information or clarification of tenders in writing.
12. A tender may be rejected as non-responsive if the tenderer fails to provide any clarification requested by MATATIELE within the time for submission stated in the written request for such clarification.



13. A tenderer may request in writing, after the closing date, that the tender offer be withdrawn. Such withdrawal will be permitted or refused at the sole discretion of MATATIELE after consideration of the reasons for the withdrawal, which shall be fully set out by the tenderer in such written request for withdrawal.
14. The tender shall be signed by a person duly authorised to do so.
15. Tenders submitted by joint ventures, consortia, partnerships shall be accompanied by a joint venture, consortium, partnership agreement, in which it is defined precisely the conditions under which the joint venture, consortium or partnership will function, its period of duration, the persons authorised to represent and obligate it, the participation of the several firms of which it is formed, and any other information necessary to permit a full appraisal of its functioning.
16. Once the tender is awarded, all purchases will be made through an official MATATIELE order. Therefore no goods must be delivered or services rendered before an official order has been forwarded to and accepted by the successful tenderer.
17. **Tender Evaluation**
  - 17.1 Tenders will be evaluated on functionality, should functionality criteria be made a requirement of this tender in the special conditions of tender set out in terms of reference of this tender document.
  - 17.2 In the event that a functionality assessment is applicable to this tender, the minimum functionality score that a tender shall be required to obtain in order to be evaluated further shall be indicated in terms of reference of this tender document.
  - 17.3 The tender will be evaluated for price and preference using the 80/20 preference points system, as follows :

**FUNCTIONALITY 100 POINTS**

<b>Q1NO</b>	<b>FUNCTIONALITY DESCRIPTION</b>	<b>TOTAL WEIGHT OF POINTS ALLOCATED</b>
<b>10.1.1</b>	The Director of the law firm must have an LLB degree or B.com Law with a minimum of 5 years post admission experience in specialties as referred to in clauses 2.6.1 to 2.6.7  Attach CV, certified admission certificate and certified certificates of qualification.	<b>20</b>
<b>10.1.2</b>	Proven experience with traceable records of successful completion of a minimum of 3 municipal cases with Relevant expertise of any of the above specialties as referred to in clauses 2.6.1 to 2.6.7  5 Years and above = 40 4 Years = 30 3 Years =20	<b>40</b>

<b>10.1.3</b>	Employment of one or more professional assistants. Attach CV and certified copies of LLB qualification not older than 3 months.	<b>20</b>
<b>10.1.5</b>	Accredited member of the Law Society of South Africa and in possession of a valid fidelity fund certificate Attach Accreditation and certified fidelity fund certificate	<b>20</b>

**A bidder that scores less than 80 points out of 100 in respect of “functionality” will be regarded as submitting a non-responsive bid and will be disqualified.**

Price	80
BBBEE	20

17.4 Tenderers may tender with or without VAT depending upon whether or not they are VAT vendors. In the calculation of price points, VAT shall be removed from the tender offer of tenderers registered as VAT vendors, so that financial offers can be evaluated on a comparative basis as a price advantage cannot be afforded to tenderers who are not VAT vendors.

## **18. Test for Responsiveness**

### **18.1 Invalid Tenders** Tenders shall be invalid if:

- (a) The tender is not sealed when submitted into the tender box.
- (b) The tender is not completed in non-erasable ink.
- (c) The form of offer has not been completed in every respect and signed by the tenderer.
- (d) In a two-envelope system, a tenderer fails to submit both a technical proposal and a separate, sealed financial offer.
- (e) The tenderer has been listed on the National Treasury’s Register for Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, or has been listed on the National Treasury’s List of Restricted Suppliers and who is therefore prohibited from doing business with the public sector.
- (f) The tenderer is prevented from doing business with MATATIELE in terms of Regulation 38 and 44 of the Supply Chain Management Regulations (MFMA).

### **18.2 Non-responsive Tenders**

Tenders will be declared as non-responsive and eliminated from further evaluation in the following circumstances –

- (a) The tender does not comply with the tendering procedures.
- (b) The tender has not achieved the minimum score for functionality as set out in the tender evaluation criteria, where functionality is applicable.

- (c) Where there are material deviations or qualifications to the tender which in MATATIELE's opinion would –
  - (i) Detrimently affect the scope, quality or performance of the works, services or supply identified in the scope of works;
  - (ii) Significantly change MATATIELE's or the tenderer's risks and responsibilities under the contract, or
  - (iii) Affect the competitive position of the tenderer, or other tenderers presenting responsive tenders, if it were to be rectified.
- (d) The tender will be declared non-responsive if the tenderer fails to adhere to a written request (within the specified period set out in such request) to –
  - (xv) Comply with one or more of the conditions contained in the general or special conditions of tender;
  - (xvi) Comply with the general conditions applicable to tenders as contained in the MATATIELE Supply Chain Management Policy;
  - (xvii) Complete and/or sign any declarations and/or authorisations;
  - (xviii) Register on the MATATIELE Supplier database;
  - (xix) Submit an original and valid tax clearance certificate from the South African Revenue Services (SARS) certifying that the taxes of the tenderer are in order, or written confirmation from SARS that suitable arrangements have been made with SARS.

**19. Clarification of tender offer after submission**

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

**20. Provide other material**

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

**21. Inspections, tests and analysis**

The tenderer shall, at the request of MATATIELE, provide access during working hours to its business premises for any inspections, tests and analyses as provided for in these tender conditions.

**22. Securities, bonds, policies, etc**

If required, the tenderer must submit for MATATIELE's acceptance before formation of the contract, all securities, bonds, guarantees, policies and certificates of insurance required in terms of the conditions of contract.

**23. Imbalance in tendered rates**

23.1 In the event of tendered rates or lump sums being declared by MATATIELE to be unacceptable to it because they are either excessively low or high or not in balance with

other rates or lump sums, the Tenderer may be required to produce evidence and advance arguments in support of the tendered rates or lump sums objected to.

23.2 If after submission of such evidence and any further evidence requested, MATATIELE is still not satisfied with the tendered rates or lump sums objected to, it may request the tenderer to amend these rates and lump sums along the lines indicated by it.

23.3 The tenderer will then have the option to alter and/or amend the rates and lump sums objected to and such other related amounts as are agreed on by MATATIELE, but this shall be done without altering the tender offer as tendered for.

23.4 Should the Tenderer fail to amend his tender in a manner acceptable to MATATIELE, MATATIELE may reject the tender.

#### **24. Tender validity period**

24.1 Any tender submitted shall remain valid, irrevocable and open for written acceptance by MATATIELE for a period of 90 (ninety) days from the closing date or for such extended period as may be applicable.

24.2 The tender offer may not be amended during the aforesaid validity period.

24.3 In the event that an appeal in terms of the Municipal Systems Act No. 32 of 2000, is received, the validity period of the tender shall be deemed to be extended until the finalisation of the appeal; unless the tenderer has requested in writing that its tender be withdrawn. The provisions in respect of withdrawal as set out in clause 9 above will apply to such withdrawal.

24.4 A tenderer must be registered within 7 days of being requested to do so, failing which its tender shall be declared to be non-responsive.

24.5 It is each tenderer's responsibility to keep all the information on the MATATIELE Supplier Database updated. If any information required (e.g. tax clearance certificate, CIDB certificate, etc) is not valid or has expired, all transactions with the vendor may, in the sole discretion of MATATIELE, be suspended until such time as the correct, verified information is received.

#### **25. Tax clearance certificates**

25.1 No award shall be made to a person whose tax matters have not been declared to be in order by the South African Revenue Service (SARS).

25.2 Tenderers are therefore required to obtain a valid original Tax Clearance Certificate from the local SARS office where such tenderer is registered for income tax/VAT purposes.

25.3 It is the responsibility of each contractor/supplier who has been awarded a MATATIELE tender, to submit an updated tax clearance certificate to MATATIELE, should any current certificate expire during the contract period. Failure to do so will lead to the suspension of transactions with the supplier until a valid tax clearance certificate is received by SCMU.

- 25.4 Each party to a consortium, joint venture or partnership must comply with all of the above.
26. **Inducements, rewards, gifts and other abuses of the Supply Chain Management System**
- 26.1 No provider or potential provider of goods or services, or a recipient or potential recipient of goods disposed of or to be disposed of, may directly or indirectly commit any fraudulent act during the tender process or abuse the supply chain management system of MATATIELE.
- 26.2 Fraud and abuse of the supply chain management system is not permitted and may result in the tender being rejected, an existing contract being cancelled, blacklisting, and any other remedies available to MATATIELE as provided for in the Supply Chain Management Regulations.
27. **Declarations and authorisation**
- Tenderers are required to complete all statutory declarations and authorisations in the schedules attached to this tender document failing which the tender may be declared non-responsive.
28. **Samples**
- If the specifications require a tenderer to provide samples, these shall be provided strictly in accordance with the instructions set out in the tender conditions.
29. **Alternative offers**
- Alternative offers may be considered, provided that a tender free of qualifications and strictly in accordance with the bid document is also submitted. MATATIELE shall not be bound to consider alternative tenders.
30. **Alterations to tender document**
- Tenderers may not make any alterations or additions to the tender document, except to comply with instructions issued by MATATIELE, or as are necessary to correct errors made by the tenderer. All signatories to the tender offer shall initial all such alterations. Erasures and the use of masking fluid are prohibited.
31. **Objections, Complaints, Queries and Disputes / Appeals in terms of Section 62 of the Systems Act**
- 31.1 **Objections, complaints, queries and disputes**
- Persons aggrieved by decisions or actions taken by MATATIELE in the implementation of the supply chain management system or any matter arising from a contract awarded in terms of the supply chain management system may, within 14 days of the decision or action, lodge a written objection or complaint or query or dispute against the decision or action.
- 31.2 **Section 62 Appeals**
- (a) In terms of section 62 of the Systems Act, a person whose rights are affected by a decision taken by a political structure, political office bearer, councillor or staff member of a municipality in terms of a power or duty delegated or sub-delegated by a delegating authority, may appeal against that decision by giving written notice of the appeal and reasons to the Accounting Officer within 21 days of the date of notification of the decision.
- (b) An appeal shall contain the following:

- (i) The reasons and/or grounds for the appeal;
- (ii) The manner in which the appellant's rights have been affected;
- (iii) The remedy sought by the appellant.

**31.3 Lodging of appeals, objections, complaints, queries and disputes relating to this tender**

Appeals, objections, complaints, requests for information, queries and disputes must be submitted in writing to the Office of the Municipal Manager, Mr L MATIWANE by email, LMatiwane@matatiele.gov.za

**32. SUBMISSION REQUIREMENTS**

Prices quoted must be firm and must be inclusive of VAT.

A firm delivery period must be indicated.

**33. Services to be provided**

The services required by the Contracting Authority are described in these Terms of Reference.

**34. Participating and sub-contracting**

34.1 Participation in this bid is open to everyone.

34.2 Bids should be submitted by the same service provider or consortium, which has submitted the proposal on the basis of the above. **No change whatsoever in the identity or composition of the bidder is permitted;**

34.3 Short-listed service provider or consortia are allowed to form alliances with any other firms or to sub-contract to each other for the purpose of this contract;

34.4 Sub-contracting will be allowed, only in so far as it was stated in the initial bid.

**35. Duplication of bid document is prohibited.**

**36. Contents of Bids**

36.1 Each bid must comprise of a Technical offer and a financial offer, each of which must be submitted separately.

### **37. Presentations / Adjudication**

37.1 The Evaluation Committee may call for presentation by the short-listed bidders, after having established its written provisional conclusions but before concluding the technical evaluation.

37.2 The date and time of any such presentation will be confirmed or notified to the short-listed bidders at least seven days in advance. If a bidder is prevented from attending presentation by force majeure, a mutually convenient alternative appointment may be arranged with the bidder. If the bidder is unable to attend this second appointment, its bids will be eliminated from the evaluation process.

### **38. Variant solutions**

38.1 Any variant solutions will not be taken into consideration.

### **39. Cession**

39.1 No **cession agreement** will be entered to between the municipality and any Service Provider.

### **Ethics Commitment for Suppliers of the Matatiele Local Municipality**

**In our dealings with the Matatiele Local Municipality we commit to uphold high standards of ethics. Among other things this means:**

We will be honest and deal in good faith;

We will not try to improperly influence any municipal official or decision; We will avoid all conflicts of interest;

We will not engage in any form of corruption (e.g. paying bribes, giving kickbacks);

We will not give gifts to municipal officials or councillors;

We will not be involved in collusion with other service providers (i.e. price-fixing);

We will ensure that all information we submit to the municipality is accurate and truthful (e.g. we will not engage in BBBEE fronting).

We will inform the Municipality of any unethical behaviour which we become aware of in the procurement process, either related to other suppliers or to municipal officials.\*

We will, through all our dealings, contribute to building a positive ethical culture in the Matatiele Local Municipality.

This is our commitment to help build an ethical community.

Name of Company: \_\_\_\_\_

Name of authorised person: \_\_\_\_\_

Signature: \_\_\_\_\_

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

\* If you wish to report unethical conduct you can contact or \*If you are aware of any fraud/ corruption within the municipality. These may be reported anonymously, to

The Municipal manager: [IMatiwane@matatiele.gov.za](mailto:IMatiwane@matatiele.gov.za)



## **MBD 2**

### **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.
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.

## 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.

## MBD 4

### DECLARATION OF INTEREST

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

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

3.2 Identity Number: .....

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

.....

3.4 Company Registration Number: .....

3.5 Tax Reference Number: .....

3.6 VAT Registration Number: .....

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

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

3.8.1 If yes, furnish particulars.....

.....

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

(i) any municipal council;

(ii) any provincial legislature; or

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

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

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

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

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

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

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

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

3.9.1 If yes, furnish particulars.....

.....

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

3.10.1 If yes, furnish particulars .....

.....

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

3.11.1 If yes, furnish particulars.....

.....

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

3.12.1 If yes, furnish particulars.....

.....

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

3.13.1 If yes, furnish particulars.....

.....

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

3.14.1 If yes, furnish particulars.....

.....

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

Full Name	Identity Number	State Employee Number

.....

**Signature**

.....

**Date**

.....

**Capacity**

.....

**Name of Bidder**

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

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

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

### 1. GENERAL CONDITIONS

- 1.1 The following preference point systems are applicable to all bids:
- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
  - the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).
- 1.2 a) The value of this bid is estimated to exceed/not exceed R50 000 000 (all applicable taxes included) and therefore the ..... preference point system shall be applicable; or
- b) Either the 80/20 or 90/10 preference point system will be applicable to this tender (*delete whichever is not applicable for this tender*).
- 1.3 Points for this bid shall be awarded for:
- (a) Price; and
  - (b) B-BBEE Status Level of Contributor.
- 1.4 The maximum points for this bid are allocated as follows:

	POINTS
<b>PRICE</b>	
<b>B-BBEE STATUS LEVEL OF CONTRIBUTOR</b>	
<b>Total points for Price and B-BBEE must not exceed</b>	<b>100</b>

- 1.5 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.
- 1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.

### 2. DEFINITIONS

- (a) **"B-BBEE"** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (b) **"B-BBEE status level of contributor"** means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (c) **"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 or services, through price quotations, advertised competitive bidding processes or proposals;
- (d) **"Broad-Based Black Economic Empowerment Act"** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

- (e) "EME" means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (f) "functionality" means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.
- (g) "prices" includes all applicable taxes less all unconditional discounts;
- (h) "proof of B-BBEE status level of contributor" means:
  - 1) B-BBEE Status level certificate issued by an authorized body or person;
  - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
  - 3) Any other requirement prescribed in terms of the B-BBEE Act;
- (i) "QSE" means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (j) "rand value" means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

### 3. POINTS AWARDED FOR PRICE

#### 3.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

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

**80/20**

**or**

**90/10**

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

**or**

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

**Where**

- P<sub>s</sub>** = Points scored for price of bid under consideration
- P<sub>t</sub>** = Price of bid under consideration
- P<sub>min</sub>** = Price of lowest acceptable bid

### 4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

- 4.1 In terms of Regulation 6 (2) and 7 (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	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

### 5. BID DECLARATION

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

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Police(SAPS): 039-7379904/9905 Water: 082 520 1476 Ambulance: 10177 Traffic: 079 522 9774



## MBD 7.2

### 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;

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- 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 fulfilment 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 .....

**FAILURE BY THE TENDERER TO COMPLETE THIS FORM IN ITS ENTIRETY INCLUDING SIGNING THE FORM, SHALL DISQUALIFY THE TENDERER'S BID.**

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## MBD 7.2

### CONTRACT FORM - RENDERING OF SERVICES

#### PART 2 (TO BE FILLED IN BY THE MATATIELE LOCAL MUNICIPALITY)

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)

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

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

NAME (PRINT) .....

SIGNATURE .....

OFFICIAL STAMP

WITNESSES

1 .....  
....

2 .....

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## MBD 8

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

- 1 This Municipal Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by municipalities and municipal entities in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.

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

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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:		

- 3 The bid of any bidder may be rejected if that bidder, or any of its directors have:
- a. abused the municipality's / municipal entity's supply chain management system or committed any improper conduct in relation to such system;
  - b. been convicted for fraud or corruption during the past five years;
  - c. willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
  - d. been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- 4 In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

### CERTIFICATION

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

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## MBD 9

### CERTIFICATE OF INDEPENDENT BID DETERMINATION

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

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

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

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**MBD 9**

**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

I, the undersigned, in submitting the accompanying bid:

---

(Bid Number and Description)

in response to the invitation for the bid made by:

---

(Name of Municipality / Municipal Entity)

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

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

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

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

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

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

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.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

### CERTIFICATE FOR PAYMENT OF MUNICIPAL SERVICES

#### DECLARATION IN TERMS OF CLAUSE 112(1) OF THE MUNICIPAL FINANCE MANAGEMENT ACT (NO.56 OF 2003) - (To be signed in the presence of a Commissioner of Oaths)

I, \_\_\_\_\_, \_\_\_\_\_ (full name and ID no.), hereby acknowledge that according to SCM Regulation 38(1)(d)(i), the Municipality may reject the tender of the tenderer if any municipal rates and taxes or municipal service charges owed by the Tenderer or any of its directors/members/partners to the Matatiele Local Municipality, or to any other municipality or municipal entity, are in arrears for more than 3 (three) months.

I declare that I am duly authorised to act on behalf of \_\_\_\_\_ (name of the firm) and hereby declare, that to the best of my personal knowledge, neither the firm nor any director/member/partner of said firm is in arrears on any of its municipal accounts with any municipality in the Republic of South Africa, for a period longer than 3 (three) months.

I further hereby certify that the information set out in this schedule and/or attachment(s) hereto is true and correct. The Tenderer acknowledges that failure to properly and truthfully complete this schedule may result in the tender being disqualified, and/or in the event that the tenderer is successful, the cancellation of the contract.

PHYSICAL BUSINESS ADDRESS(ES) OF THE TENDERER	MUNICIPAL ACCOUNT NUMBER

#### FURTHER DETAILS OF THE BIDDER'S Director / Shareholder / Partners, etc.:

Director / Shareholder / partner	Physical address of the Business	Municipal Account number(s)	Physical residential address of the Director / shareholder / partner	Municipal Account number(s)

NB: Please attach certified copy(ies) of ID document(s)

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If the entity or any of its Directors/Shareholders/Partners, etc. rents/leases premises, a copy of the rental/lease agreement must be submitted with this tender.

<b>Signature</b>	<b>Position</b>	<b>Date</b>

<p style="text-align: center;"><b>COMMISSIONER OF OATHS</b></p> <p>Signed and sworn to before me at _____, on this _____ day of _____ 20__</p> <p>by the Deponent, who has acknowledged that he/she knows and understands the contents of this Affidavit, it is true and correct to the best of his/her knowledge and that he/she has no objection to taking the prescribed oath, and that the prescribed oath will be binding on his/her conscience.</p> <p><b>COMMISSIONER OF OATHS:-</b></p> <p>Position: _____</p> <p>Address: _____</p>	<p style="text-align: center;"><b>Apply official stamp of authority on this page:</b></p>
--	---

## SCHEDULE A –

### CONFIRMATION OF REGISTRATION OF TENDERER ON NATIONAL TREASURY DATABASE

TENDERER NAME	NATIONAL TREASURY DATABASE REGISTRATION NUMBER

A tenderer who is not registered on the National Treasury Database (CSD) is not precluded from submitting a tender; however such tenderer must be registered on the database prior to the finalisation of the evaluation of the tender in order for its bid to be considered responsive.

It is the responsibility of a tenderer to ensure that this requirement is complied with. In the case of Joint Ventures and Consortia, this requirement will apply to each party to the Joint Venture or Consortium.

Note:

**TENDERER'S SIGNATURE:** .....

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Police(SAPS): 039-7379904/9905 Water: 082 520 1476 Ambulance: 10177 Traffic: 079 522 9774

## SCHEDULE B –

### TENDERER'S PAST EXPERIENCE

Tenderers must furnish hereunder, details of similar works/service which they have satisfactorily completed in the past. The information shall include a description of the works/service, the contract value and the name of the employer. All the consultants/experts involved, must have at least performed three different projects in municipal Supply Chain Management environment; (Attach CV's of consultants as evidence of personnel to be involved in the project) Attach the Company profile / projects where team members were involved in and contactable references must clearly be reflected on the proposal.

SIMILAR COMPLETED / CURRENT PROJECTS						
PROJECT NAME	EMPLOYER	EMPLOYER NUMBER	TEL.	AWARDED AMOUNT	CONTRACT START DATE	ANTICIPATED/ ACTUAL COMPLETION DATE

.....

DATE

.....

SIGNATURE OF BID

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# ASSESSMENT OF BIDDER

## ASSESSMENT OF BIDDER'S PERFORMANCE BY INDEPENDENT REFERENCE

(This must be sent by the bidder to the references listed in the Experience of Tenderer schedule. All assessment forms must be attached with the tender submission.)

<b>Name of Bidder</b>	
<b>Contract/Tender Number (if applicable)</b>	
<b>Value of Contract</b>	R
<b>Date of Commencement</b>	
<b>Contract Duration</b>	
<b>Contract Completion Date</b>	

<b>Your assessment of the Contractor's performance in the following areas:</b> Please tick one of the blocks on the right hand side. 1 = Poor; 5 = Excellent	1	2	3	4	5
Turn-around times					
Quality of feedback					
Accessibility and availability					
Reliability					
Customer satisfaction					
<b>1 = Poor; 2 = Unsatisfactory; 3 = Average; 4 = Good; 5 = Excellent</b>					

<b>COMMENTS:</b>

<b>Name of Person Completing this Assessment Form</b>	
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Police(SAPS): 039-7379904/9905 Water: 082 520 1476 Ambulance: 10177 Traffic: 079 522 9774

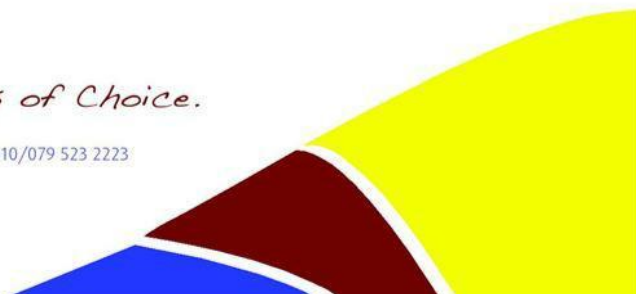


Representing Firm	
Telephone Number	
Email Address	
Date of Assessment	
OFFICIAL COMPANY STAMP AND SIGNATURE OF OFFICIAL RESPONSIBLE FOR COMPLETING THE ASSESSMENT FORM	

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## PRICING SCHEDULE

### MBD 3.3 PRICING SCHEDULE

#### APPOINTMENT OF MUNICIPAL PANEL OF ATTORNEYS/ FIVE FIRM OF ATTORNEYS

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

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

Item No.	Description	Rate (Year 1)	Rate (Year 2)	Rate (Year 3)
1.	Hourly rates for professional/legal services fees as per prescribed legal tariffs for Senior Counsel.			
2.	Hourly rates for professional/legal services fees as per prescribed legal tariffs for Junior Counsel.			
3.	Hourly rates for professional/legal services fees as per prescribed legal tariffs for Attorney.			
4.	Travelling rates per KM (as per auto mobile association)			
5.	Hourly rates for professional/legal services fees as per prescribed legal tariffs for Candidate Attorney.			
<b>SUBTOTAL</b>				
<b>Vat @15 %</b>				
<b>Grand Total</b>				

#### NOTE:

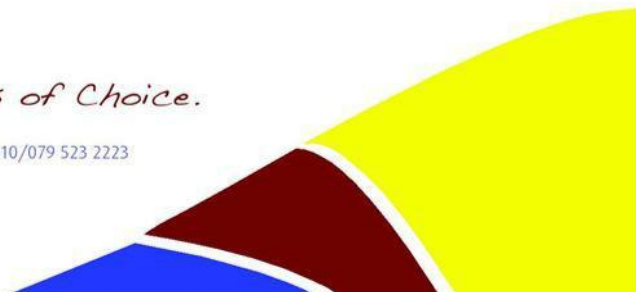
1. All delivery costs **MUST** be included in the bid price, for delivery at the prescribed destination.
2. Document **MUST** be completed in non-erasable black ink.
3. **NO** correction fluid/tape may be used.

In the event of a mistake having been made, it shall be crossed out in ink and be accompanied by an initial at each and every alteration.

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I / We \_\_\_\_\_

(full name of Bidder) the undersigned in my capacity as of the firm \_\_\_\_\_

hereby offer to Matatiele Local Municipality to render the services as described, in accordance with the specification and conditions of contract to the entire satisfaction of the Matatiele Local Municipality and subject to the conditions of tender, for the amounts indicated hereunder:

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## **SPEFICATION**



### **TERMS OF REFERENCE FOR**

### **APPOINTMENT OF MUNICIPAL PANEL OF ATTORNEYS/ FIVE FIRM OF ATTORNEYS**



## **1. PROJECT BACKGROUND:**

To acquire services of suitable legal service providers for provision of legal services to the Municipality as and when necessary.

## **2. AIMS OF THE PROJECT:**

- 2.1. To provide an effective, efficient litigation and contract management to the Municipality.
- 2.2. To create a systemic structure for procurement of legal services by the Municipality.
- 2.3. To provide a unified value chain of legal support to the Municipality.
- 2.4. To provide for the transfer skills to the relevant municipal employees.
- 2.5. To maintain a register of a panel of legal firms for a period of three years
- 2.6. To appoint a minimum of five different law firms for registration in the panel register for different fields of law.

The successful law firms constituting the panel will be required to render legal services to Matatiele Local Municipality, but not limited to the following areas:

- 2.6.1 Civil and Criminal law
- 2.6.2 Labour Law
- 2.6.3 Law of Contracts
- 2.6.4 Engineering and Construction contracts
- 2.6.5 Conveyancing and Property Law
- 2.6.6 Procurement Law and Administrative Law
- 2.6.7 Insurance Law

## **3. SPECIFICATIONS**

- 3.1.Provision of legal services as per a letter of instruction from the Municipality
- 3.2.Provision of legal services as per provided terms of reference of each case
- 3.3.Provision of legal services as prompt as possible.
- 3.4.Provision of high quality and reliable legal services
- 3.5.Provision of requested services within the provided time frames.
- 3.6.Provision of information required by the Auditor-general from time to time.
- 3.7.The bidder should indicate an area of legal practice as an area of specialization.

## **4. KEY DELIVERABLES**

- 4.1.Carrying out instructions accordingly as well as protecting the interests of the Municipality by instituting and or defending legal action on behalf of the Municipality upon receiving instructions from the institution at any court in the Republic of South Africa.

- 4.2. Conducting interviews, consultation and taking statements accordingly
- 4.3. Arranging briefing sessions accordingly with the Municipal representative as well as advocates where necessary.
- 4.4. Attend to incidental issues such as investigation, chairing disciplinary hearing and or being appointed as evidence leader.
- 4.5. Providing proper feedback and progress report to the Municipality and provide a close out report to the Municipality on each finalized case
- 4.6. Assist in policies and By-Laws.
- 4.7. Provide legal opinion as and when required.
- 4.8. Attend to contractual review as and when required
- 4.9. Confidentiality of all municipal matters/cases

## **5. EXPECTED OUTCOME/RESULTS**

- 5.1 Compliance with the legislation
- 5.2 Reliable and effective legal support, assistance and advice
- 5.3 Support for service delivery
- 5.4 Speedy resolution of legal disputes
- 5.5 Protection of the interests of the Municipality
- 5.6 Efficient and professional legal services

## **6. KEY COMPETENCIES**

- 6.1.A proven track record on providing relevant services with 5 years of experience.
- 6.2.Employment of at least two qualified staff for rendering the required services in terms of these terms of reference with relevant qualification certificates.
- 6.3.Possession of Fidelity fund certificate
- 6.4.Company profile
- 6.5.Capacity to meet requirements of instructions as shown in the project implementation plan proposal

## **7. PROJECT MANAGEMENT**

The Compliance and Legal Services Manager is designated as the Project Manager for this Project.

It is expected that a monthly progress report will be submitted to Manager Legal Services. The service provider will be expected to provide confirmation of cases by the end of financial year (30 June) without any charges.

## **8. PROJECT TIME-FRAME**

The contract for the provision of legal services will be for the duration of (3) three years from the date of appointment.

## 9. PROJECT BUDGET

Service Provider shall carry out tasks as instructed to do so based on the submitted tariffs in response to this bid notice.

## 10. PREFERENTIAL EVALUATION FOR CRITERIA

**The bids will be evaluated in two stages, namely**

10.1 Stage 1- Functionality 100

10.2 Stage 2- Price = 80 and BBBEE Points= 20 100

### FUNCTIONALITY 100 POINTS

Q1NO	FUNCTIONALITY DESCRIPTION	TOTAL WEIGHT OF POINTS ALLOCATED
10.1.1	The Director of the law firm must have an LLB degree or B.com Law with a minimum of 5 years post admission experience in specialties as referred to in clauses 2.6.1 to 2.6.7 Attach CV, certified admission certificate and certified certificates of qualification.	20
10.1.2	Proven experience with traceable records of successful completion of a minimum of 3 municipal cases with Relevant expertise of any of the above specialties as referred to in clauses 2.6.1 to 2.6.7  5 Years and above = 40  4 Years = 30  3 Years =20	40
10.1.3	Employment of one or more professional assistants. Attach CV and certified copies of LLB qualification not older than 3 months.	20
10.1.5	Accredited member of the Law Society of South Africa and in possession of a valid fidelity fund certificate Attach Accreditation and certified fidelity fund certificate	20

A bidder that scores less than 80 points out of 100 in respect of “functionality” will be regarded as submitting a non-responsive bid and will be disqualified.

## **INSTRUCTIONS TO BIDDERS**

### **PUBLICATION REFERENCE**

1. In submitting their bid, bidders must respect all instructions, forms, Terms of reference, contract provisions and specifications contained in this bid dossier. Failure to submit a bid containing all the required information and documentation within the deadline specified will lead to the rejection of the bid.

### **2. SUBMISSION REQUIREMENTS AND SELECTION CRITERIA**

Bidders are required to submit the following documents (copies must be certified):

BBBEE Certificate (**zero points for BBBEE for bidders who failed to submit**)

**Invalid or non-submission of the documents listed above will lead to the disqualification** and where the bidder is registered on the Municipal Database System reference can be made to such document and it is the bidders responsibility to ensure that the document does exist and verification of such registration will be done by the municipality and where the bidder is found to be not registered or have submitted incorrect registration details will be regarded as non-responsive and be disqualified from the bid.

### **3. CONDITIONS OF APPOINTMENT**

Compliance with requirements and performance as stipulated in terms of the Terms of Reference is a specific condition of the appointment of the Service Provider. The Municipality will provide all relevant information available for the purpose of successfully completing the project

### **4. SERVICES TO BE PROVIDED**

The services required by the Municipality are described in these Terms of Reference.

### **5. PARTICIPATING AND SUB-CONTRACTING**

5.1 Participation in this bid is open to everyone.

- 5.2 Bids should be submitted by the same service provider or consortium, which has submitted the proposal on the basis of the above. **No change whatsoever in the identity or composition of the bidder is permitted;**
- 5.3 Short-listed service provider or consortia are not allowed to form alliances with any other firms or to sub-contract to each other for the purpose of this contract;
- 5.4 Duplication of bid document is prohibited.

**6. CONTENTS OF BIDS**

Bid is all inclusive of the functionality and price bidding.

**7. ADDITIONAL INFORMATION BEFORE THE DEADLINE FOR SUBMISSION OF BIDDERS**

The bid dossier should be clear enough to avoid the Contracting Authority from having request additional information during the procedure. If the Contracting Authority, either on own initiative or in response to the request of a short-listed candidate, provides additional information on the bid dossier, such information will be sent in writing to all other bidders at the same time.

Bidders may submit questions in writing to the following address up to 7 days before the deadlines for submission of bids, specifying the publication reference and the bid title:

**Attention: Mr Zuko Mani (Manager: Supply Chain Management)**

Matatiele Local Municipality

102 Main Street

P.O. Box 35

MATATIELE 4730

Any prospective bidders seeking to arrange individual meetings with either the Contracting Authority during the bid period may be excluded from the bid procedure. Any clarification of the bid dossier will be communicated simultaneously in writing to all bidders at the latest 3 calendar days before the deadline for submission of bids. No further clarifications will be given after this date.

Visit by individual prospective bidder during the bid period are not permitted other than the site visit for good reasons.

**8. SUBMISSION OF BIDS**

Bids must be submitted in English such that they are received before the deadline by in the letter of invitation to bid. Any infringement of these rules (e.g. unsealed envelopes) is to be considered a breach of the rules, and will lead to rejection of the bid. The envelope should carry the following information:

- The address for submission of bid indicated above;

## **9. ALTERATIONS OR WITHDRAWAL OF BIDS**

9.1 Bidders may alter or withdraw bids by written notification prior to the deadline for submission of bids. No bid may be altered after this deadline.

9.2 Any such notification of alteration or withdrawal shall be prepared and submitted in accordance with clause 8. The envelope must be marked “Alteration” or “Withdrawal” as appropriate.

## **10. COSTS FOR PREPARING BIDS**

No costs incurred by the bidder in preparing and submitting the bid shall be reimbursable. All such costs shall be borne by the bidder. In particular, if proposed key members were interviewed, all costs shall be borne by the bidder.

## **11. OWNERSHIP OF BIDS**

The Contracting Authority retains ownership in all bid received (this excludes intellectual property for all but the successful bidder) under this tendering procedure. Consequently, bidders have no right to have their bids returned to them.

## **12. CONFIDENTIALITY**

12.1 The entire evaluation procedure, from the drawing up of the shortlist to the signature of the contract, is confidential. The Evaluation / Adjudication Committee’s decisions are collective and its deliberations are held in closed session. The members of the Evaluation / Adjudication Committee are bound to secrecy.

12.2 The evaluation reports and written records, in particular, are for official use only and may be communicated to neither the bidders nor to any party other than the Contracting Authority.

## **13. ETHICS CLAUSES / CORRUPTIVE PRACTICES**

13.1 Any attempt by a bidder to obtain confidential information, enter into unlawful agreements with competitors or influence the Evaluation / Adjudication Committee or the Contracting Authority during the process of examining, clarifying, evaluating, comparing and adjudication bid will lead to the rejection of its bid and may result in administrative penalties.

13.2 The bidder must not be affected by any potential conflict of interest

13.3 The Matatiele Local Municipality reserves the right to suspend or cancel funding to this project if corrupt practices of any kind are discovered at any stage of the award process or during the implementation of a contract, if the Contracting Authority fails to take all appropriate measures to remedy the situation. For the purposes of this provision, “corrupt practices” are the offer of a bribe, gift, gratuity or commission to any person as an inducement or reward for performing or refraining from any act relating to the award of a contract or implementation of a contract already concluded with the Contracting Authority.

13.4 Failure to comply with one or more of the ethics clauses may result in the exclusion of the bidder or contractor from other Community contracts and in penalties.

#### **14. DOCUMENTARY EVIDENCE REQUIRED FROM THE SUCCESSFUL BIDDER**

- 14.1 The successful bidder will be informed in writing that its bid has been accepted (notification of award). Before the Contracting Authority signs the contract with a Successful bidder, a successful bidder may be requested to provide additional information as deemed necessary by the Contracting Authority.
- 14.2 This evidence or these documents must carry a date, which cannot be more than 180 days in relation to the deadline for the submission of the bidder. In addition, a sworn statement shall be furnished stating that the situations described in these documents have not changed since then.
- 14.3 If the successful bidder fails to provide these documents or is found to have provided false information, the award will be considered null and void. In such a case, the Contracting Authority may award the bid to another bidder or cancel the bid procedure.

#### **15. SIGNATURE OF CONTRACT(S)**

- 15.1 Within 7 days of receipt of the contract already signed by the Contracting Authority, the selected bidder shall sign and date the contract and return it to the Contracting Authority.
- 15.2 Failure of the selected bidder to comply with this requirement may constitute grounds for the annulment of the decision to award the contract. In such a case, the Contracting Authority may award the bid to another bidder or cancel the bid procedure.

- 15.3 The other candidates will be informed that their bids were not accepted, by means of a standard letter.

## **16. CANCELLATION OF THE BIDS PROCEDURE**

In the event of cancellation of the bid procedure, bidders will be notified of the cancellation by the Contracting Authority. If the bid procedure is cancelled before the envelopes of any bid has been opened, the unopened and sealed envelopes will be returned to the bidders.

## **17. CANCELLATION MAY OCCUR WHEN**

- 17.1 The bid procedure has been unsuccessful, i.e., no qualitatively or financially worthwhile bid has been received or there is no response at all;
- 17.2 The economic or technical data of the project have been fundamentally altered;
- 17.3 Exceptional circumstances or *force majeure* render normal performance of the contract impossible;
- 17.4 All technically compliant bids exceed the financial resources available;
- 17.5 There have been irregularities in the procedure, in particular where these have prevented fair competition;
- 17.6 In no event shall the Contracting Authority be liable for any damages whatsoever including, without limitation, damages for loss of profits, in any way connected with the cancellation of a bid even if the Contracting Authority has been advised of the possibility of damages;
- 17.7 The publication of a procurement notice does not commit the Contracting Authority to implement the programme or project announced.

I, the undersigned, hereby confirm the acknowledgement of the Terms of Reference as part of the appointment.