



## MPUMALANGA DEPARTMENT OF PUBLIC WORKS, ROADS & TRANSPORT

**SUPPLY AND DELIVERY OF COLD ASPHALT IN BOHLABELA,  
EHLANZENI, NKANGALA AND GERT SIBANDE DISTRICTS OF  
MPUMALANGA PROVINCE ON AS-AND-WHEN REQUIRED  
BASIS FOR A PERIOD OF THREE (03) YEARS**

**CONTRACT NO: PWRT/1621/24/MP**

**The Department of Public Works, Roads and Transport**

Private Bag x 11310  
NELSPRUIT  
1200

**Contact**

Name: R Masia  
Telephone: 013 766 8524  
Email: [Ronmasia@mpg.gov.za](mailto:Ronmasia@mpg.gov.za)

or

Name: B Mbanjwa  
Telephone: 013 766 4159  
Email: [bmbanjwa@mpg.gov.za](mailto:bmbanjwa@mpg.gov.za)

**As per tender advert**

**Bidder / Company:**.....

**TENDER PRICE, INCL. VAT R -----**

## TENDER DOCUMENT

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## **T1 TENDERING PROCEDURES**

### **T1.1 TENDER NOTICE AND INVITATION TO TENDER**

## **TENDER NOTICE**

### **The DEPARTMENT OF PUBLIC WORKS, ROADS & TRANSPORT, MPUMALANGA PROVINCE**

**hereby invites tenders for:**

**SUPPLY AND DELIVERY OF COLD ASPHALT IN BOHLABELA, EHLANZENI, NKANGALA AND GERT SIBANDE DISTRICTS OF MPUMALANGA PROVINCE ON AS-AND-WHEN REQUIRED BASIS FOR A PERIOD OF THREE (03) YEARS: PWRT/1621/24/MP**

The scope of works will entail the supply and delivery of the following services amongst others, the full services required will be stipulated in the tender document in detail.

- Cold mix asphalt
- Different products of emulsion
- Slurry seal

Tender Closing Date: As per the Tender Bulletin

Tenderers **MUST** attend the compulsory clarification briefing as indicated below.

#### **TENDERER'S MEETING**

A compulsory clarification meeting with representatives of the Employer will take place as per the Tender Bulletin

#### **Venue: As per the Tender Bulletin**

At least 1(one) technical competent person of the tenderer shall attend the clarification meeting.

#### **TENDER DOCUMENTS**

The physical address for collection of the tender documents is:

- 1. MBOMBELA**  
Riverside Government Complex  
Building No 9, Government Boulevard, MBOMBELA, 1200  
Telephone number: Mr. VS Ngobe (013) 766 6339 or Mr. J Sithole (013) 766 8258 or Ms. MB Theko (013) 766 8269  
Fax number: (013) 766 8455
- 2. MALELANE**  
The Provincial Treasury  
24 Air Street  
Malelane  
Contact Person: Mr. G Sibya or Ms. DM Thobela: 013 7900 256  
Fax No. : (013) 790 0514
- 3. SIYABUSWA**  
Old Parliament Building, Building No.1, Job Skhosana Street, Siyabuswa, 0472  
Contact Person: Mr. Tsepho Ngwatile or Mr. Andries Mahlangu or Thabiso Molekwa  
Telephone number: (013) 973 0022/01/06/0081
- 4. MIDDELBURG**

Department of Public Works  
Cnr. Lillian Ngoyi and Dr Beyers Naudé Streets – Old TPA Building, Ground floor, Office numbers A5, A9 and 11  
Contact Person: Ms. Lorraine Motebu or Ms. Mendy Kabini or Ms Linah Nethononda or Mr. KS Msiza or Ms. YM Bahula  
Telephone number: (013) 282 8776 / 9151  
Fax number: (013) 282 8776

**5. ELUKWATINI**

Elukwatinini Sub Regional offices  
Office numbers A49 and A50 (opposite Elukwatinini Community Hall) Stand number 12 Extension A, Elukwatinini, 1190. Contact Person: Ms. TL Khathide: Telephone No: 017 883 1396/

**PIET RETIEF**

No. 11 Measroch Street, Piet Retief Office  
Contact Person: Mr. Alex Shongwe  
Telephone number : (017) 826 1671  
Fax No: (017) 826 0577

**6. KWAMHLANGA**

KwaMhlanga Government Complex  
The Provincial Treasury, Building No. 12, Computer Centre  
Contact Person: Ms. L Nethononda: 013 766 4872, Ms. E Mnguni: 013 766 4873, Mr. MK Sibanyoni: 013 766 4886 or Mr. DE Mahlangu: 013 766 4875  
Fax Number: (013) 947 2250

**7. EVANDER**

10 Corner Cornell and Aarhus Roads (previously occupied by Evander Home Affairs Offices), Evander, 2280  
Contact Person: Ms. Martha Mahlangu or Ms. TV Manana or Ms. Jabulile Mavimbela  
Telephone Number: (013) 766 1796 or 1794 or 1790 or 1795  
Fax Number: (013) 766 7112

**8. BUSHBUCKRIDGE**

The Provincial Treasury, R40 Road, Bakona Business Complex, Bushbuckridge  
Contact Person: Ms. Mapula Kgotsoka, Ms. Patricia Shikwambana and Mr. Peterson Sithole: Ms. PT Mashego  
Telephone Numbers: 013 799 0229 / 2125  
Fax: (013) 799 0535

**COMPLETION AND DELIVERY OF TENDERS**

The closing time for receipt of tenders is as per the Tender Bulletin. Note that tender closures are only administered at the following Central Supply Chain Offices: **Mbombela, Bushbuckridge, KwaMhlanga, Evander, Piet Retief, Middleburg, Malelane, Elukwatinini and Siyabuswa.**

Telegraphic, telephonic, telex, facsimile, e-mail and late tenders will not be accepted.

Tenders may only be submitted in the format stated in the tender data.

Requirements for completing, sealing, addressing, delivery, opening and assessment of tenders are stated in the tender data.

Queries relating to Technical issues arising from this tender document may be addressed to:

Name: R Masia  
Telephone: 013 766 8524  
Email: [Ronmasia@mpg.gov.za](mailto:Ronmasia@mpg.gov.za)

Name: B Mbanjwa  
Telephone: 013 766 4159  
Email: [bmbanjwa@mpg.gov.za](mailto:bmbanjwa@mpg.gov.za)

## **T1.2 TENDER SUBMISSION, TERMS AND CONDITIONS**

### ***General***

- Bids must be in South African rands, fixed price basis including VAT;
- The Department reserves the right to call interviews with short-listed bidder before final selection;
- The Department reserves the right to negotiate price with preferred bidder in terms of Clause F.1.6.2;
- Bidders must provide details of physical address and contact numbers to enable the Department to assess the ability of the bidder to deliver on the submission made;
- A bidder must submit a comprehensive tender and cannot tender for portions of the scope;
- The department is not compelled to accept the lowest price offer or any other tender

## **T1.3 RETURNABLE DOCUMENTS**

### **Compulsory Returnable Schedules/Documents**

- Compulsory Enterprise Questionnaire
- Certificate of Authority for Signatory.
- Record of Addenda to Tender Documents (where applicable).
- Fully completed Bill of Quantities (BoQ) / Pricing Schedule.
- Fully completed and signed Form of Offer
- Fully completed original tender document.
- If the bidder is a joint venture /consortium/partnership, an original or originally certified copy of such an agreement and a resolution by each party to such joint venture / consortium / partnership authorizing its participation in the bid.
- Fully completed Standard Bidding documents (SBD1, SBD4, SBD6.1, SBD6.2 and Annexure C).
- Copy of valid COIDA (Compensation for Occupational Injuries and Diseases) registration certificate, e.g. Letter of Good Standing issued by Department of Labour related to construction, FEM or any other legal recognized authority.
- Copy of contractor Registration for Incorporation or of Company Registration Document.
- Shareholders' Agreements/ Share Certificates/ Memorandum of Association for companies
- Certified copies of Identity Documents of owners/ directors / partners / shareholders of the Business **not older than 3 months as at the closing date of the bid.**
- Proof of registration with National Treasury's Central Suppliers Database (CSD)

**NB Failure to comply with compulsory returnable documents stated above will result in a disqualification of the bid.**

## **T1.4 TENDER SPECIFICATIONS**

### **1.4.1 GENERAL**

The Conditions of Tender reproduced in Section 3 are the Standard Conditions of Tender as contained in Annex F of SANS 294 – Construction Procurement Processes, Methods and Procedures which contain references to the Tender Data for details that apply specifically to this tender.

The Tender Data shall be read with the Standard Conditions of Tender in order to expand on the Tenderer's obligations and the Employer's undertakings in administering the tender process in respect of the project under consideration.

The Tender Data contained hereafter in Section 2 shall have precedence in the interpretation of any ambiguity or inconsistency between it and the Standard Conditions of Tender.

Each item of Tender Data given below is cross-referenced to the relevant clause in the standard Conditions of Tender.

#### **1.4.2 TENDER DATA APPLICABLE TO THIS TENDER**

**F.1.1** The Employer for this Contract is: **MPUMALANGA DEPARTMENT OF PUBLIC WORKS, ROADS AND TRANSPORT**

**F.1.2 Tender Documents**

(a) **The Tender Document** consists of the following:

**TENDER**

**T1: Tendering Procedures**

T1.1: Tender Notice and Invitation to Tender  
T1.2: Tender Submission, Terms and Conditions  
T1.3: Returnable Documents  
T1.4: Tender Specifications

**T2: Returnable Documents**

T2.1: List of Returnable Documents  
T2.2: Returnable schedules and forms

**CONTRACT**

**Part 1: Agreements and Contract Data**

C1.1: Form of Offer and Acceptance  
C1.2: Contract Data

**Part 2: Pricing Data**

C2.1: Pricing Instructions  
C2.2: Bill of Quantities

**Part 3: Scope of Work**

C3: Scope of Work

**Part 4: Site Information**

C4: Site information

The Tender Document shall be obtained from the Employer or his authorized representative at the physical addresses stated in the Tender Notice, upon payment of the deposit stated in the Tender Notice.

**F.1.4 The Employer's agent is:**

The duties of the employer's agent may be fulfilled by designated officials from the Department or his appointed representative (Road Maintenance Consultants).

**F.1.5 The Employer's right to accept or reject any tender offer**

The Employer is not obliged to accept the lowest or any tender offer.

**F.2.1 Eligibility criteria**

A Tenderer will not be eligible to submit a tender if:

- a) the Tenderer submitting the tender is under restrictions or has principals who are under restriction to participate in the Employer's procurement system due to corrupt or fraudulent practices;
- b) the Tenderer does not have the legal capacity to enter into the contract;
- c) the Tenderer submitting the tender is insolvent, in receivership, bankrupt or being wound up, has his affairs administered by a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings in respect of the foregoing;
- d) the Tenderer does not comply with the legal requirements stated in the Employer's procurement policy;
- e) the Tenderer who cannot demonstrate that he possesses the necessary technical qualifications and competencies, financial resources, equipment and other physical facilities, managerial capability, personnel, experience and reputation to perform the contract;
- f) the Tenderer who cannot provide proof that he is in good standing with respect to duties, taxes, levies and contributions required in terms of legislation applicable to the work in the contract;
- g) Contractor can only be appointed for one region/district. The employer reserves the right to appoint the contractor in any region/district in the province after consideration of the tenderer's business location or domicilium citandi et executandi, etc.

**F.2.7 Site visit and clarification meeting**

The arrangements for the compulsory site inspection visit and clarification meeting is as per the tender bulletin

**F.2.12 Alternative tenders**

No alternative tender offers will be allowed.

**F.2.13 Submitting a Tender Offer**

**F.2.13.5** Tender offers shall be submitted as an original only.

Under no circumstances whatsoever may the tender forms be retyped or redrafted.

Photocopies of the original tender documentation may be used, but an original signature must appear on such photocopies.

**F.2.13.6** A two-envelope procedure will not be followed.

**F.2.15 Closing Time**

The closing time for submission of Tender Offers is as per the Tender Bulletin.

Telephonic, telegraphic, facsimile, telex, electronic or e-mailed tenders will **not** be accepted.

**F.2.16 Tender Validity**

All tenders shall remain valid for a period of ninety (90) days after the time and date set for the opening of tenders, or until the Tenderer is relieved of this obligation by the Employer, in writing, at an earlier date. However, the Tenderer may be requested in writing, not later than fourteen (14) days before this validity period will lapse, to extend the validity of this tender for a specific period. The written approval of the Tenderer must then be received before the lapsing of the original validity period, in order to remain valid.

Should a Tenderer –

- Withdraw his tender during the period of its validity; or
- give notice of his inability to execute the contract or fail to execute the contract; or
- fail to sign the contract agreement or furnish the required security within the period fixed in the Contract Data or any extended time agreed to by the Employer;

then he shall be liable for and pay to the Employer –

- all expenses incurred in calling for fresh tenders, if it should be necessary;
- the difference between his tender and any less favourable tender accepted either by fresh tenders being called or by another tender being accepted from those already received;
- any escalation of the final contract price resulting from any delay caused in calling for fresh tenders;

Provided always that the Employer may exempt a Tenderer from the provisions hereof, if it is of the opinion that the circumstances justify such exemption.

**F.2.19 Access**

Access shall be provided for inspections and testing by personnel acting on behalf of the Employer.

**F.2.22 Return of Tender Documents**

Not applicable.

**F.2.23 Certificates**

The following certificates must be provided with the tender (Compulsory):

- Joint Venture Agreement and Power of Attorney in case of Joint Ventures;
- Workman's Compensation Registration Certificate (or proof of payment of contributions in terms of the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993);
- Company / CC / Trust / Partnership registration certificates; and
- Certified Copies of Identity Document of company owner/directors.

**F.3.5** The two envelope system will not apply to this tender.

**F.3.11 Evaluation of Tender Offers**

The Mpumalanga Department of Public Works, Roads & Transport has adopted a policy in the legislation applicable to procurement of tenders and management of Construction Contracts. To achieve the Government's community empowerment policies, an environment conducive to emerging and SMME's Contractors has to be created. Therefor the procurement policy adopted by Mpumalanga Department of Public Works, Roads and Transport will be implemented in this contract to give effect to Section 217(2) of the Constitution and as published in Government Gazette no 16085, dated 23 November 1994.

**F.3.11.2** Tenders will be evaluated in a single stage in accordance with the standard tender evaluation Method 2: Financial Offer and preference:

**STAGE 1: TEST FOR RESPONSIVENESS/ELIGIBILITY**

In order for a tender to be considered responsive, it must comply with **ALL** of the following criteria:

- a) The tender documentation must be completed and signed in all respects;
- b) The tender documentation must include all necessary, compulsory and applicable documentation as listed above; and
- c) The tender must comply fully with the eligibility criteria in the tender document
- d) As mandated by DTI and the South African Bureau of Standards (SABS) only locally, produced goods or locally manufactured goods meeting the minimum stipulated threshold for local production and content will be considered. (**See designated industries, sectors and sub-sectors found under [www.thedtic.gov.za](http://www.thedtic.gov.za).**)

### **Evaluation Methodology:**

The Bid Evaluation Committee (BEC) on the following basis shall conduct the evaluation:

**Table 1:** Total Evaluation points available for functionality/ Quality

<b>Functionality</b>	<b>100</b>
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Points for Price and Specific Goals

**Table 2:** Points for Price Specific Goals

<b>Price</b>	<b>80</b>
<b>Specific Goals</b>	<b>20</b>

### **Functionality**

The BEC members shall individually evaluate the responses received and /or presentations made against the following criteria. The applicable points to be applied to functionality evaluation as follows:

- A maximum equal to **100 evaluation points will be awarded for functionality**, for evaluation purposes.
- Each BEC member shall award points for each individual criterion on the score sheet. The assessment of functionality shall be done in terms of the below-mentioned evaluation criteria and minimum threshold of **60** points. All bidders who scored the minimum threshold of **60** points or above shall be evaluated further for Price and Specific Goals. Bids/proposals that score less than the minimum threshold of **60** points for functionality shall not be evaluated further.
- The functionality will be scored using the following values:

The responsiveness of a tender will be assessed by scoring the bid according to the criteria detailed in the table below.

It is incumbent on the Tenderer to ensure that the returnable documents are completed in sufficient detail to enable the score to be properly assessed.

The functionality criteria minimum and maximum points in respect of each criteria shall be as follows:

ITEM No.	DESCRIPTION	SCALE	ALLOCATION POINTS
1	Company Experience Previous relevant and current experience	Value of Purchase Orders – Appointment letter R100 000 – R150 000 = 10 R151 000 – R300 000 = 20 R301 000 and above = 40	40 Points
2	Delivery turnaround time  1 – 7 days 8 – 14 days 15 – 30 days  Attach delivery note linked to the submitted purchase order/appointment	60 40 20	60 Points

**NB:** Bidders who score less than **60 points** will **not** be considered for further evaluation.

## PRICE

Only qualifying bids shall be evaluated further in terms of the 80/20 preference points system, 80 points will be only for the price. A maximum of 80 points is allocated for price on the following basis:

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

Where

Ps = Points scored for comparative price of bid under consideration

Pt = Comparative price of bid under consideration

Pmin = Comparative price of lowest acceptable bid

## SPECIFIC GOALS

A maximum of **20** points shall be awarded to a bidder(s) in respect of Specific Goals as contemplated in the Preferential Procurement Policy Framework Act 2000 (PPPFA) Preferential Regulations 2022, Regulations were gazetted on 4 November 2022 (No. 47552) Vol 689 and effective from 16 January 2023. This bid will be evaluated as per the above mentioned regulations. Bidders are required to submit evidence by which Preference points can be claimed based on the Specific goals determined by the Department. In case of a Joint Venture, the average score of the joint companies will be considered for determining preference point score.

The total points allocated for Specific Goals is 20 as shown in the table below:

<b>Price</b>	<b>80</b>
<b>HDI</b>	<b>10</b>
<b>Women</b>	<b>5</b>
<b>Youth</b>	<b>3</b>
<b>People with Disability</b>	<b>2</b>
<b>TOTAL</b>	<b>20 Points</b>

## **STAGE 2: FINANCIAL OFFER AND PREFERENCES**

All tenders that meet the stage 1 criteria for responsiveness will progress through to the evaluation phase as set out in Returnable **SBD 6.1**

### **F.3.11.4 Points scored for price (Contract Value less than R 50 000 000)**

The 80/20 preference point system will be used to allocate points for tenders in this category.

It is estimated that tenders on this contract will be evaluated on the 80/20 preference point system.

**It is to be noted that this procurement strategy takes preference**

**Annex F**  
(normative)

**Standard Conditions of Tender**

As published in Annexure F of the CIDB standard for uniformity for construction Procurement, Board Notice 136, Government Gazette No 38960 of 10 July 2015:

**F.1 General**

**F.1.1 Actions**

**F.1.1.1** The employer and each tenderer submitting a tender offer shall comply with these conditions of tender. In their dealings with each other, they shall discharge their duties and obligations as set out in F.2 and F.3, timeously and with integrity, and behave equitably, honestly and transparently, comply with all legal obligations and not engage in anticompetitive practices.

**F.1.1.2** The employer and the tenderer and all their agents and employees involved in the tender process shall avoid conflicts of interest and where a conflict of interest is perceived or known, declare any such conflict of interest, indicating the nature of such conflict. Tenderers shall declare any potential conflict of interest in their tender submissions. Employees, agents and advisors of the employer shall declare any conflict of interest to whoever is responsible for overseeing the procurement process at the start of any deliberations relating to the procurement process or as soon as they become aware of such conflict, and abstain from any decisions where such conflict exists or recuse themselves from the procurement process, as appropriate.

Note:

- 1) A conflict of interest may arise due to a conflict of roles which might provide an incentive for improper acts in some circumstances. A conflict of interest can create an appearance of impropriety that can undermine confidence in the ability of that person to act properly in his or her position even if no improper acts result.
- 2) Conflicts of interest in respect of those engaged in the procurement process include direct, indirect or family interests in the tender or outcome of the procurement process and any personal bias, inclination, obligation, allegiance or loyalty which would in any way affect any decisions taken.

**F.1.1.3** The employer shall not seek and a tenderer shall not submit a tender without having a firm intention and the capacity to proceed with the contract.

**F.1.2 Tender Documents**

The documents issued by the employer for the purpose of a tender offer are listed in the tender data.

**F.1.3 Interpretation**

**F.1.3.1** The tender data and additional requirements contained in the tender schedules that are included in the returnable documents are deemed to be part of these conditions of tender.

**F.1.3.2** These conditions of tender, the tender data and tender schedules which are only required for tender evaluation purposes, shall not form part of any contract arising from the invitation to tender.

**F.1.3.3** For the purposes of these conditions for the calling for expressions of interest, the following definitions apply:

- a) **conflict of interest** means any situation in which:
  - i) someone in a position of trust has competing professional or personal interests which make it difficult to fulfil his or her duties impartially;
  - ii) an individual or organisation is in a position to exploit a professional or official capacity in some way for their personal or corporate benefit; or

- iii) incompatibility or contradictory interests exist between an employee and the organisation which employs that employee.
- b) **comparative offer** means the tenderer's financial offer after all tendered parameters that will affect the value of the financial offer have been taken into consideration in order to enable comparisons to be made between offers on a comparative basis;
- c) **corrupt practice** means the offering, giving, receiving or soliciting of anything of value to influence the action of the employer or his staff or agents in the tender process; and
- d) **fraudulent practice** means the misrepresentation of the facts in order to influence the tender process or the award of a contract arising from a tender offer to the detriment of the employer, including collusive practices intended to establish prices at artificial levels
- e) **organization** means a company, firm, enterprise, association or other legal entity, whether incorporated or not, or a public body
- f) **functionality** means the measurement according to the predetermined norms of a service or commodity designed to be practical and useful, working or operating, taking into account quality, reliability, viability and durability of a service and technical capacity and ability of a tenderer

#### **F.1.4 Communication and employer's agent**

Each communication between the employer and a tenderer shall be to or from the employer's agent only, and in a form that can be readily read, copied and recorded. Communications shall be in the English language. The employer shall not take any responsibility for non-receipt of communications from or by a tenderer. The name and contact details of the employer's agent are stated in the tender data.

#### **F.1.5 Cancellation and Re-Invitation of Tenders**

F1.5.1 An organ of state may, prior to the award of the tender, cancel a tender if-

- a) due to changed circumstances, there is no longer a need for the services, works or goods requested; or
- (b) funds are no longer available to cover the total envisaged expenditure; or
- (c) no acceptable tenders are received.

F1.5.2 The decision to cancel a tender must be published in the cidb website and in the government Tender Bulletin for the media in which the original tender invitation was advertised.

#### **F.1.6 Procurement procedures**

##### **F.1.6.1 General**

Unless otherwise stated in the tender data, a contract will, subject to F.3.13, be concluded with the tenderer who in terms of F.3.11 is the highest ranked or the tenderer scoring the highest number of tender evaluation points, as relevant, based on the tender submissions that are received at the closing time for tenders.

##### **F.1.6.2 Competitive negotiation procedure**

**F.1.6.2.1** Where the tender data require that the competitive negotiation procedure is to be followed, tenderers shall submit tender offers in response to the proposed contract in the first round of submissions. Notwithstanding the requirements of F.3.4, the employer shall announce only the names of the tenderers who make a submission. The requirements of F.3.8 relating to the material deviations or qualifications which affect the competitive position of tenderers shall not apply.

**F.1.6.2.2** All responsive tenderers, or not less than three responsive tenderers that are highest ranked in terms of the evaluation method and evaluation criteria stated in the tender data, shall

be invited in each round to enter into competitive negotiations, based on the principle of equal treatment and keeping confidential the proposed solutions and associated information. Notwithstanding the provisions of F.2.17, the employer may request that tenders be clarified, specified and fine-tuned in order to improve a tenderer's competitive position provided that such clarification, specification, fine-tuning or additional information does not alter any fundamental aspects of the offers or impose substantial new requirements which restrict or distort competition or have a discriminatory effect.

**F.1.6.2.3** At the conclusion of each round of negotiations, tenderers shall be invited by the employer to make a fresh tender offer, based on the same evaluation criteria, with or without adjusted weightings. Tenderers shall be advised when they are to submit their best and final offer.

**F.1.6.2.4** The contract shall be awarded in accordance with the provisions of F.3.11 and F.3.13 after tenderers have been requested to submit their best and final offer.

**F.1.6.3** Proposal procedure using the two stage-system

**F.1.6.3.1 Option 1**

Tenderers shall in the first stage submit technical proposals and, if required, cost parameters around which a contract may be negotiated. The employer shall evaluate each responsive submission in terms of the method of evaluation stated in the tender data, and in the second stage negotiate a contract with the tenderer scoring the highest number of evaluation points and award the contract in terms of these conditions of tender.

**F.1.6.3.2 Option 2**

**F.1.6.3.2.1** Tenderers shall submit in the first stage only technical proposals. The employer shall invite all responsive tenderers to submit tender offers in the second stage, following the issuing of procurement documents.

**F.1.6.3.2.2** The employer shall evaluate tenders received during the second stage in terms of the method of evaluation stated in the tender data, and award the contract in terms of these conditions of tender.

**F.2 Tenderer's obligations**

**F.2.1 Eligibility**

**F.2.1.1** Submit a tender offer only if the tenderer satisfies the criteria stated in the tender data and the tenderer, or any of his principals, is not under any restriction to do business with employer.

**F.2.1.2** Notify the employer of any proposed material change in the capabilities or formation of the tendering entity (or both) or any other criteria which formed part of the qualifying requirements used by the employer as the basis in a prior process to invite the tenderer to submit a tender offer and obtain the employer's written approval to do so prior to the closing time for tenders.

**F.2.2 Cost of tendering**

**F2.2.1** Accept that, unless otherwise stated in the tender data, the employer will not compensate the tenderer for any costs incurred in the preparation and submission of a tender offer, including the costs of any testing necessary to demonstrate that aspects of the offer complies with requirements.

**F2.2.2** The cost of the tender documents charged by the employer shall be limited to the actual cost incurred by the employer for printing the documents. Employers must attempt to make available the tender documents on its website so as not to incur any costs pertaining to the

printing of the tender documents.

#### **F.2.3 Check documents**

Check the tender documents on receipt for completeness and notify the employer of any discrepancy or omission.

#### **F.2.4 Confidentiality and copyright of documents**

Treat as confidential all matters arising in connection with the tender. Use and copy the documents issued by the employer only for the purpose of preparing and submitting a tender offer in response to the invitation.

#### **F.2.5 Reference documents**

Obtain, as necessary for submitting a tender offer, copies of the latest versions of standards, specifications, conditions of contract and other publications, which are not attached but which are incorporated into the tender documents by reference.

#### **F.2.6 Acknowledge addenda**

Acknowledge receipt of addenda to the tender documents, which the employer may issue, and if necessary apply for an extension to the closing time stated in the tender data, in order to take the addenda into account.

#### **F.2.7 Clarification meeting**

Attend, where required, a clarification meeting at which tenderers may familiarize themselves with aspects of the proposed work, services or supply and raise questions. Details of the meeting(s) are stated in the tender data.

#### **F.2.8 Seek clarification**

Request clarification of the tender documents, if necessary, by notifying the employer at least five working days before the closing time stated in the tender data.

#### **F.2.9 Insurance**

Be aware that the extent of insurance to be provided by the employer (if any) might not be for the full cover required in terms of the conditions of contract identified in the contract data. The tenderer is advised to seek qualified advice regarding insurance.

#### **F.2.10 Pricing the tender offer**

**F.2.10.1** Include in the rates, prices, and the tendered total of the prices (if any) all duties, taxes (Except Value Added Tax (VAT), and other levies payable by the successful tenderer, such duties, taxes and levies being those applicable 14 days before the closing time stated in the tender data.

**F.2.10.2** Show VAT payable by the employer separately as an addition to the tendered total of the prices.

**F.2.10.3** Provide rates and prices that are fixed for the duration of the contract and not subject to adjustment except as provided for in the conditions of contract identified in the contract data.

**F.2.10.4** State the rates and prices in Rand unless instructed otherwise in the tender data. The conditions of contract identified in the contract data may provide for part payment in other currencies.

#### **F.2.11 Alterations to documents**

Do not make any alterations or additions to the tender documents, except to comply with instructions issued by the employer, or necessary to correct errors made by the tenderer. All signatories to the tender offer shall initial all such alterations.

#### **F.2.12 Alternative tender offers**

**F.2.12.1** Unless otherwise stated in the tender data, submit alternative tender offers only if a main tender offer, strictly in accordance with all the requirements of the tender documents, is also submitted as well as a schedule that compares the requirements of the tender documents with the alternative requirements that are proposed.

**F.2.12.2** Accept that an alternative tender offer may be based only on the criteria stated in the tender data or criteria otherwise acceptable to the employer.

**F.2.12.3** An alternative tender offer may only be considered in the event that the main tender offer is the winning tender.

#### **F.2.13 Submitting a tender offer**

**F.2.13.1** Submit one tender offer only, either as a single tendering entity or as a member in a joint venture to provide the whole of the works, services or supply identified in the contract data and described in the scope of works, unless stated otherwise in the tender data.

**F.2.13.2** Return all returnable documents to the employer after completing them in their entirety, either electronically (if they were issued in electronic format) or by writing legibly in non-erasable ink.

**F.2.13.3** Submit the parts of the tender offer communicated on paper as an original plus the number of copies stated in the tender data, with an English translation of any documentation in a language other than English, and the parts communicated electronically in the same format as they were issued by the employer.

**F.2.13.4** Sign the original and all copies of the tender offer where required in terms of the tender data. The employer will hold all authorized signatories liable on behalf of the tenderer. Signatories for tenderers proposing to contract as joint ventures shall state which of the signatories is the lead partner whom the employer shall hold liable for the purpose of the tender offer.

**F.2.13.5** Seal the original and each copy of the tender offer as separate packages marking the packages as "ORIGINAL" and "COPY". Each package shall state on the outside the employer's address and identification details stated in the tender data, as well as the tenderer's name and contact address.

**F.2.13.6** Where a two-envelope system is required in terms of the tender data, place and seal the returnable documents listed in the tender data in an envelope marked "financial proposal" and place the remaining returnable documents in an envelope marked "technical proposal". Each envelope shall state on the outside the employer's address and identification details stated in the tender data, as well as the tenderer's name and contact address.

**F.2.13.7** Seal the original tender offer and copy packages together in an outer package that states on the outside only the employer's address and identification details as stated in the tender data.

**F.2.13.8** Accept that the employer will not assume any responsibility for the misplacement or premature opening of the tender offer if the outer package is not sealed and marked as stated.

**F.2.13.9** Accept that tender offers submitted by facsimile or e-mail will be rejected by the employer, unless stated otherwise in the tender data.

**F.2.14 Information and data to be completed in all respects**

Accept that tender offers, which do not provide all the data or information requested completely and in the form required, may be regarded by the employer as non-responsive.

**F.2.15 Closing time**

**F.2.15.1** Ensure that the employer receives the tender offer at the address specified in the tender data not later than the closing time stated in the tender data. Accept that proof of posting shall not be accepted as proof of delivery.

**F.2.15.2** Accept that, if the employer extends the closing time stated in the tender data for any reason, the requirements of these conditions of tender apply equally to the extended deadline.

**F.2.16 Tender offer validity**

**F.2.16.1** Hold the tender offer(s) valid for acceptance by the employer at any time during the validity period stated in the tender data after the closing time stated in the tender data.

**F.2.16.2** If requested by the employer, consider extending the validity period stated in the tender data for an agreed additional period with or without any conditions attached to such extension.

**F.2.16.3** Accept that a tender submission that has been submitted to the employer may only be withdrawn or substituted by giving the employer's agent written notice before the closing time for tenders that a tender is to be withdrawn or substituted.

**F.2.16.4** Where a tender submission is to be substituted, submit a substitute tender in accordance with the requirements of F.2.13 with the packages clearly marked as "SUBSTITUTE".

**F.2.17 Clarification of tender offer after submission**

Provide clarification of a tender offer in response to a request to do so from the employer during the evaluation of tender offers. This may include providing a breakdown of rates or prices and correction of arithmetical errors by the adjustment of certain rates or item prices (or both). No change in the competitive position of tenderers or substance of the tender offer is sought, offered, or permitted.

Note: Sub-clause F.2.17 does not preclude the negotiation of the final terms of the contract with a preferred tenderer following a competitive selection process, should the Employer elect to do so.

**F.2.18 Provide other material**

**F.2.18.1** Provide, on request by the employer, any other material that has a bearing on the tender offer, the tenderer's commercial position (including notarized joint venture agreements), preferencing arrangements, or samples of materials, considered necessary by the employer for the purpose of a full and fair risk assessment. Should the tenderer not provide the material, or a satisfactory reason as to why it cannot be provided, by the time for submission stated in the employer's request, the employer may regard the tender offer as non-responsive.

**F.2.18.2** Dispose of samples of materials provided for evaluation by the employer, where required.

**F.2.19 Inspections, tests, and analysis**

Provide access during working hours to premises for inspections, tests and analysis as provided for in the tender data.

**F.2.20 Submit securities, bonds, and policies**

If requested, submit for the employer's acceptance before formation of the contract, all securities, bonds, guarantees, policies, and certificates of insurance required in terms of the conditions of contract identified in the contract data.

**F.2.21 Check final draft**

Check the final draft of the contract provided by the employer within the time available for the employer to issue the contract.

**F.2.22 Return of other tender documents**

If so, instructed by the employer, return all retained tender documents within 28 days after the expiry of the validity period stated in the tender data.

**F.2.23 Certificates**

Include in the tender submission or provide the employer with any certificates as stated in the tender data.

**F.3 The employer's undertakings**

**F.3.1 Respond to requests from the tenderer**

**F.3.1.1** Unless otherwise stated in the tender Data, respond to a request for clarification received up to five working days before the tender closing time stated in the Tender Data and notify all tenderers who drew procurement documents.

**F.3.1.2** Consider any request to make a material change in the capabilities or formation of the tendering entity (or both) or any other criteria which formed part of the qualifying requirements used to prequalify a tenderer to submit a tender offer in terms of a previous procurement process and deny any such request if as a consequence:

- a) an individual firm, or a joint venture as a whole, or any individual member of the joint venture fails to meet any of the collective or individual qualifying requirements.
- b) the new partners to a joint venture were not prequalified in the first instance, either as individual firms or as another joint venture; or
- c) in the opinion of the Employer, acceptance of the material change would compromise the outcome of the prequalification process.

**F.3.2 Issue Addenda**

If necessary, issue addenda that may amend or amplify the tender documents to each tenderer during the period from the date that tender documents are available until three days before the tender closing time stated in the Tender Data. If, as a result a tenderer applies for an extension to the closing time stated in the Tender Data, the Employer may grant such extension and, shall then notify all tenderers who drew documents.

**F.3.3 Return late tender offers**

Return tender offers received after the closing time stated in the Tender Data, unopened, (Unless it is necessary to open a tender submission to obtain a forwarding address), to the tenderer concerned.

**F.3.4 Opening of tender submissions**

**F.3.4.1** Unless the two-envelope system is to be followed, open valid tender submissions in the presence of tenderers' agents who choose to attend at the time and place stated in the tender

data. Tender submissions for which acceptable reasons for withdrawal have been submitted will not be opened.

**F.3.4.2** Announce at the meeting held immediately after the opening of tender submissions, at a venue indicated in the tender data, the name of each tenderer whose tender offer is opened and, where applicable, the total of his prices, number of points claimed for its BBBEE status level and time for completion for the main tender offer only.

**F.3.4.3** Make available the record outlined in F.3.4.2 to all interested persons upon request.

### **F.3.5 Two-envelope system**

**F.3.5.1** Where stated in the tender data that a two-envelope system is to be followed, open only the technical proposal of valid tenders in the presence of tenderers' agents who choose to attend at the time and place stated in the tender data and announce the name of each tenderer whose technical proposal is opened.

**F.3.5.2** Evaluate functionality of the technical proposals offered by tenderers, then advise tenderers who remain in contention for the award of the contract of the time and place when the financial proposals will be opened. Open only the financial proposals of tenderers, who score in the functionality evaluation more than the minimum number of points for functionality stated in the tender data, and announce the score obtained for the technical proposals and the total price and any points claimed on BBBEE status level. Return unopened financial proposals to tenderers whose technical proposals failed to achieve the minimum number of points for functionality.

### **F.3.6 non-disclosure**

Not disclose to tenderers, or to any other person not officially concerned with such processes, information relating to the evaluation and comparison of tender offers, the final evaluation price and recommendations for the award of a contract, until after the award of the contract to the successful tenderer.

### **F.3.7 Grounds for rejection and disqualification**

Determine whether there has been any effort by a tenderer to influence the processing of tender offers and instantly disqualify a tenderer (and his tender offer) if it is established that he engaged in corrupt or fraudulent practices.

### **F.3.8 Test for responsiveness**

**F.3.8.1** Determine, after opening and before detailed evaluation, whether each tender offer properly received:

- a) complies with the requirements of these Conditions of Tender,
- b) has been properly and fully completed and signed, and
- c) is responsive to the other requirements of the tender documents.

**F.3.8.2** A responsive tender is one that conforms to all the terms, conditions, and specifications of the tender documents without material deviation or qualification. A material deviation or qualification is one which, in the Employer's opinion, would:

- a) detrimentally affect the scope, quality, or performance of the works, services or supply identified in the Scope of Work,
- b) significantly change the Employer's or the tenderer's risks and responsibilities under the contract, or
- c) affect the competitive position of other tenderers presenting responsive tenders if it were to be rectified.

Reject a non-responsive tender offer, and not allow it to be subsequently made responsive by correction or withdrawal of the non-conforming deviation or reservation.

### **F.3.9 Arithmetical errors, omissions, and discrepancies**

F.3.9.1 Check the highest ranked tender or tenderer with the highest number of tender evaluation points after the evaluation of tender offers in accordance with F.3.11 for:

- a) the gross misplacement of the decimal point in any unit rate;
- b) omissions made in completing the pricing schedule or bills of quantities; or
- c) arithmetic errors in:
  - i) line item totals resulting from the product of a unit rate and a quantity in bills of quantities or schedules of prices; or
  - ii) the summation of the prices.

F3.9.2 The employer must correct the arithmetical errors in the following manner:

- a) Where there is a discrepancy between the amounts in words and amounts in figures, the amount in words shall govern.
- b) If bills of quantities or pricing schedules apply and there is an error in the line item total resulting from the product of the unit rate and the quantity, the line item total shall govern and the rate shall be corrected. Where there is an obviously gross misplacement of the decimal point in the unit rate, the line item total as quoted shall govern, and the unit rate shall be corrected.
- c) Where there is an error in the total of the prices either as a result of other corrections required by this checking process or in the tenderer's addition of prices, the total of the prices shall govern and the tenderer will be asked to revise selected item prices (and their rates if bills of quantities apply) to achieve the tendered total of the prices.

Consider the rejection of a tender offer if the tenderer does not correct or accept the correction of the arithmetical error in the manner described above.

### **F.3.10 Clarification of a tender offer**

Obtain clarification from a tenderer on any matter that could give rise to ambiguity in a contract arising from the tender offer.

### **F.3.11 Evaluation of tender offers**

#### **F.3.11.1 General**

Appoint an evaluation panel of not less than three persons. Reduce each responsive tender offer to a comparative offer and evaluate them using the tender evaluation methods and associated evaluation criteria and weightings that are specified in the tender data.

#### **F.3.11.2 Method 1: Price and Preference**

A maximum of **20** points shall be awarded to a bidder(s) in respect of Specific goals as contemplated in the Preferential Procurement Policy Framework Act 2000 (PPPFA) Preferential Regulations 2022, Regulations were gazetted on 4 November 2022 (No. 47552) Vol 689 and effective from 16 January 2023. This bid will be evaluated as per the above mentioned regulations. Bidders are required to submit evidence by which Preference points can be claimed based on the Specific goals determined by the Department. In case of a Joint Venture, the average score of the joint companies will be considered for determining preference point score.

<b>Specific goals</b>	<b>Maximum Preference Points Allocated</b>
HDI	10
Women	5
Youth	3
People with Disability	2
<b>TOTAL</b>	<b>20 Points</b>

**F.3.11.3 Method 2: Functionality, Price and Preference**

In the case of a functionality, price and preference:

- 1) Score functionality, rejecting all tender offers that fail to achieve the minimum number of points for functionality as stated in the Tender Data.
- 2) No tender must be regarded as an acceptable tender if it fails to achieve the minimum qualifying score for functionality as indicated in the tender invitation.
- 3) Tenders that have achieved the minimum qualification score for functionality must be evaluated further in terms of the preference points system prescribed in paragraphs 4 and 4 and 5 below.

The 80/20 preference point system for acquisition of services, works or goods up to Rand value of R1 million

4) (a)(i) The following formula must be used to calculate the points for price in respect of Tenders (including price quotation) with a rand value equal to, or above R 30 000 and up to Rand value of R 1 000 000 (all applicable taxes included): **80/20**

$$Ps = 90 \left(1 - \frac{Pt - Pmin}{Pmin}\right)$$

Where:

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

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

Pmin = Comparative price of lowest acceptable tender or offer.

(4)(a)(ii) An employer of state may apply the formula in paragraph (i) for price quotations with a value less than R30 000, if and when appropriate:

- (4)(b) Subject to paragraph (4)(c), points must be awarded to a tender for attaining the B-BBEE status level of contributor in accordance with the table below:
- (4)(c) A maximum of 20 points may be allocated in accordance with subparagraph (4)(b)
- (4)(d) The points scored by tender in respect of B-BBEE contribution contemplated in contemplated in subparagraph (4) (b) must be added to the points scored for price as calculated in accordance with subparagraph (4)(a).
- (4)(e) Subject to paragraph 4.3.8 the contract must be awarded to the tender who scores the highest total number of points.

**The 90/10 preference points system for acquisition of services, works or goods with a Rand value above R 1 million**

(5)(a) The following formula must be used to calculate the points for price in respect of tenders with a Rand value above R1 000 000 (all applicable taxes included)

**90/10**

$$Ps = 90 \left(1 - \frac{Pt - Pmin}{Pmin}\right)$$

Where:

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

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

Pmin = Comparative price of lowest acceptable tender or offer.

- (5)(b) Subject to subparagraph (5)(c), points must be awarded to a tender for attaining the B-BBEE status level of contributor in accordance with the table below:
- (4)(b) Subject to subparagraph(4)(c), points must be awarded to a tender for attaining the B-BBEE status level of contributor in accordance with the table below:
- (5)(c) A maximum of 10 points may be allocated in accordance with subparagraph (5)(b).
- (5)(d) The points scored by tender in respect of B-BBEE contribution contemplated in contemplated in subparagraph (4) (b) must be added to the points scored for price as

calculated in accordance with subparagraph (5)(a).

(5)(e) Subject to paragraph 4.3.8 the contract must be awarded to the tender who scores the highest total number of points.

#### **F.3.11.6 Decimal places**

Score price, preference, and functionality, as relevant, to two decimal places.

#### **F.3.11.7 Scoring price**

Score price of remaining responsive tender offers using the following formula:

$$N_{FO} = W_1 \times A$$

where:  $N_{FO}$  is the number of tender evaluation points awarded for price.

$W_1$  is the maximum possible number of tender evaluation points awarded for price as stated in the Tender Data.

**Table F.1: Formulae for calculating the value of A**

Formula	Comparison aimed at achieving	Option 1a	Option 2 a
1	1 Highest price or discount	$A = (1 + \frac{(P - P_m)}{P_m})$	$A = \frac{P}{P_m}$
2	Lowest price or percentage commission / fee	$A = (1 - \frac{(P - P_m)}{P_m})$	$A = \frac{P_m}{P}$

<sup>a</sup>  $P_m$  is the comparative offer of the most favourable comparative offer.  
 $P$  is the comparative offer of the tender offer under consideration.

#### **F.3.11.8 Scoring preferences**

Confirm that tenderers are eligible for the preferences claimed in accordance with the provisions of the tender data and reject all claims for preferences where tenderers are not eligible for such preferences. Calculate the total number of tender evaluation points for preferences claimed in accordance with the provisions of the tender data.

#### **F.3.11.9 Scoring functionality**

Score each of the criteria and subcriteria for quality in accordance with the provisions of the Tender Data.

**Calculate the total number of tender evaluation points for quality using the following formula:**

$$N_Q = W_2 \times S_0 / M_S$$

where:  $S_0$  is the score for quality allocated to the submission under consideration;

$M_S$  is the maximum possible score for quality in respect of a submission; and

$W_2$  is the maximum possible number of tender evaluation points awarded for the quality as stated in the tender data

#### **F.3.12 Insurance provided by the employer**

If requested by the proposed successful tenderer, submit for the tenderer's information the policies and / or certificates of insurance which the conditions of contract identified in the

**F.3.11.3 Method 2: Functionality, Price and Preference**

In the case of a functionality, price and preference:

- 1) Score functionality, rejecting all tender offers that fail to achieve the minimum number of points for functionality as stated in the Tender Data.
- 2) No tender must be regarded as an acceptable tender if it fails to achieve the minimum qualifying score for functionality as indicated in the tender invitation.
- 3) Tenders that have achieved the minimum qualification score for functionality must be evaluated further in terms of the preference points system prescribed in paragraphs 4 and 4 and 5 below.

The 80/20 preference point system for acquisition of services, works or goods up to Rand value of R1 million

4) (a)(i) The following formula must be used to calculate the points for price in respect of Tenders (including price quotation) with a rand value equal to, or above R 30 000 and up to Rand value of R 1 000 000 (all applicable taxes included): **80/20**

$$Ps = 90 \left(1 - \frac{Pt - Pmin}{Pmin}\right)$$

Where:

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

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

Pmin = Comparative price of lowest acceptable tender or offer.

(4)(a)(ii) An employer of state may apply the formula in paragraph (i) for price quotations with a value less than R30 000, if and when appropriate:

(4)(b) Subject to paragraph 4.3.8 the contract must be awarded to the tender who scores the highest total number of points.

**The 90/10 preference points system for acquisition of services, works or goods with a Rand value above R 1 million**

(5)(a) The following formula must be used to calculate the points for price in respect of tenders with a Rand value above R1 000 000 (all applicable taxes included)

**90/10**

$$Ps = 90 \left(1 - \frac{Pt - Pmin}{Pmin}\right)$$

Where:

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

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

Pmin = Comparative price of lowest acceptable tender or offer.

(5)(b) Subject to paragraph 4.3.8 the contract must be awarded to the tender who scores the highest total number of points.

#### **F.3.11.6 Decimal places**

Score price, preference, and functionality, as relevant, to two decimal places.

#### **F.3.11.7 Scoring price**

Score price of remaining responsive tender offers using the following formula:

$$N_{FO} = W_1 \times A$$

where:  $N_{FO}$  is the number of tender evaluation points awarded for price.  
 $W_1$  is the maximum possible number of tender evaluation points awarded for price as stated in the Tender Data.

**Table F.1: Formulae for calculating the value of A**

Formula	Comparison aimed at achieving	Option 1a	Option 2 a
1	1 Highest price or discount	$A = (1 + \frac{(P - P_m)}{P_m})$	$A = \frac{P}{P_m}$
2	Lowest price or percentage commission / fee	$A = (1 - \frac{(P - P_m)}{P_m})$	$A = \frac{P_m}{P}$
<sup>a</sup> $P_m$ is the comparative offer of the most favourable comparative offer. $P$ is the comparative offer of the tender offer under consideration.			

#### **F.3.11.8 Scoring preferences**

Confirm that tenderers are eligible for the preferences claimed in accordance with the provisions of the tender data and reject all claims for preferences where tenderers are not eligible for such preferences. Calculate the total number of tender evaluation points for preferences claimed in accordance with the provisions of the tender data.

#### **F.3.11.9 Scoring functionality**

Score each of the criteria and subcriteria for quality in accordance with the provisions of the Tender Data.

**Calculate the total number of tender evaluation points for quality using the following formula:**

$$N_Q = W_2 \times S_0 / M_s$$

where:  $S_0$  is the score for quality allocated to the submission under consideration;  
 $M_s$  is the maximum possible score for quality in respect of a submission; and  
 $W_2$  is the maximum possible number of tender evaluation points awarded for the quality as stated in the tender data

#### **F.3.12 Insurance provided by the employer**

If requested by the proposed successful tenderer, submit for the tenderer's information the policies and / or certificates of insurance which the conditions of contract identified in the

contract data, require the employer to provide.

#### **F.3.13 Acceptance of tender offer**

Accept the tender offer, if in the opinion of the employer, it does not present any risk and only if the tenderer:

- a) is not under restrictions, or has principals who are under restrictions, preventing participating in the employer's procurement,
- b) can, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment, and other physical facilities, managerial capability, reliability, experience and reputation, expertise, and the personnel, to perform the contract,
- c) has the legal capacity to enter into the contract,
- d) is not insolvent, in receivership, under Business Rescue as provided for in chapter 6 of the Companies Act, 2008, bankrupt or being wound up, has his affairs administered by a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings in respect of any of the foregoing,
- e) complies with the legal requirements, if any, stated in the tender data, and
- f) is able, in the opinion of the employer, to perform the contract free of conflicts of interest.

#### **F.3.14 Prepare contract documents**

**F.3.14.1** If necessary, revise documents that shall form part of the contract and that were issued by the employer as part of the tender documents to take account of:

- a) addenda issued during the tender period,
- b) inclusion of some of the returnable documents, and
- c) other revisions agreed between the employer and the successful tenderer.

**F.3.14.2** Complete the schedule of deviations attached to the form of offer and acceptance, if any.

#### **F.3.15 Complete adjudicator's contract**

Unless alternative arrangements have been agreed or otherwise provided for in the contract, arrange for both parties to complete formalities for appointing the selected adjudicator at the same time as the main contract is signed.

#### **F.3.16. Notice to unsuccessful tenderers**

**F.3.16.1** Notify the successful tenderer of the employer's acceptance of his tender offer by completing and returning one copy of the form of offer and acceptance before the expiry of the validity period stated in the tender data, or agreed additional period.

**F.3.16.2** After the successful tenderer has been notified of the employer's acceptance of the tender, notify other tenderers that their tender offers have not been accepted.

#### **F.3.17 Provide copies of the contracts**

Provide to the successful tenderer the number of copies stated in the Tender Data of the signed copy of the contract as soon as possible after completion and signing of the form of offer and acceptance.

#### **F.3.18 Provide written reasons for actions taken**

Provide upon request written reasons to tenderers for any action that is taken in applying these conditions of tender, but withhold information which is not in the public interest to be divulged, which is considered to prejudice the legitimate commercial interests of tenderers or might

prejudice fair competition between tenderers.

**F3.19 Transparency in the procurement process**

**F3.19.1** The cidb prescripts require that tenders must be advertised and be registered on the cidb I. Tender system.

**F3.19.2** The employer must adopt a transparency model that incorporates the disclosure and accountability as transparency requirements in the procurement process.

**F3.19.3** The transparency model must identify the criteria for selection of projects, project information template and the threshold value of the projects to be disclosed in the public domain at various intervals of delivery of infrastructure projects.

**F3.19.4** The client must publish the information on a quarterly basis which contains the following information:

- Procurement planning process
- Procurement method and evaluation process
- Contract type
- Contract status
- Number of firms tendering
- Cost estimate
- Contract title
- Contract firm(s)
- Contract price
- Contract scope of work
- Contract start date and duration
- Contract evaluation reports

**F3.19.5** The employer must establish a Consultative Forum which will conduct a random audit in the implementation of the transparency requirements in the procurement process.

**F3.19.6** Consultative Forum must be an independent structure from the bid committees.

**F3.19.7** The information must be published on the employer's website.

**F3.19.8** Records of such disclosed information must be retained for audit purposes

## **T2 Returnable Documents**

### **T2.1 List of Returnable Documents**

The Tenderer must complete the following returnable documents, and submit with the complete tender document.

#### **Compulsory Returnable Schedules/Documents**

- Compulsory Enterprise Questionnaire
- Certificate of Authority for Signatory.
- Record of Addenda to Tender Documents (where applicable).
- Fully completed Bill of Quantities (BoQ) / Pricing Schedule.
- Fully completed and signed Form of Offer
- Fully completed original tender document.
- If the bidder is a joint venture /consortium/partnership, an original or originally certified copy of such an agreement and a resolution by each party to such joint venture / consortium / partnership authorizing its participation in the bid.
- Fully completed Standard Bidding documents (SBD1, SBD4, SBD6.1, SBD6.2 and Annexure C).
- Copy of valid COIDA (Compensation for Occupational Injuries and Diseases) registration certificate, e.g. Letter of Good Standing issued by Department of Labour related to construction, FEM or any other legal recognized authority.
- Copy of contractor Registration for Incorporation or of Company Registration Document.
- Shareholders' Agreements/ Share Certificates/ Memorandum of Association for companies.
- Certified copies of Identity Documents of owners/ directors / partners / shareholders of the Business **not older than 3 months as at the closing date of the bid.**
- Proof of registration with National Treasury's Central Suppliers Database (CSD)

**NB Failure to comply with compulsory returnable documents stated above will result in a disqualification of the bid.**

#### **Returnable Schedules/Documents**

- Tendering firm's relevant experience

**A: COMPULSORY ENTERPRISE QUESTIONNAIRE:**

The following particulars must be furnished. In the case of a joint venture, **separate** enterprise questionnaires in respect of each partner must be completed and submitted.

**Section 1: Name of enterprise:** .....

**Section 2: VAT registration number, if any:** .....

**Section 3: CIDB registration number, if any:** .....

**Section 4: Particulars of sole proprietors and partners in partnerships**

Name*	Identity number*	Personal income tax number*

\* Complete only if sole proprietor or partnership and attach separate page if more than 3 partners

**Section 5: Particulars of companies and close corporations**

Company registration number .....

Close corporation number .....

Tax reference number .....

**Section 6: Record of service of the state**

Indicate by marking the relevant boxes with a cross, if any sole proprietor, partner in a partnership or director, manager, principal shareholder or stakeholder in a company or close corporation is currently or has been within the last 12 months in the service of any of the following:

<input type="checkbox"/> a member of any municipal council	<input type="checkbox"/> an employee of any provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999)
<input type="checkbox"/> a member of any provincial legislature	<input type="checkbox"/> a member of an accounting authority of any national or provincial public entity
<input type="checkbox"/> a member of the National Assembly or the National Council of Province	<input type="checkbox"/> an employee of Parliament or a provincial legislature
<input type="checkbox"/> a member of the board of directors of any municipal entity	<input type="checkbox"/> a member of an accounting authority of any national or provincial public entity
<input type="checkbox"/> an official of any municipality or municipal entity	<input type="checkbox"/> an employee of Parliament or a provincial legislature

**If any of the above boxes are marked, disclose the following:**

Name of sole proprietor, partner, director, manager, principal shareholder or stakeholder	Name of institution, public office, board or organ of state and position held	Status of service (tick appropriate column)	
		current	Within last 12 months

--	--	--	--

\*insert separate page if necessary

**Section 7: Record of spouses, children and parents in the service of the state**

Indicate by marking the relevant boxes with a cross, if any spouse, child or parent of a sole proprietor, partner in a partnership or director, manager, principal shareholder or stakeholder in a company or close corporation is currently or has been within the last 12 months been in the service of any of the following:

<input type="checkbox"/> a member of any municipal council	<input type="checkbox"/> an employee of any provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999)
<input type="checkbox"/> a member of any provincial legislature	<input type="checkbox"/> a member of an accounting authority of any national or provincial public entity
<input type="checkbox"/> a member of the National Assembly or the National Council of Province	<input type="checkbox"/> an employee of Parliament or a provincial legislature
<input type="checkbox"/> a member of the board of directors of any municipal entity	
<input type="checkbox"/> an official of any municipality or municipal entity	

<b>Name of spouse, child or parent</b>	<b>Name of institution, public office, board or organ of state and position held</b>	<b>Status of service (tick appropriate column)</b>	
		<b>current</b>	<b>Within last 12 months</b>

\*insert separate page if necessary

The undersigned, who warrants that he/she is duly authorised to do so on behalf of the enterprise:

- i) authorizes the Employer to obtain a tax clearance certificate from the South African Revenue Services that my / our tax matters are in order;
- ii) confirms that neither the name of the enterprise or the name of any partner, manager, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears on the Register of Tender Defaulters established in terms of the Prevention and Combating of Corrupt Activities Act of 2004;
- iii) confirms that no partner, member, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears, has within the last five years been convicted of fraud or corruption;
- iv) confirms that I / we are not associated, linked or involved with any other tendering entities submitting tender offers and have no other relationship with any of the tenderers or those responsible for compiling the scope of work that could cause or be interpreted as a conflict of interest;
- iv) confirms that the contents of this questionnaire are within my personal knowledge and are to the best of my belief both true and correct.

Signed \_\_\_\_\_ Date \_\_\_\_\_

Name \_\_\_\_\_

Identity number \_\_\_\_\_ Position \_\_\_\_\_

*Enterprise name* \_\_\_\_\_

**B: CERTIFICATE OF AUTHORITY FOR SIGNATURE OF AN ENTITY**

Indicate the status of the tenderer by ticking the appropriate box hereunder. The tenderer must complete the certificate set out below for the relevant category.

<b>(I) Company</b>	<b>(II) Close Corporation</b>	<b>(III) Partnership</b>	<b>(IV) Joint Venture</b>	<b>(V) Sole Proprietor</b>

**(I) CERTIFICATE FOR COMPANY**

I ..... , chairperson of the Board of Directors of ..... , hereby confirm by resolution of the Board (copy attached) taken on ..... 20....., that

Mr/Ms ..... , ..... , acting in the capacity of ..... was authorised to sign all documents in connection with this tender and any contract resulting from it on behalf of the company.

**Signature of Chairman:** .....

**Signature of Signatory:** .....

**As Witnesses:**

1..... Name in Block Letters.....

2..... Name in Block Letters.....

**Date:** .....

**(II) CERTIFICATE FOR CLOSE CORPORATION**

We, the undersigned, being the key members in the business trading as

..... hereby authorise Mr/Ms .....

acting in the capacity of ....., to sign all documents

in connection with the tender for Contract No ..... and any contract resulting from it on our behalf.

**Signature of Signatory:** .....

**As Witnesses:**

1..... Name in Block Letters.....

2..... Name in Block Letters.....

**Date:** .....

NAME	ADDRESS	SIGNATURE	DATE

**Note:** *This certificate is to be completed and signed by all of the key members upon whom rests the direction of the affairs of the Close Corporation as a whole.*

**(III) CERTIFICATE FOR PARTNERSHIP**

We, the undersigned, being the key partners in the business trading as,

..... hereby authorise

Mr/Ms..... acting in the capacity of

....., to sign all documents in connection

with the tender for Contract No ..... and any contract resulting from it on our behalf.

**Signature of Signatory:** .....

**As Witnesses:**

1..... Name in Block Letters.....

2..... Name in Block Letters.....

**Date:** .....

NAME	ADDRESS	SIGNATURE	DATE

**Note:** *This certificate is to be completed and signed by all of the key partners upon who rests the direction of the affairs of the Partnership as a whole.*

**(IV) CERTIFICATE FOR JOINT VENTURE**

We, the undersigned, are submitting this tender offer in Joint Venture and hereby authorize

Mr/Ms....., authorized signatory of the company,

.....acting in the capacity of lead partner, to sign all documents in

connection with the tender offer for Contract No .....and any contract resulting from it on our  
behalf.

This authorization is evidenced by the attached power of attorney signed by legally authorized signatories of all the  
partners to the Joint Venture.

**Signature of Signatory:** .....

**As Witnesses:**

1..... Name in Block Letters.....

2..... Name in Block Letters.....

**Date:** .....

NAME OF FIRM	ADDRESS	AUTHORISING SIGNATURE, NAME AND CAPACITY
Lead partner		

**Note:** *This certificate is to be completed and signed by all of the key partners upon who rests the direction  
of the affairs of the Partnership as a whole.*

**(V) CERTIFICATE FOR SOLE PROPRIETOR**

I....., hereby confirm that I am the sole owner of the  
Business trading as:

**Signature of Sole owner:** .....

**As Witnesses:**

1..... Name in Block Letters.....

2..... Name in Block Letters.....

**Date:** .....

**C: RECORD OF ADDENDA TO TENDER DOCUMENTS**

We confirm that the following communications received from the Employer before the date of submission of this tender offer, amending the tender documents, have been taken into account in this tender offer.

<b>ADD. No.</b>	<b>DATE</b>	<b>TITLE OR DETAILS</b>
1		
2		
3		
4		
5		

SIGNATURE: .....  
(of person authorised to sign on behalf of the Tenderer)

DATE: .....

**D: WORKMANS' COMPENSATION REGISTRATION CERTIFICATE (OR PROOF OF PAYMENT OF  
CONTRIBUTIONS IN TERMS OF THE COMPENSATION FOR OCCUPATIONAL INJURIES AND  
DISEASES ACT NO. 130 OF 1993)**

*[Certified Copy of the Certificate or Proof of Payment thereof obtained from the Workmen's Compensation  
Commissioner to be inserted here]*

**E: REGISTRATION CERTIFICATES OF AN ENTITY**

**ENTITY REGISTRATION:**

*[Important note to Tenderer: Registration Certificates for Companies, Close Corporations and Partnerships and ID documents for Sole Proprietors, must be inserted here. In the case of a Joint Venture, a copy of a duly signed Joint Venture Agreement clearly setting out the roles and responsibilities of the parties must be included with particular reference to the guarantees required in terms of the Contract Data. The Joint Venture Agreement must also clearly indicate how payment is to be effected to the entity and distributed to the parties]*

SIGNATURE: .....  
(of person authorised to sign on behalf of the Tenderer)

DATE: .....

**F: CENTRAL SUPPLIER DATABASE REGISTRATION NUMBER**

**IMPORTANT NOTES:**

1. The following is an abstract from the Preferential Procurement Regulations 2001 promulgated with the Preferential Policy Framework Act No 5 of 2000:

**Central Supplier Database Registration Number**

**VALID CSD REPORT:**

*[Valid CSD report to be attached to this page]*

**K: SCHEDULE OF TENDERING FIRM'S EXPERIENCE (SIMILAR WORK AND ENVIRONMENT)**

PROJECT NAME	DESCRIPTION	VALUE	REFERENCE

SIGNATURE: .....  
(of person authorised to sign on behalf of the Tenderer)

DATE: .....

## N: CONTRACTOR/SERVICE PROVIDER'S HEALTH AND SAFETY DECLARATION

In terms of the Occupational Health and Safety Act No 85 of 1993 a Contractor may only be appointed to perform key services if the *Purchaser* is satisfied that the Contractor has the necessary competencies and resources to carry out the work safely in accordance with the provisions of the Act.

To that effect a person duly authorised by the tenderer must complete and sign the declaration hereafter in detail.

### Declaration by Tenderer

1. I the undersigned hereby declare and confirm that I am fully conversant with the Occupational Health and Safety Act No 85 of 1993 (as amended by the Occupational Health and Safety Amendment Act No 181 of 1993) herein after referred to as the "Act"
2. I hereby declare that my company has the competence and the necessary resources to safely carry out the services specified under this contract in compliance with the Employer's Health and Safety Specifications.
3. I propose to achieve compliance with the Regulations by one of the following:

(a)	From my own competent resources	*Yes / No
(b)	From my own resources still to be appointed or trained until competency is achieved	*Yes / No
(c)	From outside sources by appointment of competent specialist subcontractors	*Yes / No

(\* = *delete whatever is not applicable*)

4. I confirm that copies of my company's approved Health and Safety Plan, will at all times be available for inspection by the *Purchaser's* personnel, officials and inspectors of the Department of Labour.
5. I hereby confirm that adequate provision has been made in my tendered rates and prices in the schedule of quantities to cover the cost of all resources, actions, training and all health and safety measures envisaged in the Act and that I will be liable for any penalties that may be applied for failure to comply with the provisions of the Act.
6. I agree that my failure to complete and execute this declaration to the satisfaction of the *Purchaser* will mean that I am unable to comply with the requirements of the Act and accept that my tender will be prejudiced and may as a result be rejected at the discretion of the *Purchaser*.

SIGNATURE: .....  
(of person authorised to sign on behalf of the Tenderer)

DATE: .....

**Returnable Schedule required only for tender evaluation purposes, Forms  
(SBD Forms)**

<b>SBD1:</b>	Invitation to bid
<b>SBD4:</b>	Declaration of Interest
<b>SBD6.1:</b>	Preference Points claim form in terms of the preferential procurement regulations 2011
<b>SBD6.2:</b>	Declaration certificate for local production and content
	Annexure C

**SBD 1**

**PART A:  
INVITATION TO BID**

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE DEPARTMENT OF PUBLIC WORKS ROADS AND TRANSPORT</b>					
BID NUMBER:	PWRT/1621/24/MP	CLOSING DATE:	As per tender bulletin	CLOSING TIME:	As per tender bulletin
DESCRIPTION	<b>SUPPLY AND DELIVERY OF COLD ASPHALT IN BOHLABELA, EHLANZENI, NKANGALA AND GERT SIBANDE DISTRICTS OF MPUMALANGA PROVINCE ON AS-AND-WHEN REQUIRED BASIS FOR A PERIOD OF THREE (03) YEARS</b>				
<b>BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)</b>					
<b>MBOMBELA</b> , Riverside Government Complex, Building No 9, Government Boulevard, Mbombela, 1200, <b>PIET RETIEF</b> , No. 11 Measroch Street, Piet Retief Office, <b>KWAMHLANGA</b> , KwaMhlanga Government Complex, Department of Finance, Building No. 12, Computer Centre <b>EVANDER</b> , 10 Cornell Road (previously occupied by Evander Home Affairs Offices), Evander, 2280, <b>BUSHBUCKRIDGE</b> , Bushbuckridge Advice Centre, Department of Finance, Protea building (old Telkom building), <b>MIDDELBURG</b> , Department of Public Works, Cnr. Lillian Ngyozi and Dr Beyers Naudé Streets – Old TPA Building, Upper ground floor, Office numbers A20, 21 and 25, <b>MALELANE</b> , 24 Air Street, Malelane, <b>ELUKWATINI</b> , Elukwatini Sub Regional offices, Office numbers A49 and A50 (opposite Elukwatini Community Hall) Stand number 12 Extension A, Elukwatini.					
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>			<b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>		
CONTACT PERSON	Mr. R Masia		CONTACT PERSON	Mr. B Mbanjwa	
TELEPHONE NUMBER	013 766 8524		TELEPHONE NUMBER	013 766 4159	
FACSIMILE NUMBER	N/A		FACSIMILE NUMBER	N/A	
E-MAIL ADDRESS	Ronmasia@mpg.gov.za		E-MAIL ADDRESS	bmbanjwa@mpg.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 ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES OFFERED?		<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]
<b>QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? <input type="checkbox"/> YES <input type="checkbox"/> NO					
DOES THE ENTITY HAVE A BRANCH IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO					
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO					
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO					
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? <input type="checkbox"/> YES <input type="checkbox"/> NO					
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: .....

## SBD 4

## **BIDDER'S DISCLOSURE**

## 1. PURPOSE OF THE FORM

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

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

## 2. Bidder's declaration

2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling 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 with any person who is employed by the procuring institution? **YES/NO**

### 2.2.1 If so, furnish particulars:

.....

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

### 2.3.1 If so, furnish particulars:

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

.....  
.....  
**3 DECLARATION**

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

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or 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 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

---

<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.

SBD 6.1

## 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:

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

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:

$$PS = 80 \left( 1 + \frac{Pt - P_{max}}{P_{max}} \right) \quad \text{or} \quad PS = 90 \left( 1 + \frac{Pt - P_{max}}{P_{max}} \right)$$

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmax = Price of highest acceptable tender

#### **4. POINTS AWARDED FOR SPECIFIC GOALS**

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

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

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

*(Note to 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.)*

<b>The specific goals allocated points in terms of this tender</b>	<b>Number of points allocated (90/10 system) (To be completed by the organ of state)</b>	<b>Number of points allocated (80/20 system) (To be completed by the organ of state)</b>	<b>Number of points claimed (90/10 system) (To be completed by the tenderer)</b>	<b>Number of points claimed (80/20 system) (To be completed by the tenderer)</b>
HDI		10		
Women		5		
Youth		3		
People with Disability		2		

#### **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:** .....

## **SBD 6.2**

### **DECLARATION CERTIFICATE FOR LOCAL PRODUCTION AND CONTENT FOR DESIGNATED SECTORS**

This Standard Bidding Document (SBD) must form part of all bids invited. It contains general information and serves as a declaration form for local content (local production and local content are used interchangeably).

Before completing this declaration, bidders must study the General Conditions, Definitions, Directives applicable in respect of Local Content as prescribed in the Preferential Procurement Regulations, 2017, the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:2011 (Edition 1) and the Guidance on the Calculation of Local Content together with the Local Content Declaration Templates [Annex C (Local Content Declaration: Summary Schedule), D (Imported Content Declaration: Supporting Schedule to Annex C) and E (Local Content Declaration: Supporting Schedule to Annex C)].

#### **1. General Conditions**

- 1.1. Preferential Procurement Regulations, 2017 (Regulation 8) make provision for the promotion of local production and content.
- 1.2. Regulation 8.(2) prescribes that in the case of designated sectors, organs of state must advertise such tenders with the specific bidding condition that only locally produced or manufactured goods, with a stipulated minimum threshold for local production and content will be considered.
- 1.3. Where necessary, for tenders referred to in paragraph 1.2 above, a two stage bidding process may be followed, where the first stage involves a minimum threshold for local production and content and the second stage price and B-BBEE.
- 1.4. A person awarded a contract in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- 1.5. The local content (LC) expressed as a percentage of the bid price must be calculated in accordance with the SABS approved technical specification number SATS 1286: 2011 as follows:

$$LC = [1 - x / y] * 100$$

Where

x is the imported content in Rand  
y is the bid price in Rand excluding value added tax (VAT)

Prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by South African Reserve Bank (SARB) at 12:00 on the date of advertisement of the bid as indicated in paragraph 4.1 below.

**The SABS approved technical specification number SATS 1286:2011 is accessible on <http://www.thedti.gov.za/industrialdevelopment/ip.jsp> at no cost.**

- 1.6. A bid may be disqualified if this Declaration Certificate and the Annex C (Local Content Declaration: Summary Schedule) are not submitted as part of the bid documentation;

#### **2. The stipulated minimum threshold(s) for local production and content (refer to Annex A of SATS 1286:2011) for this bid is/are as follows:**

<u>Description of services, works or goods</u>	<u>Stipulated minimum threshold</u>
_____	_____ %
_____	_____ %
_____	_____ %

3. Does any portion of the goods or services offered have any imported content?  
(*Tick applicable box*)

YES		NO	
-----	--	----	--

3..1 If yes, the rate(s) of exchange to be used in this bid to calculate the local content as prescribed in paragraph 1.5 of the general conditions must be the rate(s) published by SARB for the specific currency at 12:00 on the date of advertisement of the bid.

The relevant rates of exchange information is accessible on [www.reservebank.co.za](http://www.reservebank.co.za)

Indicate the rate(s) of exchange against the appropriate currency in the table below (refer to Annex A of SATS 1286:2011):

<b>Currency</b>	<b>Rates of exchange</b>
US Dollar	
Pound Sterling	
Euro	
Yen	
Other	

NB: Bidders must submit proof of the SARB rate (s) of exchange used.

4. Where, after the award of a bid, challenges are experienced in meeting the stipulated minimum threshold for local content the dti must be informed accordingly in order for the dti to verify and in consultation with the AO/AA provide directives in this regard.

**LOCAL CONTENT DECLARATION**  
**(REFER TO ANNEX B OF SATS 1286:2011)**

**LOCAL CONTENT DECLARATION BY CHIEF FINANCIAL OFFICER OR OTHER LEGALLY RESPONSIBLE PERSON NOMINATED IN WRITING BY THE CHIEF EXECUTIVE OR SENIOR MEMBER/PERSON WITH MANAGEMENT RESPONSIBILITY (CLOSE CORPORATION, PARTNERSHIP OR INDIVIDUAL)**

**IN RESPECT OF BID NO. ....**

**ISSUED BY:** (Procurement Authority / Name of Institution):  
.....

NB

- 1 The obligation to complete, duly sign and submit this declaration cannot be transferred to an external authorized representative, auditor or any other third party acting on behalf of the bidder.
- 2 Guidance on the Calculation of Local Content together with Local Content Declaration Templates (Annex C, D and E) is accessible on <http://www.thdti.gov.za/industrialdevelopment/ip.jsp>. Bidders should first complete Declaration D. After completing Declaration

D, bidders should complete Declaration E and then consolidate the information on Declaration C. **Declaration C should be submitted with the bid documentation at the closing date and time of the bid in order to substantiate the declaration made in paragraph (c) below.** Declarations D and E should be kept by the bidders for verification purposes for a period of at least 5 years. The successful bidder is required to continuously update Declarations C, D and E with the actual values for the duration of the contract.

I, the undersigned, ..... (full names), do hereby declare, in my capacity as ..... of ..... (name of bidder entity), the following:

- (a) The facts contained herein are within my own personal knowledge.
- (b) I have satisfied myself that:
  - (i) the goods/services/works to be delivered in terms of the above-specified bid comply with the minimum local content requirements as specified in the bid, and as measured in terms of SATS 1286:2011; and
- (c) The local content percentage (%) indicated below has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E which has been consolidated in Declaration C:

Bid price, excluding VAT (y)	R
Imported content (x), as calculated in terms of SATS 1286:2011	R
Stipulated minimum threshold for local content (paragraph 3 above)	
Local content %, as calculated in terms of SATS 1286:2011	

**If the bid is for more than one product, the local content percentages for each product contained in Declaration C shall be used instead of the table above.**

**The local content percentages for each product has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E.**

- (d) I accept that the Procurement Authority / Institution has the right to request that the local content be verified in terms of the requirements of SATS 1286:2011.
- (e) I understand that the awarding of the bid is dependent on the accuracy of the information furnished in this application. I also understand that the submission of incorrect data, or data that are not verifiable as described in SATS 1286:2011, may result in the Procurement Authority / Institution imposing any or all of the remedies as provided for in Regulation 14 of the Preferential Procurement Regulations, 2017 promulgated under the Preferential Policy Framework Act (PPPFA), 2000 (Act No. 5 of 2000).

**SIGNATURE:** \_\_\_\_\_

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

**WITNESS No. 1** \_\_\_\_\_

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

**WITNESS No. 2** \_\_\_\_\_

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



## **PART B**

## **CONTRACT**

- C1: AGREEMENTS AND CONTRACT DATA**
- C2: PRICING DATA**
- C3: SCOPE OF WORK**
- C4: SITE INFORMATION**

**MPUMALANGA PROVINCIAL GOVERNMENT  
DEPARTMENT OF PUBLIC WORKS, ROADS AND TRANSPORT**

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**MPUMALANGA PROVINCIAL GOVERNMENT  
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**C1.1. Form of Offer and Acceptance**

**Offer**

The employer, identified in the acceptance signature block, has solicited offers to enter into a contract for the procurement of:

**TENDER NO. PWRT/1621/24/MP**

**SUPPLY AND DELIVERY OF COLD ASPHALT IN BOHLABELA, EHLANZENI, NKANGALA AND GERT SIBANDE DISTRICTS OF MPUMALANGA PROVINCE ON AS-AND-WHEN REQUIRED BASIS FOR A PERIOD OF THREE (03) YEARS**

***Tick in the box provided to select district tendered for (Select one district only, selection of more than one will result in a disqualification of the bid)***

**EHLANZENI    BOHLABELA    GERT SIBANDE    NKANGALA**

The bidder, identified in the offer signature block, has examined the documents listed in the tender data and addenda thereto as listed in the returnable schedules, and by submitting this offer has accepted the conditions of tender.

By the representative of the bidder, deemed to be duly authorized, signing this part of this form of offer and acceptance, the bidder offers to perform all of the obligations and liabilities of the contractor under the contract including compliance with all its terms and conditions according to their true intent and meaning for an amount to be determined in accordance with the conditions of contract identified in the contract data.

**THE OFFERED TOTAL OF THE PRICES INCLUSIVE OF VALUE ADDED TAX IS:**

..... Rand (in words);

R ..... (in figures)

This offer may be accepted by the employer by signing the acceptance part of this form of offer and acceptance and returning one copy of this document to the bidder before the end of the period of validity stated in the tender data, whereupon the bidder becomes the party named as the contractor in the conditions of contract identified in the contract data. This tender is a rates only tender and the total price offered above is only an indication of possible orders that may be placed by the client. The bidder will be ordered to execute works as per the schedule of quantities and rates offered by the bidder based on separate orders placed by the client.

**For the bidder**

Name of the Organization: .....

Address:

.....  
 .....

Signature: ..... Date .....

Capacity: .....

**Witness**

Name: ..... Signature: .....

**Acceptance**

By signing this part of this form of offer and acceptance, the employer identified below accepts the bidder's offer. In consideration thereof, the employer shall pay the contractor the amount due in accordance with the conditions of contract identified in the contract data. Acceptance of the bidder's offer shall form an agreement between the employer and the bidder upon the terms and conditions contained in this agreement and in the contract that is the subject of this agreement.

The terms of the contract, are contained in:

- Part C1: Agreements and contract data, (which includes this agreement)
- Part C2: Pricing data
- Part C3: Scope of work.
- Part C4: Site information

and drawings and documents or parts thereof, which may be incorporated by reference into Parts 1 to 4 above.

Deviations from and amendments to the documents listed in the tender data and any addenda thereto as listed in the tender schedules as well as any changes to the terms of the offer agreed by the bidder and the employer during this process of offer and acceptance, are contained in the schedule of deviations attached to and forming part of this agreement. No amendments to or deviations from said documents are valid unless contained in this schedule.

The bidder shall within two weeks after receiving a completed copy of this agreement, including the schedule of deviations (if any), contact the employer's agent (whose details are given in the contract data) to arrange the delivery of any bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the conditions of contract identified in the contract data. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this agreement.

Notwithstanding anything contained herein, this agreement comes into effect on the date when the bidder receives one fully completed original copy of this document, including the schedule of deviations (if any). Unless the bidder (now contractor) within five working days of the date of such receipt notifies the employer in writing of any reason why he cannot accept the contents of this agreement, this agreement shall constitute a binding contract between the parties.

**For the Bidder** (To be signed only after award)

Signature: ..... Date: .....

Name: ..... Capacity: .....

**FOR THE EMPLOYER:** Mpumalanga Department of Public Works, Roads and Transport  
Riverside Government Complex, Building No. 7, Mbombela, 1200

Name: ..... Signature: .....

Date: .....

**Witness**

Name: ..... Signature: .....

Date: .....

**SCHEDULE OF DEVIATIONS**

1 Subject .....

Details .....

.....

.....

.....

2 Subject .....

Details .....

.....

.....

.....

3 Subject .....

Details .....

.....

.....

.....

4 Subject .....

Details .....

.....

.....

.....

5 Subject .....

Details .....

.....

.....

.....

By the duly authorised representatives signing this agreement, the employer and the bidder agree to and accept

the foregoing schedule of deviations as the only deviations from and amendments to the documents listed in the tender data and addenda thereto as listed in the tender schedules, as well as any confirmation, clarification or changes to the terms of the offer agreed by the bidder and the employer during this process of offer and acceptance.

It is expressly agreed that no other matter whether in writing, oral communication or implied during the period between the issue of the tender documents and the receipt by the bidder of a completed signed copy of this Agreement shall have any meaning or effect in the contract between the parties arising from this agreement.

**MPUMALANGA PROVINCIAL GOVERNMENT  
DEPARTMENT OF PUBLIC WORKS, ROADS AND TRANSPORT**

**TENDER NO. PWRT/1621/24/MP**

**SUPPLY AND DELIVERY OF COLD ASPHALT IN BOHLABELA, EHLANZENI, NKANGALA AND  
GERT SIBANDE DISTRICTS OF MPUMALANGA PROVINCE ON AS-AND-WHEN REQUIRED  
BASIS FOR A PERIOD OF THREE (03) YEARS**

**C1.2 CONTRACT DATA**

Section 1.01 The General Conditions of Contract for Construction Works (2015) published by the South African Institution of Civil Engineering, is applicable to this Contract. Copies of these conditions of Contract may be obtained from the South African Institution of Civil Engineering (Tel: 011-805 5947).

The General Conditions of Contract for Construction Works make several references to the Contract Data for specific data, which together with these conditions collectively describe the risks, liabilities and obligations of the Contracting parties and the procedures for the administration of the Contract. The Contract Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the general conditions of Contract.

Each item of data given below is cross-referenced to the clause in the General Conditions of Contract for Construction Works to which it mainly applies.

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**C1.2.1: CONDITIONS OF CONTRACT**

**GENERAL CONDITIONS OF CONTRACT**

**SPECIAL CONDITIONS OF CONTRACT**

**1. GENERAL**

**2. AMENDMENTS TO THE GENERAL CONDITIONS OF CONTRACT**

**APPENDIX A: TRANSFER OF RIGHTS**

## C1.2.1 CONDITIONS OF CONTRACT

### GENERAL CONDITIONS OF CONTRACT

This Contract will be based on the "General Conditions of Contract for Construction Works - 1st Edition 2004", issued by the South African Institution of Civil Engineering. (Short title: "**General Conditions of Contract 2015**") and can be obtained from:

#### SAICE

Waterfall Park  
Howick Gardens  
Vorna Valley Half way House  
Becker Street  
MIDRAND  
1685  
Gauteng Province  
Tel: (011) 805-5947/8  
Fax: (011) 805-5971.

It is agreed that the only variations from the General Conditions of Contract 2004 are those set out hereafter under "Special Conditions of Contract".

### SPECIAL CONDITIONS OF CONTRACT

#### 1. GENERAL

These Special Conditions of Contract (SCC) form an integral part of the Contract. The Special Conditions shall amplify, modify or supersede, as the case may be, the General Conditions of Contract 2015 to the extent specified below, and shall take precedence and shall govern.

The clauses of the Special Conditions hereafter are numbered "SCC" followed in each case by the number of the applicable clause or sub clause in the General Conditions of Conditions 2015, and the applicable heading, or (where a new special condition that has no relation to the existing clauses is introduced) by a number that follows after the last clause number in the General Conditions, and an appropriate heading.

**C1.2.2: PART B: DATA PROVIDED BY THE CONTRACTOR**

The following contract specific data are applicable to this contract.

<b>REFERENCE</b>	<b>CONTRACT SPECIFIC DATA BY THE CONTRACTOR</b>	
Clause 1.1.1.9:	<b>Name of Contractor:</b> .....	
Clause 1.2.1.2:	<b>Address of the Contractor:</b>	
	<u>Physical:</u>	<u>Postal:</u>
	.....	.....
	.....	.....
	.....	.....
	<b>Postal Code:</b> .....	.....
E-Mail:	.....	

Cell No. ..... Tel: ..... Fax : .....

Clause 6.8.3: The variation in cost of all special materials is to be provided in the table SM 1 for special materials.

The rates and prices for the special materials shall be furnished by the Bidder, which rates and prices shall not include VAT but shall include all other obligatory taxes and levies. The quoted price is the ruling price on the 01 September 2023.

**TABLE: SM1**

Special Materials	Unit*	Rate or Price for the base month
Cement	.....	.....
Nett Bitumen	.....	.....

\* Indicate whether the material shall be delivered in bulk or in containers. When called upon to do so, the Contractor shall substantiate the above rates or prices with acceptable documentary evidence.

**Signed on behalf of Bidder:** .....

**C1.2.3: AGREEMENT WITH ADJUDICATOR**

This agreement is made on the..... day of ..... 20.....between: the Employer  
 (name of company / organisation).....  
 of (address).....  
 .....and the Contractor  
 (name of company / organisation) .....

of (address).....  
 ..... (hereinafter  
 called **the Parties**)

**and**

(name).....  
 of (address) .....

..... (hereinafter called **the Adjudicator**)

Disputes or differences may arise/have arisen\* between the Parties under a Contract dated.....  
 and known as Contract No.....  
 (Contract title).....

and these disputes or differences shall be/have been\* referred to adjudication in accordance with the CIDB Adjudication Procedure, (hereinafter called "**the Procedure**") and the Adjudicator may be or has been requested to act.

(\* Delete as necessary)

**IT IS NOW AGREED** as follows:

1. The rights and obligations of the Adjudicator and the Parties shall be as set out in the Procedure.
2. The Adjudicator hereby accepts the appointment and agrees to conduct the adjudication in accordance with the Procedure.
3. The Parties bind themselves jointly and severally to pay the Adjudicator's fees and expenses in accordance with the Procedure as set out in the Contract Data.
4. The Parties and the Adjudicator shall at all times maintain the confidentiality of the adjudication and shall endeavour to ensure that anyone acting on their behalf or through them will do likewise, save with the consent of the other Parties which consent shall not be unreasonably refused.
5. The Adjudicator shall inform the Parties if he intends to destroy the documents which have been sent to him in relation to the adjudication and he shall retain documents for a further period at the request of either Part

**SIGNED by:**

(Signature): ..... (Signature): ..... (Signature): .....

<b>Name:</b> .....	<b>Name:</b> .....	<b>Name:</b> .....
who warrants that he/ she is duly authorised to sign for and on behalf of the <b>First Party</b> in the presence of	who warrants that he/ she is duly authorised to sign for and on behalf of the <b>Second Party</b> in the presence of	the <b>Adjudicator</b> in the presence of
<b>Witness:</b> (Signature).....	<b>Witness:</b> (Signature).....	<b>Witness:</b> (Signature).....
<b>Name:</b> .....	<b>Name:</b> .....	<b>Name:</b> .....
Address: .....	Address: .....	Address: .....
.....	.....	.....
.....	.....	.....
Date: .....	Date: .....	Date: .....

**C1.2.4: AGREEMENT IN TERMS OF SECTION 37(2) OF THE OCCUPATIONAL HEALTH AND SAFETY ACT No 85 OF 1993**

THIS AGREEMENT is made between The Province of Mpumalanga represented by Head of Department: Department of Public Works, Roads and Transport.

(hereinafter called the EMPLOYER of the one part, herein represented by:

.....  
.....

in his capacity as:

;

AND: .....

(hereinafter called the CONTRACTOR) of the other part, herein represented by

.....  
.....

in his capacity as:

duly authorised to sign on behalf of the Contractor.

**WHEREAS** the CONTRACTOR is the Mandatory of the EMPLOYER in consequence of an agreement between the CONTRACTOR and the EMPLOYER in respect of

CONTRACT No. .....

.....  
.....

**AND WHEREAS** the EMPLOYER and the CONTRACTOR have agreed to enter into an agreement in terms of the provisions of Section 37(2) of the Occupational Health and Safety Act No 85 of 1993, as amended by OHSA Amendment Act No 181/1993 (hereinafter referred to as the ACT);

**NOW THEREFORE** the parties agree as follows:

1. The CONTRACTOR undertakes to acquaint the appropriate officials and employees of the CONTRACTOR with all relevant provisions of the ACT and the regulations promulgated in terms thereof.
2. The CONTRACTOR undertakes to fully comply with all relevant duties, obligations and prohibitions imposed in terms of the ACT and Regulations: Provided that should the EMPLOYER have prescribed certain arrangements and procedures that same shall be observed and adhered to by the CONTRACTOR, his officials and employees. The CONTRACTOR shall bear the onus of acquainting himself/herself/itself with such arrangements and procedures.
3. The CONTRACTOR hereby accepts sole liability for such due compliance with the relevant duties, obligations, prohibitions, arrangements and procedures, if any, imposed by the ACT and Regulations, and the CONTRACTOR expressly absolves the EMPLOYER and the Employer's CONSULTING ENGINEERS from being obliged to comply with any of the aforesaid duties, obligations, prohibitions, arrangements and procedures in respect of the work included in the contract.
4. The CONTRACTOR agrees that any duly authorised officials of the EMPLOYER shall be

entitled, although not obliged, to take such steps as may be necessary to ensure that the CONTRACTOR has complied with his undertakings as more fully set out in paragraphs 1 and 2 above, which steps may include, but shall not be limited to, the right to inspect any appropriate site or premises occupied by the CONTRACTOR, or to take such steps it may deem necessary to remedy the default of the CONTRACTOR at the cost of the CONTRACTOR.

5. The CONTRACTOR shall be obliged to report forthwith to the EMPLOYER any investigation, complaint or criminal charge which may arise as a consequence of the provisions of the ACT and Regulations, pursuant to work performed in terms of this agreement, and shall, on written demand, provide full details in writing of such investigation, complaint or criminal charge.

Thus signed at ..... for and on behalf of the **CONTRACTOR**  
on this the ..... day of ..... 20.....

SIGNATURE:  
.....

NAME AND SURNAME:  
.....

CAPACITY:  
.....

WITNESSES: 1. ....  
2. ....

Thus signed at ..... for and on behalf of the **EMPLOYER** on this  
the ..... day of ..... 20.....

SIGNATURE:  
.....

NAME AND SURNAME:  
.....

CAPACITY:  
.....

WITNESSES: 1. ....  
2. ....

**MPUMALANGA PROVINCIAL GOVERNMENT**  
**DEPARTMENT OF PUBLIC WORKS, ROADS AND TRANSPORT**

**TENDER NO. PWRT/1621/24/MP**

**SUPPLY AND DELIVERY OF COLD ASPHALT IN BOHLABELA, EHLANZENI, NKANGALA AND  
 GERT SIBANDE DISTRICTS OF MPUMALANGA PROVINCE ON AS-AND-WHEN REQUIRED  
 BASIS FOR A PERIOD OF THREE (03) YEARS**

**C2.1 Pricing Instructions**

1. The Standard Specifications for Road and Bridge Works for South African Road Authorities (Draft Standard October 2020 edition) prepared by the Committee of Transport Officials, (COTO), as amended, shall apply to this contract. Measurement and payment shall be in accordance to the Specifications and as amended in the Scope of Works.
2. The units of measurement described in these Bills of Quantities are metric units. Abbreviations used in the Bills of Quantities are as follows:

%	=	percent
h	=	hour
ha	=	hectare
kg	=	kilogram
kl	=	kilolitre
km	=	kilometre
km-pass	=	kilometre-pass
kPa	=	kilopascal
kW	=	kilowatt
l	=	litre
m	=	metre
mm	=	millimetre
$m^2$	=	square metre
$m^2$ -pass	=	square metre-pass
$m^3$	=	cubic metre
$m^3$ -km	=	cubic metre-kilometre
MN	=	meganewton
MN.m	=	meganewton-metre
MPa	=	megapascal
No.	=	number
Prov sum	=	Provisional sum
PC sum	=	Prime Cost sum
R/only	=	Rate only
sum	=	lump sum
t	=	ton (1000 kg)
W/day	=	Work day

3. For the purpose of these Bills of Quantities, the following words shall have the meanings hereby assigned to them:

Unit:	The unit of measurement for each item of work as defined in COTO Standard Specification for Road and Bridge Works for State Authorities (Draft Standard October 2020 Edition).
Quantity:	The number of units of work for each item.
Rate:	The agreed payment per unit of measurement.
Amount:	The product of the quantity and the agreed rate for an item.
Lump sum:	An agreed amount for an item, the extent of which is described in the Bills of Quantities but the quantity of work of which is not measured in any units.

4. Unless otherwise stated, items are measured net in accordance with the drawings, and no allowance is made for waste.

5. It will be assumed that prices included in the bills of quantities are based on Acts, Ordinances, Regulations, By-laws, International Standards and National Standards that were published 28 days before the closing date for tenders. (Refer to [www.stanza.org.za](http://www.stanza.org.za) or [www.iso.org](http://www.iso.org) for information on standards)
6. The prices and rates in these Bills of Quantities are fully inclusive prices for the work described under the items. Such prices and rates cover all costs and expenses that may be required in and for the execution of the work described in accordance with the provisions of the Scope of Work, and shall cover the cost of all general risks, liabilities, and obligations set forth or implied in the Contract Data, as well as overhead charges and profit. These prices will be used as a basis for assessment of payment for additional work that may have to be carried out.
7. Where the Scope of Work requires detailed drawings and designs or other information to be provided, all costs associated therewith are deemed to have been provided for and included in the unit rates and sums tendered for such items
8. An item against which no price is entered will be considered to be covered by the other prices or rates in the Bills of Quantities. A single lump sum will apply should a number of items be grouped together for pricing purposes.
9. **The quantities set out in these Bills of Quantities are approximate and do not necessarily represent the actual amount of work to be done. The quantities of work accepted and certified for payment will be used for determining payments due and not the quantities given in these Bills of Quantities. This is a 'RATES – ONLY' contract. The bidder will be required to conduct work as per individual orders placed by the client. The quantities in this bill are intended for tender evaluation purposes only.**
10. Reasonable compensation will be received where no pay item appears in the Bills of Quantities in respect of work required in terms of the Contract and which is not covered in any other pay item. This will be done in the form of a 10% Profit & Overhead on the PC Sum of the item.
11. The short descriptions of the items of payment given in these Bills of Quantities are only for the purposes of identifying the items. More details regarding the extent of the work entailed under each item appear in the Scope of Work.
12. The item numbers appearing in the Bills of Quantities refer to the corresponding item numbers in the COTO Standard Specification for Road and Bridge Works for State Authorities (Draft Standard October 2020 edition).
13. Those items in the Bills of Quantities to be constructed using labour-intensive methods have been marked in the Bills of Quantities with the prefix "L". The use of plant to provide such works, other than plant specifically provided for in the scope of work, is a variation to the contract. The items marked with the letters L are not necessarily an exhaustive list of all the activities which must be done by hand, and this clause does not over-ride any of the requirements in the generic labour intensive specification in the Scope of Works.
14. Payment for items which are designated to be constructed labour-intensively (either in this schedule or in the Scope of Works) will not be made unless they are constructed using labour-intensive methods. Any unauthorised use of plant to carry out work which was to be done labour-intensively will not be condoned and any works so constructed will not be certified for payment.
15. Bidders shall take care so as not to imbalance their tender rates, since the eventual quantities may differ substantially from the scheduled quantities. Tender rates shall stand irrespective of the deviation between scheduled and certified quantities, and no amount of deviation shall constitute grounds for motivating for revised rates.

**MPUMALANGA PROVINCIAL GOVERNMENT**  
**DEPARTMENT OF PUBLIC WORKS, ROADS AND TRANSPORT**

*TENDER NO. PWRT/1621/24/MP*

***SUPPLY AND DELIVERY OF COLD ASPHALT IN BOHLABELA, EHLANZENI, NKANGALA AND GERT SIBANDE DISTRICTS OF MPUMALANGA PROVINCE ON AS-AND-WHEN REQUIRED BASIS FOR A PERIOD OF THREE (03) YEARS***

**C2.2 Bill of Quantities**

PWRT/1621/24/MP : SUPPLY AND DELIVERY OF COLD ASPHALT IN BOHLABELA , EHLANZENI, NKANGALA AND GERT SIBANDE DISTRICTS OF MPUMALANGA PROVINCE ON AS AND WHEN REQUIRED FOR A PERIOD OF THREE (03) YEARS

Item	Description	Unit	Quantity	Rate	Amount
<b>C8.2</b>	<b>COVER SPRAYS, FOG SPRAYS AND REJUVENATION SPRAYS</b>				
<b>C8.2.1</b>	<b>Cover Sprays, Fog Sprays, and Rejuvenation Sprays</b>				
C8.2.1.1	65 % Cationic spray grade emulsion: Indicate dilution (Diluted ..% Emulsion/...% Water)	Litre	1		
C8.2.1.2	60 % Anionic stable grade emulsion: Indicate dilution (Diluted ..% Emulsion/...% Water)	Litre	1		
C8.2.1.3	Cutback Inverted bitumen emulsion	Litre	1		
C8.2.1.4	Certified rejuvenator (State type and certification)	Litre	1		
<b>C8.2.2</b>	<b>Extra over item C8.2.1 for labour enhanced application:</b>				
C8.2.2.1	65 % Cationic spray grade emulsion: Indicate dilution (Diluted ..% Emulsion/...% Water)	Litre	1		
C8.2.2.2	60 % Anionic stable grade emulsion: Indicate dilution (Diluted ..% Emulsion/...% Water)	Litre	1		
C8.2.2.3	Cutback Inverted bitumen emulsion	Litre	1		
C8.2.2.4	Certified rejuvenator (State type and certification)	Litre	1		
<b>C8.8</b>	<b>PATCHING AND EDGE BREAK REPAIR</b>				
<b>PSC8.8.7</b>	<b>Supply of coldmix asphalt for repairs in sealed bags</b>				
( a )	0.0-0.5 t per order	t	1		
( b )	0.51-1.0 t per order	t	1		
( c )	1.1-3.0 t per order	t	1		
( d )	>3.0 t per order	t	1		
<b>C1.7.2</b>	<b>HAULING</b>				
<b>PSC1.7.2.3</b>	<b>Hauling material for use in the works and off-loading it on the site of the works</b>				
( a )	Overhaul is limited to 100km	m <sup>3</sup> -km	1		
<b>Sub-Total</b>					
<b>Vat (15%)</b>					
<b>Total</b>					

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**MPUMALANGA PROVINCIAL GOVERNMENT**

**DEPARTMENT OF PUBLIC WORKS, ROADS AND TRANSPORT**

**TENDER NO. PWRT/1621/24/MP**

***SUPPLY AND DELIVERY OF COLD ASPHALT IN BOHLABELA, EHLANZENI, NKANGALA AND  
GERT SIBANDE DISTRICTS OF MPUMALANGA PROVINCE ON AS-AND-WHEN REQUIRED  
BASIS FOR A PERIOD OF THREE (03) YEARS***

**C3: SCOPE OF WORK**

**C3.1 STANDARD SPECIFICATIONS**

**C3.2 PROJECT SPECIFICATIONS**

**PART A: GENERAL**

- PS-1 Project Description
- PS-2 Description of the Site and Access
- PS-3 Details of the Works
- PS-4 Construction Management Requirements

**PART B: AMENDMENTS TO THE STANDARD SPECIFICATIONS**

- B1 Project Specifications Relating to the Standard Specifications and Other Additional Specifications

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**MPUMALANGA PROVINCIAL GOVERNMENT**

**DEPARTMENT OF PUBLIC WORKS, ROADS AND TRANSPORT**

**TENDER NO. PWRT/1621/24/MP**

**SUPPLY AND DELIVERY OF COLD ASPHALT IN BOHLABELA, EHLANZENI, NKANGALA AND GERT SIBANDE DISTRICTS OF MPUMALANGA PROVINCE ON AS-AND-WHEN REQUIRED BASIS FOR A PERIOD OF THREE (03) YEARS**

**C3.1 STANDARD SPECIFICATIONS**

The standard specifications on which this contract is based are:

**The Standard Specifications for Road and Bridge Works for South African Road Authorities (Draft Standard October 2020 edition) prepared by the Committee of Transport Officials, (COTO), as amended, shall apply to this contract and can be obtained from:**

SAICE  
Waterfall park  
Howick Gardens  
Vorna Valley  
Bekker Street  
Midrand  
0685  
Tel: (011) 805 5947  
Fax: (011) 805 5971

B. Part E: Series 12000: Draft Specifications for the Rehabilitation of Bridges that Supplement to the COLTO Standard Specifications for Road and Bridge Works for State Road Authorities.

C 3.1.2 Further to the above, bidders are referred to the following specifications:

Sabita manual 2: Bituminous products for road construction.  
Sabita manual 5: Manufacture and construction of hot-mix asphalt  
Sabita Manual 8: Guidelines for the safe and responsible handling of bituminous products.  
Sabita Manual 23: Bitumen Hauliers Code: Guidelines for Loading Bitumen at Refineries.  
Sabita manual 24: User guide for the design of hot-mix asphalt  
Sabita Manual 25: Quality management in the handling and transport of bituminous binders

C3.1.3 The following SANS specifications are also referred to in this document and the Contractor is advised to obtain them from Standards South Africa (a division of SABS) in Pretoria.

SANS 10396: 2003: Implementing Preferential Construction Procurement Policies using Targeted Procurement Procedures

SANS 1914-4 (2002) : Targeted Construction Procurement (local resources)

SANS 1921 – 1 (2004): Construction and Management Requirements for Works Contracts  
Part 1: General Engineering and Construction Works and where accommodation of traffic is involved:

SANS 1921-2 (2004): Construction and Management Requirements for Works Contracts; and  
Part 2: Accommodation of Traffic on Public Roads Occupied by the Contractor.

SANS 307: 2005 Penetration Grade Bitumens

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## MPUMALANGA PROVINCIAL GOVERNMENT

### DEPARTMENT OF PUBLIC WORKS, ROADS AND TRANSPORT

**TENDER NO. PWRT/1621/24/MP**

**SUPPLY AND DELIVERY OF COLD ASPHALT IN BOHLABELA, EHLANZENI, NKANGALA AND GERT SIBANDE DISTRICTS OF MPUMALANGA PROVINCE ON AS-AND-WHEN REQUIRED BASIS FOR A PERIOD OF THREE (03) YEARS**

#### **C3.2: PROJECT SPECIFICATIONS**

##### **STATUS**

The Project Specifications, consisting of two parts, forms an integral part of the contract and supplements the Standard Specifications.

Part A contains a general description of the works, the site and the requirements to be met.

Part B contains variations, amendments and additions to the Standard Specifications and, if applicable, the Particular Specifications.

In the event of any discrepancy between a part or parts of the Standard or Particular Specifications and the Project Specification, the Project Specification shall take precedence. In the event of a discrepancy between the Specifications, (including the Project Specifications) and the drawings and / or the Bill of Quantities, the discrepancy shall be resolved by the Engineer before the execution of the work under the relevant item.

The standard specifications which form part of this contract have been written to cover all phases of work normally required for road contracts, and they may therefore cover items not applicable to this particular contract.

##### **PART A: GENERAL**

###### **PS-1 PROJECT DESCRIPTION**

###### **1.1 Employer's objectives**

The employer's objectives are to appoint a contractor for a term contract to supply and deliver cold mix asphalt, different products of emulsion and slurry seal.

###### **1.2 Overview and location of the works**

The description of the project contained in this section is merely an outline of the contract works and shall not limit the work to be carried out by the Contractor under this contract.

This contract is in essence a **three-year** period contract to supply and deliver cold mix asphalt, different products of emulsion and slurry seal.

The basis of the contract is that it will supplement works executed by the employer as and when required, subject to the availability of funds and the placement of individual orders for specific tasks to be executed by the successful bidder.

The quantities are merely provided to obtain rates for anticipated work requirements. The actual quantities may vary substantially from the quantities provided in the schedule of quantities. The successful bidder will however be required to execute works as per his tendered rates.

### 1.3 Extent of the works

The scope of works will entail the supply and delivery of the following services amongst others, the full services required will be stipulated in the tender document in detail.

- Cold mix asphalt
- Different products of emulsion
- Slurry seal

### 1.4 Drawings

No Typical Drawings are required in the tender document.

## PS-2 DESCRIPTION OF THE SITE AND ACCESS

### 2.1 Location of site

Per request per order.

Location shall mean any area as indicated in the specified region of Mpumalanga Province.

### 2.2 Access to site

Access to the site will be indicated with each single order placed by the client.

## PS-3 DETAILS OF THE WORKS

The details of the works shall be determined as per individual orders placed by the client.

## PS-4 CONSTRUCTION AND MANAGEMENT REQUIREMENTS

### 4.1 General

The Contractor is referred to SANS 1921: 2004 parts 1, 2 and 3: Construction and Management Requirements for Works Contracts. These specifications shall be applicable to the contract under consideration and the Contractor shall comply with all requirements relevant to the project.

### 4.4 Quality Assurance (QA) *(Read with SANS 1921 – 1: 2004 clause 4.4)*

The Contractor will be solely responsible for the production of work that complies with the Specifications to the satisfaction of the Engineer. To this end it will be the full responsibility of the Contractor to institute an appropriate Quality Assurance (QA) system on site. The Engineer will audit the Contractor's quality assurance (QA) system on a regular basis to verify that adequate independent checks and tests are being carried out and to ensure that the Contractor's own control is sufficient to identify any possible quality problems which could cause a delay or failure.

The Contractor shall ensure that efficient supervisory staff, the required transport, instruments, equipment and tools are available to control the quality of his own workmanship in accordance with his QA-system. His attention is drawn to the fact that it is not the duty of the Engineer or the Engineer's representative to act as foreman or surveyor.

**PART B: B1 - AMENDMENTS TO THE STANDARD AND PARTICULAR SPECIFICATIONS**

**PROJECT SPECIFICATIONS RELATING TO THE STANDARD SPECIFICATIONS AND OTHER ADDITIONAL SPECIFICATIONS**

**Notes to tenderer:**

The Standard Specifications for Road and Bridge Works for South African Road Authorities (Draft Standard October 2020 edition) prepared by the Committee of Transport Officials, (COTO), as amended, shall apply to this contract. The amendments are those issued by COTO and reproduced in Section A1, together with additional amendments as set out in Section A2 and Project specific Specification Data as set out in Section B.

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**SECTION A1: STANDARD AMENDMENTS ISSUED BY COTO**

**Notes to tenderer:**

**The Standard Specifications for Road and Bridge Works for South African Road Authorities (Draft Standard October 2020 edition) prepared by the Committee of Transport Officials, (COTO), as amended, shall apply to this contract. The amendments are those issued by COTO and reproduced in Section A1, together with additional amendments as set out in Section A2 and Project specific Specification Data as set out in Section B.**

As at 29 May 2023 no amendments have been issued by COTO.

**SECTION A2: PROJECT SPECIFICATION AMENDMENTS TO THE COTO STANDARD SPECIFICATIONS**

**Notes to tenderer:**

- (1) This Section A2 contains amendments to the Standard Specification, including additional clauses, amendment to clauses or deletion of clauses and specifications, required for this particular contract. Where the Standard Specifications allow a choice to be specified in the Contract Documentation or Project Specifications, between alternative materials or methods of construction, and for additional requirements to be specified to suit a particular contract, these selections are not made in this Section A2. Details of such alternatives or additional requirements applicable to this contract are contained in Section B: Specification Data.
- (2) The number of each clause and each payment item in this part of the project specifications follows the numbering format of the standard specifications.

**SECTION B1: PROJECT SPECIFICATIONS**

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## **COTO CHAPTER 1: GENERAL**

### C1.7.2 HAULING

*Add the following:*

### PSC1.7.2.3 Hauling material for use in the works and off-loading it on the site of the works

## MEASUREMENT AND PAYMENT

(a) Overhaul is limited to 100km  $\text{m}^3\text{-km}$

**COTO CHAPTER 2: SERVICES**

There are no amendments to this Chapter.

**COTO CHAPTER 3: DRAINAGE**

There are no amendments to this Chapter.

**COTO CHAPTER 4: EARTHWORKS AND PAVEMENT LAYERS: MATERIALS**

There are no amendments to this Chapter.

**COTO CHAPTER 5: EARTHWORKS AND PAVEMENT LAYERS: CONSTRUCTION**

There are no amendments to this Chapter.

**COTO CHAPTER 6: CONCRETE LAYERS**

There are no amendments to this Chapter.

**COTO CHAPTER 7: MAINTENANCE AND REPAIR OF CONCRETE LAYERS**

There are no amendments to this Chapter.

**COTO CHAPTER 8: PRETREATMENT AND REPAIR OF EXISTING LAYERS**

**C8.8 PATCHING AND EDGE BREAK REPAIR**

*Add the following:*

PSC8.8.7 Supply and delivery of cold mix asphalt for repairs in sealed bags

**MEASUREMENT AND PAYMENT**

- (a) 0.0 – 0.5 t per order t
- (b) 0.51 – 1.0 t per order t
- (c) 1.1 – 3.0 t per order t
- (d) >3.0 t per order t

**COTO CHAPTER 9: ASPHALT LAYERS**

There are no amendments to this Chapter.

**COTO CHAPTER 10: SURFACE TREATMENTS**

There are no amendments to this Chapter.

**COTO CHAPTER 11: ANCILLARY ROAD WORKS**

There are no amendments to this Chapter.

**COTO CHAPTER 12: GEOTECHNICAL APPLICATIONS**

There are no amendments to this Chapter.

**COTO CHAPTER 13: STRUCTURES**

There are no amendments to this Chapter.

**COTO CHAPTER 14: REPAIR AND REHABILITATION OF STRUCTURES**

There are no amendments to this Chapter.

**COTO CHAPTER 20:    QUALITY ASSURANCE**

There are no amendments to this Chapter.

**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

year(s)

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

Date started	Date finalised	Principal	Contact person	Telephone number	Amount

**Audit**

Are you currently aware of any Audit investigation against you/the company?

If "YES" provide details

YES

NO

**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

Date

Name of representative/agent

**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

Date

Name of applicant/  
Public Officer**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) fails 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.

**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
<b>25. Force Majeure</b>	<p>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.</p> <p>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.</p>
<b>26. Termination for insolvency</b>	<p>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.</p>
<b>27. Settlement of Disputes</b>	<p>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.</p> <p>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.</p> <p>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.</p> <p>27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.</p> <p>27.5 Notwithstanding any reference to mediation and/or court proceedings herein,</p> <ul style="list-style-type: none"> <li>(a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and</li> <li>(b) the purchaser shall pay the supplier any monies due the supplier.</li> </ul>
<b>28. Limitation of liability</b>	<p>28.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6;</p> <ul style="list-style-type: none"> <li>(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</li> </ul>

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

**29. Governing language**

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

**30. Applicable law**

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

**31. Notices**

31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice

31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

**32. Taxes and duties**

32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.

32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.

32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.

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

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

**34. Prohibition of Restrictive practices**

34.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).

34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.



34.3 If a bidder(s) or contractor(s), has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.

Js General Conditions of Contract (revised July 2010)