



KwaZulu-Natal
LIQUOR AUTHORITY

THE KWAZULU NATAL LIQUOR AUTHORITY

**TERMS OF REFERENCE FOR A SERVICE PROVIDER TO DRIVE THE CHANGE
MANAGEMENT PROCESS FOR THE NEW MERGED ENTITY – PRIOR TO AND
AFTER THE MERGER**

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HR Work stream

1. Background Overview

The KwaZulu-Natal Liquor Authority herein after referred to as "KZN LA" is an entity established in terms of the KwaZulu-Natal Liquor Licencing Act No. 06 of 2010, with its principal place of business being, 1st Floor Marine Building, 22 Dorothy Nyembe Street, Durban 4000.

It is an entity of the KwaZulu-Natal Department of Economic Development, Tourism and Environmental Affairs.

The Organization has three (03) - core business units and two (02) support business units inter alia:

Business Unit	Staff Complement
Licensing & Administration	27 employees
Compliance & Enforcement	22 employees
Social Responsibility	09 employees
Corporate Services	14 employees
Office of the CEO	07 employees
Total	79 staff complement

The KwaZulu-Natal Gaming & Betting Board ("KZNGBB") is a public entity (Schedule 3c) established by statute to oversee the KwaZulu-Natal Gaming Industry in the public interest. KZNGBB House is located at No. 1 George MacFarlane Lane, Redlands Estate, Pietermaritzburg, 3201 and the satellite office is located on the 18th Floor of the Marine Building, 22 Dorothy Nyembe Street, Durban, 4000.

The KwaZulu-Natal Gaming & Betting Board has four (4) core business units and six (6) support units namely;

Business Unit	Staff Complement
Licensing & Registration	14 employees
Gaming, Monitoring & Control	19 employees
Betting, Monitoring & Control	11 employees
Business Development	03 employees
Governance, Risk & Compliance	07 employees
Office of the CEO	07 employees
Information, Communication & Technology	05 employees
Human Resources Management	07 employees
Legal Services	05 employees
Financial Services	12 employees
Total	90 staff complement

The KZN provincial government embarked on a process to rationalize its entities in 2015 with the appointment of the Rationalization of Public Entities Task Team (ROPETT) to assist the Provincial Executive Committee (PEC) with this task.

ROPETT submitted their report to the PEC during November 2017. This resulted in inter alia the decision to merge the KZN Gambling and Betting (KZNGBB) and the KZN Liquor Authority (KZN LA).

Establish, develop and implement a comprehensive 24-month Change Management Programme inclusion of the following:

2. SCOPE OF WORK

The Change Management Service Provider is required to deliver the following:

Table 1: Scope of project

No	Outputs	Projected no of consulting days ¹
1.	<p>Change readiness assessment report that indicates the extent to which they have been informed about the new entity and what it will mean for them, inclusive of an indication of common themes around concerns or fears they may have related to the change.</p> <p>This report should be based on quantitative research results (e.g. a survey) and/or qualitative research results (e.g. interviews or focus group discussions) and should contain recommendations on key interventions to improve communication and/or address the concerns or fears that have been expressed.</p>	10
2.	<p>Change management interventions which should be based on the recommendations contained in the above-mentioned report. In addition, it should focus on the following:</p> <p>The intervention is aimed at preparing both KZN LA and KZN GBB to embrace the forthcoming merger and to unify the different working cultures and values of the merging entity. The process will help the new Entity towards the achievement of the vision as developed by the Joint Board in the Strategy session.</p> <p>It will assist management and staff to consult, unpack and finalise the proposed values identified by the Joint Board during the previous strategy session. The proposed values consist of the below listed:</p> <ul style="list-style-type: none"> - Can do attitude/results driven - Integrity/ethical standards - Respect - Accountability - Leadership by example/transformational leadership - Self-introspection/learning organisation/innovation/entrepreneurship <p>The core of the intervention should be on shared vision and values, building teams and aligning goals, effective leadership and communication. The intervention should also aim to support the entity in adapting to and embracing the new realities arising from the Covid pandemic. The process will be critical</p>	40

¹ The projected number of consulting days includes both the development of the relevant deliverables and consultation on these. Note that the projected number of consulting days per deliverable is not fixed. However, the **total number of consulting days** for this assignment is fixed. Hence price quotations must be based on the total number of consulting days.

No	Outputs	Projected no of consulting days ¹
	<p>in bringing the two teams together, through getting to know one another, understand each other's dynamics and map out a new path for the new entity.</p> <p>The intervention should include at least two 'out-of-office" team sessions facilitated by the service provider where staff will meet one another for the first time and participate in activities that aim to instil unity, camaraderie, and teamwork.</p> <p>At the conclusion of the change management interventions, a report should be produced indicating the results that have been achieved, based again on quantitative research results (e.g. a survey) and/or qualitative research results (e.g. interviews or focus group discussions). This should allow a "before" and "after" assessment to be made of the results of the interventions.</p>	
3.	Closure report which summarizes the outputs delivered during the assignment, the lessons learned, and challenges experienced during the assignment, and proposed next steps to reinforce the change management intervention and new culture.	2
	TOTAL	52

3. EVALUATION CRITERIA

A two-phased approach will be followed:

- 1) **Technical evaluation**
- 2) **Price and Specific goals**

The technical proposal will be evaluated as per the criteria in the table below. Service providers must ensure that all required information is included in their quotation as per the quotation requirements.

Table 2: Technical evaluation criteria

NO	CRITERIA	SCORING	WEIGHT
1.	<p>Proposed approach</p> <p>Approach and project plan being proposed to execute the assignment.</p> <p>Presentation to the Executive Team comprised of HR and Senior Managers</p>	<p>5 = Excellent: Proposed approach includes innovative suggestions that goes to a significant extent beyond the minimum requirements as per these Terms of Reference and project plan is realistic and achievable.</p> <p>4 = Above average: Proposed approach goes to a limited extent beyond the minimum requirements as per these Terms of Reference and project plan is realistic and achievable.</p> <p>3 = Average: Proposed approach addresses only the minimum requirements as per these Terms of Reference and project plan is realistic and achievable.</p> <p>2 = Below average: Proposed approach addresses the minimum requirements as per these Terms of Reference but the project plan is not realistic and achievable.</p> <p>1 = Poor: Both the proposed approach does not address the minimum requirements as per these Terms of</p>	50%

NO	CRITERIA	SCORING	WEIGHT
		Reference and the project plan is not realistic and achievable. 0 = Non-responsive: Proposed approach and/or project plan not submitted.	
2.	Qualifications An appropriate tertiary qualification in e.g., Human Resource/Personnel Management or Psychology.	5 = Masters (or equivalent) or higher 4 = Honors (or equivalent) 3 = Degree (or equivalent) 2 = Certificate (or equivalent) 1 = Matric (or equivalent) 0 = Non-responsive: Proof of qualifications in the required format not provided	15%
3.	Experience Relevant experience in the change management field in either a management capacity, as a specialist, or as management consultant (or a combination of these).	5 = > 13 years 4 = 11 - 13 years 3 = 8 - 10 years 2 = 5 - 7 years 1 = < 5 years 0 = Non-responsive: Proof of experience in the required format not provided	15%
4.	Skills Number of completed projects that are relevant to this quotation, e.g., assisting organisations to manage the change process flowing from re-organisation or restructuring.	5 = 5 or more completed projects relevant to this quotation 4 = 4 completed projects relevant to this quotation 3 = 3 completed projects relevant to this quotation 2 = 2 completed projects relevant to this quotation 1 = 1 completed project relevant to this quotation 0 = Non-responsive: No completed projects relevant to this quotation or proof of skills in the required format not provided	20%

The quotation must attain a minimum score of 70% in order to be shortlisted and evaluated further based on price and Specific **goals** (80/20).

5. QUOTATION REQUIREMENTS

5.1 Number of Advisors

A minimum of one (1) and a maximum of two (2) advisors are required. If, for example, the service provider has an expert that has the required expertise to produce all three (3) the outputs listed in Table 3, then only this advisor can be proposed. If, however, the required expertise resides not in a single advisor, then a team of two (2) advisors can be proposed. Note, however, that the maximum number of consulting days will remain the same, namely forty (40).

Also note that, if two advisors are proposed, the average of their scores for criteria 2 – 4 in Table 4 will be used.

5.2 Duration of the contract

The contract is expected to be for a maximum period of twenty-four (24) months and to be executed during the 2023/24 and 2024/25 financial years.

NB: The duration of the project is based on the Department of KZN Economic Development Tourism and Environmental Affairs timelines and there may be delays with the starting date.

5.3 Submission requirements

Service providers should ensure that the following information is included in their quotations and that they meet the relevant requirements:

- a) Duly completed and signed Standard Bid Document.
- b) Tax compliance status requirements: Central Supplier Database (CSD) number/report.
- c) Service provider/Company profile.
- d) Service providers must submit all the information required for evaluation purposes including the proposed approach to the assignment and proposed project plan, plus the CV/s of the proposed Change Management expert/s, in the format at **Annexure A**, which reflects the qualifications, skills and experience of the person/s plus certified copies of all tertiary qualifications/certificates. If the CV/s is/are not provided in the format at Annexure A and/or certified copies of tertiary qualifications/certificates are not provided, then the relevant technical criteria may be scored as non-responsive.
- e) A summary table of the individual/s proposed for the role must be attached in the format at **Annexure B**. Service providers are advised to submit a maximum of two (2) CVs. If more are submitted, the first two (2) listed in Annexure B will be evaluated. For service providers that submit two (2) CVs, their average scoring for technical criteria 2 – 4 will be used.
- f) International qualifications must be accompanied by SAQA confirmation of accreditation. Non-submission of SAQA confirmation for such qualifications may lead to such qualifications not being recognized and scored in accordance with the relevant technical criterion.
- g) Note that reference checking may be conducted to verify the information provided by service providers which may influence the scoring. Any misrepresentation that may be discovered post the appointment of the service provider may lead to termination of the contract.
- h) Service providers must comply with all South African laws; including the Immigration Act 13 of 2002 (as amended).
- i) Prior to appointment, the recommended service provider may be required to submit additional supporting documentation.

5.4 Logistics

No office accommodation will be provided. The Change Management expert/s must provide their own equipment. They will, however, be assisted with collecting a set of base documents. A list of key resource persons will also be identified and provided. Part of this assignment will have to be executed on site. To this end a separate travel and subsistence budget must be provided.

5.5 Outputs and quality assurance

The outputs to be produced are as per Table 3. The quality of the outputs will be assessed and approved by the relevant project manager/s and Project Steering Committee. Invoices must be accompanied by the relevant deliverables. Should the reports not be attached or if they are not approved, payment of the relevant invoices may be withheld until the identified shortcomings have been corrected.

5.6 Validity period

The quotation will be valid for a period of 90 (ninety) days



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REQUEST FOR QUOTATION

**TERMS OF REFERENCE FOR A SERVICE PROVIDER TO DRIVE THE CHANGE
MANAGEMENT PROCESS FOR THE NEW MERGED ENTITY – PRIOR TO AND AFTER THE
MERGER**

10 March 2023

REQ NO:96/2022/23

REQUEST FOR QUOTATION

ACTIVITY	DATES & TIME
Quotation Invitation Date	10/03/2023
Quotation Closing Date	17/03/2023
Quotation Closing Time	11:00AM

Kindly provide a formal quotation for the following items:

ITEM	ITEM DESCRIPTION:
1	<p>TERMS OF REFERENCE FOR A SERVICE PROVIDER TO DRIVE THE CHANGE MANAGEMENT PROCESS FOR THE NEW MERGED ENTITY – PRIOR TO AND AFTER THE MERGER</p> <p>Refer to attached specifications</p>

Instructions:

1. All suppliers must be registered on the National Treasury Central Supplier Database.
2. Central Supplier Database Number must be included on the quotation.
3. The quotation must be on the supplier's letterhead.
4. This request for quotation is subject to Terms and Conditions as prescribed by the Preferential Procurement Regulations 2022 issued in terms of the PPPFA.
5. Quotations must be submitted electronically to the following e-mail address: scm@kznlqa.co.za
6. The BBBEE certificate/sworn affidavits must be submitted electronically with all quotations.
7. To claim preference points, the Specific Goals table below on **SBD 6.1** must be completed, and the relevant supporting evidence must be submitted. Failure to provide the supporting evidence will result in no preference points being awarded.
8. Prices must be inclusive of all applicable taxes.
9. Quotations must be valid for **60 working days** after the closing date.
10. Late submission will not be considered.
11. The following SBD Forms must be completed in full for all quotations.

SCM Enquiries: BHEKANI MNCWANGO 031 302 0661

SCM Email: scm@kznlqa.co.za

SBD1

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE KZN GAMING AND BETTING BOARD					
BID NUMBER:	REQ 96/2022/23	CLOSING DATE:	-17-03-2023	CLOSING TIME:	11:00AM
DESCRIPTION	TERMS OF REFERENCE FOR A SERVICE PROVIDER TO DRIVE THE CHANGE MANAGEMENT PROCESS FOR THE NEW MERGED ENTITY – PRIOR TO AND AFTER THE MERGER				
BID RESPONSE DOCUMENTS MAY EMAILED TO scm@kznlqa.co.za					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	BHEKANI MNCWANGO		CONTACT PERSON		
TELEPHONE NUMBER	031 302 0661		TELEPHONE NUMBER		
E-MAIL ADDRESS	Bhekani.mncwango@kznlqa.co.za or scm@kznlqa.co.za		E-MAIL ADDRESS		
SUPPLIER INFORMATION					
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
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT 		TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR]					

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No (IF YES, ANSWER THE QUESTIONNAIRE BELOW)
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QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

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
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.	

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, [REDACTED], 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.
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:

.....

DATE:

.....

PRICING SCHEDULE – FIRM PRICES (PURCHASES)

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

IN CASES WHERE DIFFERENT DELIVERY POINTS INFLUENCE THE PRICING, A SEPARATE PRICING SCHEDULE MUST BE SUBMITTED FOR EACH DELIVERY POINT

SERVICE PROVIDERS MAY PROVIDE SEPARATE QUOTE ON LETTER HEAD.

Name of bidder..... Closing Time: 11:00AM	
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OFFER TO BE VALID FOR 60 WORKING DAYS FROM THE CLOSING DATE OF BID.

ITEM NO.	QUANTITY	DESCRIPTION	Unit Price	Total for each unit
1		TERMS OF REFERENCE FOR A SERVICE PROVIDER TO DRIVE THE CHANGE MANAGEMENT PROCESS FOR THE NEW MERGED ENTITY – PRIOR TO AND AFTER THE MERGER		
		Refer to attached specifications		
		Delivery (if applicable)		
SUB-TOTAL				
VAT AT 15%				
GRAND TOTAL (BID PRICE IN RSA CURRENCY WITH ALL APPLICABLE TAXES INCLUDED)				

- Required by: _____
- At: **KZN LIQUOR AUTHORITY- DURBAN HEAD OFFICE**
- Does the offer comply with the specification(s)? ***YES/NO**
- If not to specification, indicate deviation(s) _____
- Period required for delivery _____
- *Delivery: Firm/not firm
- Delivery basis _____

Note: All delivery costs must be included in the bid price, for delivery at the prescribed destination.

** "all applicable taxes" includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies.

SBD 4

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 interest¹ 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 State institution

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

.....

¹ 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.

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 consortium² 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 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

² 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.

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**

- a) The applicable preference point system for this tender is the **80/20** preference point system.
- b) 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	80
SPECIFIC GOALS	20
Total points for Price and SPECIFIC GOALS	100

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:

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

Where

- Ps = Points scored for price of tender under consideration
- Pt = Price of tender under consideration
- Pmin = 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:

80/20	or	90/10
$Ps = 80 \left(1 + \frac{Pt - P_{max}}{P_{max}} \right)$	or	$Ps = 90 \left(1 + \frac{Pt - P_{max}}{P_{max}} \right)$

Where

- Ps = Points scored for price of tender under consideration
- Pt = Price of tender under consideration
- Pmax = 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 tenderers: (The tenderer must indicate how they claim points for each preference point system.)

The specific goals allocated points in terms of this tender	Supporting Evidence required	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (To be completed by the tenderer)
Ownership by Black, Youth, Female, and Disability	BBEE Certificate, Sworn affidavit within 12 months, CIPC documents		
1. BBEE compliance based on Section 10 of the BBEE Act (Act 53 of 2003 as amended by Act 46 of 2013)		4	
2. Black Women Ownership		7	
3. Black Youth Ownership		7	
4. Disability Ownership		2	
Total Points allocated to Specific Goals		20	

Note:

Bidder must ensure supporting evidence submitted with the bid must confirm ownership i.e., CIPC documents indicating ownership, Share certificates / Affidavits or similar confirming ownership, BBEE certificate and Sworn Affidavit within 12 months. Failure to provide the supporting evidence will result in no preference points being awarded.

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.

<p>.....</p> <p>SIGNATURE(S) OF TENDERER(S)</p>	
SURNAME AND NAME:
DATE:
ADDRESS:

SBD 7.1

CONTRACT FORM - PURCHASE OF GOODS/WORKS

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

PART 1 (TO BE FILLED IN BY THE BIDDER)

1. I hereby undertake to supply all or any of the goods and/or works described in the attached bidding documents to (name of institution)..... in accordance with the requirements and specifications stipulated in bid number..... at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the purchaser during the validity period indicated and calculated from the closing time of bid.

2. The following documents shall be deemed to form and be read and construed as part of this agreement:
 - (i) Bidding documents, viz
 - Invitation to bid;
 - Tax clearance certificate;
 - Pricing schedule(s);
 - Technical Specification(s);
 - Preference claims for Broad Based Black Economic Empowerment Status Level of Contribution in terms of the Preferential Procurement Regulations 2011;
 - Declaration of interest;
 - Declaration of bidder's past SCM practices;
 - Certificate of Independent Bid Determination
 - Special Conditions of Contract;
 - (ii) General Conditions of Contract; and
 - (iii) Other (specify)

3. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the goods and/or works specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.

4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfillment of this contract.

5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.

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

NAME (PRINT)

CAPACITY

SIGNATURE

DATE

WITNESSES	
1
2.
---

GENERAL CONDITIONS OF CONTRACT

1. Definitions

The following terms shall be interpreted as indicated:

- 1.1 "Closing time" means the date and hour specified in the bidding documents for the receipt of bids.
- 1.2 "Contract" means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- 1.3 "Contract price" means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
- 1.4 "Corrupt practice" means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.
- 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
- 1.6 "Country of origin" means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
- 1.7 "Day" means calendar day.
- 1.8 "Delivery" means delivery in compliance of the conditions of the contract or order.
- 1.9 "Delivery ex stock" means immediate delivery directly from stock actually on hand.
- 1.10 "Delivery into consignees store or to his site" means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
- 1.11 "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.
- 1.12 "Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. 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

- 1.1. 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.
- 1.2. 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

4. Standards

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

5. Use of contract documents and information; inspection.

- 4.1 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.
- 4.2 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.
- 4.3 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.
- 4.4 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

- 1.1. 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.

1.2.

2. Performance security

- 2.1. 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.
- 2.2. 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.
- 2.3. 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:
 - 2.4. 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
 - 2.5. a cashier's or certified cheque
- 2.6. 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.

3. Inspections, tests and analyses

- 3.1. All pre-bidding testing will be for the account of the bidder.
- 3.2. 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.
- 3.3. 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.
- 3.4. 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.
- 3.5. 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.
- 3.6. 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.
- 3.7. 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.
- 3.8. 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.

4. Packing

- 4.1. 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.

- 4.2. 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.

5. Delivery and documents

- 5.1. 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.
- 5.2. Documents to be submitted by the supplier are specified in SCC.

6. Insurance

- 6.1. 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.

7. Transportation

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

8. Incidental Services

- 8.1. 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.
- 8.2. 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.

9. Spare parts

- 9.1. 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.

10. Warranty

- 10.1. 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.
- 10.2. 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.

- 10.3. The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.
- 10.4. 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.
- 10.5. 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.

11. Payment

- 11.1. The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.
- 11.2. 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.
- 11.3. 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.
- 11.4. Payment will be made in Rand unless otherwise stipulated in SCC.

12. Prices

- 12.1. 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.

13. Contract amendments

- 13.1. No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.

14. Assignment

- 14.1. 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.

15. Subcontracts

- 15.1. 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.

16. Delays in the supplier's performance

- 16.1. 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.
- 16.2. 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.
- 16.3. 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.

- 16.4. The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.
- 16.5. 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.
- 16.6. Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without cancelling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.

17. Penalties

- 17.1. 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.

18. Termination for default

- 18.1. 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.
- 18.2. 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.
- 18.3. 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.
- 18.4. 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.
- 18.5. 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.
- 18.6. 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.
 - 18.6.1. These details will be loaded in the National Treasury's central database of suppliers or persons prohibited from doing business with the public sector.
- 18.7. 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.

19. Anti-dumping and countervailing duties and rights

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

20. Force Majeure

- 20.1. 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.
- 20.2. 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.

21. Termination for insolvency

- 21.1. 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.

22. Settlement of Disputes

- 22.1. 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.
- 22.2. 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.
- 22.3. Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.
- 22.4. Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.
- 22.5. 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.

23. Limitation of liability

- 23.1. 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.

24. Governing language

- 24.1. 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.

25. Applicable law

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

26. Notices

- 26.1. 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
- 26.2. 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.

27. Taxes and duties

- 27.1. A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
- 27.2. A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- 27.3. 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.

28. National Industrial Participation (NIP) Programme

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

29. Prohibition of Restrictive practices

- 29.1. 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).
- 29.2. 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.

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder