

Health Office Park  
Private Bag X 2068  
MMABATHO  
2735**SUPPLY CHAIN MANAGEMENT**Tel: +27 (18) 391 4043  
Email: [ttsineng@nwpg.gov.za](mailto:ttsineng@nwpg.gov.za)  
[www.health.gov.za](http://www.health.gov.za)**INVITATION TO BID: NWDOH 10/2023: LEASE OF ACCOMMODATION FOR HEALTH PROFESSIONALS IN RUSTENBURG SUB DISTRICT FOR THE PERIOD OF THREE (03) YEARS.**

Open bids are hereby invited for lease of accommodation for Health Professionals in Rustenburg Sub District for the Period of three (03) Years.

The conditions contained in the Preferential Procurement Policy Framework Act and 2022 PPPFA Regulations, National Treasury Implementation Guide: Preferential Procurement Regulations 2022, the General Conditions of Contract (GCC) and/ NEC 3 Engineering & Construction Contract, i.e. Annexure "A" and the attached bid forms, as well as any other conditions accompanying this invitation, are applicable.

1. The work procedure the bidder proposes to follow in order to obtain the required result must be clearly outlined and its terms may not conflict with those contained in the General Conditions of Contract.
2. All the documents accompanying this invitation to bid must be completed in detail where applicable, and together with all documentation required in considering the bid, be sealed in an envelope and be deposited in the bid box before the closing date and time.
3. The proposals in a sealed envelope and marked with the Bid Number , Company Name, Closing Date and Closing Time should be deposited in the Bid Box situated at the entrance of the **Department of Health North West, New Office Park Building, Ground floor, Corner First Street and Sekame, Mmabatho [Behind the Crossing Mall]. No correspondence will be entered into regarding non-submission/attachment of required documents after bid closure. Failure to submit all the required documents will render your bid non-responsive**
4. Duly completed and signed original bid documents issued by the Department should be sealed in an envelope marked:

**Bid number : NWDOH 10/2023****Company Name :****Closing date : 28 JULY 2023****Closing time : 11H00****Technical enquiries : Mr M. Themeli and Ms S Mosopa at 014 592 8906**

No telegraphic or facsimile bids will be considered.

5. In terms of the PFMA Treasury Regulations 2005;-

A. **Regulation 16A9. 1 [e] and [f]** the Accounting Officer of the Department may-

- i. Reject a proposal for the award of a contract if the recommended bidder has committed a corrupt or fraudulent act in competing for the particular contract, or
- ii. Cancel a contract awarded to a supplier of goods or services
  - ☐ If the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract, or
  - ☐ If any official or other role-player committed any corrupt or fraudulent act during the bidding process or the execution of that contract that benefitted that supplier.

B. **Regulation 16A9.2 [a] and [b]** the accounting officer or accounting authority-

- i. May disregard the bid of any bidder if that bidder, or any of its directors-
  - ☐ Have abused the institution's supply chain management system
  - ☐ Have committed fraud or any other improper conduct in relation to such system.

C. Bidders may NOT buy gifts for or ask for cell phone numbers from Bid Committee Members or contract managers during briefing sessions, evaluation and adjudication of bids. In terms of the **NATIONAL TREASURY MINUTE3/3/3/2/10 DATED 23 APRIL 2006-CODE OF CONDUCT FOR BID ADJUDICATION COMMITTEES** governing the Conduct of all Bid Committees, Stakeholders and SCM Practitioners involved in the SCM processes:-

- i. Bid information and documentation are confidential
- ii. No unauthorized communication should be made with a bidder/contractor by any member, stakeholder or SCM Practitioner prior to or after any meeting during the evaluation and adjudication of bids

D. **IN TERMS OF THE NATIONAL TREASURY SCM PRACTICE NOTE NUMBER: SCM 4 OF 2003; CODE OF CONDUCT FOR SUPPLY CHAIN MANAGEMENT PRACTITIONERS -**

"6.5. No person should:-

"6.5.1 Interfere with the supply chain management system of an Institution

"6.5.2 Amend or tamper with any bid after its submission

6. Bidders should ensure that all the relevant documentation required in considering bids are submitted. **Failure to submit all the required documents may render your bid non-responsive**
7. The Department will not be held responsible for missing or duplicated documents. **Bidders are required to sign, number sequentially and initial on each page of the bidding documents. Bid documents must be binded.**
8. It is the ultimate responsibility of every bidder to ensure that his/her bid is duly deposited in the Bid Box situated at the entrance of the Department of Health North West, New Office Park Building, Ground floor, Corner First Street and Sekame, Mmabatho on time before the closing date and time. **The Department of Health shall not be held responsible for any couriered bid documents that do not reach the Bid Box by the Closing date and time. –Couriered documents must be deposited in the bid box by Couriers before the closing date and time. No correspondence will be entered into regarding late bids and couriered documents that were not deposited in the bid box by the bid closing date and time.**
9. The Department of Health reserves the right to award any bid in whole or in part and the Department **does not bind itself to accept the lowest or any bid in whole and price alone is not a determining factor.**
10. National Treasury has per Circular no 3 OF 2015/2016 given instructions to all PFMA Institutions that with effect from 01 April 2016, no quotation or bid may be awarded to any supplier who is not registered as a Prospective Supplier on the National Treasury
11. Central Service Provider 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 are updated and valid. 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.

**12.** For more information please contact the following:

**ADMINISTRATION ENQUIRES:**

- Ms T Matshoba 018 391 4043 at [Email: ttsineng@nwpg.gov.za](mailto:ttsineng@nwpg.gov.za)

**TECHNICAL ENQUIRIES:**

- Mr M. Themeli at 014 592 8906
- Ms S Mosopa at 014 592 8906 E-mail: [smosopa@nwpg.gov.za](mailto:smosopa@nwpg.gov.za)

Potential bidder(s) must reduce all telephonic enquiries to writing and send them to the above email addresses.

**13. CONDITIONS TO BID**

This bid is issued under the condition that the bidder should at any stage during production or execution or on completion of the bid be subject to inspection. The premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by the representative of the Department of Health or organization acting on behalf of the State. The bidder shall provide, if required, all required facilities for inspections, tests and analysis of the land available, apparatus which may be required for the purpose of such inspection, tests and analysis free of charge unless otherwise specified. The bidder also agrees that the financial standing of the bidder may be examined as part of the inspection

**14. RISK ANALYSIS**

A risk analysis as per applicable legislation and prescripts shall be used to establish the competency and ability of the successful bidder for the project

**15. BID CONDITIONS**

- a) Late bids will not be considered. Please note that bids are late if they are received at the address given in the bid document after the bid closing date and time.
- b) Bids will be valid for a period of 90 days.
- c) All bid prices must be quoted in South African currency and must be VAT inclusive.
- d) All the Relevant Forms attached to this bid document must be completed and signed in black ink where applicable by a duly authorized official. Use of tippex and pencil in the bid document are not allowed. Where cancellation has been made, bidders should endorse with a signatures

## 16. BID ADMINISTRATION DOCUMENTS TO BE SUBMITTED BY ALL BIDDERS:

National Treasury has per **PFMA SCM INSTRUCTION NO.9 OF 2022/2023 MANDOTRY UTILISATION OF THE E-TENDER PORTAL FOR PUBLICATION OF BID OPPORTUNITIES, BID AWARDS AND ANY BID RELATED NOTIFICATIONS DATED 13 OCT 2022** prescribed the mandatory advertisement of bids on the e-tender Publication Portal by all departments. Constitutional institutions and public entities listed In Schedules 2 and 3 to the Public Finance Management Act (PFMA). 1999 (Act No.1 of 1999), hereafter referred to as PFMA compliant institutions. This application is aimed at ensuring that all potential service providers have easy access to advertised bids and are provided with an opportunity to supply PFMA compliant institutions with goods and services, as they may require. With effect from 1 Nov 2022, all PFMA compliant institutions must submit the following information to the relevant treasury's e-Tender Publication Administrator in support its advertisement:

- a) Bid description;
- b) Bid number;
- c) Name of the PFMA compliant institution;
- d) The place where the bid is required;
- e) The closing date and time of the bid;
- f) The PFMA compliant institution's contact details (postal and physical address, Telephone number, etc.);
- g) The place where bids can be collected;
- h) The place where bids should be delivered; and
- i) The bid document, that is,
  - Invitation to Bid-which explains the bid administration requirements and the evaluation criteria, to be complied with by all bidders.
  - SBD Forms Prescribed by National Treasury- to be completed by all Bidders without exception
  - Technical Bid Specifications/Terms of Reference or Bill of Quantities requirements - depending on the technical nature of the bid.

## 17. BID ADMINISTRATIVE REQUIREMENTS/CRITERIA TO BE USED IN EVALUATING A BID

The National Treasury **Supply Chain Management Circular Ref 3/4/3/2/10 dated 10 May 2005**: Page 2 Paragraph 1 stipulates that "Bids may only be evaluated in accordance with the evaluation Criteria stipulated in the bid documentation"

All the under-mentioned documentation /criteria required to evaluate this bid must be sealed in an envelope and be deposited in the bid box before the closing date and time.

### **ALL BIDDERS ARE REQUIRED TO ENSURE THAT THE FOLLOWING DOCUMENTS ARE ATTACHED:-**

- (a) Original, fully completed and signed applicable SBD Bid Documents and Preference Claim Forms in terms of the Preferential Procurements Regulations and National Treasury SCM prescripts. **NB. All Bidders are required to fully complete the SBD forms (SBD form 1, 4 and 6.1) as required by the**

**National Treasury PFMA prescripts and the PPPFA Regulations AND to fully complete all other forms as required by the specification, without fail.**

- (b) Copies of Identity Documents of the Directors / Main Shareholders of the company.
- (c) Valid Tax Clearance Certificate/ Tax Compliance Status PIN or CSD Report- The Department will also verify the tax compliance status of bidder
- (d) Copy of Company Registration Certificate from the Registrar of Companies of all Parties indicating the names of directors or main shareholders of the company. **NB The old Company Registration certificates issued in terms of the repealed 1973 Companies Act which do not show the company Directors 'names are not acceptable. All bidders are required to submit the updated Company Registration Certificates issued by the Registrar of Companies in terms of the 2008 Companies Act, that is, a complete certificates which indicate the names of all Directors or main shareholders of the Company.**
- (e) Bidders are required to submit a valid B-BBEE Status level Verification Certificate or certified copies thereof, together with their bids, to substantiate their B-BBEE rating claims.  
An EME is required to submit a sworn affidavit confirming their annual total revenue of R10 MILLION or less
- (f) Bidders who do not submit B-BBEE Status level Verification Certificates , a sworn affidavit or are non-compliant contributors to B-BBEE do not qualify for preference points for B-BBEE but shall not be disqualified from the bidding process , but will score points out of price only and zero [0] points out of B-BBEE.
- (g) **In the case of joint venture (JV) or Consortium the following documents must be attached to the Bid documents:-**
  - Valid Tax Clearance Certificate pin of all Partners- / Tax Compliance Status PIN or CSD report- The Department will also verify the tax compliance status of bidder
  - Copies of Identity Documents of all Directors / Main Shareholders of the company.
  - Joint venture agreement duly signed by all parties
  - A certificate or agreement regarding shareholder -ship of members
  - Copies of Company Registration Certificates from the Registrar of Companies of all Parties to a Joint Venture indicating the names of directors or main shareholders of the companies to the joint venture.-**NB The old Company Registration certificates issued in terms of the repealed 1973 Companies**

**Act which do not show the company Directors 'names are not acceptable. All bidders are required to submit the updated Company Registration Certificates issued by the Registrar of Companies in terms of the 2008 Companies Act, that is, a complete certificates which indicate the names of all Directors or main shareholders of the Company**

- Valid Certificate or Certified copy of the Consolidated B-BBEE Status level verification Certificate.-An EME is required to submit a sworn affidavit confirming their annual total revenue of R10 MILLION or less -Bidders who do not submit B-BBEE Status level Verification Certificates , a sworn affidavit or are non-compliant contributors to B-BBEE do not qualify for preference points for B-BBEEE but shall not be disqualified from the bidding process , but will score points out of price only and zero [0] points out of B-BBEE
- (h) A Trust, consortium or a joint venture are required to submit a Consolidated-BBEEE Status Level Verification Certificate for every separate bid
- (i) Public entities and tertiary institutions are required to submit B-BBEE Status level verification certificates together with their bids

All the bid documents should be completed, signed and sealed in an envelope and deposited in the Bid Box, situated at the entrance of the **Department of Health North West, New Office Park Building, Ground Floor, Corner First Street and Sekame, Mmabatho.**

## **16. VALIDITY OF B-BBEE STATUS LEVEL VERIFICATION CERTIFICATES**

- AO/AAs must ensure that the B-BBEE Status Level Verification Certificates submitted are issued by the following agencies:
- Tenderers other than EMEs
  - I. Verification agencies accredited by SANAS; or
- Tenderers who qualify as EMEs
  - II. Sworn affidavit signed by the EME representative and attested by a Commissioner of oaths.

### **16.1 Verification agencies accredited by SANAS**

- 16.1.1 These certificates are identifiable by a SANAS logo and a unique BVA number.
- 16.1.2 Confirmation of the validity of a B-BBEE Status Level Verification Certification can be done by tracing the name of the issuing Verification Agency to the list of all SANAS accredited agencies. The list is accessible on <http://www.sanas.co.za/directory/bbee default.php>
- 16.1.3. The relevant BVA may be contacted to confirm whether such a certificate is valid.



16.1.4 As a minimum requirement, all valid B-BBEE Status Level Verification Certificates should have the following information detailed on the face of the certificate:

- The name and physical location of the measured entity
- The registration number and, where applicable, the VAT number of the measured entity;
- The date of issue and date expiry;
- The certification number for identification and reference;
- The scorecard that was used ( for example QSE, Specialized or Generic);
- The name and / or logo of the Verification Agency;
- The SANAS logo
- The certificate must be signed by the authorized person from the Verification Agency; and
- The B-BBEE Status Level of Contribution obtained by the measured entity

## **17. VERIFICATION OF B-BBEE LEVELS IN RESPECT OF EMEs**

- 17.1. In terms of the Generic Codes Practice, an enterprise including a sole propriety with annual total revenue of R10 million or less qualifies as an EME
- 17.2 in instances where Sector Charters are developed to address the transformation challenges of specific sectors or industries, the threshold for qualification as an EME may be different from the generic threshold of R10 million. In such instances, the relevant sector Charter threshold will therefore be used as a basis for a potential bidder to qualify as an EME. (For example the approved threshold for EMEs for the Tourism and Construction Sector Charters are R2.5 million and R1.5 million respectively)
- 17.3 An EME is required to submit a sworn affidavit confirming their annual total revenue of R10 million or less and level of black ownership to claim points as prescribed by regulation 6 and 7 of the preferential procurement regulations 2017.
- 17.4 An EME that is regarded as a Specialized Enterprise is required to submit a sworn affidavit confirming their annual turnover/allocated budget/ gross receipt of R10 million or
- 17.5 An EME may be measured in terms of the QSE scorecard should they wish to maximize their points and move to a higher B-BBEE recognition level. It is in this context that an EME may submit a B-BBEE verification certificate



## **18. FUNCTIONAL REQUIREMENTS**

The evaluation criteria for measuring functionality, the weight of each criterion, the applicable values as well as the minimum qualifying score for functionality are contained in the technical Bid Specifications.

"18.1 If applicable the BSC must determine for every tender:

- a. The minimum percentage subcontracting requirement and
- b. The designated groups that the work should be sub-contracted to

"18.2 In the case of construction and built environment sectors nothing prevents bidders / contractors /suppliers to select sub-contractors from the CIDB database who are registered on the CSD for the purposes of compliance with minimum 30% compulsory sub-contracting provisions"

"18.3 The responsibility to sub-contract with competent and capable sub- contractors rests with the main contractor/supplier "

**19. EVALUATION CRITERIA FOR THIS BID IS AS FOLLOWS:**

**1. EVALUATION CRITERIA**

**2. 80/20 PREFERENTIAL POINT SYSTEM**

80 = Price (NOTE: All bid price/should be VAT inclusive)

20 = Preferential points (Points will be allocated according to the below table)

<b>Specific Goals</b>	<b>Preference Points allocated out of 20</b>
<b>B-BBEE Status level of Contributor</b>	<b>10</b>
1	10
2	9
3, 4, 5, 6, 7, 8 and Non-compliant contributor	0
<b>Enterprises located in Local Municipality for work to be done or services to be rendered in that area (Mandatory)</b>	<b>4</b>
Residing within the local municipality where the service is required.	4
Residing within the District municipality where the service is required.	3
Residing outside district but within the North West Province where the service is required	2
Residing outside the North West Province	0
<b>Designated Groups (Any bidder who meets one or more of the requirements will obtain the maximum points)</b>	<b>6</b>
<input type="checkbox"/> Enterprises 51% owned by black women. <input type="checkbox"/> Enterprises 51% owned by people with disability. <input type="checkbox"/> Enterprises 51% owned by black youth. <input type="checkbox"/> Enterprises 51% owned by black military veterans <input type="checkbox"/> Registered Cooperatives within the North West department of Health database	6

**NB: Points will be allocated to all those who submitted their BBBEE verification certificates/Sworn Affidavit and Confirmation of preferred address on CSD will be checked and printed by the SCM Practitioner for locality points.**

**CHIEF DIRECTOR: SUPPLY CHAIN MANAGENT**

**DATE:**

20230621

## COMPLIANCE CHECKLIST

**NB. THE BIDDERS MUST COMPLETE THE CHECKLIST TO VERIFY/CONFIRM WHETHER A BIDDER HAS ATTACHED ALL OF THE BID ADMINISTRATIVE REQUIREMENTS**

NO	REQUIREMENT	HAVE YOU ATTACHED  Answer Yes or No
1	Compulsory Briefing session	N/A
2	General Revenue Receipt should be attached by all bidders who obtained hardcopy bid documentation at the Offices of the Health Department-Original Bank Deposit slip or Electronic Transfer printout receipt reflecting the name of the Bidder and Bid Number. <b>NB-Bidders who download the bid documentation from the E-Tender Website are exempted from this requirement. Bidders are encouraged to download the bid documentation from the E-Tender Website</b>	N/A
3	Original, fully Completed and signed applicable Bid Documents and Preference Claim Forms in terms of the Preferential Procurement Regulations. NB. All Bidders are required to fully complete the SBD forms as required by the National Treasury PFMA prescripts and the 2022 PPPFA Regulations <u>AND</u> fully complete all other forms as required by the specification, without fail. Any bidder having not complied with these requirements shall be disqualified. [Each of the following SBD form must be fully completed and signed.]	
3.1	Availability of signed and fully completed SBD 1- Invitation to bid	
3.2	Availability of signed and fully completed SBD 4- Declaration of Interest	
3.3	Availability of signed and fully completed SBD 6.1 - Preference Points Claim Form in Terms of the Preferential Procurement Regulations 2022	
4	Copies of Identity Documents of all Directors / Main Shareholders of the company.	
5	Valid Tax Clearance Certificate / Tax Compliance Status PIN or CSD Report-  Indicate the expiry date[s] of all the TCC  The Department will also verify the tax compliance status of bidder	
6	Copy of Company Registration Certificate from the Registrar of Companies of all Parties indicating the names of directors or main shareholders of the company. <b>NB The old Company Registration certificates issued in terms of the repealed 1973 Companies Act which do not show the company Directors 'names are not acceptable. All bidders are required to submit the updated Company Registration Certificates issued by the Registrar of Companies in terms of the 2008 Companies Act, that is, a complete certificates which indicate the names of all Directors or main shareholders of the Company without fail</b>	

7	<p><b>TOTAL BID PRICE INCLUDING VAT</b></p> <p><b>AMOUNT.....</b></p>	
8	<p>Bidders are required to submit a valid B-BBEE Status level Verification Certificate or certified copies thereof, together with their bids, to substantiate their B-BBEE rating claims. Confirmation not older than six months.</p> <p>An EME is required to submit a sworn affidavit confirming their annual total revenue of R10 MILLION or less</p> <p>Bidders who do not submit B-BBEE Status level Verification Certificates , a sworn affidavit or are non-compliant contributors to B-BBEE do not qualify for preference points for B-BBEE but shall not be disqualified from the bidding process , but will score points out of price only and zero [0] points out of B-BBEE</p>	
<p><b>9 IN THE CASE OF JOINT VENTURE (JV) OR CONSORTIUM THE FOLLOWING DOCUMENTS MUST BE ATTACHED TO THE BID DOCUMENTS</b></p>		
9.1	<p>Valid Tax Clearance Certificate of all Partners- / Tax Compliance Status PIN or CSD report-</p> <p>The Department will also verify the tax compliance status of bidder Indicate the expiry date[s] of all the TCC of the JV partners.</p>	
9.2	Copies of Identity Documents of all Directors / Main Shareholders of all Parties to the Joint Venture.	
9.3	Joint venture agreement duly signed by all parties	
9.4	<p>General Revenue Receipt should be attached by all bidders who obtained hardcopy bid documentation at the Offices of the Health Department-.Original Bank Deposit slip or Electronic Transfer printout receipt reflecting the name of the Bidder and Bid Number <b>NB-Bidders who download the bid documentation from the E-Tender Website are exempted from this requirement</b></p>	
9.5	<p>Copies of Company Registration Certificates from the Registrar of Companies of all Parties to a Joint Venture indicating the names of directors or main shareholders of the companies to the joint venture.- <b>NB The old Company Registration certificates issued in terms of the repealed 1973 Companies Act which do not show the company Directors 'names are not acceptable. All bidders are required to submit the updated Company Registration Certificates issued by the Registrar of Companies in terms of the 2008 Companies Act, that is, certificates which indicate the names of all Directors or main shareholders of the Company, without fail.</b></p>	

9.6	<p>Original Certificate or Original Certified copy of the Consolidated B-BBEE Status level verification Certificate or confirmation letter.</p> <p>An EME is required to submit a sworn affidavit confirming their annual total revenue of R10 MILLION or less</p> <p>Bidders who do not submit B-BBEE Status level Verification Certificates , a sworn affidavit or are non-compliant contributors to B-BBEE do not qualify for preference points for B-BBEE but shall not be disqualified from the bidding process , but will score points out of price only and zero [0] points out of B-BBEE</p>	
10	A Trust, consortium or a joint venture are required to submit a consolidated B-BBEE Status Level Verification Certificate for every separate bid	
11	Public entities and tertiary institutions are required to submit B-BBEE Status level verification certificates together with their bids	
12	<p>Duly completed and signed original bid documents issued by the Department should be sealed in an envelope marked:</p> <p>Bid number : <b>NWDOH 10/2023</b></p> <p>Company Name :</p> <p>Closing date : <b>28 JULY 2023</b></p> <p>Closing time : <b>11H00</b></p>	
13	Address and contact details:	

**SIGNATURE BY BIDDER:** .....

**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:	NWDOH 10/2023	CLOSING DATE:	28 JULY 2023	CLOSING TIME:	11:00
DESCRIPTION	LEASE OF ACCOMMODATION FOR HEALTH PROFESSIONALS IN RUSTENBURG SUB-DISTRICT FOR THREE (03) YEARS				
<b>BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)</b>					
DEPARTMENT OF HEALTH NORTH WEST, GROUND FLOOR, NEW OFFICE PARK BUILDING, 3801 CORNER FIRST STREET AND SEKAME, MMABATHO ( BEHIND THE CROSSING MALL)					
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>			<b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>		
CONTACT PERSON	MS T Matshoba		CONTACT PERSON	Mr M. Themeli and Ms S Mosopa	
TELEPHONE NUMBER	018 391 4043		TELEPHONE NUMBER	014 592 8906	
FACSIMILE NUMBER	N/A		FACSIMILE NUMBER	N/A	
E-MAIL ADDRESS	ttsineng@nwpg.gov.za		E-MAIL ADDRESS	smosopa@nwpg.gov.za	
<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
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
<b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES &amp; QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]</b>					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?		<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER 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	
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

<b>1. BID SUBMISSION:</b>
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, 2017, 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).
<b>2. TAX COMPLIANCE REQUIREMENTS</b>
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:

.....

(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 State institution

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.

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

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<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.

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	80
SPECIFIC GOALS	20
<b>Total points for Price and SPECIFIC GOALS</b>	<b>100</b>

### 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:

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

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 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 (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (To be completed by the tenderer)
B-BBEE Status level of Contributor	<b>10</b>	
Enterprises located in Rustenburg Local Municipality for work to be done or services to be rendered in that area (Mandatory)	<b>4</b>	
Designated Groups (Any bidder who meets one or more of the requirements will obtain the maximum points)	<b>6</b>	

#### **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.

**16. Payment**

- 16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.
- 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.
- 16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.
- 16.4 Payment will be made in Rand, unless otherwise stipulated in SCC.

**17. Prices**

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

**18. Contract amendments**

- 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.

**19. Assignment**

- 19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.

**20. Subcontracts**

- 20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this 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.

**21. Delays in the supplier's performance**

- 21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.
- 21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.
- 21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.
- 21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the

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

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

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

## **22. Penalties**

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

## **23. Termination for default**

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

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

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

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 Programme (NIP)** 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)