

# MPUMALANGA PROVINCIAL GOVERNMENT



## DEPARTMENT OF EDUCATION

**BID NUMBER: EDU/133/26/MP**

### **APPOINTMENT OF SERVICE PROVIDER(S) FOR THE PROVISIONING OF PRIVATE ACCOMMODATION FOR BOARDING FACILITIES, FOOD SUPPLY, LAUNDRY AND TRANSPORT SERVICES FOR DEAF LEARNERS ATTENDING AT BUKHOSIBETFU FULL SERVICE SCHOOL (FOR A PERIOD OF FIVE (5) YEARS**

ISSUED BY:

Department of Education  
Private Bag X11341  
Mbombela  
1200

NAME OF BIDDER: .....

TOTAL BID PRICE (all inclusive) : .....

(Also in words): .....

.....

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

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE DEPARTMENT OF EDUCATION</b>					
BID NUMBER:	EDU/133/26/MP	CLOSING DATE:	18 February 2026	CLOSING TIME:	12H00
DESCRIPTION	<b>APPOINTMENT OF SERVICE PROVIDER(S) FOR THE PROVISIONING OF PRIVATE ACCOMMODATION FOR BOARDING FACILITIES, FOOD SUPPLY, LAUNDRY AND TRANSPORT SERVICES FOR DEAF LEARNERS ATTENDING AT BUKHOSIBETFU FULL SERVICE SCHOOL (FOR A PERIOD OF FIVE (5) YEARS)</b>				
<b>BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)</b>					
MBOMBELA, Riverside Government Complex, Building No 9, Government Boulevard, Mbombela, 1200, PIET RETIEF, No. 11 Measroch Street, Piet Retief Office, KWAMHLANGA, KwaMhlanga Government Complex, Department of Finance, Building No. 12, Computer Centre SECUNDA No 5 Van Eck Street, Secunda (opposite Sasol Value Gas Garage) Secunda, 2280, BUSHBUCKRIDGE, Bushbuckridge Advice Centre, Department of Finance, Protea building (old Telkom building), MIDDELBURG, Department of Public Works, Cnr. Lillian Ngoyi and Dr Beyers Naudé Streets – Old TPA Building, Upper ground floor, Office numbers A20, 21 and 25, MALELANE, 24 Air Street, Malelane, ELUKWATINI, Elukwatin Sub Regional offices, Office numbers A49 and A50 (opposite Elukwatin Community Hall) Stand number 12 Extension A, Elukwatin 1192. SIYABUSWA Old Parliament Building, Building No.1, Job Skhosana Street, Siyabuswa 0472					
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:</b>			<b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>		
CONTACT PERSON	Ms. GJ Lekhuleni/ Mr. QW Mbuyane		CONTACT PERSON	Mr J Mgiba	
TELEPHONE NUMBER	013 766 5163 / 013 766 5287		TELEPHONE NUMBER	013 766 5817	
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS	G.Lekhuleni@mpuedu.gov.za Q.Mbuyane@mpuedu.gov.za		E-MAIL ADDRESS	J.Mgiba@mpuedu.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
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSURE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES OFFERED?		<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]
<b>QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE A BRANCH IN THE RSA?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
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, 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:** .....

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

**DATE:** .....

BID SPECIFICATION FOR THE APPOINTMENT OF SERVICE PROVIDER FOR THE PROVISIONING OF SUITABLE PRIVATE ACCOMMODATION (BOARDING FACILITIES), FOOD SUPPLY, LAUNDRY AND TRANSPORT SERVICES FOR DEAF LEARNERS ATTENDING AT BUKHOSIBETFU FULL-SERVICE SCHOOL FOR A PERIOD OF FIVE (5) YEARS.

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## MPUMALANGA DEPARTMENT OF EDUCATION



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**APPOINTMENT OF SERVICE PROVIDER(S) FOR THE PROVISIONING OF PRIVATE ACCOMMODATION FOR BOARDING FACILITIES, FOOD SUPPLY, LAUNDRY AND TRANSPORT SERVICES FOR DEAF LEARNERS ATTENDING AT BUKHOSIBETFU FULL-SERVICE SCHOOL (FOR A PERIOD OF FIVE (5) YEARS.**

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**BID SPECIFICATION FOR APPOINTMENT OF SERVICE PROVIDER FOR THE PROVISIONING OF SUITABLE PRIVATE ACCOMMODATION (BOARDING FACILITIES), FOOD SUPPLY, LAUNDRY AND TRANSPORT SERVICES FOR DEAF LEARNERS ATTENDING AT BUKHOSIBETFU FULL-SERVICE SCHOOL FOR A PERIOD OF FIVE (5) YEARS.**

## **1. DEFINITIONS**

In this policy, unless the context indicates otherwise the following words or expressions have the same meanings as defined below: -

1.1.	<b>Bid/tender</b>	The concepts are used interchangeably and they mean a written offer, in the form determined by instruction, in response to an invitation for the procurement of goods or services or other form of procurement through a price quotation, a competitive bidding process, a limited bidding process or any other method envisaged in the Act.
1.2.	<b>Bidder/tenderer</b>	means any person/enterprise which has submitted a bid or Request for Quotation.
1.3.	<b>Black people</b>	as defined in the Broad-Based Black Economic Empowerment Act, (Act No 53 of 2003), is a generic term which means Africans, Colored and people of Indian origins.
1.4.	<b>Conditions of Tender</b>	means a document of the procedures, the manner in which those engaged in the procurement process are to behave, the obligations of the tenderer and the undertakings of the Department. The Conditions of Tender are distinct from both the General Conditions of Contract and the Special Conditions of Contract.
1.5.	<b>Contract</b>	means any written agreement entered into between the purchaser (i.e. Departments) 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 as defined in the General Conditions of Contract.
1.6.	<b>Contract price</b>	means the price payable to the supplier under the contract for the full and proper performance of contractual obligations as defined in the General Conditions of Contract.
1.7.	<b>Consortium or Joint Venture</b>	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.
1.8.	<b>Disability</b>	in respect of a person, means, a permanent impairment of a physical, intellectual, or sensory function which results in restricted, or lack of ability to perform an activity

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		in the manner or within the range considered normal for a human being.
1.9.	<b>Department</b>	means Mpumalanga Department of Education
1.10	<b>Functionality</b>	means the measurement according to predetermined norms of a service or commodity designed to be practical and useful, working or operating, taking into account quality, reliability, viability, skills, experience and durability of a service or commodity.
1.11	<b>Historically Disadvantaged Individual</b>	means a South African citizen who due to the apartheid policy had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, (Act No. 110 of 1983) or the Constitution of the Republic of South Africa, (Act No 200 of 1993) ("the Interim Constitution); and/or who is a female; and/or who has a disability: provided that a person who obtained South African citizenship on or after the coming to effect of the Interim Constitution, is deemed not to be a Historically Disadvantaged Individual.
1.12	<b>Highest acceptable tender</b>	means a tender that complies with all specifications and conditions of tender and that has the highest price compared to other tenders.
1.13	<b>Individual</b>	means a natural person.
1.14	<b>Lowest acceptable tender</b>	means a tender that complies with all specifications and conditions of tender and that has the lowest price compared to other tenders.
1.15	<b>Local Labour</b>	means South African residents who permanently reside in the specific municipal or sub-catchment area of jurisdiction where the project is implemented.
1.16	<b>Price</b>	means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
1.17	<b>80/20-point scoring system</b>	refers to the point system prescribed in regulations 3 and 5 of the regulations issued in terms of section 5 of the PPPFA.
1.18	<b>Rand value</b>	means the total estimated value of a contract in Rand, calculated at the time of the tender invitation.
1.19	<b>Small, Medium, and Micro Enterprises</b>	means small businesses; as defined in section 1 of the National Small Business Act, (Act No, 102 of 1996). A separate and distinct business Department , including co-

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		operative enterprises and non-governmental organisations, managed by one or more owners which (including its branches or subsidiaries, if any) is predominantly carried on in any sector or sub sector of the economy mentioned in Column I of the Schedule and which can be classified as a micro-, a very small, a small or a medium enterprise by satisfying criteria 40 as mentioned in columns 3; 4 and 5 of the Schedule opposite the smallest relevant size or class (as mentioned in column 2 of the Schedule).
1.20	<b>Specific goals</b>	means specific goals as contemplated in section 2(1)(d) of the Preferential Procurement Policy Framework Act (Act No. 5 of 2000) which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994.
1.21.	<b>Tender for income-generating contracts</b>	means a written offer in the form determined by a department 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 Department and a third party that produces revenue for the Department, and includes, but not limited to, leasing and disposal of assets and concession contracts. However, direct sales and disposal of assets through public auctions are excluded.
1.22.	<b>The Act</b>	means the Preferential Procurement Policy Framework Act (Act No. 5 of 2000).
1.23.	<b>The Constitution</b>	means the Constitution of the Republic of South Africa (Act No.108 of 1996).

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**ABBREVIATIONS**

GCC	General Conditions of Contract
SANAS	South African National Accreditation System
SDA	Service Delivery Areas
SABS	South African Bureau of Standards
PPPFA	Preferential Procurement Policy Framework Act
SLA	Service Level Agreement
SCC	Special Conditions of Contract
HPCSA	Health Professions Council of South Africa
CSD	Central Supplier Database
VAT	Value Added Tax
CIPRO/CIPC	Companies and Intellectual Property Registration Office/Companies Intellectual Property Commission
CSD	Central Supplier Database
SBD	Standard Bidding Document
VAT	Value Added Tax
BEC	Bid Evaluation Committee
BSC	Bid Specification Committee
SARS	South African Revenue Service
MDoE	Mpumalanga Department of Education
RDP	Reconstruction and Development Programme
DTI	Department of Trade and Industry
RSA	Republic of South Africa
SLA	Service Level Agreement: It refers to a document that outlines a commitment between a service provider and a client, including details

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	of the service, the standards the provider must adhere to, and the metrics to measure the performance
GCC	General Conditions of Contract: They contain the general legal terms that will apply to the contract that comes into places when the government awards you the opportunity
SCC	Are supplementary to those of the General Conditions of Contract however, where the Special Conditions of Contract are in conflict with the General Conditions, the Special Conditions take precedence.
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

## **SECTION A – GENERAL SPECIFICATION INFORMATION**

### **1. PURPOSE**

The Mpumalanga Department of Education (MDoE) intends to appoint a credible service provider for the provisioning of suitable private accommodation (boarding facilities), food supply, laundry and transport services for Deaf learners attending school at Bukhosibetfu Full-Service School in the Nkomazi Local Municipality.

### **2. BACKGROUND**

The MDoE is tasked with the responsibility to provide quality education to all learners in the province. The Department intends to provide suitable private accommodation (boarding facilities), food supply, laundry and transport services for Deaf learners attending school at Bukhosibetfu Full-Service School in the Nkomazi Local Municipality.

### **SCOPE OF WORK**

The MDoE requires a service provider whose scope of work will entail the following:

- Accommodation (Boarding Facilities)**

The service provider shall provide daily accommodation (boarding facilities).

- Food Supply**

The service provider shall provide food supply for the learners during their stay in the boarding facilities.

- Laundry Services**

The service provider shall provide laundry services for the learners during their stay at the facility.

- Transport Services**

The service provider shall provide transport services for the learners to and from school daily.

**3.1 Anticipated number of learners and the Child Care Assistants:**

The boarding facility must be able to accommodate a minimum of 250 learners and 10 child care assistants at an increase of 15% annually. All the 250 learners and 10 child care assistants must be accommodated at one (1) boarding facility.

**3.2 Location of accommodation (boarding facility) relative to the school:**

The prospective accommodation (boarding facility) should be within a reasonable radius that should afford the Deaf learners:

- (a) Reasonable wake-up time to prepare and attend classes at the school on time.
- (b) Maximum travelling distance of 40 kilometers for a single trip.

**3.3 Boarding facility (accommodation) special requirements:**

- 3.3.1 A room should be a minimum of 3.5m<sup>2</sup> and a maximum of 6m<sup>2</sup> when shared by learners of the same gender.
- 3.3.2 The boarding facility should have separate buildings or separate wings of the same building as sleeping areas for males and females.
- 3.3.3 The accommodation (boarding facility) should include a single bed per learner with duvet and duvet cover, blankets, linen (sheets, pillows and pillowcases).
- 3.3.3 The boarding facility should have open space(s) for recreation.
- 3.3.4 The boarding facility should have communal study space or a hall.
- 3.3.4 The ablution facilities should be separate for males and females. The minimum number of ablution facilities required for 250 learners and 10 child care assistants shall be 20 units consisting of a toilet, hand wash basin and a bath/shower.

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3.3.5 The kitchen and dining facilities must have capacity for food preparations and serving for all the learners and child care assistants. Equipping and cleaning the above facilities shall be the responsibility of the service provider.

3.3.6 It shall be the responsibility of the service provider to ensure clean boarding facilities. Cleaning shall be provided by the service provider on a regular basis (twice a day) and as when required in a case of emergency.

3.3.7 The accommodation (boarding facility) should have laundry equipment to cater for the full learner complement. Laundry services shall be as per the following schedule, applicable for learners only:

<b>Description</b>	<b>Intervals</b>
<b>School Uniform:</b> School uniform should be washed, ironed and packed in identified learner's laundry bags. (This includes shirts, socks, trousers, jerseys, dresses, ties, blazers and any related item).	Twice per week
<b>Learner's Clothes: (not used as school uniform)</b> Learner's clothes should be washed, ironed and packed in identified learner's laundry bags.	Twice per week

Other items to be provided in the rooms to include linen (sheets and pillows & pillowcases), curtains, blankets, towels, duvet (with duvet covers)

**Washing Schedule for the other items:**

<b>Description</b>	<b>Intervals</b>
Linen (Sheets and pillowcases)	Once per week
Duvet & Duvet Covers	Once per month
Blankets	Every second week
Curtains	Once per semester / quarter
Towels	Twice per week

**3.3.8 The service provider shall provide the laundry bags.**

**3.3.9 Noise levels in and around the boarding facility should be minimal,**

**3.3.10 Deaf learners largely depend on vision. Therefore, regular lighting in the entire facilities is a requirement.**

#### **3.4 Safety and Security:**

**3.4.1 The boarding facility should comply with the National Building Regulations in terms of fire safety requirements (fire escape exits, firefighting equipment).**

**3.4.2 24 Hour security at the boarding facility should be available and cost will be borne by the appointed service provider.**

**3.4.3 The boarding facility should comply with the Occupational Health and Safety Act (Act No. 85 of 1993)**

**3.4.4 The boarding facility should be provided with a flash light system for fire warnings.**

#### **3.5 Transport Service Specifications:**

**3.5.1 The transport vehicles should be roadworthy at all times and drivers must have a minimum three (3) years traceable bus driving experience with a relevant, valid driver's license and Professional Driving Permit (PrDP), Public Driving Permit (PDP) and a Certificate of Fitness (COF) in accordance with the National Road Traffic Act, 1996 (No. 93 of 1996)**

**3.5.2 The service provider will transport the learners from the boarding facility to the school and back.**

**3.5.3 The service provider should provide busses in accordance with the number of learners to be ferried to and from the school at the same time. The Department will provide an employee to accompany the learners in the bus.**

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3.5.4 The service provider(s) should have passenger liability cover available to protect the owners and drivers of the vehicles for any legal liability to their passengers whilst travelling in the busses.

The following busses are the only ones eligible for the transportation services mentioned above:

- 22-seater bus
- 33-seater bus
- 40-seater bus
- 65-seater bus
- 80-seater bus
- 114-seater bus

Note: Depending on the learners to be transported on each academic year.

**3.6 Food Supply Services Specifications:**

3.6.1 The service provider shall provide meals in line with the following menu:

Menu	Service size	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
<b>BREAKFAST</b>								
Porridge	30 g	Oats	Soft maize porridge	Matabella	Oats	Soft maize porridge	Matabella	Cornflakes
Milk	100 ml	Milk	Milk	Milk	Milk	Milk	Milk	Milk
Sugar	10 g	Sugar	Sugar	Sugar	Sugar	Sugar	Sugar	Sugar
Protein	60 g	Peanut Butter smooth	Egg	Peanut Butter smooth	Egg	Vienna	Egg	Peanut Butter smooth
Brown bread	3 slices	Brown	Brown	Brown	Brown	Brown	Brown	Brown
Margarine	15 g	Margarine	Margarine	Margarine	Margarine	Margarine	Margarine	Margarine
Tea / Rooibos Tea								
Milk	1 tea bag	Tea	Tea	Tea	Tea	Tea	Tea	Tea
	50 ml	Milk	Milk	Milk	Milk	Milk	Milk	Milk
Sugar	10 g							
<b>LUNCH</b>								
Starch	30 g	Rice	Maize meal	Rice	Samp	Maize meal	Macaroni	Rice
Protein dish	30 g	Soya Mince	Sugar beans	Pilchards in tomato sauce	Sugar beans	Soya mince	Savoury Mince	Chicken Portions
Vegetables	100 g	Butternut	Spinach	Carrots	Green beans	Pumpkin	Cabbage	Mixed salad (lettuce, cucumber, green pepper, tomato and onion

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Dressing	20 ml							Jelly Custard	Jelly and Custard
Dessert	20 g								
Dessert sauce	50 ml								
Fruit juice	200 ml	Fruit Juice	Fruit Juice	Fruit Juice					
Roll / bread with filling and fruit	1	Roll / bread with filling and fruit							
Starch dish	30 g	Maize meal (50 g)**	Rice	Samp	Rice	Samp	Potato Chips (100 g)**	Maize meal (50 g)**	
Protein dish	90 g (no bones) 120 g (with bones)	Boerewors	Chicken Portions	Minced beef	Stewing beef	Chicken Portions	Fish Portions	Stewing beef	
Sauce	70 g	Tomato and onion relish	Gravy						
Vegetable	100 g	Green beans	Pumpkin	Cabbage	Butternut	Spinach	Carrots	Cabbage	

3.6.2 During mid-week, learners do not get lunch from the boarding facility, they will only have mid-afternoon snack upon arrival from school.

3.6.3 The mid-week lunch menu stated in the above table above is applicable to public holidays that falls within mid-week when learners do not go to school.

## **SECTION B: BIDDING PROCESS IN TERMS OF PPPFA**

### **3. BID EVALUATION METHOD**

The contract shall be awarded in terms of the Preferential Procurement Policy Framework Act, NO (Act 5 of 2000) and Regulations of 2022. The Department shall evaluate this bid in terms of compulsory briefing session, compulsory returnable documents, functionality, as well as preference point system.

#### **Bid Evaluation Methodology**

The Bid Evaluation Committee (BEC) members shall individually evaluate the responses received against the following:

- a) Compulsory briefing session (only bidders who attended the briefing session and appear in the attendance register will be considered)
- b) Evaluation in terms of compulsory returnable documents;
- c) Evaluation in terms of functionality criterion and in terms of preference points systems.

#### **Stage 1- Evaluation in terms of Compulsory briefing session**

Information about a compulsory briefing session will be advertised in the Provincial Tender Bulletin. All prospective bidders are obliged to attend the said briefing session in order to be informed and to become fully acquainted with the requirements of this bid. Only service provider/s who attended the briefing session will be considered for the bid.

#### **Stage 2- Evaluation in terms of compulsory returnable documents**

##### **Compulsory Returnable Documents**

The required information should be submitted in the templates below for both the compulsory and supporting returnable documents.

Clearly indicate with a **YES** or **NO** on whether the following compulsory returnable documents are attached or not. Where a **YES** or **NO** answer is not applicable, indicate as such with a **N/A**. Each bid shall comprise of a clearly indexed proposal as follows:

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Section	Compulsory Returnable Documents	Attached YES/NO
1	Invitation to Bid (SBD 1) must be fully completed.	
2	Fully completed Pricing Schedule.	
3	Fully completed SBD4 (Bid disclosure).	
4	Fully completed SBD 6.1 (Preference Claim Certificate).	
5	A Valid Pin Letter from SARS. Failure to submit a Valid Pin Letter, your submitted bid proposal will be considered non-responsive and shall be invalidated or disqualified and not considered further for evaluation. <b>Tax status must remain compliant for the duration of 90 days after the closure of the bid.</b>	
6	Copies of CIPRO / CIPC Company registration documents, share certificates indicating each director's percentage as a shareholding.	
7	Submission of an originally agreement and a resolution by each party to such venture/consortium/partnership authorizing participation in the bid. If the bidder is in a joint venture/consortium/partnership.	
8	Originally Certified copies of identity documents/valid passports and work permits of all the directors of the company. The date on the certified copies must not be older than three (3) months as at the closing date of the bid.	
9	Attach Proof of VAT registration in the bidder is VAT registered.	
10	Originally Certified vehicle registration documents, originally certified copies of passenger liability certificates and original or originally certified roadworthy certificate. (include documents for all vehicles). If the vehicles do not belong to the company or one of its directors, a letter of intent to enter into a vehicle leasing contract should be signed and attached. The date on the certified copies must not be older than three (3) months as at the closing date.	

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11	Originally Certified copies of the Professional Driving permit (PrDP). Public Driving Permit (PDP), minimum three (3) years traceable Driver's Licence and Certificate of Fitness (COF) in accordance with the National Road Traffic Act, 1996 (No. 93 of 1996) the date on the certified copies must not be older than three (3) months as at the closing date.	
12	Letter of good standing, issued by the Compensation Fund in terms of the Compensation for Occupational Injuries and Diseases Act, 1993. The certificate must be valid as at the closing date of the bid. A letter of intent will not be accepted and will lead to automated disqualification.	
13	Letter of good standing, issued in terms of the Occupying Health and Safety Act (85 of 1993) as amended by Occupational Health and Safety Amendment Act, No. 181 of 1993 issued by Local Municipality/ Accredited Consultants.	
14	Originally certified proof of ownership or lease agreement for a minimum of five (5) years covering the contract period for the provisioning of accommodation.	
14	<p>A copy of Central Supplier Database (CSD) registration report. The National Treasury Instruction No. 4 of 2016/17 requires service providers, including bidders, to register on the Central Supplier Database (CSD). Compulsory returnable documents together with the reports from the CSD will be used in order to verify bidders' information and compliance to the requirement including:</p> <ul style="list-style-type: none"> <li>i. Company registration</li> <li>ii. Directorship, shareholding, trusteeship and membership</li> <li>iii. Bank account holder details</li> <li>iv. State employees' status</li> </ul>	

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	<p>v. Tax compliance status</p> <p>vi. Identity information, etc.</p>	
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**NB: ALL BID DOCUMENTS MUST BE SECURELY BOUND**

***NB: BIDDERS WHO FAIL TO ATTACH ANY OF THE COMPULSORY DOCUMENTS AS LISTED ABOVE WILL HAVE THEIR BIDS DISQUALIFIED.***

#### **4.3 Supporting Returnable Documents**

<b>Section</b>	<b>Supporting Bidding Documents</b>	<b>Attached YES/NO</b>
1	A total of 80/20 points for specific goals is allocated on a proportional basis to enterprise owned by historically disadvantaged persons or individuals. For an enterprise that is owned or has disabled person(s) as Directors, must attach a copy of confirmation from a Professional Medical Officer registered with the Health Professions Council of South Africa (HPCSA).	
2	A detailed implementation plan on the provisioning of suitable private accommodation in boarding facilities, food supply, laundry and transport services. The implementation plan should be detailed proposal for the provisioning of suitable private accommodation in boarding facilities, food supply, laundry and transport services. Attach his/her capacity to deliver on the project. Provide a detailed proposal / methodology clearly stating how the bidder plans to coordinate the entire project. This includes provision of a detailed proposal / methodology with a preliminary Works Programme / schedule stating clear deliverables and realistic timeframes on how the bidder will undertake.	
3	Evidence of experience in the provisioning of accommodation (boarding facility), food supply, transport, laundry-and transport services in the form of an appointment letter, contract or a purchase order. (The document(s)	

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	should be accompanied by a confirmation letter from a relevant institution signed by the Accounting Officer/Accounting Authority.	
4	Submission of an original letter from an accredited financial institution confirming that the bidder already has revolving credit, overdraft or cash. Original stamped letter and not older than <b>three (3) months</b> should be submitted.	

***NB: FAILURE OF THE BIDDERS TO ATTACH ANY OF THE ABOVE SUPPORTING DOCUMENTS WILL RESULTS IN ZERO POITS DURING THE EVALUATION PROCESS.***

**BIDDERS ARE FURTHER ADVISED:**

- a) *To firmly/ securely bind their bid document(s) preferably into a single document to avoid loss of pages/information (viz. all documents should be assembled and joined together by means of an adhesive or other binding mechanisms along the spine edge, such that there are no loose documents); and*
- b) *All bid documents must be securely bound.*

**5. Evaluation Stage 2- Evaluation in terms of functionality criterion and in terms of preference point systems.**

**5.1 Criteria for evaluating the bid.**

**Phase I: Functionality**

The BEC members shall individually evaluate the proposal responses received and or presentations made against the below listed criteria. The points to be allocated for functionality are as follows:

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CRITERIA FOR FUNCTIONALITY	SUB POINTS	POINTS
<b>Project methodology and Implementation Plan (Work Plan).</b> The plan should include how the company is going to prevent elements that will impact negatively on the project deliverables.		
Provide a detailed proposal / methodology clearly stating how the bidder plans to coordinate the project.	15	40
Provide an indicative work / project plan with clear deliverables and timeframes.	10	
Provide a detailed risk management plan	10	
Provide a detailed layout of the facilities.	5	
<b>Competency and track record (Company)</b>  -Evidence of experience in previous project or related services in the provisioning of accommodation (boarding facility), food supply, laundry- and transport services in the form of an appointment letter, contract or a purchase order. (These document(s) should be accompanied by a confirmation letter from a relevant institution signed by the Accounting Officer / Accounting Authority).  ➤ <b><u>Accommodation: 10</u></b> <ul style="list-style-type: none"> <li>• 1 - 3 years = 5 (leased buildings =3)</li> <li>• 4 – 6 years = 7(leased buildings =5)</li> <li>• 6 and beyond = 10(leased buildings =8)</li> </ul>	10	40

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➤ <u>Food supply</u> : 10		
<ul style="list-style-type: none"> <li>• 1 – 3 years = 5</li> <li>• 4 - 6 years = 7</li> <li>• 6 and beyond = 10</li> </ul>	10	
➤ <u>Laundry in-house</u> : 10		10
<ul style="list-style-type: none"> <li>• 1 - 3 years = 5</li> <li>• 4 – 6 years = 7</li> <li>• 6 and beyond = 10</li> </ul>		
➤ <u>Transport</u> : 10	10	
<ul style="list-style-type: none"> <li>• 1 - 3 years = 5 (if leased =3)</li> <li>• 4 - 6 years = 7 (if leased =5)</li> <li>• 6 and beyond = 10 (if leased =8)</li> </ul>		
<b>Financial Capacity</b>		15
Submission of a certified stamped letter from an accredited financial Institution confirming that the bidder already has a revolving credit, overdraft or cash.		
For R 2 000 000 and above revolving credit, overdraft or cash	15	
For R 1 000 000 and above revolving credit, overdraft or cash	10	
For R 500 000 and above revolving credit, overdraft or cash	5	
<b>TOTAL</b>	100	100

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**SITE VISIT/INSPECTION**

***The Department will conduct an on-site inspection to assess the infrastructure of the bidder(s) who scored the highest points to ensure it meets safety standards for learners.***

**The points scored for functionality shall be calculated as follows:**

- a) Each BEC member shall award points for each criterion on the score sheet.
- b) The assessment of functionality shall be done in terms of the above-mentioned evaluation criteria and minimum threshold of 70 points.
- c) All bidders who score the minimum threshold of 70 points or above shall advance to phase II of the bidding process.
- d) Bids/proposals that do not score the above specified minimum points for functionality shall be disqualified.

**5.2 Phase II: Preference Points in terms of PPPFA**

**Evaluation in terms of the 80/20 preference point system**

Only the qualifying bids shall be evaluated further in terms of the 80/20 preference points system where 80 points will be used only for price and 20 points for the specific goals on equity ownership.

**Points allocation in terms of the preference points system**

**Evaluation in terms of the 80/20 preference point system**

Points for price and specific goals on equity ownership:

Price	80
Specific goals on equity ownership	20

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In terms of points for price (80): The lowest acceptable bid shall obtain the maximum percentage allocated for the price. The other bids with higher prices shall proportionately obtain lower points. The final points for the selection of a preferred bidder shall be calculated as follows:

The final points to choose the preferred bidder shall be calculated as follows:

$$Ps = 80$$

$$\left[ 1 - \frac{Pt - P_{min}}{P_{min}} \right]$$

Where

Ps = Points scored for comparative price of tender or offer under consideration

Pt = Comparative price of tender or offer under consideration; and

P min = Comparative price of lowest acceptable tender or offer

**Note:** The preference claim forms are part of the standard bidding document.

The lowest acceptable bid/proposal sha obtain the maximum percentage allocated for price. The other bids/proposals with higher prices sha proportionately obtain lower percentages.

**Note:** The preference claim forms are part of the standard bidding document.

**In terms of points for specific goals (20):** A maximum of 20 points shall be awarded to a bidder(s) in respect of specific goals on equity ownership as contemplated in sub-regulation (2) of the PPPFA (Act No.5 of 2000) and section 8 of the MDoe Preferential Procurement Policy will be added to the points scored for price as calculated in accordance with sub-regulation (1) of the PPPFA (Act 5 of 2000).

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Points will be awarded to the bidder(s) who attains the specific goals on equity ownership in accordance with the generic scorecard below:

<b>Description</b>	<b>Points (80/20)</b>
<i>Enterprises that are at least 51% that are black owned</i>	5
<i>Enterprises that are at least 51% women-owned</i>	5
<i>Enterprises that are at least 25% owned by disabled persons</i>	5
<i>Enterprises with at least a 25% ownership by Youth</i>	5

### **Phase III: Recommendations**

The bidder(s) with the highest points in terms section 2(1) (f) of the PPPFA shall then be considered for recommendation based on the following overall objectives:

- a) The needs of the MDoE in terms of its operations regarding the accommodation (boarding facility), catering, transport, laundry-and transport services.
- b) The service provider's overall ability to provide a service is characterized by quality, accuracy, speed and cost effectiveness.
- c) The service provider(s) have proven knowledge and skills to manage a large-scale project, human resource and public management.
- d) The service providers' capacity (i.e. financial viability; effectiveness, efficiency, reliability) the design and printing of documents for the department.
- e) The service provider(s) have the overall ability to provide a service that is characterized by quality, accuracy, economy, productivity and have good backup facilities in case of an emergency.

## **SECTION C: – GENERAL CONDITIONS OF CONTRACT (GCC)**

Any appointment made is subject to the bidder(s) accepting the terms and conditions contained in the General Conditions of Contract (GCC) and Service Level Agreement (SLA). Both the GCC and SLA are in line with Treasury Regulation 16A, published in terms of the Public Finance Management Act, 1999 (Act.No.1 of 1999).

- a. The bidder(s) accepting the terms and conditions contained in the General Conditions of Contract as the minimum terms and conditions upon which Mpumalanga Department of Education is prepared to enter into a contract with the successful bidder(s).
- b. The bidder submitting the General Conditions of Contract to Mpumalanga Department of Education together with its bid, duly signed by an authorised representative of the bidder.
- c. The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.
- d. The supplier shall not, without the Department'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.
- e. The supplier shall indemnify the Department against all third-party claims of infringement of patent, trademark, or industrial design rights arising from the use of the goods or any part thereof by the purchaser.

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- f. Supplies and services which do not comply with the contract requirements may be rejected. Any supplies may on or after delivery be inspected, tested or analysed 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/her 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 supplier's cost and risk.
- g. Should the supplier fail to provide the substitute supplies forthwith, the Department may, without giving the supplier a further opportunity to substitute the rejected supplies, purchase such as may be necessary at the expense of the supplier.
- h. 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.
- i. 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 Special Conditions of Contract (SCC), and in any subsequent instructions ordered by the Department.
- j. Delivery of the goods shall be made by the supplier in accordance with the terms specified in the contract. The goods supplied under the contract shall be fully

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insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified.

- k. 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 Department'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.
- l. The method and conditions of payment to be made to the supplier under this contract shall be specified in SLA. The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfilment of other obligations stipulated in the contract. Payments shall be made promptly by the Department, but in no case later than 30 days after submission of an invoice or claim by the supplier. Payment will be made in Rand.
- m. Prices levied by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted in his/her bid. No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.
- n. Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the Department in the contract. If at any time during performance of the contract, the supplier should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the Department in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt

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of the supplier's notice, the Department 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.

- o. The Department 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 Department. (b) if the supplier fails to perform any other obligation(s) under the contract; or (c) if the supplier, in the judgment of the Department, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
- p. If a force majeure situation arises, the supplier shall promptly notify the Department in writing of such condition and the cause thereof. Unless otherwise directed by the Department 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.
- q. The Department may at any time terminate the contract by giving written notice to the supplier if he/she 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 Department.
- r. If any dispute or difference of any kind whatsoever arises between the Department 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. If, after 30 days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Department or the supplier may give notice to the other party of his/her intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is

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

- s. 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. The contract shall be interpreted in accordance with South African laws.
- t. The supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the Department. 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. Therefore, bidder(s) must be tax compliant when submitting their bids and must comply (throughout the contract period) with all applicable pieces of tax legislation- including but not limited to the Income Tax Act, 1962 (Act. No. 58 of 1962) and the Value Added Tax Act (Act. No. 89 of 1991).
- u. The bid shall not be awarded to a bidder(s) who is not tax compliant. The Department reserves the right to withdraw an award, or cancel a contract concluded with a supplier if it is established that such a supplier was not tax compliant at the time of the award, or has submitted an invalid Tax Clearance Certificate for the bid.
- v. It is a condition of contract that tax matters of the appointed supplier should be in good order, or proof is submitted confirming that satisfactory arrangements have been made with the South African Revenue Service (SARS). Tax Compliance status is also applicable to foreign bidders / individuals who wish to submit bids.
- w. Bidders are required to be registered on the Central Supplier Database (CSD) and the National Treasury shall verify the bidder's tax compliance status through the CSD. In the case of Consortium/Joint Ventures/Partnership, each party **must** be

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registered on the CSD and its tax compliance status will be verified from this database.

- x. Bidders may seek clarity on additional information on certain areas. Only written requests shall be considered by the MDoE, provided that these are reasonable as to the timing and content. In order to maintain transparency and equity, the Department shall supply all bidders with the requested additional information.

**SECTION D: SPECIAL CONDITION OF CONTRACT (SCC)**

**12. LEGISLATIVE AND REGULATORY FRAMEWORK OF THE BID**

- a) The bid and all contracts emanating from it will be subject to the GCC issued in accordance with Treasury Regulation 16A published in terms of the Public Finance Management Act, (Act. No.1 of 1999).
- b) The SCC are supplementary to those of the GCC. Where the Special Conditions are in conflict with the General Conditions of Contract, the Special Conditions of Contract take precedence.
- c) The service provider should adhere to high standards of safety when supplying the goods and services in the Department.
- d) In terms of the South African Schools Act (SASA) 84/1996 and with special reference to section 21(2), the Head of Department has delegated a list of functions in section 21(1) thereof. The Act places a mutual obligation on both Head of Department (HOD) and the School Management to utilize and control the allocation of funds and resources in an effective and efficient manner and to report thereon as required by the PFMA. The resourcing of a public school must be in compliance with the legal and legislative framework of the Mpumalanga of Education (hereafter referred to as MDoE). The MDoE has been tasked to carry out its mandate responsibly and to ensure that the best interest of the child as captured in the Constitution's Bill of Rights, chapter 2, clause 28(2) and 29(1) are paramount through the provisioning of quality education to all learners.

**13. MPUMALANGA DEPARTMENT OF EDUCATION RESERVES THE RIGHT:**

- a) To negotiate with one or more preferred bidder(s) identified during the evaluation process, regarding any terms and conditions, including price without offering the same opportunity to any bidder(s) who has not been awarded the status of being a preferred bidder(s).
- b) To carry out site inspections, evaluations or assessment meetings in

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order to verify the nature and quality of the services offered by the bidder(s), whether before or after the adjudication of the bid.

- c) To correct any mistake in the bid documents or has occurred at any stage of the bidding process.
- d) To cancel and/or terminate the bidding process at any stage, including after the closing date, and/or after presentations, and/or after evaluation and/or after the preferred bidder(s) have been identified.
- e) Award to multiple or single bidders regardless of locality.
- f) If the price offered by a bidder scoring the highest points is not market-related, the department may not award the contract to the bidder(s).
- g) Negotiate a market related price with the bidder scoring the highest points or cancel the bid;
- h) If the bidder does not agree to a market-related price, negotiate a market-related price with the bidder scoring the second highest points or cancel the bid;
- i) If the bidder scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the bidder scoring the third highest points or cancel the bid.
- j) To inform the successful bidders to provide carriage as and when the need arises
- k) Cancel the bid.

**14. MPUMALANGA DEPARTMENT OF EDUCATION REQUIRES BIDDER(S) TO:**

**14.1 Confirm that the bidder(s) is to: -**

- a) Act honestly, fairly and with due diligence, in the interests of the MDoE;
- b) Have and use effectively the resources, procedures and appropriate systems for the proper rendering of the service;
- c) Act with circumspection and treat the MDoE fairly in a situation of conflicting interest;

- d) Comply with all applicable statutory or common law requirements that are applicable to the business;
- e) Make adequate disclosures of relevant material information including disclosures of actual or potential own interest, in relation to dealings with the MDoE;
- f) Conduct their business activities with transparency, and consistently uphold the interests and needs of the MDoE as a client before any other consideration; and
- g) Ensure that any information acquired by the bidder(s) from the MDoE will not be used or disclosed without a written consent of the Department.

## **15. CONFLICT OF INTEREST, CORRUPTION AND FRAUD**

- a) The MDoE reserves its right to disqualify any bidder who either itself or any of whose members (save for such members who hold a minority interest in the bidder through shares listed on any recognised stock exchange), indirect member (being any person or entity who indirectly holds at least a 15% interest in the bidder other than in the context of shares listed on a recognised stock exchange), directors or members of senior management, whether in respect of Mpumalanga Department of Education or any other government organ or entity and whether from the Republic of South Africa or otherwise ("Government Entity") :
- b) engages in any collusive tendering, anti-competitive conduct, or any other similar conduct, including but not limited to any collusion with any other bidder in respect of the subject matter of this bid; seeks any assistance, other than assistance officially provided by a Government Entity, from any employee, advisor or other representative of a Government Entity in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to a Government Entity;

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- c) makes or offers any gift, gratuity, anything of value or other inducement, whether awful or unlawful, to any of the MDoE officers directors, employees, advisors or other representatives;
- d) accepts anything of value or an inducement that would or may provide financial gain, advantage or benefit in relation to procurement or services provided or to be provided to a Government Entity;
- e) pays or agrees to pay any person any fee, commission, percentage, brokerage fee, gift or any other consideration, that is contingent upon or results from, the award of any tender, contract, right or entitlement which is in any way related to procurement or the rendering of any services to a Government Entity;
- f) has in the past engaged in any matter referred to above; or
- g) has been found guilty in a court of law on charges of fraud and/or forgery, regardless of whether or not a prison term was imposed and despite such bidder, member or director's name not specifically appearing on the List of Tender Defaulters kept at the National Treasury.

**16. MISREPRESENTATION DURING THE LIFECYCLE OF THE CONTRACT**

- a) The bidder should note that the terms of its bid will be incorporated in the proposed contract by reference, and that the MDoE relies upon the bidder's tender as a material representation in making an award.
- b) It follows therefore that misrepresentations in a bid may give rise to service termination and a claim by the MDoE against the bidder notwithstanding the conclusion of the Service Level Agreement between two parties.

**17. PREPARATION COSTS**

- a) The bidder will bear all its costs in preparing, submitting and presenting any response or tender of this bid and all other costs incurred by it throughout the bid process. Furthermore, no statement in this bid will be construed as placing the MDoE, its employees or agents under any

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obligation whatsoever, including in respect of costs, expenses or losses incurred by the bidder(s) in the preparation of his/her response to this bid.

b) In the event of a conflict between the bidder's proposal and the Service Level Agreement as concluded between the parties, the Service Level Agreement supersedes.

**18. INDEMNITY**

If a service provider breaches the conditions of this bid, as a result of that breach, the Department incurs costs or damages (including the cost of any investigations, procedural impairment, repudiation of all or part of the bid process and/or enforcement of intellectual property rights or confidentiality obligations), then the service provider shall indemnify the MDoE for damages or harm and all such costs that the Department may incur.

**19. PRECEDENCE**

This document will prevail over any information provided unless such written information, expressly amends this document by reference.

**20. LIMITATION OF LIABILITY**

A bidder(s) participates in this competitive process entirely at his/her own risk and cost. The MDoE shall not be liable for any cost incurred or any damages suffered as a result of the bidder's participation in this bidding process.

**21. TAX COMPLIANCE**

- a) No award shall be made to a bidder(s) who is not tax compliant. The MDoE reserves the right to withdraw an award, or cancel a contract concluded with a bidder in the event that it is established that such a bidder was in fact not tax compliant at the time of the award, or has submitted an invalid Tax Clearance Certificate for the bid.
- b) Bidder(s) must be tax compliant when submitting a bid/proposal to

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the MDoE and remain compliant with all applicable tax legislation-including but not limited to the Income Tax Act, (Act. No. 58 of 1962) and Value Added Tax Act, (Act. No. 89 of 1991) throughout the duration of the contract.

- c) It is a condition of this bid that the tax matters of the successful bidder(s) be in order, or that satisfactory arrangements have been made with the South African Revenue Services (SARS) to meet tax obligations.
- d) The Tax Compliance status requirements are also applicable to foreign bidders / individuals.
- e) It is a requirement that bidders attach a written confirmation when submitting this bid that SARS may on an on-going basis during the tenure of the contract, disclose the bidder's tax compliance status.
- f) Bidders are required to be registered on the Central Supplier Database (CSD) and the National Treasury shall verify the bidder's tax compliance status through the CSD process.
- g) Where Consortium / Joint Ventures / Partnership are involved, each party must be registered on the CSD and its tax compliance status will be verified through this database.
- h) The bidder must ensure that the tax status with SARS remains compliant for the duration of the bid validity period)

## **22. PROCUREMENT LEGISLATION**

The MDoE has a detailed evaluation methodology premised on Treasury Regulation 16A3 as promulgated under Section 76 of the Public Finance Management Act, PFMA (Act. No. 1 of 1999 as amended); the Preferential Procurement Policy Framework Act. PPPFA (Act. No. 5 of 2000).

## **23. TECHNICAL LEGISLATION AND /OR STANDARDS**

Bidder(s) should be cognisant of the applicable legislations and / or standards for this service.

## **24. VALIDITY PERIOD**

The validity period of the bid is 90 days from the closing date. The Department may extend the validity period if the bidding process is not concluded.

## **25. CONTACT AND COMMUNICATION**

- a) The Department may communicate with bidder(s) where clarity is sought on the bid proposal.
- b) Any other forms of communication to an official or a person acting in an advisory capacity for the Department in respect of the bid between the closing date and the award of the bid by the bidder(s) is discouraged.
- c) All communication between the bidder(s) and Department must be in writing.
- d) Whilst all due care has been taken in connection with the preparation of this bid, Department makes no representation or warranties that the content of the bid or any information communicated to or provided to bidder(s) during the bidding process is, or will be, accurate, current or complete. The Department and its employees and advisors will not be liable for any information communicated which may not be accurate, current or complete.
- e) If a bidder(s) finds or reasonably believes that there is discrepancy, ambiguity, error or inconsistency in this bid or any other information provided by the Department (other than minor clerical matters), the bidder(s) must promptly notify the Department in writing of such discrepancy, ambiguity, error or inconsistency. This will afford the Department an opportunity to consider possible corrective measures (if

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any).

- f) Any discrepancy, ambiguity, error or inconsistency in the bid or other information provided by the Department will, if possible, be corrected and provided to all bidder(s) without attribution to the bidder(s) who notified the Department about any reference to the omission(s).
- g) All persons (including bidder(s)) obtaining or receiving the bid, and any other information in connection with the bid or the bidding process, must keep the contents of the bid and such information confidential. The information must not be disclosed or used except for the purpose of developing a proposal in response to this bid.

## **26. TENDER DEFAULTERS AND RESTRICTED SUPPLIERS**

No bid shall be awarded to a bidder(s) whose name (or any of his/her company members, directors, partners or trustees) appear on the Register of Tender Defaulters of the National Treasury or have been placed on the National Treasury's List of Restricted Suppliers. The Department reserves the right to withdraw an award, or to cancel a contract with a bidder should it be established, at any time, that the bidder(s) is blacklisted by the National Treasury or another government institution/agency.

## **27. GOVERNMENT LAW**

The South African law governs this bid and the related bidding process. The bidder(s) agrees to submit to the exclusive jurisdiction of the South African courts if any dispute of any kind may arise out of or in connection with this bid, the bid itself and all processes associated with it.

## **28. RESPONSIBILITY FOR SUB-CONTRACTORS AND BIDDER'S PERSONNEL**

A bidder is responsible for ensuring that his/her personnel (including agents, officers, directors, employees, advisors and other representatives, sub-contractors (if any) and personnel of sub-contractors) comply with all terms and conditions of this bid. In the event that the Department allows a bidder

to use sub-contractors, the sub-contractors will at all times remain the responsibility of the bidder. The Department will not under any circumstances be liable for losses or damages incurred by or caused by such sub-contractors.

## **29. LATE BIDS**

Bids submitted after the closing date and time, at the address indicated in the bid documents, will not be accepted for consideration and where practicable, will be returned unopened to the bidder(s).

## **30. COUNTER CONDITIONS**

Amendments to any of the terms and conditions or inclusion of counter terms and conditions for this bid are prohibited. Bids with such unauthorized amendments, terms and conditions will not be considered.

## **31. FRONTING**

- a)** The Department supports the spirit of Broad Based Black Economic Empowerment and recognizes that real empowerment can only be achieved through individuals and businesses that conduct their affairs in accordance with the values of the Constitution of the Republic of South Africa (RSA) that is honesty, fairness, equity, transparency and rule of law. It is in this context that the Department frowns upon any form of fronting and corruption.
- b)** The Department, in ensuring honesty, as part of the bid evaluation process, will conduct or initiate the necessary enquiries in order to determine the accuracy of the representations made in the bid documents. Should any of the fronting indicators in the Guidelines on Complex Structures and Transactions and Fronting, (Department of Trade and Industry), be established. The bidder(s) bears the onus to prove that he/she is not involved in fronting. Failure to do so within a period of 10 days from the date of notification, may invalidate the bid / contract and result in a ban on

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business transactions with government/state for a period not exceeding 10 years.

## **32. SUPPLIER DUE DILIGENCE**

The Department reserves the right to conduct supplier due diligence prior to final or at any time during the contract period. This may include site visits and requests for additional information.

## **33. SUBMISSION OF BIDS**

Bid documents must be submitted to the Provincial Supply Chain Management Offices and their District Offices as stipulated in SBD1 on or before the closing date and time.

## **34. PRESENTATION / DEMOSTRATION**

The Department also reserves the right to request presentations / demonstrations from the short-listed bidders as part of the bid evaluation process.

## **35. PRICING STRUCTURE**

- a) Price quotations must be furnished on the basis of goods that have been requested by the Department.
- b) Prices submitted for this bid must be filled on the field of the pricing schedule of the bid document. Price structures that do not comply with this requirement may invalidate the bid.
- c) Failure to comply with the above may result in the invalidation of the bid.
- d) Bidders must bid on **ALL ITEMS** on the pricing schedule, as the bid may be awarded to one or more bidders.
- e) The prices of (service) must be inclusive of all costs.
- f) All prices are fixed for first year and no requests for price escalations will be considered during this period.

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**Price adjustment will be in line with Consumer Price Index (CPIX).**

**36. QUANTITIES AND ESTIMATES**

- a) Official orders will be placed on an “as and when” the goods are required.
- b) The Department will issue an official order before the goods are delivered.

**37. AWARD CONDITIONS**

- a) The Department reserves the right to award the bid to one or more bidders.
- b) The Department further reserves the right to appoint or not to appoint a service provider(s) for this bid.

**38. PAYMENT**

**The bidder(s) are expected to supply the invoice claim only after the service has been rendered;**

- a) Payment will be affected only after receipt of a detailed invoice and a signed certificate of completion to confirm receipt of service.
- b) The following information must be included in the invoices and weekly report / statement:
  - Items delivered to the Department
  - Service date
  - Quotation
  - Copy of Order number issued by the Department
  - Original Invoice
  - Total amount due by the Department.

**39. DAMAGE COMPENSATION**

The bidder shall be held responsible for any damage or thefts that may be caused to the premises or content by him or his employees or due to their neglect whether in the normal execution of their duties or otherwise and a

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claim for indemnification can accordingly, be imposed by the Department against the bidder.

#### **40. RECTIFICATION OF DAMAGES**

In the case of damages to, equipment, etc. resulting from the rendering of the service the bidder undertakes to rectify the damage immediately to the satisfaction of the Department. If the bidder fails to act immediately after notification, the Department would rectify the damages and any costs incurred be recovered from any moneys outstanding.

#### **41. QUALITY STANDARDS**

All stationery must:

- a) Be new, unused, and of first-grade quality;
- b) Be manufactured using durable and environmentally friendly materials suitable for heavy-duty institutional use; and
- c) Be fit-for-purpose, considering the working conditions of the Department of Education's administrative and school-based environments.

#### **42. RECTIFICATION AND REPLACEMENT**

- a) The service provider shall be required, at their own cost, to repair or replace any item found to be defective during the warranty period within 14 working days of receiving written notice from the Department.
- b) Failure to comply will entitle the Department to procure the item from an alternative supplier at the contractor's cost and/or withhold payment.

#### **43. TERMINATION AND/OR WITHDRAWAL**

- a) Failure to comply with any of the conditions of the bid or unsatisfactory performance, the stipulations of the general conditions of contract and procedures would be applicable.
- b) The Department reserves the right to withdraw any part(s) of the contract or

the contract as a whole from the service, with a three months' written notification to the bidder.

- c) Should part of the contract be withdrawn, the bid, amount would be adjusted pro-rata from the date of withdrawal.
- d) A service provider performs unsatisfactorily and fails to remedy such poor or non-performance within five (5) days of receipt of written request to do so, it excludes cases where it is impossible to render the service or instances/events beyond the reasonable control of the service provider.
- e) The bidder would be entitled to payment of the service rendered up to the date of withdrawal but would not be entitled to payment or any compensation or damages as a result of the withdrawal or termination.
- f) An amendment or waiving of the stipulations of the contract must occur in writing by mutual consent through the Department. Should the bidder alienate any right liabilities in terms of this contract, the bidder must notify the Department immediately that necessary steps for the transfer of the contract can be taken.

#### **44. DURATION OF THE CONTRACT**

The duration of the contract is five (5) years.

#### **45. FINANCIAL ADMINISTRATION**

The bidder shall adhere to the Department's accounting and control measures in respect of due performance before and after delivery of the service and shall comply with the formalities set by the Department for claiming in terms of the service rendered.

#### **46. INDEMNITY**

The service provider hereby indemnifies the MDoE against any loss, expenses, damage or injuries which may be sustained by a third party (including the learners) as well as any claim or legal proceedings and legal costs, including attorney and client costs, that may be instituted against or incurred by the MDoE and which arise from or are the result of any act or

commission of the service provider or any employee or agent of the service provider in connection with or in the execution of the agreement, or that may arise from an agreement entered into by them on behalf of the MDoE.

## 47. SUMMARY TERMINATION OF AGREEMENT BY THE DEPARTMENT OF EDUCATION

The MDoE has the right to terminate this agreement at any time by giving (30) thirty days through a written notice to the service provider in any of the following events:

- a. On breach - If the service provider commits any breach of any terms or conditions of this agreement.
- b. On VAT - If the service provider is not registered as a payer of Value Added Tax and claim VAT from the Department.
- c. On liquidation or insolvency - If the service provider shall be subjected to any provisional or final order of liquidation or sequestration or judicial management with its creditors or execution to be levied on its goods or fail to pay any of its sub-contractors appointed in terms hereof on due date for payment.
- d. On Criminal Conduct - If the service provider is found to have been reasonably and sufficiently implicated in any criminal conduct.
- e. On Insufficient Funds - If there are insufficient Government funds to provide stationery to the learners.
- f. On bringing the MDoE into disrepute: If the service provider, through omission or commission, brings the name of the MDoE into disrepute. This is inclusive of the service provider failing to honour its financial obligations to suppliers and thereby dragging the Education to courts of law as a respondent.
- g. On changes in Departmental priorities - If the service is no longer required.

## 48. PERFORMANCE MANAGEMENT

- a) Supplier Performance Management is viewed by the MDoE as a critical component

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in ensuring value for money in its acquisition process and good supplier relations between itself and all its suppliers.

- b) The successful bidder shall upon receipt of a written notification of an award, be enter into a Service Level Agreement (SLA) with the MDoE which will form an integral part of the supply agreement. The SLA will serve as a tool to measure, monitor and assess the supplier 's performance level and ensure effective delivery of service, quality and value add to the Mpumalanga Department of Education.
- c) Bidders are required to comply with the above-mentioned conditions, and to provide a scorecard on how their products / services offering is measured in order to achieve the objectives of the aforementioned conditions.

**49. AUTHORISATION DECLARATION**

- a) The department reserves a right to verify any information supplied by the bidder and should the information be found to be false or incorrect, the department will exercise any of the remedies available to it in the bid document.
- b) The bidder must ensure that all financial and supply arrangement for goods and services have been mutually agreed upon between the bidder and the third party. No agreement between the bidder and the third party will be binding on the department.

**50. STRIKES / RIOTS / MARCHES**

In the event there is a strike, the MDoE will take a decision regarding transport services and inform the service provider through the school principal. The Department cannot pay for damages to the service provider's property as a result of strike action / riots / marches.

**51. TERMINATION AND OR WITHDRAWAL**

- a) Failure to comply with any of the conditions of the bid or unsatisfactory performance, the stipulations of the general conditions of contract and procedures would be applicable.

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- b) The Department reserves the right to withdraw any part(s) of the contract or the contract as a whole from the service, with a three months' written notification to the bidder. Should part of the contract be withdrawn, the bid, amount would be adjusted pro-rata from the date of withdrawal.
- c) A service provider performs unsatisfactorily and fails to remedy such poor or non-performance within five (5) days of receipt of written request to do so, it excludes cases where it is impossible to render the service or instances/events beyond the reasonable control of the service provider.
- d) The bidder would be entitled to payment of the service rendered up to the date of withdrawal but would not be entitled to payment or any compensation or damages as a result of the withdrawal or termination.
- e) An amendment or waiving of the stipulations of the contract must occur in writing by mutual consent through the Department. Should the bidder alienate any right liabilities in terms of this contract, the bidder must notify the Department immediately that necessary steps for the transfer of the contract can be taken.

**52. BREACH OF CONTRACT**

- a) If the service is interrupted or temporary delayed as a result of labour disputes, civil revolt, a local or national disaster, or any other cause above the control of the bidder, the parties must mutually agree on the methods to continue with the essential services areas, subject to other stipulations at this bid, to render the service. If the service is not rendered in that specific area at a given time access to that area is forbidden.
- b) In such a case the contract would immediately comply with the request and the bidder would not (as result of such a request) be entitled to bring a claim for loss or damage against the MDoE and the bidder indemnifies the MDoE against any claim from the employee concerned.

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I fully understand and accept in full, the contents of the special conditions contained in this bid document and authorized to sign and accept these conditions.

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**SIGNATURE OF BIDDER**

---

**DATE**

**SECTION D - PRICING SCHEDULE**

BIDDER'S (Company's) Name: \_\_\_\_\_

NO	ITEM DESCRIPTION	PRICE 1st YEAR	PRICE 2nd YEAR	PRICE 3rd YEAR	PRICE 4th YEAR	PRICE 5th YEAR
<u>1</u>	<b>Accommodation:</b> Per child, per day					
<u>2</u>	<b>Laundry Services:</b> 3 times a week Per child					
<u>3</u>	<b>Meals:</b> During school days: Breakfast /Mid-Afternoon Snack / Dinner					
<u>4</u>	<b>Meals:</b> During weekends and holidays (between school days): Breakfast /Lunch/ Dinner					
<u>5</u>	<b>Transport Services:</b> 2 times a day (to and from school) per child.					
<b>TOTALS PER YEAR</b>						

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VAT(15%)				
<b>TOTAL</b>				
<b>TOTAL BID PRICE</b> <b>(Yr1+Yr2+Yr3+Yr4+Yr5)</b>				

Prospective bidders must tender on **ALL ITEMS** on the pricing schedule and per year.

**NOTE: BIDDER(S) ARE OBLIGED TO GIVE CORRECT FIGURES OF PRICES. NO BIDDER(S) SHALL BE ALLOWED TO MAKE CHANGES / CORRECTIONS / ADDITIONS ON THE PRICING SCHEDULE.**

**BIDDER'S SIGNATURE** : \_\_\_\_\_

**DATE** : \_\_\_\_\_

**Application for a Tax Clearance Certificate****Purpose**Select the applicable option .....  Tenders  Good standing

If "Good standing", please state the purpose of this application

**Particulars of applicant****Name/Legal name**  
(Initials & Surname  
or registered name)**Trading name**  
(if applicable)**ID/Passport no****Income Tax ref no****VAT registration no** 4**Customs code****Telephone no****E-mail address****Physical address****Company/Close Corp.**  
registered no**PAYE ref no** 7**SDL ref no** L**UIF ref no** U**Fax**  
no**Postal address****Particulars of representative (Public Officer/Trustee/Partner)****Surname****First names****ID/Passport no****Income Tax ref no****Telephone no****Fax**  
no**E-mail address****Physical address**

**Particulars of tender (If applicable)**

**Tender number**

Estimated Tender amount R

**Expected duration  
of the tender**

**Particulars of the 3 largest contracts previously awarded**

Date started	Date finalised	Principal	Contact person	Telephone number	Amount
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## **Audit**

Are you currently aware of any Audit Investigation against you/the company? ..... YES NO  
If "YES" provide details

**Appointment of representative/agent (Power of Attorney)**

I the undersigned confirm that I require a Tax Clearance Certificate in respect of Tenders or Goodstanding.

I hereby authorise and instruct SARS the applicable Tax Clearance Certificate on my/our behalf. to apply to and receive from

**Signature of representative/agent**

**Name of  
representative/  
agent**

Date

## **Declaration**

I declare that the information furnished in this application as well as any supporting documents is true and correct in every respect.

**Signature of applicant/Public Officer**

Name of applicant/  
Public Officer

Date

## Notes:

1. It is a serious offence to make a false declaration.
2. Section 75 of the Income Tax Act, 1962, states: Any person who
  - (a) falls or neglects to furnish, file or submit any return or document as and when required by or under this Act; or
  - (b) without just cause shown by him, refuses or neglects to-
    - (I) furnish, produce or make available any information, documents or things;
    - (II) reply to or answer truly and fully, any questions put to him ...
- As and when required in terms of this Act ... shall be guilty of an offence ...
3. **SARS will, under no circumstances, issue a Tax Clearance Certificate unless this form is completed in full.**
4. Your Tax Clearance Certificate will only be issued on presentation of your South African Identity Document or Passport (Foreigners only) as applicable.

## **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.

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

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.

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.

**SBD4**

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

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

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

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

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of bidder

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

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

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

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**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>

- 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

90/10

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

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:

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

$P_{max}$  = Price of highest acceptable tender

### 4. POINTS AWARDED FOR SPECIFIC GOALS

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

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

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

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

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

The specific goals allocated points in terms of this tender	Number of points allocated (90/10 system) (To be completed by the organ of state)	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (90/10 system) (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)
Enterprise that are at least 51% that are black owned		5		
Enterprise that are at least 51% women owned		5		
Enterprise that are at least 25% owned by disabled person		5		
Enterprise that are at least 25% ownership by youth		5		

#### 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 proprietor

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.

<b>7. Performance security</b>	<p>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.</p> <p>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.</p> <p>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:</p> <ul style="list-style-type: none"> <li>(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</li> <li>(b) a cashier's or certified cheque</li> </ul> <p>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.</p>
<b>8. Inspections, tests and analyses</b>	<p>8.1 All pre-bidding testing will be for the account of the bidder.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>8.7 Any contract supplies may on or after delivery be inspected, tested or</p>

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.
<b>29. Governing language</b>	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.
<b>30. Applicable law</b>	30.1	The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.
<b>31. Notices</b>	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.
<b>32. Taxes and duties</b>	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.
<b>33. National Industrial Participation (NIP) Programme</b>	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.
<b>34 Prohibition of Restrictive practices</b>	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)