

16. Prices

16.1 Prices charged by the Supplier for Goods delivered and Services performed under the Contract shall not, with the exception of any price adjustments authorized by the Special Conditions of Contract, vary from the prices quoted by the Supplier to its tender.

17. Change Orders

17.1 The Purchaser may at any time, by written order given to the Supplier make changes within the general scope of the Contract in any one or more of the following:

- (a) drawings, designs, or specifications, where Goods to be furnished under the contract are to be specifically manufactured for the Purchaser;
- (b) the method of shipping or packing;
- (c) the place of delivery; or
- (d) the services to be provided by the Supplier

17.2 If any such changes cause an increase or decrease in the cost, or the time required for, the Supplier's performance of any part of the work under the Contract, whether changed or not changed by the order, an equitable adjustment shall be made in the Contract Price or delivery schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this clause must be asserted within thirty (30) days from the date of the Supplier's receipt of the Purchaser's change order.

18. Contract Amendments

18.1 Subject to Clause 17, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties.

19. Assignment

19.1 The Supplier shall not assign, in whole or in part, its obligations to perform under the Contract, except with the Purchaser's prior written consent.

20. Subcontracts

20.1. The Supplier shall notify the Purchaser in writing of all subcontracts awarded under the Contract if not already specified in his tender. Such notification, in his original tender 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 the Services shall be made by the supplier in accordance with the time schedule specified by the Purchaser in its Schedule of Requirements.

21.2 Any undue delay by the Supplier in the performance of its delivery obligations shall render the Supplier liable for any or all of the following: Forfeiture of its performance security, imposition of liquidation damages, and/or termination of the contract for default.

21.3 If at any time during the performance of the Contract, the Supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the Goods and performance of the 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 its discretion extend the supplier's time for performance, in which case the extension shall be ratified by the parties by amendment of the Contract.

22. Liquidation Damages

22.1 Subject to Clause 26, if the Supplier fails to deliver any or all of the Goods within the time period(s) specified in the Contract, the Purchaser shall, without prejudice to its other remedies under the Contract, deduct from the Contract Price, as liquidation damages, a sum equivalent to 1% of the delivered price of the delayed Goods or unperformed Services for each week of delay until actual delivery or performance, up to a maximum deduction of 10% of the Contract Price of the Goods or Services. Once the maximum is reached, the Purchaser may terminate the Contract.

23. Termination By Default

23.1 The Purchaser may, without prejudice to any other remedy for breach of contract, by written notice of default sent to the Supplier, terminate the Contract in whole or in part:

(a) if the Supplier fails to deliver any or all of the Goods within the time period(s) specified in the contract, or any extension thereof granted by the Purchaser pursuant to Clause 22; or

(b) if the Supplier fails to perform any other obligation(s) under the contract.

23.2 In the event the Purchaser terminates the Contract in whole or in part, pursuant to para. 24.1, the Purchaser may procure, upon such terms and in such manner as it deems appropriate, Goods similar to those undelivered, and the Supplier shall be liable to the Purchaser for any excess costs for such similar Goods. However, the Supplier shall continue the performance of the Contract to the extent not terminated.

24. Force Majeure

24.1 Notwithstanding the provisions of Clauses 22, 23, 24 the Supplier shall not be liable for forfeiture of its performance security, liquidation damages or termination for default, if and to the extent that, its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force



Majeure.

24.2 For purposes of this Clause, A Force Majeure means an event beyond the control of the Supplier and not involving the Supplier's fault or negligence and not foreseeable. Such events may include, but are not limited, to, acts of the Purchaser either in its sovereign or contractual capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.

24.3 If a Force Majeure situation arises, the Supplier shall promptly notify the Purchaser in writing of such conditions 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 its reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

25. Termination for Insolvency

25.1 The Purchaser may at any time terminate the Contract by giving written notice to the Supplier, without compensation to the Supplier, if the Supplier becomes bankrupt or otherwise insolvent, 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.

26. Termination for Convenience

26.1 The Purchaser, may by written notice sent to the Supplier, terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Purchaser's convenience, the extent to which performance of work under the Contract is terminated, and the date upon which such termination becomes effective.

26.2 The Goods that are complete and ready for shipment within 30 days after the Supplier's receipt of notice of termination shall be purchased by the Purchaser at the Contract terms and prices. For the remaining Goods, the Purchaser may elect:

- (a) to have any portion completed and delivered at the Contract terms and prices; and/or
- (b) to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and for materials and parts previously procured by the Supplier.

27. Resolution of Disputes

27.1 The Purchaser and the supplier shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.

27.2 If, after thirty (30) days from the commencement of such informal negotiations, the Purchaser and the Supplier have been unable to resolve amicably a Contract dispute, either party may require that the dispute be referred for resolution to the formal mechanisms specified in the Special Conditions of Contract. These



mechanisms may include, but are not limited to, conciliation mediated by a third party, adjudication in and agreed national or international forum, and/or international arbitration. The mechanism shall be specified in the special Conditions of Contract.

28. Governing Language

28.1 The contract shall be written in the language of the tender, as specified by the Purchaser in the Instructions to Tenderers. Subject to Clause 29, the language version of the Contract shall govern its interpretation. All correspondence and documents pertaining to the contract which are exchanged by the parties shall be written in that same language.

29. Applicable Law

29.1 The Contract shall be interpreted in accordance with the laws of the Purchaser's country.

30. Notices

30.1 Any notices given by one party to the other pursuant to the Contract shall be sent in writing or by cable and confirmed in writing to the address specified for that purpose in the Special Conditions of Contract.

30.2 A notice shall be effective when delivered on or before the notice's effective date, whichever is later.

31. Taxes and Duties

31.1 A foreign Supplier shall be entirely responsible for all taxes, stamp duties, licences fees, and other such levies imposed outside the Purchaser's country in addition to those items specified under 31.2.

31.2 A local Supplier shall be entirely responsible for all taxes, duties, licence fees, etc. incurred until delivery of the contracted Goods to the Purchaser's depot.



SECTION 3. SPECIAL CONDITIONS OF CONTRACT

1. The following Special Conditions of Contract shall supplement the General Conditions of Contract. Whenever there is a conflict, the provisions herein shall prevail over those in the General Conditions of Contract. The corresponding clause number of the General Conditions is indicated in parentheses.

2. Definitions (Clause 1)

- (a) The Purchaser is: **The Municipal Council of Mbabane.**
- (b) The Supplier is the individual or firm supplying the Goods under this Contract.

3. Performance Security (Clause 6)

Performance Security shall be in the amount of 10% of the Contract Price.

4. Inspection and Tests (Clause 7)

The following inspection procedures and tests are required by the Purchaser:

- (a) Walk around visual inspection of all bodywork;
- (b) Checking of all fuel, oil and fluid levels;
- (c) Test driving of all vehicles.

5. Delivery and Documents (Clause 9)

- (a) For Imported Goods. Upon shipment, the Supplier shall notify the Purchaser and the Insurance Company by facsimile the full details of the shipment including contract number, description of Goods, quantity, the vessel, the bill of lading number and date, port of loading, date of shipment, port of discharge, etc. The Supplier shall mail the following documents to the Purchaser, with a copy to the Insurance Company:
 - (i) Copies of Supplier's invoice showing Goods description, quantity, unit price, total amount;
 - (ii) Original and three copies of the negotiable, clean, on-board bill of lading marked freight prepaid and three copies of non-negotiable bill of lading;
 - (iii) Copies of packing list identifying contents of each package;
 - (iv) Insurance certificate;
 - (v) Manufacturer's/supplier's guarantee certificate;



- (vi) Inspection certificate, issued by the nominated inspection agency and the Supplier's factory inspection report; and
- (vii) Certificate of origin.

The above documents shall be received by the Purchaser at least one week before arrival of Goods at the port and, if not received, the Supplier will be responsible for any consequent expenses.

(b) For Domestic Goods:

- (i) Copies of the Supplier invoice showing Goods description, quantity, unit price, total amount;
- (ii) Delivery note/railway receipt/truck receipt;
- (iii) Manufacturer's/Supplier's guarantee certificate
- (iv) Inspection Certificate issued by the nominated inspection agency, and the Supplier's factory inspection report; and
- (v) Certificate of Origin.

6. Insurance (Clause 11)

The marine insurance shall be in an amount equal to 110% of the CIF value of the goods and covering All Risks, including War and Strikes.

7. Spare Parts (Clause 10)

Supplier shall carry sufficient inventories to assure ex-stock supply of consumable spares such as gaskets, plugs, washers, belts, etc. Other spare parts and components shall be supplied as promptly as possible but, in any case, within six months of placement of order and establishment of Letter of Credit.

8. Warranty

The warranty period shall be 12 months from date of delivery.

9. Payment

- (a) Payment for Goods and Services.

Payment for Goods and Services shall be made in Emalangeni as follows:

- (i) On Delivery: 100% of the contract price shall be paid on receipt of Goods and upon submission of the documents specified in Clause 10; and



10. Resolution of Disputes (Clause 27)

10.1 The dispute resolution mechanism shall be as follows:

- (a) the dispute shall be referred to adjudication/arbitration in accordance with the laws of the Purchaser's country

11. Notices (Clause 31)

For the purposes of execution of this contract the Municipal Council of Mbabane is responsible for all correspondence, decisions, payments and etc on this contract.

12. Notices (Clause 30)

For the purposes of all notices, the following shall be the address of the Purchaser and Supplier:

Purchaser: Municipal Council of Mbabane
Civic Offices
Mahlokohla Street
PO Box 1
Mbabane
SWAZILAND

Supplier: (To be filled in at the time of Contract signing)

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



SECTION 4. SCHEDULE OF REQUIREMENTS

Item	Specification
1.	Proposed Delivery Time: Shorter than, equal to or within specified validity period
2.	Experience of Supplier in providing similar services: Details of previously supplied Waste skips and amounts over the last five years, including clients supplied, contact numbers and person to contact. Also list details of orders under way or committed, including expected delivery dates. Catalogues, specifications etc.
3.	In Council colours; Council's Orange in Fire Resistant Paint
4.	<p>CAPACITY: REL 5.5m³ waste skips made of robust material</p> <ul style="list-style-type: none"> • Length – base 1.830 m • Length – top 3.650m • Height – 1.270m • Width 1.560m • Plate thickness: Base plate should be not less than 8mm and side plates should be 6mm thick. • Welding should be continuous welding inside and outside the skip. • 50mm diameter round bar welded to one end of the skip • A lifting hook made from 25mm diameter round bar at the opposite end.
5.	The base should be a reinforced and ribbed base- to prevent waste sticking to base and prevent stagnation of water in skip
6.	Weep holes should be provided on all corners of skip
7.	<p><u>INSCRIPTION ON SIDES OF SKIP</u></p> <p>*Inscriptions to be both in SiSwati and English, on the broader sides of the skip</p> <p>SISWATI</p> <p>AKUKAVUMELEKI LOKU</p> <ul style="list-style-type: none"> • UMLILO/EMALAHLE • TIBI LETINEBUNGOTI • TILWANE LETIFILE • TIHLAHLA LETIJUTJIWE • EMANGCOLISO



Item	Specification
	<ul style="list-style-type: none"> • EMANTI LANGCOLILE • KUDOBHA <p>ENGLISH NO</p> <ul style="list-style-type: none"> • ASH/ FIRE • HOT ELECTRONIC WASTE • DEAD ANIMALS • TREES/ PLANTS • FECAL MATTER • WASTE WATER • SCAVENGING
8.	<ul style="list-style-type: none"> • Skips numbered from 26 to 37
9.	<ul style="list-style-type: none"> • Reflective tap at all top corners of the waste skip

Notes:

- 1) A Supplier may choose to tender for the supply and delivery of one, two or all goods.
- 2) The purchaser may choose to accept one or any combination of the items listed in the Schedule of requirements and is not obliged to purchase all vehicles from any one Supplier.



SECTION 5. TECHNICAL SPECIFICATIONS

1. General

1.1 These technical specifications describe the following vehicles:

2. Materials.

2.1 All materials shall be free from objectionable characteristics, or defects, which would adversely affect the appearance or function of the finished product. The unit bid upon shall be of the manufacturer's current model.

3. Warranty

3.1 The bidder must guarantee that all items included in the unit bid upon shall be new, and of high quality and good workmanship. The bidder, shall also guarantee to replace, free of charge, any part that may break or fail in any manner, under the use and conditions herein described by reason of defective material or workmanship within a period of 12 months or 60 000 km operation of the engine, whichever comes first, from the date of receipt of the item at the final destination.

4. Non-compliance with the Specifications

4.1 In the event that the unit bid upon does not fully comply with these specifications, the bidder shall state definitively wherein the unit he proposes to furnish does not comply, referring to the applicable paragraph of these specifications. When no statement to the contrary is received, the bidder shall be considered as meeting all the provisions of the specification under that paragraph, and shall be binding to any claims that the purchaser raises.

5. Specification Waiver

5.1 The right is reserved by the purchaser to waive the compliance on any of these specifications and make awards in the best interest of the Municipal Council of Mbabane.

6. Dealership Preference

6.1 Preference in making an award will be given to the supplier with a known and established dealership in Swaziland and is a certified Agent of the manufacturer.



7. Colour

7.1 The skips shall be painted in the official colours of the Council. The respective Council's identification logo shall be painted on the driver's and passenger's doors. Information is to be obtained from the Council's Transport Manager.

8. Manual Sets

8.1 Three complete sets of operating instructions, service manuals, parts manuals and lubrication charts shall be furnished with the bid.

9.0 Minimum Requirements

9.1 Minimum requirements are as shown in the table below.

EVALUATION CRITERIA: SKIPS

PRELIMINARY EVALUATION Criteria	Check/s	Points allocated/responsiveness
7. Legal constitution of Tenderer.	Valid Trading licence, certificate of incorporation, original tax compliance certificates , labour compliance certificate, ENPF Compliance certificate, FORM J, FORM C, Directors Police Clearance certificates submitted with tender	YES
8. Proof of Purchase of Tender Document.	Purchase receipt submitted with tender.	YES
9. Tender Validity:	Equal or longer than the specified 90 days period.	YES
10. Power of Attorney or Signing Authority.	Attached with tender documents, signed by Board of Directors and all tender documents pages initialed by authorized signatory	YES
11. Bid submission	Declaration of Interest	YES



PRELIMINARY EVALUATION Criteria	Check/s	Points allocated/responsiveness
Form/Conflict of Interest		
12. Suspension Declaration	Tenderer must declare if it is subject for suspension as per section 55 of the Procurement Act	YES
13. Tender Security Declaration form	Signed Tender Security Declaration Form.	YES
14. Tender Eligibility form	Signed tender eligibility form	YES
NB: Non-submission of these documents will result in disqualification of bidder.		
TECHNICAL		POINTS ALLOCATION
Experience in delivering 10 or more skips in the past 3 years.	a. Number of skips supplied (25) (Year skips supplied Client, client contact person, number of skips, origin of skips.)	a. 10+ skips delivered in the past 3 years (35), less than 10 delivered in the past 3 years (10)
Delivery	b. Supplier must stipulate the number of days it will take to deliver the skips (4 -6 weeks.	b. Delivered within 4 -6 weeks (5)
Company Profile	c. Company profile should indicate experience and capability to supply the skip (History, capability, relevance)	c. Company profile (5)
Skip Specification	d. Correct Skip specification	d. Specification (40)
References	e. References (number of skips, contact person, days of delivery, company name)	e. References (15)



A responsive tender must obtain a minimum 70% mark after which the financial values and production capabilities will be considered as follows:

EVALUATION	MARKS
Financial	5
Production capability	5
Total	10



TENDER FORM

Date.....2022

Contract No of 2022

TO: Municipal Council of Mbabane
Civic Offices
Mahlukohla Street
PO Box 1
Mbabane
Swaziland

Gentlemen:

Having examined the Tender Documents including Addenda Nos....., the receipt of which is hereby duly acknowledged, we, the undersigned, offer to supply and deliver
(description of Goods and Services) in conformity with the said Tender Documents for the sum of.....
.....(Total Tender Amount in Words and Figures) or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this tender.

We undertake, if our tender is accepted, to commence delivery within(Number) days and to complete delivery of all the items specified in the Contract within (Number) days calculated from the date of receipt of your Notification of Award.

If our tender is accepted we will obtain the guarantee of a bank in a sum not exceeding 10% of the Contract Price for the due performance of the Contract.

We agree to adhere by this tender for a period of 90 days from the date fixed for tender opening under Clause 22 of the Instruction of Tenderers and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

Until a formal contract is prepared and executed, this tender, together with your written acceptance thereof and your notification of award, shall constitute a binding contract between us.

We understand that **you may accept one or more items from our tender** and that you are not bound to accept the lowest or any tender you may receive.

Dated this.....day of.....2022..

Signature:.....

(In the Capacity of):.....

Duly Authorized to sign tender for and on behalf of.....



TENDER SECURITY FORM

Whereas.....
(hereinafter called the Tenderer) has submitted its tender dated.....2022.....for
the supply and delivery of (hereinafter
called the Tender)

KNOW ALL MEN by these presents that WE
..... of
..... having our registered office at
.....(hereinafter called the Bank) are bound
unto the Municipal Council of Mbabane (hereinafter called>the Purchaser) in the sum of
..... for which payment well and truly to be made to the said
Purchaser, the Bank binds itself, its successors and assigns by these presents. Sealed
with the Common Seal of the said bank this day of,.....2022

THE CONDITIONS of this obligation are:

- 1. If the Tenderer withdraws its Tender during the period of tender validity specified by the Tenderer on the Tender Form; or
- 2. If the Tenderer, having been notified of the acceptance of its tender by the Purchaser during the period of tender validity:
 - (a) fails or refuses to execute the Contract Form if required; or
 - (b) fails or refuses to furnish the Performance Security, in accordance with the Instruction to Tenderers;

we undertake to pay the Purchaser up to the above amount upon receipt of its first written demand, without the Purchaser having to substantiate its demand, provided that in its demand the Purchaser will note that the amount claimed by it is due it owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

This guarantee will remain in force up to and including thirty (30) days after the period of the tender validity, and any demand in respect thereof should reach the Bank not later than the above date.

.....
(Signature of the Bank)



AGREEMENT

THIS AGREEMENT made the.....day of....., 2022..... between the Municipal Council of Mbabane (hereinafter called the Purchaser) of one part and..... (*Name of Supplier*) (hereinafter called the supplier) of.....(City and Country of Supplier) of the other part:

WHEREAS the Purchaser is desirous that certain Goods and ancillary services should be provided by the Supplier, viz,(Brief Description of Goods and Services) and has accepted a tender by the Supplier for the supply of Goods and Services in the sum of (Contract Price in Words and Figures) (hereinafter called the Contract Price).

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement viz.:
 - (a) the Form of Tender and Price schedule submitted by the Tenderer;
 - (b) the Schedule of Requirements;
 - (c) the Technical Specifications;
 - (d) the General Conditions of Contract;
 - (e) the Special Conditions of Contract; and
 - (f) the Purchaser's Notification of Award.
3. In consideration of the payments to be made by the Purchaser to the Supplier as hereinafter mentioned, the Supplier hereby covenants with the Purchaser to provide the Goods and Services and to remedy defects therein in conformity in all respects with the provision of he Contract.
4. The Purchaser hereby covenants to pay the Supplier in consideration of the provision of the Goods and Services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.



IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with their respective laws the day and year first above written.

Signed, Sealed and Delivered by the said.....
(For the Purchaser)

in the presence

of.....

Signed, Sealed and Delivered by the said.....
(For the Supplier)

in the presence

of.....



PERFORMANCE SECURITY FORM

To: Municipal Council of Mbabane

WHEREAS hereinafter called the Supplier has undertaken, in pursuance of Contract No..... dated.....2022 to supply

(Description of Goods and Services) hereinafter called the Contract.

AND WHEREAS it has been stipulated by you in the said Contract that the Supplier shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security for compliance with the Supplier's performance obligations in accordance with the Contract.

AND WHEREAS we have agreed to give the Supplier a Guarantee:

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the Supplier, up to a total of (Amount of the Guarantee in Words and Figures) and we undertake to pay you, upon your first written demand declaring the Supplier to be in default under the Contract and without cavil or argument, any sum or sums within the limit of (Amount of Guarantee) as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

The guarantee is valid until the expiration of the period of guarantee on the goods and services supplied.

Signature and Seal of Guarantors.....
.....
.....

Date
Address.....
.....
.....
.....



FORM TECH-5: DECLARATION OF ELIGIBILITY

[The Consultancy firm must provide a signed declaration on its company letterhead in the following format. If the Proposal is being presented by a joint venture or consortium all members must each sign their own declaration.]

[>>>Name of Consultancy firm, Address, and Date>>>]

To: The Chief Executive Officer
Municipal Council of Mbabane
Mahlokohla street
P.O. Box 1, Mbabane

Dear Sirs,

RE: TENDER NUMBER: 33 OF 2022/23

We hereby declare that:-

- a) I/We, including any joint venture partners or consortium partners, are a legal entity and have the legal capacity to enter into the contract;
- b) I/We are not insolvent, in receivership, bankrupt or being wound up, our affairs are not being administered by a court or a judicial officer, our business activities have not been suspended, and we are not the subject of legal proceedings for any of the foregoing;
- c) I/We have fulfilled our obligations to pay taxes and social security contributions;
- d) I/We have not, and our directors or officers have not, been convicted of any criminal offence related to our/their professional conduct or the making of false statements or misrepresentations as to their qualifications to enter into a contract within a period of five years preceding the commencement of the procurement proceedings; and
- e) I/We do not have a conflict of interest in relation to the procurement requirement.
- f) I/We do not have any of its directors or officers, have not been convicted of any criminal offence relating to professional conduct or the making of false statements or misrepresentations as to its qualifications to enter into a procurement contract within a period of five years preceding the commencement of procurement proceedings;



g) I/We are not subject to suspension in accordance with section 55, and none of its directors or officers have been involved in a tenderer or supplier currently subject to suspension.

Signed
Authorised Representative

Date

