



dcstm

Department:  
Community Safety and Transport Management  
North West Provincial Government  
REPUBLIC OF SOUTH AFRICA



## SUPPLY CHAIN MANAGEMENT

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Ref: CS&TM.03/23/24

Date: 23/11/2023

### INVITATION TO BID

**APPOINTMENT OF A PANEL OF SERVICE PROVIDERS FOR THE PROVISION OF LEARNER TRANSPORT SERVICES FOR QUALIFYING AND APPROVED LEARNERS TO AND FROM SCHOOLS IN THE FOUR (04) DISTRICTS OF THE NORTH WEST PROVINCE FOR THE PERIOD OF FIVE (05) YEARS.**

DATE ISSUED: 23/11/2023

CLOSING DATE: 06/12/23 AT 11H00

### TENDER BOX

**DEPARTMENT OF COMMUNITY SAFETY AND TRANSPORT MANAGEMENT OFFICE**

**SAFETY HOUSE 31-34 MOLOPO ROAD, (MAIN ENTRANCE)**

### SECURITY CHECK POINT

### MAHIKENG

Name Of Bidder		BIDDER VAT REGISTERED?
Total bid price including Vat (Brought Forward Form SBD1		YES: <input type="checkbox"/> NO: <input type="checkbox"/>

MR. F MABOKELA

DIRECTOR: SUPPLY CHAIN MANAGEMENT

23/11/2023

DATE

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Appointment of a panel of service providers for the provision of learner transport services for qualifying and approved learners to and from schools in the four (04) districts of the North West Province for the period of five (05) years.

## **1. INTRODUCTION**

Appointment of a panel of service providers for the provision of learner transport services for qualifying and approved learners to and from schools in the four (04) districts of the North West Province for the period of five (05) years on as and when required basis.

## **2. BACKGROUND**

In the process of ensuring that quality education is accessible throughout the North West Province, provincial government took an initiative to provide learners who travel a minimum of 5 kilometres to school with learner transport services in line with the learner transport policy. The Department of Community Safety and Transport Management has appointed operators to provide learner transport in four districts of the province, however, history taught us that operators abandon route/s during the term of contract or there are new routes as results of changes in learner travel patterns.

## **3. SCOPE OF WORK**

### **3.1. PROBLEM STATEMENT**

Currently operators are appointed through competitive tendering process to render learner transport services at the four districts of the North West province. In the past, the department has experienced situation whereby the operators abandon routes due to many factors. Again, there are new additional routes emanating from either new settlement, which are not accompanied by new schools. As a result, there is always a need to appoint new service providers.

### **3.2. STATEMENT OF WORK**

Appointment of a panel of service providers for the provision of learner transport services for qualifying and approved learners to and from schools in the four (04) districts of the North West Province for the period of five (05) years on as and when required basis.

#### 4. MAIN DELIVERABLES

- The appointed panel of service providers will be expected to provide learner transport services for the approved learners to and from schools as and when required by the Department.
- The schools, routes and pick-up points will be determined and made available when the service is needed.
- The bidder will provide buses, midi bus, and train buses which are roadworthy and clearly marked as transport for learners using the remuneration model as follows:

**Table 1: Remuneration Band**

Rate per vehicle mode x number of km x number of days	Band	Midi bus	Bus	Train bus
	05-10 km	R 65,92	R 79,10	R 116,01
	11-49.9 km	R 59,32	R 72,53	R 106,73
	Over 50 km	R 46,14	R 52,73	R 98,19

#### 5. BRIEFING SESSION

There shall be no compulsory briefing session. However, all inquiries relating to this tender shall be put in writing and emailed to the following addresses:

For bid documents:

Ms. Thelma Bogatsu – 018 200 8184 on [ThelmaBogatsu@nwpg.gov.za](mailto:ThelmaBogatsu@nwpg.gov.za)

For bid specification:

Mr. Steve Tladi 018 200 8089 on [stevetladi@nwpg.gov.za](mailto:stevetladi@nwpg.gov.za)

#### 6. DURATION OF THE CONTRACT

The successful bidders will be appointed for a period of five (05) years.

#### 7. TIMELINE OF THE BID PROCESS

The validity period is **90** days after closing of the bid. The project timeframes of this bid are set out below:

Activity	Date due
Advertisement of the bid in the: <ul style="list-style-type: none"><li>- Government Tender Bulletin; and</li><li>- National Treasury Tender Portal</li></ul>	23/11/2023

Appointment of a panel of service providers for the provision of learner transport services for qualifying and approved learners to and from schools in the four (04) districts of the North West Province for the period of five (05) years.

Distribution of bid documents on the Department of Community Safety and Transport Management website	23/11/2023
No compulsory briefing session	—
Bid closing date	06/12/2023
Notice to bidder(s)	

**\*Dates subject to change.**

All times in this bid is South African Standard Time. Any time or date in this bid is subject to change at the Department of Community Safety and Transport Management's sole discretion. The establishment of a time or date in this bid does not create an obligation on the part of the Department of Community Safety and Transport Management to take any action, or create any right in any way for any bidder to demand that any action be taken on the date established. The bidders accept that, if the Department of Community Safety and Transport Management extends the deadline (the closing date) for bid submissions for any reason, the requirements of this bid otherwise apply equally to the extended deadline.

## **8. CENTRAL SUPPLIER DATABASE [CSD]**

- 8.1.** Bidders must be registered as a service provider on the Central Supplier Database [CSD]. If you are not registered proceed to complete the registration of your company prior to submitting your bid. Refer to <https://secure.csd.gov.za/> to register your company. Ensure that all documentation on the database is updated and valid.
- 8.2.** Bidders are also required to submit their CSD Registration "Summary Report".
- 8.3.** Bidders must ensure that their tax status and any other information is up to date on Central Supplier Database [CSD], valid and in good standing.
- 8.4.** Bidders should further note that the Central Supplier Database (CSD) will be utilized to confirm compliance to tax and other related matters. It is therefore the bidder's responsibility to ensure compliance in all respects.

## **9. INSTRUCTION TO BIDDERS**

- 9.1.** Bids must be properly packaged, clearly marked as **CS&TM:** couriered /submitted and deposited in the tender box on or before the closing date and time at the Department of Community Safety and Transport Management, situated at: -

**Physical address**

Department of Community Safety and Transport Management

**Safety House, 31-34 Molopo Road, (Main Entrance)**

**Security Check Point**

**Mahikeng**

- 9.2.** Bid documents will only be considered if received by the Department of Community Safety and Transport Management before the closing date ( 06/12/2023 ) and time **11h00**.
- 9.3.** Late bids will not be accepted.
- 9.4.** The Department of Community Safety and Transport Management reserves the right to award the bid in whole or in part and does not bind itself to accept the lowest or any bid.

**10. CONTACT DETAILS**

Potential bidders must reduce all telephonic enquiries to writing and send them to the below email addresses. For more detailed information regarding the bid procedure and specifications please contact the following, respectively: **Contact Persons:**

**Bid document: Ms. T. Bogatsu -018 200 8184 @ [ThelmaBogatsu@nwpq.gov.za](mailto:ThelmaBogatsu@nwpq.gov.za)**

**Bid Specification: Mr. S. Tladi- 018 2008089 @ [stevetladi@nwpq.gov.za](mailto:stevetladi@nwpq.gov.za)**

**11. DOCUMENTS IN THE BID DOCUMENT PACK**

Bidders are to ensure that they have received all pages of this document, which consist of the following documents:

**Section 1**

- Invitation to Bid (SBD 1)
- Declaration of Interest (SBD 4)
- Preference Points Claim form in terms of the Preferential Procurement Regulations 2022 (SBD 6.1) Proof of Registration in the Central Database (CSD) must be submitted;
- Proof of the following documentation will be required:
  - Municipal account of business address or Tribal Authority Letter or Lease agreement /Company's registration, CK document
  - CSD Registration number
  - Valid original or certified BBBEE Certificate / Sworn affidavit

## SECTION 2

### SPECIAL CONDITIONS OF THE CONTRACT

- Bidders are allowed to bid for **only one (01) district**, bidders that bid for more than one district will not be considered.
- Bidders must indicate in writing the district applied for.
- Successful bidders will be required to submit proof of passenger liability insurance cover (within 20 days after the appointment) for not less than R10 million per incident.
- Successful bidders will be required to obtain an operating license before operations resumes. This means that the bidder must be the owner of the vehicles to be used to service the contract.
- Bidders must provide driver names, ID numbers, certified copies of their driver's licenses and Professional Drivers Permit, (PrDP) immediately after appointment.
- Bidders must submit list of vehicles and certified copies of the registration certificates of vehicles to be used in the awarded contract/s.
- Contracted vehicles will be subjected to inspections by Law Enforcement Officers (s) from the Department and or appointed representatives prior to the commencement of the contract.
- All successful bidders, vehicles contracted to transport learners will be subjected to inspection at a designated place in the district once per term, or when and as it is required.
- Successful bidders will be required to bring their vehicles for inspection prior to the signing of the contract with Department of Community Safety and Transport Management.
- No dual operation is allowed. Vehicles must be parked at schools and may not leave the premises whilst the learners are at school.
- Successful bidders will be provided with a code of conduct when they sign a contract with the Department of Community Safety and Transport Management.
- Successful bidders are required to sign a code of conduct between themselves and their drivers.
- In case where successful bidder is also driver, he/she will sign both as the successful bidder and /or the driver.
- A signed code of conduct between the successful bidders and the driver(s) should be kept in the vehicle at all times.

- A valid and certified copy of the South African Public Drivers Permit (PrDP) for every driver per vehicle must be with the driver at all times.
- Buses, midi buses and train buses must have a serviced fire extinguisher at all times.
- Successful bidders should ensure that learners are at school not earlier than 45 minutes and not later than 15 minutes before starting time during school days.
- Successful bidders should ensure that learners are collected not later than 30 minutes after school.
- Learner transport project is meant to transport learners during school days only and does not include weekends, school holidays, trips for extramural activities or any extra classes organised by schools.

### **Section 3**

#### **General Conditions of Contract (GCC)**

## **12. ACCESS AND DISCLOSURE**

- The Department of Community Safety and Transport Management and any authorised person shall at all reasonable time have access to all vehicles and relevant documentation of the Operators for purposes of monitoring service quality.
- The Department of Community Safety and Transport Management has the right to monitor and evaluate the performance of the Operator. Appropriate systems (manual and digital) shall be utilised to ensure proper management control and monitoring of all operator contracts.
- The operator must, at the request of the Department, produce proof of validity of all licences, permits and other requirements arising from the contract, or where applicable, proof of application that has been made for such licences or permits. That must be provided or be furnished not later than 2 (two) working days from date of receipt of such written request.
- The operator is obligated to notify the Department with written notice within Seven (7) days of any change regarding ownership control as contemplated in Section 44 of the Act and complete a declaration in respect of any new person or entity exercising such ownership control.



### 13. ADMINISTRATIVE MATTERS

- All accounting records and proof of deliveries must be kept for a period of at least three (03) years after the termination of the contract.
- Where, in terms of this contract, any amount is owed to the Department by the Operator, a certificate at hand of the contracting Department shall be prima facie proof; that such amount is owing of the fact that such certificate is officially signed, and that the relevant amount is due and payable.

### 14. CONDITION OF ACCEPTANCE

#### 14.1. INSPECTION OF ROUTES:

- Prospective bidders are required to check the routes and distance of kilometres prior to before providing learner transport on the appointed route.
- Prospective bidder should notify the Department of Community Safety and Transport Management in writing of any discrepancy in kilometres before commencement of the service on the appointed route.

### 15. PICK UP AND DROP OFF POINTS:

- Pick up and drop off points shall be determined by the Department through respective schools.

### 16. USE OF ROUTES AND ROADS:

- Routes and Roads to be used for transporting learners will be determined by the Department of Education in conjunction with the Department of Community Safety and Transport Management and not by the transport operators.

### 17. FORMULA FOR CLAIMS:

- Successful bidders / operators will be paid according to the distance (kilometres) as indicated in the appointment letter and the number of school days operated as indicated in the delivery note, supplied by the operator and signed by the Principal. The remuneration model is as follows: **kilometres X days X rate**
- **Successful bidders / operators will claim for return trips only. ( A-B and vis versa)**

- Monthly claims for services delivered must be submitted not later than the 7<sup>th</sup> of the following month in order to comply with PFMA prescripts. All operators are expected to claim on monthly basis.
- Submission of late claims by operators must attach a letter with reasons thereof and failure to do so will result in a being penalty imposed.

## **18. CONTRACT**

### **18.1. TERMINATION OF CONTRACT:**

**The Department of Community Safety and Transport Management may terminate the contract where it discovers that:**

- Operator has committed an act of insolvency or is actually insolvent in that the operator liabilities exceed his /her assets.
- Operator has published a notice to surrender his/her estate or has presented a petition for the acceptance of the surrender of his/her estate as insolvent.
- The closing of schools, transfer of learners to hostels, reduction of the number of learners being transported, or reduction in the number of kilometres travelled, vehicles donated to the Department of Community Safety and Transport Management or the Department of Community Safety and Transport Management acquiring its own vehicles.
- Non-performance will lead to termination of the contract. Such as :
  - ✓ Failure to collect learners continuously.
- In case of any existence of the above-mentioned factors, the Department of Community Safety and Transport Management reserves the right to terminate the contract and the Department of Community Safety and Transport Management will re-consider the future of the affected route and learners. It includes:
  - ✓ Transport not compliant to regulation of license.
  - ✓ Failure to collect learners continuously.
- In case of any withdrawal, the Department of Community Safety and Transport Management reserves the right to appoint from existing operators to avoid disruption of services.

### **18.2. AMENDMENT OF THE CONTRACT:**

- Contracts will be amended to be in line with the actual distance travelled.
- If distance travelled increase or decrease, the contract will be amended to be in line with increased or decreased kilometres on condition that the route is viable.

- Each case will be treated on its merits and demerits
- If number of learners increase or decrease, the contract will be amended to be in line with increased or decreased number of learners on condition that the route is viable.

### **18.3. MONITORING MECHANISM**

- Departmental officials shall conduct physical monitoring by visiting area of operation.
- The Department of Community Safety and Transport Management may also introduce electronic monitoring system during the term of this contract.

### **18.4. OPERATION OF SERVICES**

- The Successful bidders / operators must exercise the highest degree of skill, care and diligence in the provision of the services and operate the services strictly in accordance with the terms of reference and special conditions, as well as the other relevant provisions of the contract, to the satisfaction of the Department.
- The Successful bidders / operators must comply with and strictly adhere to the Department's written instructions and directions regarding the operation of the services,
- The Successful bidders / operators must take written instructions and directions only from the Department or a duly authorized delegate of the Department
- Depending on the requirements of the contract as to which type or combination of types of mode of transport to be provided by the Successful bidders / operators, he or she must provide for each trip a vehicle having the passenger capacity as specified in the definitions of "midibus", "bus, as the case may be and that conforms fully with the requirements of the Special Conditions and the attributes specified in the Special Conditions of Contract.
- The Successful bidders / operators shall have no cause to refuse to convey an approved learner on a trip or part thereof unless on the grounds of violent, abusive or otherwise offensive conduct on the part of that learner, which misconduct shall immediately be brought to the attention of the Department and Principal/School for mediation.

### **18.5. PERMITS AND OPERATING LICENCES**

- The Successful bidders / operators must promptly do everything in his or her power to obtain and maintain in force all operating licenses or permits, including licenses and permits required by local authorities, pay all fees and levies and issue all notices as may be necessary for or

be connected with the due operation of the services in accordance with the National Land Transport Act (NLTA) and other applicable legislation.

- It shall be the Successful bidder's / operator's responsibility to apply timeously to the Provincial Regulatory Entity (PRE) for the necessary operating licenses, or amendments to existing permits or operating licenses, as the case may be, covering the contract routes, unless The Successful bidders / operators is already in possession of such licenses, permits, amendments or approvals. The Department of Community Safety and Transport Management will provide a letter to the PRE notifying it of the awarding of the contract. The operating licenses must be applied for the duration of the contract period only. When such licenses are issued, The Successful bidders / operators must supply copies to the Department of Community Safety and Transport Management forthwith.
- The Successful bidders' / operators must take instructions and directions only from the Department of Community Safety and Transport Management.

## **19. CANCELLATION OF SCHEDULED TRIPS**

The following may result in the cancellation of a trip:

- Notification of service suspensions or reduction must be made at least 30 calendar days before the suspension or service reduction is to come into effect.
- Request by the The Successful bidders / operators and agreed to in writing by the Department.
- The cancellation is due to unforeseen road closures, obstructions, floods or adverse weather conditions;
- In the opinion of the Department the cancellation results from immediate danger to life or of personal injury and/or serious damage to property; or
- The cancellation is in the opinion of the Department due to strike or stay-away action of a general nature, i.e. not confined to the Operator's organisation. Therefore, it is advisable that all operators must consider taking insurance for loss of income in the event of any of the above circumstances occur.
- Where the Department orders the successful bidders / operators to provide services in circumstances where the Operator is of the opinion that there is immediate danger to life or of personal injury or of serious damage to property, the Operator may refuse to comply, in which case the matter shall be referred to the Department for decision within twenty-four (24) hours.

- Where the successful bidders / operators are of the opinion that scheduled trips should be cancelled due to boycott action, either against the Operators firm or generally, the successful bidders / operators must refer the matter to the Department via the Authorised Representative for decision.
- The Successful bidders / operators must inform the Department within twenty-four (24) hours after the cancellation of any scheduled trips and also when the trips are not recommenced.
- The Operator must also confirm the cancellation and recommencement to the Department of Community Safety and Transport Management in writing with the reasons for the cancellation.

## **20. FARES**

- No fares shall be charged by operators to the approved learners for providing the learner transport services contracted in this agreement.

## **21. VARIATIONS**

- The Department may after consultation with the successful bidders / operators recommend the following variations to the services within the service area, but the prior written approval of the Department is mandatory before any variation is affected and this will be communicated between the Department and the successful bidders / operators.
  - (a) to increase or decrease the number of scheduled trips on any route or routes;
  - (b) to omit any route or add a new route;
  - (c) to lengthen, shorten or alter an existing route, where "alter" means to change the route without increasing or decreasing the kilometer length thereof;
  - (d) to alter the number or location of authorised pickup points, in consultation with the relevant local authority/administration/community/school and/or traffic authority where applicable;
  - (e) to change the time table of any portion of the services; and
  - (f) to make alterations in connection with vehicle capacities
- No such variation shall in any way invalidate the contract.
- Should any variations be approved, the Successful bidders / operators must give to learners not less than seven (7) days' notice, unless a shorter period is approved by the Department of any intended changes to the time table.
- The Successful bidders / operators may apply in writing to the Department for a variation in the types of vehicles which are used in providing the services, on the basis of the

utilization of better suited vehicles with a different capacity from those included in this agreement.

- Prior to the Department approval to such a variation the financial implications thereof on the contract rates and time table shall be agreed upon in writing from the date of approval.
- The decision of the Department in this regard shall be final and be communicated to the successful bidders / operators in writing.
- Where the Successful bidders / operators is obliged to vary the services in the case of an emergency and such variation results in an increase or decrease of scheduled kilometres on a particular route, provided that approval for such variation must be obtained from the Department within twenty-four (24) hours in the case of an increase.

## **22. VEHICLES**

- Only vehicles classified as midi- buses, standard buses or train buses, can be used for this bid operated by an approved driver.
- The Successful bidders / operators required to submit a statement on schedule of the Contract Forms, showing what vehicle will be available for services immediately upon award of contract.
- The onus is on the Successful bidders / operators to decide what vehicles he or she will indicate on the said form for use in the provision of the services. Only vehicles shown in the completed **Form 1** as submitted may be used to provide the services, unless the written consent of the Department is obtained in advance. All vehicles must conform to the requirements and regulations of the National Road Traffic Act, 1996 or other applicable legislation and applicable SABS specifications.
- The type and condition of all vehicles to be provided by the Successful bidders / operators for the provision of the services must correspond with the requirements of the TOR and SCC.
- If the Successful bidders / operators, without the written authority of the Department, fails to provide the right type, with reference to quality and capacity, of vehicles as specified within two (2) months of the commencement date or, within sixty (60) days after being instructed to do so by the Department then a penalty shall be imposed.
- All vehicles utilised must be clean inside and outside when they leave the first point of departure at the beginning of a day.
- No vehicles with hard seats will be permitted.

### **22.1. VEHICLES IN AN UNSATISFACTORY CONDITION**

- Vehicles must be roadworthy and comply at all times with the National Road Traffic Act, 1996 and any other applicable legislation. Where a vehicle fails to comply with any legal requirement, it must be withdrawn from service immediately until the defect is rectified, and penalties will be imposed for failing to operate.

### **22.2. VEHICLE BREAKDOWNS**

- The Successful bidders / operators is expected to provide a replacement vehicle for breakdowns within two hours of the vehicle breaking down.
- The honour lies with the successful bidders / operators to inform the Department immediately in writing of the replacement vehicle, and should be of a similar capacity of the contracted vehicle
- Submission of claim under these conditions does not change.

### **22.3. FAILING TO PROVIDE THE RIGHT TYPE, QUALITY OF VEHICLES**

- Where the Successful bidders fails to provide the right type, quality and specification of vehicles as specified in the Special Conditions of Contract, the Department of Community Safety and Transport Management will terminate the agreement in line with the SLA.

## **23. PENALTIES**

- Penalties shall be imposed against the successful bidders / operators for each offence in accordance with SLA and the Department shall advise the successful bidders / operators on monthly basis of penalties so imposed.
- The services shall be monitored during the duration of contract and thereafter penalties shall be imposed for each offence committed.
- The successful bidders / operators shall be expected to adhere strictly to the requirements of the specifications.
- It is the duty of the Successful bidders / operators to report all trips not operated, late and early trips, and any other information which is relevant to the calculation of penalties.

- Where the Department of Community Safety and Transport Management. note more trips not operated than those reported by the Successful bidders / operators for three consecutive weeks, from the fourth week penalties will be doubled for all infringements not reported by the Successful bidders / operators.

## 24. INSURANCE

- 24.1. The Successful bidders / operator must take reasonable steps to ensure the safety of passengers and property. The Successful bidders / operators shall be liable for any loss or damages resulting from damage to property or the death of or injury to any person which is caused by an intentional or negligent act or omission of the Successful bidders / operators or his/her agents or employees and the Successful bidders / operators hereby indemnifies the Department against all claims, demands, lawsuits, damages, costs (including attorney and client costs), charges and expenses whatsoever in this regard.
- 24.2. The Successful bidders / operators must effect and maintain throughout the duration of the contract, at their own expense, passenger liability insurance cover to the value of R10 000 000.00 (ten million rand) or more per incident involving a learner transported by the successful bidders / operators as part of the learner transport programme and full comprehensive vehicle insurance based on the realistic market value of the vehicle(s) with an insurance company chosen by the successful bidders / operators, registered with the Financial Services Board established by the Financial Services Board Act, 1990, and registered in the Republic of South Africa in terms of the Short Term Insurance Act, 1998 or other applicable legislation. Proof of such insurance must be submitted to the Department prior to the commencement date of the services and the Successful bidders / operators must advise the Department in writing of any changes thereto and provide the Department with proof that such cover is in place from the start of the first day of the first term and the Department may quarterly request such information from the Successful bidders / operators. Such insurance shall *inter alia* provide cover in respect of loss or damage suffered by reason of damage to property or death of or injury to any person resulting from an intentional or negligent act or omission by the Successful bidders / operators and its Operators or its agents or servants in connection with the provision of the services.



## 25. INDEPENDENT CONTRACTOR

- The Operator shall act as an independent contractor and not as an employee or agent of the Department and does not have the authority to bind the Department contractually to any other party.
- The Department of Community Safety and Transport Management shall not be liable to pay any retrenchment or severance benefits to any of the employees of the Operator on dismissal or on expiry of the contract period.

## 26. CESSION, DELEGATION AND SUB-CONTRACTING

- The Operator may not cede his or her rights or delegate his or her obligations under this contract without **Prior Written Consent** of the Department.
- Department may at any time during the currency of this contract cede its rights and delegate its obligations in terms thereof of any transport authority.
- The Successful bidders / operators must not engage themselves in fronting. Should the Department be aware of fronting, then the contract shall be terminated.

## **STAGE 1 LEGAL REQUIREMENT CRITERIA**

Bidders must complete the following Compulsory documents and attach it to their Bid document, failing which the Bid shall not be considered for Stage 1 evaluation

- Invitation to Bid (SBD 1)
- Declaration of Interest (SBD 4)
- Preference Points Claim Form in Terms of The Preferential Procurement Regulations 2022 (SBD 6.1)

Proof of the following documentation will be required:

- Proof of Registration in the Central Database (CSD) must be submitted;
- Company's registration, CK document
- Valid original or certified BBBEE Certificate / Sworn affidavit

All the relevant forms attached to this bid documents must be completed and signed in ink where applicable by a duly authorised official.

- Use of Tippex and pencil in the bid document are not allowed and will lead to disqualification.
- Where cancellation has been made, bidders should endorse with a signature.

**BIDDERS WHO FAIL TO SUBMIT OR COMPLETE AND SIGN THE ABOVE DOCUMENTS SHALL BE AUTOMATICALLY ELIMINATED FOR THE NEXT STAGE OF EVALUATION.**

## **STAGE 2 PRE-EVALUATION CRITERIA**

**Bidders must submit the following documentations**

- Proof of Registration on Central Supplier Database
- Originally certified copy of vehicle registration certificate
- Proof of Lease or Rental Agreement with vehicle registration certificate attached.
- Originally certified copies of Roadworthy Certificate/s.
- Attach signed reference letters with contact numbers on the letterhead of the institution indicating duration of experience.
- Stamped Bank rating letter of the Bidder or Company.

**Failure to attach any of the above-mentioned documents with an exception of CSD will lead to the disqualification of a bidder.**

## BID SUBMISSION CHECKLIST

Bidders **MUST** complete the following checklist and submit it with their bids:

		<b>COMPLIANT (TICK ✓ IN APPROPRIATE BOX)</b>	
<b>NO</b>	<b>REQUIREMENT</b>	<b>YES</b>	<b>NO</b>
<b>1</b>	<b>SECTION 1</b>		
1.1	Standard Bidding Documents:		
SBD 1	Invitation		
SBD 4	Declaration of Interest		
SBD 6.1	Preference Points Claim Form in Terms of The Preferential Procurement Regulations 2022 (SBD 6.1)		
<b>2</b>	<b>SECTION 2</b>		
2.1	Special Conditions of Contract (SCC)		
<b>3.</b>	<b>SECTION 3</b>		
3.1	General Conditions of Contract (GCC)		
<b>4.</b>	<b>ATTACHMENTS</b>		
4.1	CSD Registration number (Summary Report)		
4.2	Company's registration, CK document		
4.3	Valid original or certified BBBEE Certificate / Sworn affidavit		
4.4	Proof of vehicle registration Certificate		

**STAGE 3 EVALUATION CRITERIA**

Assessment of functionality with a **minimum overall threshold of 70%** must be attained by the bidder before evaluated on the next stage.

**NB: THE BID WILL BE EVALUATED ON FUNCTIONALITY CRITERIA ONLY**

NO	ELEMENTS	WEIGHT	SCORE
1.	<p>Vehicles ownership (Proof Vehicle Ownership in the Company's name Or Director's name).</p> <p>1. Ownership certificate (s) of vehicle (s) = 50</p> <p>2. No certificate = 00</p> <p><b>NB: All vehicle information will be verified on the e-Natis system before points are allocated.</b></p>	<b>50 points</b>	
2.	<p>Fleet Age</p> <ul style="list-style-type: none"><li>• 00 - 05 years = 30</li><li>• 06 -10 years = 20</li><li>• 11 – 20 years and above = 10</li><li>• Not attached = 00</li></ul>	<b>30 points</b>	

3.	<p>Experience in the provision of passenger road transport sector</p> <ul style="list-style-type: none"> <li>• 01- 04 years = 10</li> <li>• 05-15 years = 15</li> <li>• 16 years and above = 20</li> <li>• Not attached = 00</li> </ul> <p>NB: Attach signed reference letters with contact numbers on the letterhead of the institution indicating duration of experience.</p>	<b>20 points</b>	
	<b>TOTAL</b>	<b>100</b>	

## ADDITIONAL OBJECTIVE CRITERIA

Allocation will be based on available capacity of the bidder but not exceeding five routes.

### SPECIAL GOALS

Criterion	Weight	Preference points allocated 90/10
B-BBEE STATUS LEVEL OF CONTRIBUTOR (Source BBBEE Act Section 10 and PPF Act 2(d)(i))		
1	90/10 = 4	4
2		3.5
3		3
4		2.5
5		2
6		1.5
7		1
8		0.5
OWNERSHIP (Source PPF Act 2(d)(ii))		
Enterprise at least 51% owned by:  • persons historically discrimination on the basis of race.	90 / 10 = 3	3 or 0
LOCALITY (Source PPF Act 2(e) other and RDP)		
Enterprise located in the North West Province:  • Head Office = six (6) • No office in Province= zero (0)  Municipal account of business address or Tribal authority or lease agreement	90/10 = 3	3 or 0

## STAGE 3 EVALUATION CRITERIA

CRITERIA FOR PRICE AND B-BBEE STATUS	POINTS
Bid Price	90
Preference Points	10

**NB: The Bid will be evaluated on functionality and preference points only**

**Bidders are allowed to bid for only one district, bidders that bid for more than one district will not be considered.**

### 27. TECHNICAL REQUIREMENTS

Vehicles must be roadworthy and comply at all times with the National Road Traffic Act 93 of 1996 and other relevant legislations.

### 28. DELIVERY

Successful bidders will operate across the North West Province in line with the routes and / or policies determined and approved by the Department of Community Safety and Transport Management.

### 29. BREACH OF CONTRACT

The Department, without prejudice to any other remedy for breach of contract, by written notice of default sent to the operator, may terminate this contract in whole or in part:

- 29.1 if the operator fails to deliver any or all of the service within the period(s) specified in the contract, or within any extension thereof granted by the Department pursuant to GCC Clause 21.2;
- 29.2 if the ssuccessful bidders' / operators operator fails to perform any other obligation(s) under the contract; or
- 29.3 if the ssuccessful bidders / operators, in the judgment of the Department, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
- 29.4 In the event the Department terminates the contract in whole or in part, the Department may procure, upon such terms and in such manner as it deems appropriate, services similar to those undelivered, and the successful bidders / operators shall be reliable to the Department for any excess costs for such similar work

or service. However, the operator shall continue performance of the contract to the extent not terminated.

- 29.5 Where the Department terminates the contract in whole or in part, the Department may decide to impose a restriction penalty on the operator by prohibiting such operator from doing business with the public sector for a period not exceeding ten (10) years.
- 29.6 If the Department intends imposing a restriction on an operator or any person associated with the operator, the operator 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 operator fail to respond within the stipulated fourteen (14) days the Department may regard the intended penalty as not objected against and may impose it on the operator?
- 29.7 Any restriction imposed on any person by the Accounting Officer /Authority will, at the discretion of the Accounting Officer / Authority, 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 Accounting Officer / Authority actively associated.
- 29.8 If a restriction is imposed, the Department must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:
- the name and address of the operator and / or person restricted by the purchaser;
  - the date of commencement of the restriction
  - the period of restriction; and
  - the reasons for the restriction.

**These details will be loaded in the National Treasury's central database of bidders / operators or persons prohibited from doing business with the state.**

- 29.9 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.



29.10 Breaching the contract in terms of the specification, purchase order, the delivery period shall result in the cancellation of the contract. The designated service provider shall bear any difference in price of the said supplies and these amounts plus any other damages which may be suffered by the State shall be paid by the designated service provider to the State immediately on demand.

### **30. INSPECTIONS**

The Department of Community Safety and Transport Management will conduct inspections of vehicles before the inception of contract and for the duration of the entire contract period and vehicles used in this bid will be inspected.

### **31. OBLIGATIONS**

- 31.1 The Department is obliged to ensure that the successful bidders / operators provide the Department with the approved service within the specified period.
- 31.2 The Successful bidders / operators is obliged to provide the approved service in terms of the specifications and the Service Level Agreement (SLA) with the Department in the North West Province within specified period.
- 31.3 The Successful bidders / operators) is obliged to provide the Department with the daily learner transport report.
- 31.4 The Department is obliged to pay all services rendered by operators upon receipt of compliant documentation.
- 31.5 All parties are obliged to adhere to these Special Conditions of bids as stipulated in the attached bid forms and General Conditions of Contract.

### **32. SERVICE LEVEL AGREEMENT**

- 32.1 The Department will enter into a Service Level Agreement with the successful bidders / operators.

**FORM 1: SCHEDULE OF EXISTING VEHICLES**

The Successful bidders / operators will be required to provide details of all vehicles to be used under this contract as per the form here below. Full compliances required including copies of any documents required by way of this form. Failure to comply will result in the bid being deemed non-responsive.

**VEHICLE DETAILS:**

	Make	Model	Year	Registration No	Carrying Capacity	Owner as per registration paper
Vehicle 1						
Vehicle 2						
Vehicle 3						
Vehicle 4						
Vehicle 5						
Vehicle 6						
Vehicle 7						
Vehicle 8						
Vehicle 9						
Vehicle 10						
Vehicle 11						
Vehicle 12						
Vehicle 13						
Vehicle 14						
Vehicle 15						

Name:.....

Signature:.....

Date:.....

## PART A INVITATION TO BID

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)</b>					
BID NUMBER:		CLOSING DATE:		CLOSING TIME:	
DESCRIPTION					
<b>BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)</b>					
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>			<b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>		
CONTACT PERSON				CONTACT PERSON	
TELEPHONE NUMBER				TELEPHONE NUMBER	
FACSIMILE NUMBER				FACSIMILE NUMBER	
E-MAIL ADDRESS				E-MAIL ADDRESS	
<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					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES OFFERED?		<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]
<b>QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE A BRANCH IN THE RSA?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
<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 BELOW.</b>					

## PART B TERMS AND CONDITIONS FOR BIDDING

### 1. BID SUBMISSION:

- 1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
- 1.2. **ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED (NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.**
- 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
- 1.4. **THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).**

### 2. TAX COMPLIANCE REQUIREMENTS

- 2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
- 2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
- 2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE [WWW.SARS.GOV.ZA](http://WWW.SARS.GOV.ZA).
- 2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
- 2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED; EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
- 2.6 WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
- 2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

**NB: FAILURE TO PROVIDE / OR COMPLY WITH ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.**

SIGNATURE OF BIDDER:

.....

CAPACITY UNDER WHICH THIS BID IS SIGNED:

(Proof of authority must be submitted e.g. company resolution)

.....

DATE:

.....

## BIDDER'S DISCLOSURE

### 1. PURPOSE OF THE FORM

Any person (natural or juristic) may make an offer or offers in terms of this invitation to bid. In line with the principles of transparency, accountability, impartiality, and ethics as enshrined in the Constitution of the Republic of South Africa and further expressed in various pieces of legislation, it is required for the bidder to make this declaration in respect of the details required hereunder.

Where a person/s are listed in the Register for Tender Defaulters and / or the List of Restricted Suppliers, that person will automatically be disqualified from the bid process.

### 2. Bidder's declaration

- 2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest<sup>1</sup> in the enterprise, employed by the state? **YES/NO**

- 2.1.1 If so, furnish particulars of the names, individual identity numbers, and, if applicable, state employee numbers of sole proprietor/ directors / trustees / shareholders / members/ partners or any person having a controlling interest in the enterprise, in table below.

Full Name	Identity Number	Name of institution	State

- 2.2 Do you, or any person connected with the bidder, have a relationship

<sup>1</sup> the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.

**SBD4**

with any person who is employed by the procuring institution? **YES/NO**

**2.2.1** If so, furnish particulars:

.....  
.....

**2.3** Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract? **YES/NO**

**2.3.1** If so, furnish particulars:

.....  
.....

### **3 DECLARATION**

I, \_\_\_\_\_ the \_\_\_\_\_ undersigned,  
(name)..... in  
submitting the accompanying bid, do hereby make the following  
statements that I certify to be true and complete in every respect:

- 3.1** I have read and I understand the contents of this disclosure;
- 3.2** I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3** 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>2</sup> will not be construed as collusive bidding.
- 3.4** In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4** The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5** There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring

<sup>2</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.

**SBD4**

institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.

- 3.6 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.

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 and 3 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of bidder

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

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

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

### 1. GENERAL CONDITIONS

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

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.2 To be completed by the organ of state

*(delete whichever is not applicable for this tender).*

- a) The applicable preference point system for this tender is the 90/10 preference point system.
- b) The applicable preference point system for this tender is the 80/20 preference point system.
- c) Either the 90/10 or 80/20 preference point system will be applicable in this tender. The lowest/ highest acceptable tender will be used to determine the accurate system once tenders are received.

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

- (a) Price; and
- (b) Specific Goals.

1.4 To be completed by the organ of state:

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	
SPECIFIC GOALS	
<b>Total points for Price and SPECIFIC GOALS</b>	<b>100</b>



- 1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.
- 1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

## 2. DEFINITIONS

- (a) **"tender"** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- (b) **"price"** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (c) **"rand value"** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (d) **"tender for income-generating contracts"** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
- (e) **"the Act"** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

## 3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

### 3.1. POINTS AWARDED FOR PRICE

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

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

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

80/20                      or                      90/10

Where

- $P_s$  = Points scored for price of tender under consideration
- $P_t$  = Price of tender under consideration
- $P_{min}$  = Price of lowest acceptable tender

### 3.2. FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME-GENERATING PROCUREMENT

#### 3.2.1. POINTS AWARDED FOR PRICE

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

$$\begin{array}{ccc} 80/20 & \text{or} & 90/10 \\ P_s = 80 \left( 1 + \frac{P_t - P_{\max}}{P_{\max}} \right) & \text{or} & P_s = 90 \left( 1 + \frac{P_t - P_{\max}}{P_{\max}} \right) \end{array}$$

Where

- $P_s$  = Points scored for price of tender under consideration  
 $P_t$  = Price of tender under consideration  
 $P_{\max}$  = Price of highest acceptable tender

### 4. POINTS AWARDED FOR SPECIFIC GOALS

- 4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:
- 4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—
- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
  - (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,

then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

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

**(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.**

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

The specific goals allocated points in terms of this tender	Number of points allocated (90/10 system) (To be completed by the organ of state)	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (90/10 system) (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)

#### DECLARATION WITH REGARD TO COMPANY/FIRM

4.3. Name of company/firm.....

4.4. Company registration number: .....

4.5. TYPE OF COMPANY/ FIRM

Partnership/Joint Venture / Consortium

One-person business/sole propriety

Close corporation

Public Company

Personal Liability Company

(Pty) Limited

Non-Profit Company

State Owned Company

[TICK APPLICABLE BOX]

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

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
  - (a) disqualify the person from the tendering process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
  - (e) forward the matter for criminal prosecution, if deemed necessary.

.....  
**SIGNATURE(S) OF TENDERER(S)**

**SURNAME AND NAME:** .....

**DATE:** .....

**ADDRESS:** .....

.....

.....

.....

**THE NATIONAL TREASURY**

**Republic of South Africa**



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**GOVERNMENT PROCUREMENT:  
GENERAL CONDITIONS OF CONTRACT**

**July 2010**

**GOVERNMENT PROCUREMENT**  
**GENERAL CONDITIONS OF CONTRACT**  
**July 2010**

**NOTES**

The purpose of this document is to:

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

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

- The General Conditions of Contract will form part of all bid documents and may not be amended.
- Special Conditions of Contract (SCC) relevant to a specific bid, should be compiled separately for every bid (if applicable) and will supplement the General Conditions of Contract. Whenever there is a conflict, the provisions in the SCC shall prevail.

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## General Conditions of Contract

### 1. Definitions

1. The following terms shall be interpreted as indicated:

- 1.1 "Closing time" means the date and hour specified in the bidding documents for the receipt of bids.
- 1.2 "Contract" means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- 1.3 "Contract price" means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
- 1.4 "Corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.
- 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
- 1.6 "Country of origin" means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
- 1.7 "Day" means calendar day.
- 1.8 "Delivery" means delivery in compliance of the conditions of the contract or order.
- 1.9 "Delivery ex stock" means immediate delivery directly from stock actually on hand.
- 1.10 "Delivery into consignees store or to his site" means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the 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. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- 1.13 "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.
- 1.14 "GCC" means the General Conditions of Contract.
- 1.15 "Goods" means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.16 "Imported content" means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.
- 1.17 "Local content" means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- 1.18 "Manufacture" means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.19 "Order" means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20 "Project site," where applicable, means the place indicated in bidding documents.
- 1.21 "Purchaser" means the organization purchasing the goods.
- 1.22 "Republic" means the Republic of South Africa.
- 1.23 "SCC" means the Special Conditions of Contract.
- 1.24 "Services" means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such

obligations of the supplier covered under the contract.

- 1.25 "Written" or "in writing" means handwritten in ink or any form of electronic or mechanical writing.

**2. Application**

- 2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
- 2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.
- 2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

**3. General**

- 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.
- 3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from [www.treasury.gov.za](http://www.treasury.gov.za)

**4. Standards**

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

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

- 5.1 The supplier shall not, without the purchaser's prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 5.2 The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.
- 5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

**6. Patent rights**

- 6.1 The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof by the purchaser.

**7. Performance security**

- 7.1 Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.
- 7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.
- 7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:
  - (a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or
  - (b) a cashier's or certified cheque
- 7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified in SCC.

**8. Inspections, tests and analyses**

- 8.1 All pre-bidding testing will be for the account of the bidder.
- 8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department.
- 8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
- 8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.
- 8.7 Any contract supplies may on or after delivery be inspected, tested or

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

- 8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of GCC.

#### **9. Packing**

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

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

#### **10. Delivery and documents**

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

- 10.2 Documents to be submitted by the supplier are specified in SCC.

#### **11. Insurance**

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

#### **12. Transportation**

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

#### **13. Incidental services**

- 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:
- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
  - (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
  - (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;

- (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
- (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.

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

#### 14. Spare parts

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

- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and
- (b) in the event of termination of production of the spare parts:
  - (i) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
  - (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

#### 15. Warranty

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

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

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

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

15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take

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

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| <b>16. Payment</b>                              | <p>16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.</p> <p>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.</p> <p>16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.</p> <p>16.4 Payment will be made in Rand unless otherwise stipulated in SCC.</p>   |
| <b>17. Prices</b>                               | <p>17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized in SCC or in the purchaser's request for bid validity extension, as the case may be.</p>  |
| <b>18. Contract amendments</b>                  | <p>18.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.</p>   |
| <b>19. Assignment</b>                           | <p>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.</p>   |
| <b>20. Subcontracts</b>                         | <p>20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.</p>   |
| <b>21. Delays in the supplier's performance</b> | <p>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.</p> <p>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.</p> <p>21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.</p> <p>21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the</p> |

supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.

21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.

21.6 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without canceling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.

## **22. Penalties**

22.1 Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.

## **23. Termination for default**

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

- (a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
- (b) if the Supplier fails to perform any other obligation(s) under the contract; or
- (c) if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.

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 intended penalty as not objected against and may impose it on the supplier.

23.5 Any restriction imposed on any person by the Accounting Officer / Authority will, at the discretion of the Accounting Officer / Authority, 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 Accounting Officer / Authority actively associated.

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

- (i) the name and address of the supplier and / or person restricted by the purchaser;
- (ii) the date of commencement of the restriction
- (iii) the period of restriction; and
- (iv) the reasons for the restriction.

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

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

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

24.1 When, after the date of bid, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference shall on demand be paid forthwith by the contractor to the State or the State may deduct such amounts from moneys (if any) which may otherwise be due to the contractor in regard to supplies or services which he delivered or rendered, or is to deliver or render in terms of the contract or any other contract or any other amount which



may be due to him

**25. Force  
Majeure**

- 25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.
- 25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

**26. Termination  
for insolvency**

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

**27. Settlement of  
Disputes**

- 27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.
- 27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.
- 27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.
- 27.5 Notwithstanding any reference to mediation and/or court proceedings herein,
- (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
  - (b) the purchaser shall pay the supplier any monies due the supplier.

**28. Limitation of  
liability**

- 28.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6;
- (a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and

- (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

**29. Governing language**

- 29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.

**30. Applicable law**

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

**31. Notices**

- 31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice
- 31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

**32. Taxes and duties**

- 32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
- 32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- 32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.

**33. National Industrial Participation (NIP) Programme**

- 33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.

**34 Prohibition of Restrictive practices**

- 34.1 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 (or bid rigging).
- 34.2 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 the Competition Act No. 89 of 1998.

- 34.3 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.

Js General Conditions of Contract (revised July 2010)