



AGRICULTURAL RESEARCH COUNCIL

REQUEST BIDDERS TO TENDER FOR:

TENDER NO: ARC/31/03/2024/1

APPOINTMENT OF SERVICE PROVIDER FOR: SUPPLY, DELIVERY, AND INSTALLATION OF A FLAT TOP SHADE NET STRUCTURE (TREE BREEDING STRUCTURE) AT BIEN DONNE RESEARCH FARM

**COMPULSORY SITE INSPECTION: 29 AUGUST 2024 AT 11:00 am
ADDRESS: Bien Doone Research Farm , Watergat Road , R45 in Groot Drakenstein(Simmondium) Near Franschoek
Closing Date: 17 SEPTEMBER 2024
TIME: 11:00**

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TIME: 11:00

Bidder's Name:.....

CSD number:

THE DETAILS AND CONTENTS OF THIS DOCUMENT ARE CONFIDENTIAL AND FOR CONSIDERATION AND RESPONSE BY THE RECORDED RECIPIENTS ONLY



OVERVIEW

The Agricultural Research Council (ARC) is a Research Science and Technology institution of excellence in South Africa, which operates within the National System of Innovation. The ARC has a mandate for innovative and creative agricultural research, technology development and transfer aimed at the advancement of South African agriculture. Its operations are overseen by the ARC Council which is appointed by and accountable to the Minister for Agriculture, Forestry and Fisheries.

The Agricultural Research Council (ARC) seeks to appoint suitable and experienced service providers To Supply, delivery, and installation of a Flat top Shade Net Structure (Multiple crop breeding structure) at Bien Donne Research Farm

TENDER SUBMISSION

Completed and sealed tender submissions reflecting **“ARC/31/03/2024/1 and the name of the tenderer”** must be deposited into the Tender Box located at **ARC INFRUITEC CAMPUS, HELSHOOGTE ROAD, STELLENBOSCH**

For the attention of: **“SUPPLY CHAIN OFFICE”**, **by no later than 11:00 (eleven o’clock)** on **17 September 2024**.

Tender documents submitted after the closing time and date specified will not be considered.

No submissions sent by email or facsimile will be accepted.

Bidders are requested to submit (One original and TWO copies (2) complete documents with all accompanying documents on a sealed envelope.

Please Do not use Binding Comb rather use Slide Bind, as documents must be scanned for internal processes.

The name of the bidder and the tender number should reflect on the “sealed” envelop.

Closing Date: 17 September 2024

Closing Time: 11h00 am

1. PURPOSE

The purpose of this tender is to appoint a service provider to supply and install a flat roof Shade net Structure to Bien Donne Farm

2. SCOPE OF THE WORK

- A. Soil preparation of 2.25 ha of the breeding unit area, prior to establishing the breeding structure
- B. BREEDING STRUCTURE OPTION 1 (\pm 1 hectare) or BREEDING STRUCTURE OPTION 2 (\pm 0.5 hectare): Supply, delivery, and installation of a breeding structure (flat top shade net structure) at ARC Bien Donne Research Farm (33°50'31" S 18°58,59" E).
- C. Installation of floor Material (Heavy duty weed mat made of HDPE 135 gram/square meter that are UV stabilised and have an 8-year warranty) to cover full area of breeding structure including anchor area.

The breeding unit area (red area) are situated inside the fenced breeding facility area (yellow



Figure 1: Breeding facility area on ARC-Bien Donne farm.

perimeter) of ARC-Bien Donne (**Figure 2**).

A. SOIL PREPARATION OF BREEDING UNIT AREA OF 2.25 HA PRIOR TO ESTABLISHING THE BREEDING STRUCTURE

- To facilitate future expansion the soil preparation area comprising of 2.25 hectares that is larger than the current breeding house which will only comprise of either 1.0 ha or 0.5 ha.
- The area must be levelled and compacted to facilitate a flat and smooth nursery type floor to be able to host trees in pots on a flat level surface.

- Levelling should be according to the natural slope thus making provision for water runoff when smoothing the area. This should be done using a dumpy level or laser levelling equipment.

B. SUPPLY AND INSTALLATION OF BREEDING STRUCTURE OPTION 1 (± 1 hectare) A Haygrove or similar flat top shade structure (**Figure 3**) with a Code 20 white shade net that uses high tensile galvanized steel posts, with all posts individually anchored to provide extra strength. **Structures must be moveable by using legs augured into the ground and held in position by anchor plates and cables.**



Figure 2: Aerial view of a similar structure.

Every post has an internal anchor with a depth of over 75cm (hence the two-part pole). Perimeter posts are anchored with a flat plate (300mm x300mm) anchor planted 1.5m deep and 4 m away from post and are attached to the posts with – Galvanised steel wire (**Figure 4**). The design must be able to give the option to convert the flat-top to an arched hoop structure at a later stage.

- The structure must be a flat top net structure but must be retrofittable to a hooped shade structure in future.
- The structure cover is a Code 20 white shade net.
- The structure must make use of high tensile galvanized steel posts.
- Corner posts consist of a 4.0m triangular post that are two-way anchored with flat plates (300mm x300mm) at 1.5m deep.
- Every post has an internal anchor with a depth of over 75cm (hence the two-part pole).

- Perimeter posts (legs) are additionally anchored with galvanised plates 1.5m deep.
- Perimeter anchor spacing: 4m from the perimeter legs. (**See Figure 4**).
- All anchor wires on posts must be Galvanized.
- Internal posts (legs) are two-part with first part an anchor that is 750mm deep and the second part a 4.0m x 60 mm x 2mm – Top hole 300mm Z350 High Tensile Pre galvanised Tube.
- Cables for connecting all poles and anchors should be galvanised 6mm Stay wire (7 x 2 x 6 mm) (**See Figure 4**).
- **Length:** See **Figure 5 and 6** (The length and width can be tweaked according to the site visit with the preamble that the square meters stay more or less the same)
- **Width:** See **Figure 5 and 6** (The length and width can be tweaked according to the site visit with the preamble that the square meters stay more or less the same)
- **Height of structure:** Minimum 4m
- **Perimeter leg spacing** (E&F on **Figure 5 and 6**) and the **Internal leg spacing** (G&H on **Figure 5 and 6**) will depend on the requirements for a possible future change to a hoop-structure.
- Floor must cover the full area of the breeding structure including anchor area and must consists of a weed mat type HDPE Heavy duty sheet that are 135 gram/square meter UV stabilised and with a proof of an 8-year warranty (**Figure 7**).
- The floor can only be installed in collaboration with irrigation installer and must fastened with suitable fasteners such as weed mat staples.
- **No concrete allowed – anchor technology should supply strength of structure.**

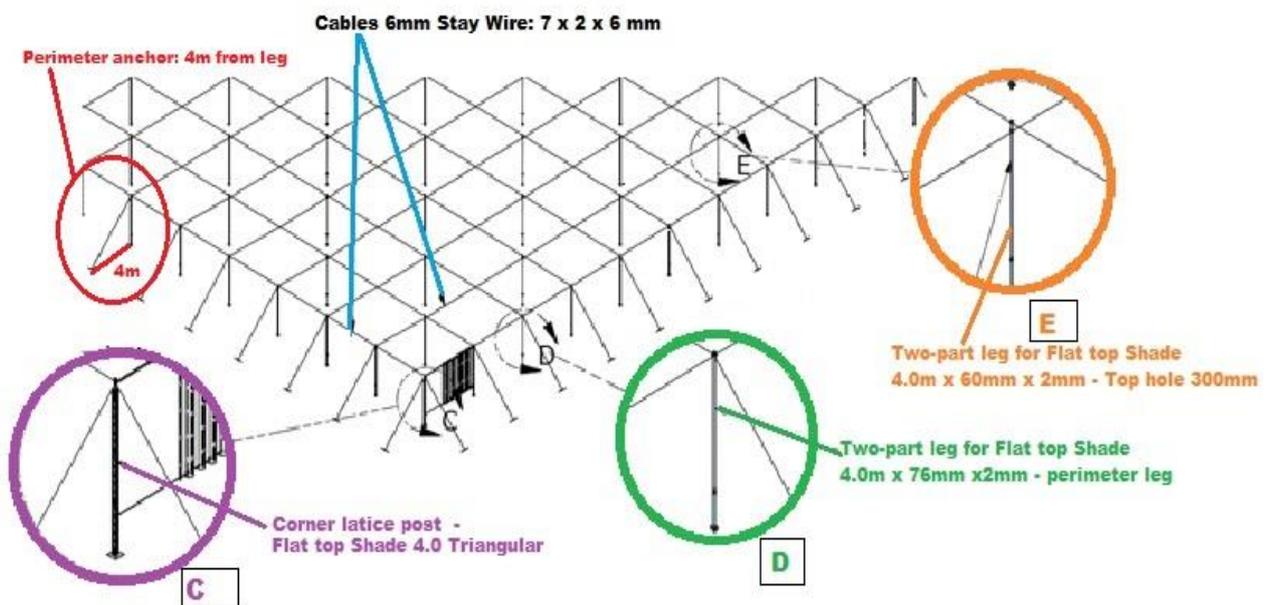


Figure 3: Details of different poles and wires.

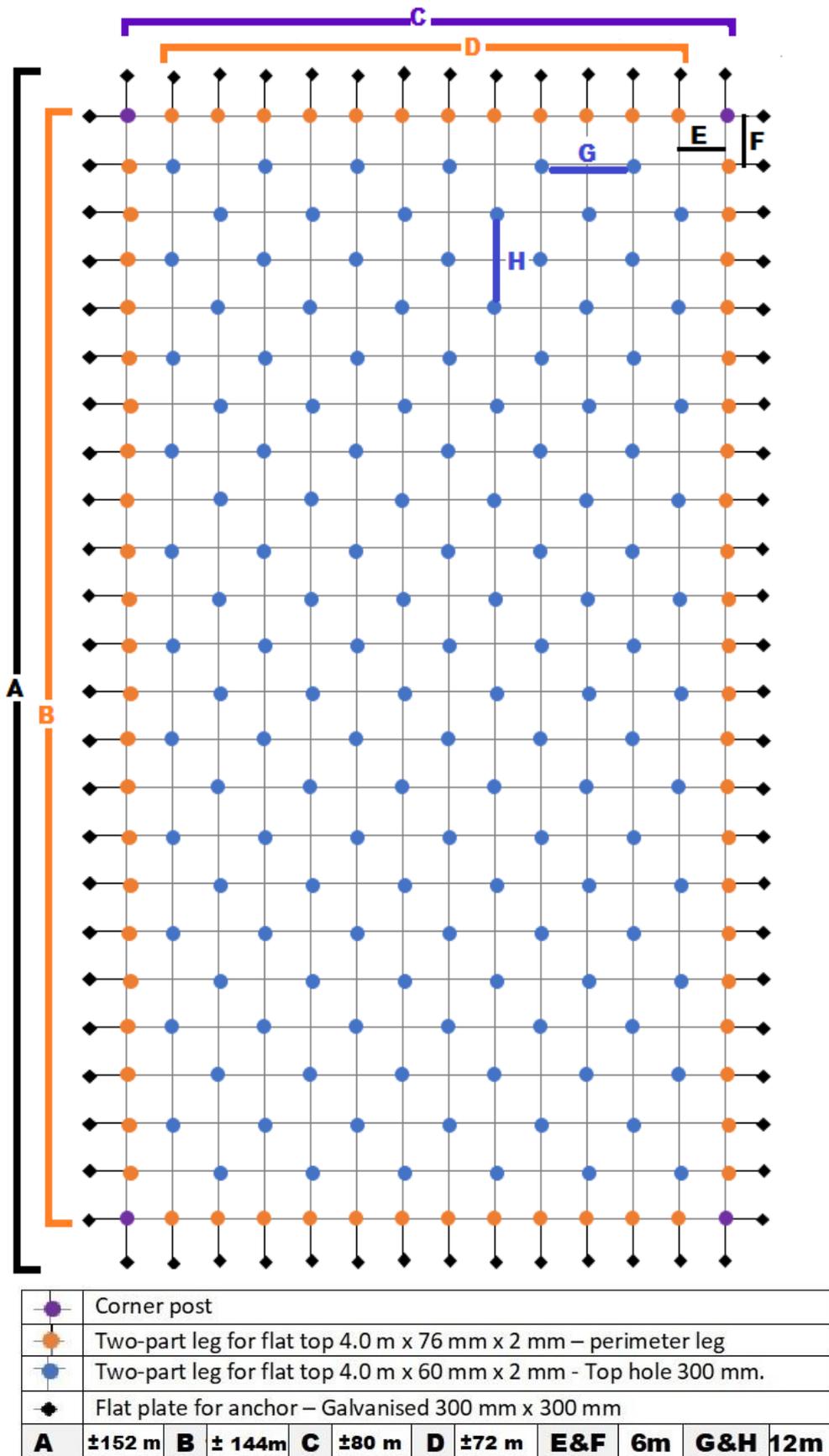
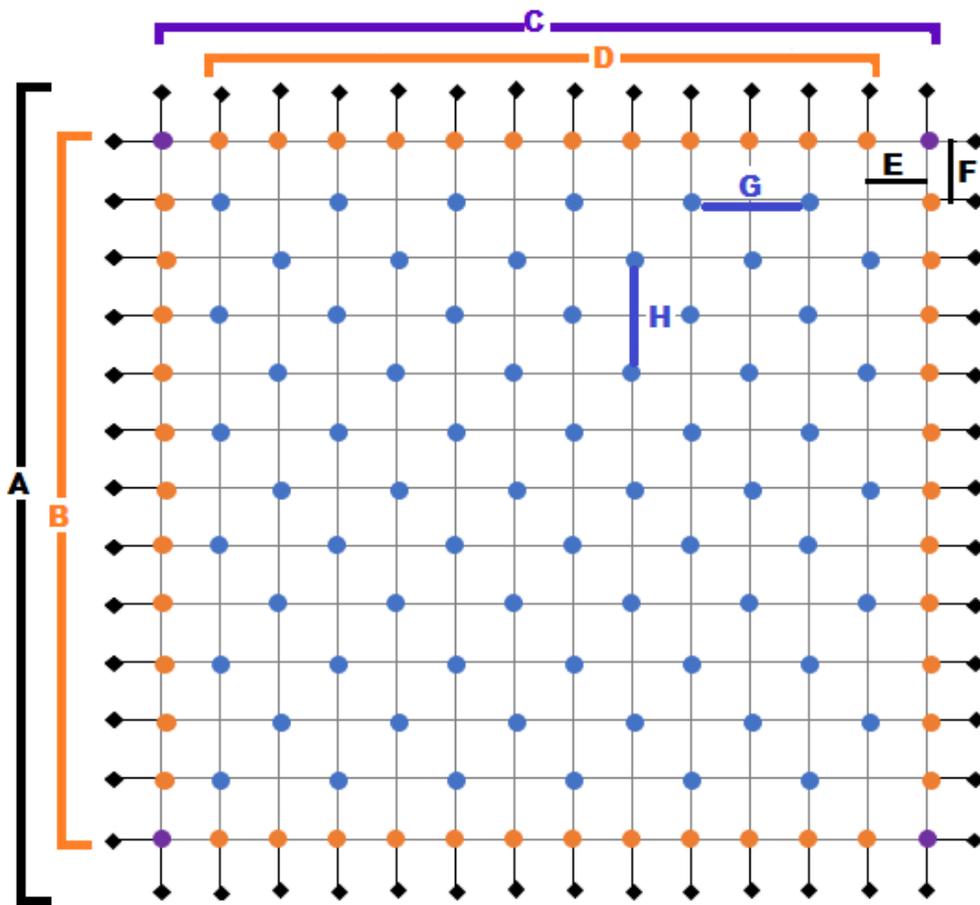


Figure 4: Positioning of poles for full hectare size (Option 1)



	Corner post										
	Two-part leg for flat top 4.0 m x 76 mm x 2 mm – perimeter leg										
	Two-part leg for flat top 4.0 m x 60 mm x 2 mm - Top hole 300 mm.										
	Flat plate for anchor – Galvanised 300 mm x 300 mm										
A	±80 m	B	±72m	C	±80 m	D	±72 m	E&F	6m	G&H	12m

Figure 6: Positioning of poles for 0.5-hectare size (Option 2)

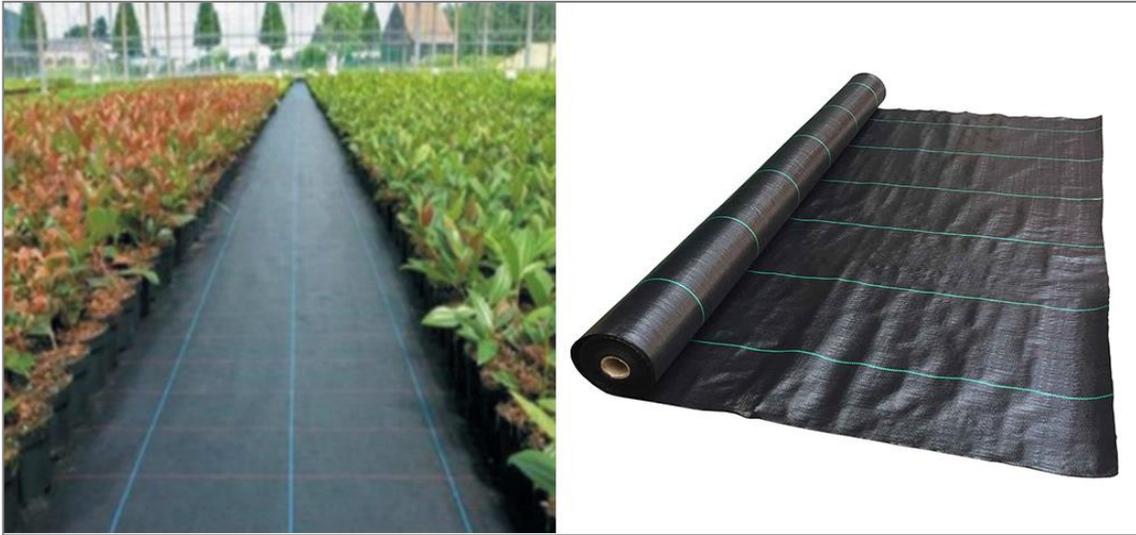


Figure 7: High density, high UV stabilised weed cover made locally.

Figure 8 illustrates how the breeding house will look when finished except that it will have a flat roof. The floor material should be installed and fixed to the ground as in Figure 7 and Figure 8.



Figure 8: Illustration of the expected inside of the tunnel (the same pots will be used)

The full hectare structure will have two pathways of 3m wide with a non-gated opening at both ends for ease of moving the large potted trees in and out of the Breeding structure (thus 4 openings). The 0.5-hectare structure will have one pathway of 3m wide with a non-gated opening at both ends for ease of moving the large potted trees in and out of the Breeding structure (thus 2 openings). See **Figure 9 and 10** for more detail as to the envisaged openings.

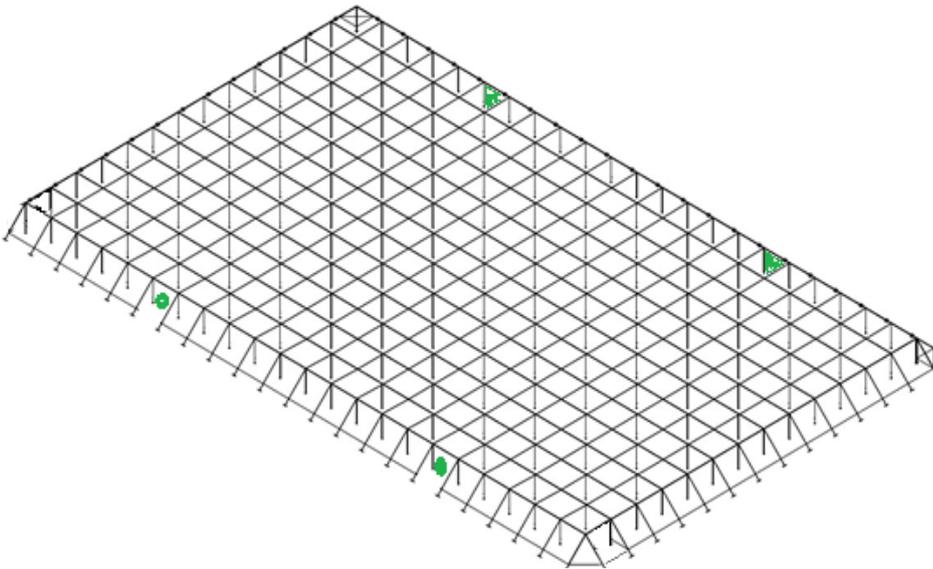


Figure 9: Diagrammatic Aerial view of envisaged 1-ha structure with four openings (Option 1)

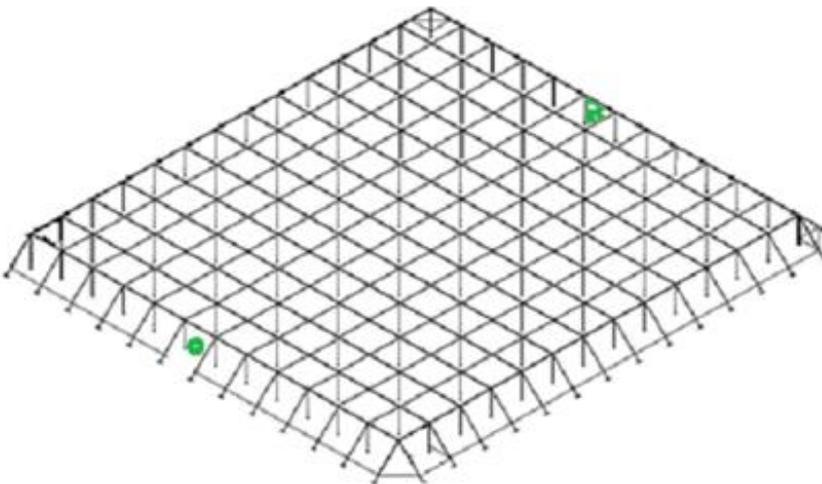


Figure 10: Diagrammatic Aerial view of 0.5-ha structure with two openings (Option 2)

SPECIFICATION	Comply with specification. Please indicate (Yes or No)		
	Yes	No	If no, indicate deviation
A: SOIL PREPARATION OF BREEDING UNIT AREA			
1. Level and compact 2.25 ha soil surface to facilitate a flat and smooth nursery type floor that must be able to host trees in pots within the breeding facility as indicated in Figure 1 (natural slope dropping from west to east which should be considered with regard to water drainage when smoothing the area).			
2. Levelling according to slope using dumpy or laser levelling equipment.			
3. Compacting the area in collaboration with the breeding house construction manager.			
B: SUPPLY, DELIVERY, AND INSTALLATION OF A TREE BREEDING STRUCTURE (BREEDING HOUSE 1) OPTION 1 = ±1 hectare			
1. Anchor to anchor width ±152 m long and ± 80 m wide.			
2. Shade net must cover entire structure including the anchor wires to soil level. Shade net cover: White Code 20 (ISO 9001:2021) with draw cord in the seams and the centre of each panel. Four openings as indicated in Figure 9.			
3. Poles - NO CONCRETE allowed to have a movable structure.			
3.1. Corner lattice post: Flat top shade 4m Triangular galvanised post (Figure 4C) that are two-way anchored with flat plates (300mm x300mm) at 1.5m deep			
3.2. Perimeter legs: Two-part leg for flat shade 4m x 76mm x 2mm Z350 High Tensile Pre galvanised Tube with internal anchor augured 750mm deep. (See Figure 4D). Spacing between perimeter and internal legs is 6m. Spacing between all perimeter legs are 6m (Figure 5).			
3.3. Internal legs: Two-part legs for flat shade top 4.0m x 60 mm x 2mm – Top hole 300mm Z350 High Tensile Pre galvanised Tube (Figure 4E). Spacing between internal poles is 12m in an alternating formation (See Figure 5).			
3.4. Flat plate anchors for perimeter and corner post – Galvanised 300mm x 300 mm – Must be planted 1.5m deep.			
3.5. Cables for connecting all poles and anchors: Galvanised 6mm Stay wire (7x2x6 mm) (See Figure 4).			
4. Floor to cover full area of breeding structure including anchor area			
4.1. Material: Weed mat, HDPE Heavy duty sheet similar to 135 gram/square meter UV stabilised and with a proof of an 8-year warranty			
4.2. Floor: Installation with suitable fasteners like weed mat staples.			
4.3. Floor: Delayed installation in collaboration with irrigation contractor.			

B: SUPPLY, DELIVERY, AND INSTALLATION OF A TREE BREEDING STRUCTURE (BREEDING HOUSE 2) OPTION 2 = ± 0.5 hectare (5184m ²)			
1. Anchor to anchor width ±80m long and ± 80m wide.			
2. Shade net must cover entire structure including the anchor wires to soil level. Shade net cover: White Code 20 (ISO 9001:2021) with draw cord in the seams and the centre of each panel. Two openings as indicated in Figure 10.			
3. Poles - NO CONCRETE allowed to have a movable structure.			
4. Corner lattice post: Flat top shade 4m Triangular galvanised post (Figure 4C) that are two-way anchored with flat plates (300mm x300mm) at 1.5m deep			
4.1. Perimeter legs: Two-part leg for flat shade 4m x 76mm x 2mm Z350 High Tensile Pre galvanised Tube with internal anchor augured 750mm deep. (See Figure 4D). Spacing between perimeter and internal legs is 6m. Spacing between all perimeter legs are 6m (Figure 5).			
4.2. Internal legs: Two-part legs for flat shade top 4.0m x 60 mm x 2mm – Top hole 300mm Z350 High Tensile Pre galvanised Tube (Figure 4E). Spacing between internal poles is 12m in an alternating formation (See Figure 5).			
4.3. Flat plate anchors for perimeter and corner post – Galvanised 300mm x 300 mm – Must be planted 1.5m deep.			
4.4. Cables for connecting all poles and anchors: Galvanised 6mm Stay wire (7x2x6 mm) (See Figure 4).			
4.5. Floor to cover full area of breeding structure including anchor area.			
4.6. Material: Weed mat, HDPE Heavy duty sheet similar to 135 gram/square meter UV stabilised and with a proof of an 8-year warranty.			
4.7. Floor: Installation with suitable fasteners like weed mat staples.			
4.8. Floor: Delayed installation in collaboration with irrigation contractor.			

GENERAL COMPULSARY CONDITIONS		
1. The participating vendor must provide a letter stating that they are either a principal installer of tunnels/greenhouses or an authorized installer of the tunnels of which the design is used (please provide evidence on official letterhead) with three references and photographic evidence on similar work done.		
2. The supplier/installer of the structure must provide a product certificate stating the standard of the shade net and floor material that will be used.		
3. The supplier/installer must provide a document stating a minimum warranty of two years on installation and components or where the product certificates indicate a longer warranty.		

GENERAL INFORMATION

AVAILABLE FACILITIES:

The following facilities are available onsite:

- Water is available onsite.
- Own ablution must be provided.
- The bidder is liable for the security of the project materials.

DURATION OF PROJECT & PENALTY:

- Start of project: Official site handover.
- Date of completion: Final site inspection to the satisfaction of the ARC contract manager.
- Maximum duration of project 90 working days.
- All communications and decisions should be validated by both the Supplier and the ARC contract manager.

Penalty management:

- Penalties apply for every day that elapses between the Due Completion Date and the actual Date of Practical Completion, including special non-working days.
- Penalties apply where the ARC's contract manager determines that the standard of work is below that specified in the contract.
- The imposition of such penalty shall not relieve the contractor from his obligations to complete the work, or from any of his obligations and liabilities.
- A day extension can be added for each rainy day if more than 5 mm rain/24 hours were measured at Bien Donne and must be approved by ARC upon request.

The penalties under the contract are as follows:

- Where the work done deviates from the specifications, the rectification of work is to be done at the contractors' own cost.
- Where the completion of work is delayed by more than 2 weeks from the approved and agreed upon timelines, the penalty is 2% of the original invoice value for each additional week of delay.

SITE INTERDEPENDENCIES IMPACTING THE PROJECT:

The following interdependencies onsite should be adhered to:

- All dimensions, levels and heights must be verified on site and any discrepancies to be reported to the ARC project leader before any work takes place.
- Local council requirements & all relevant specifications and codes to be adhered to.
- Contractors will be required to comply with onsite security, i.e., access control measures to the farm and farm buildings.
- The Contractor is responsible to keep all equipment and material safe until completion of the project and ARC will not be liable for loss of material and equipment during implementation of the project.
- Organizational operations: Normal farm business will be in operation, and consideration should be made to ensure a conducive and safe working environment is maintained during the refurbishment; and installation of the breeding structure.
- The Contractor is liable for the safety of own workers and work conditions according to the OHS act.
- The site must be left in a clean state with all rubble and other rubbish removed from site to the satisfaction of the ARC contract manager, after completion of work and before final payment.

SPECIAL CONDITIONS OF CONTRACT

Special conditions of contract:

- No inferior or defective workmanship of any trade will be accepted.
- The contractor will be held responsible for any damages to ARC property whatsoever and will conduct repairs to the complete satisfaction of the ARC at his own cost.
- Only qualified artisans with the necessary tools will be allowed to work on the project.

MANAGEMENT OF SERVICE PERFORMANCE LEVELS:

<ul style="list-style-type: none"> • Upon appointment, the appointed bidder and the ARC will review the initial service levels as set out in this document to ensure delivery after signing of the contract. • Both parties agree on the final set of service levels including measurable key performance indicators with minimum thresholds in writing which is appended to this contract document. • Where both parties agree to a variation of these service levels, both parties will meet and agree on the revised service levels in writing which is appended to this contract document. • The agreed service level document states the agreed service levels, date effective from, performance penalties, and any matter forming part of such service levels.
<p>Management of poor performance:</p> <ul style="list-style-type: none"> • Where either party has identified poor performance under this contract, both parties will meet and investigate the matter to determine the root cause. • Both parties will agree to a correction plan and will implement it. • Both parties will monitor the corrective actions to ensure service levels are at the agreed minimum. • Both parties will assess the applicability of penalties to the incurred poor performance and apply these.
<p>PAYMENT MANAGEMENT:</p>
<p>ARC does not allow advance payments. However, items A, B and C on the pricing schedule can be invoiced upon delivery and the outstanding amount will be due if all the items on the pricing schedule was successfully addressed as determined by a final site inspection.</p>
<p>RISKS MANAGEMENT:</p>
<ul style="list-style-type: none"> • The bidder must affect and keep in force Contract Works Insurance for full contract value. • The bidder must provide proof of Public Liability Insurance.

<p>GENERAL AND SPECIAL CONDITIONS OF CONTRACT:</p>
<p>Applicable legal system The governing law is the law of South Africa.</p>
<p>Applicable language The language of the Contract and for written communications is South African English.</p>
<p>The Defects Liability Period is: In terms of Latent Defects Liability, the contractor's liability shall continue beyond the date of achievement of Final Completion for the period of 90 days.</p>
<p>Commencement Date: The date of the Official site handover to the contractor within two weeks after the purchase order is submitted to the contractor.</p>
<p>Service Provider Obligations: The service provider must exercise reasonable skill, care, and diligence in rendering all services included in this procurement contract. The service provider must deliver the services during normal working hours (i.e., Monday to Friday, excluding public holidays from 07:30 to 16:30) except it was other wisely agreed. The service provider may not do anything that may prejudice or be averse to the operations and functions of the ARC.</p>
<p>Contracted Party Due Diligence during the Contract Period: The ARC has the right to conduct supply chain due diligence including site visits and inspections at any time during the contract period.</p>

1. COMPULSORY REQUIREMENTS FOR THE TENDER

EVALUATION PROCESS & CRITERIA

This phase consists of Mandatory and Non-Mandatory administrative compliance evaluation of all proposals. All bids duly lodged will be examined to determine compliance with bidding requirements and conditions. Bids with obvious deviations from the requirements/conditions, will be eliminated from further adjudication.

Mandatory: The bidders shall provide the ARC (accompanying the bid document on the closing date/time) with the following information:

- 3.1 Certified copy of company registration documents such as CK certificate for Close Corporations.
- 3.2 Completed specification list with all boxes ticked accordingly.
- 3.3 **COMPULSORY** attendance of the briefing session and site inspection.
- 3.4 Three (3) reference letters to be supplied listing the following details: the company name, contact person, telephone number, type of work completed, period of completion and value of the project for the past three (3) years.

Failure to provide any mandatory information as requested above will result in the submission being deemed non-responsive.

Non-Mandatory: The bidders shall provide the ARC (accompanying the bid document on the closing date/time) with the following information, however the ARC has a right to request information for further clarification if there is a need for more clarification after the closing date.

Administrative Compliance such as but not limited to:

- 3.5 Valid tax clearance certificate a PIN number from SARS.
- 3.6 CSD report (Central Supplier Database report).
- 3.7 Valid BBB-EE certificate or and consolidate BBBEE certificate in case of JV submission.
- 3.8 Company profile with key personnel/Professional Team member's organogram
- 3.9 Complete and sign all the SBD forms.
- 3.10 Complete and sign form of Offer and Acceptance.
- 3.11 Public liability confirmation letter should be submitted once the tender is awarded.
- 3.12 The contractor shall be responsible for all OHSE compliance on site and the OHSE file must be submitted to the facilities manager once on site.

Where a bid specifies certain non-mandatory documents prior to the award, no bidders can be awarded the bid without the specified documents. This information will be requested during the evaluation process and the bidder will be expected to provide any outstanding documentation within limited period prior to evaluation.

2. EVALUATION CRITERIA

All bidders will be evaluated according to the following:

- 2.1. Compliance to the compulsory requirements of the tender.
- 2.2. Functionality Criteria
- 2.3. 80/20 principle will be applicable to this tender.

Note: Bidders who fail to submit all the mentioned requirements will be disqualified.

EVALUATION CRITERIA STAGE 1			
FUNCTIONALITY CRITERIA			
Company Experience in installing the quoted product <i>(Positive reference letters in the letter head of the institution concern i.e., the Employer need to be attached for functionality points scoring, otherwise no points will be allocated).</i>			
Project value with proof and reference from clients (Tick only one box):	Number of projects executed	Maximum number of percent	Score
More than R500 000 and less than R 1 000 000.00	1 or more	5	
Equal or over R 1 000 000. 00 but less than R 3 000 000.00	1	10	
	2	15	
	3 or more	25	
Equal or over R 3 000 000. 00	1 or more	30	
SUB TOTAL		30	
Project size with proof and reference from clients (Tick only one box):	Number of projects executed	Maximum number of percent	Score
Single unit of more than 0.5 ha and less than 1.0ha	1 or more	5	
Single unit equal to one hectare or more	1	10	
Single unit equal to one hectare or more	2	15	
Single unit equal to one hectare or more	3or more	20	
SUB TOTAL		20	
Management and Key Staff			
Previous Experience <i>(CVs with contactable reference must be attached as sources of evidence otherwise no evaluation points will be allocated)</i>		Maximum number of points	Score
<u>Contracts Manager</u> (Tick only one box):			
More than 5 years and less than 10 Yrs. relevant Exp.		5	
Equal or more than 10 Yrs. but less than 15 Yrs. relevant Exp.		10	
Equal or more than 15 Yrs. relevant Exp.		15	
<u>Construction Manager</u> (Tick only one box):			
More than 1 year and less than 5 Yrs. relevant Exp.		5	
Equal or more than 5 Yrs. but less than 10 Yrs. relevant Exp.		10	
Equal or more than 10 Yrs. relevant Exp.		15	
SUB TOTAL		30	
Programme of Works (Tick only one box): Financial Proof to the effect that they will be able to successfully complete the contract at the tendered amount within the specified time.		Maximum number of points	Score
The Tenderer could NOT provide such a document		0	
The Tenderer ATTACHED such a document.		20	
SUB TOTAL		20	
TOTAL		100	

Bidders who do not obtain a minimum score of 60 points on functionality criteria will be disqualified and will not be evaluated STAGE 2 that is Price and PPPFA Specific Goals.

PRICE AND BBBEE EVALUATION

THE 80/20 PRINCIPLE WILL APPLY IN TERMS OF THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT (PPPFA).

Specific Goals	Percentage Ownership	Points (20)	Points (10)
Ownership by HDIs	51%+	6	3
Ownership by Women	51%+	4	2
Ownership by Youth	51%+	4	2
Ownership by PwD	51%+	2	1
BEE Status	Level 1 - 4	2	1
RDP Goals Promotion of South African entities situated in the Western Cape	Promotion of South African entities situated in the Western Cape	2	1
TOTAL POINTS		20	10

06. LODGING OF SUBMISSIONS

Tenderers are requested to submit Three (3) complete documents in sealed envelopes, One original and two copies both with all accompanying documents.

The name of the bidder and the tender number should reflect on the “sealed” envelop must be deposited into the Tender Box located at ARC INFRUITEC CAMPUS, HELSHOOGTE ROAD, STELLENBOSCH

for the attention: “SUPPLY CHAIN OFFICE”, **by no later than 11:00 (eleven o’clock) on 17 SEPTEMBER 2024**

Submissions not received on time and date specified will not be considered.

07. COMPLIANCE WITH GENERAL CONDITIONS OF CONTRACT

No alteration, variation or amendment of the Contract (of which this Tender represents the offer) shall be permitted unless otherwise agreed to in writing. Should the prospective provider, in the case of non-compliance, wish to make any amendments to the conditions stipulated by the ARC in this Tender, which shall form the offer element of a Contract and if it is accepted by the ARC, then such proposed amendments shall be clearly stipulated by the prospective provider and where possible stating the increase or decrease in the cost involved by such proposals. The ARC reserves the right to reject such submissions.

Misrepresentation of facts will result in disqualification and cancellation of the Contract.

08. ARC LIABILITY

The ARC does not bind itself to accept the lowest or any tender proposal, nor to assign any reason for the rejection of a tender proposal, nor shall it be responsible for or pay any expenses or losses that may be incurred by the prospective provider in the preparation and delivery of its submission.

09. SUBMISSION ACCEPTANCE

No submission shall be deemed to have been accepted, unless and until a formal appointment letter is issued to the successful tenderer. Submissions shall remain open for acceptance by the ARC for a period of 180 (one hundred and eighty) days from the date on which they are returnable in terms of this Tender.

10. PRICES

Tenderers shall indicate the basis on which the services will be charged. In this regard the following information shall be provided:

- Where a Tenderer lacks in-house expertise and may have to outsource certain services, the detail and basis of charges of any such service that may be required must be outlined.
- The tenderer shall reflect service discounts that they will offer throughout the contract duration.
- Tenderers submissions must reflect the detailed breakdown of the tender price as per the costing structure or bill of quantities.
- Prices must include VAT, if it is applicable and all other costs related to the execution of the required services.
- The tenderer agrees not to change the price with VAT or any other Tax subsequent to submitting the tender. This includes subsequent VAT registration.
- All prices quoted are to be in SA Rand and inclusive of Value Added Tax (VAT).
- No change in the prices submitted shall be considered after receipt of response to the Tender submission within the validity period of the tender.
- Bidders shall ensure that the bid price is for the duration of the project, **including escalations.**

11. TERMS OF ENGAGEMENT

- The successful bidder shall not take more than three (3) months from date of Bid award unless otherwise indicated and agreed between the successful Bidder and the ARC.
- The Service Provider shall be available for consultation with the ARC representative.
- The Service Provider shall manage as confidential all data, information and insights gained in execution of work for the ARC.

- ARC retains the right to negotiate with the successful Bidder for partial execution of the proposal.
- ARC retains the right to enter into non-exclusive agreements with Service Providers that do not restrict procurement of goods and services from other Service Providers.
- ARC retains the right to require the Service Provider to obtain permission in writing from the ARC prior to replacement of individuals proposed for execution of this Bid.
- Service Providers to accept professional liability for services rendered, including those rendered under sub-contract to the service provider.

12. CONTENTS OF SUBMISSION

Proposals shall include all relevant information about the Bidder, which is thought appropriate to assist the ARC to assess its capabilities, capacity, outputs, value adding abilities, competitive advantage, etc.

The proposals presented are to be comprehensive and should describe the methodology to be followed in doing the following:

- The Breakdown of the complete specification with associated costs.
- All SBD (Standard Bidding Documents) must be completed and signed.

The proposals presented are to be as comprehensive as possible and ARC reserves the right to request the Bidder to provide more details.

Bidders shall adhere to the conditions stipulated in the General Conditions of Contract as prescribed by the National Treasury.

Bidders must ensure that the complete bid document is submitted with all additional required information and any other documents that the bidder wishes to supply to substantiate or clarify specific aspects in the proposal.

Failure to submit all the signed and completed Standard Bidding documents and / or any required documentation will result in disqualification.

13. TRACK RECORD

Bidders shall provide a list three references of companies for which similar services have been rendered for.

14. BROADBASED BLACK ECONOMIC EMPOWERMENT (BBBEE)

In terms of the Preferential Procurement Policy Framework Act (PPPFA), Act 5 of 2000, the 80 / 20 principle shall be applicable to this bid and points shall be allocated as indicated under functionality. Sound evidence for points claimed must be attached so that points can be allocated.

BBBEE Specific Goals points will be awarded to service providers who will submit certified copy of BBBEE certificates or original BBBEE certificates from SANAS accredited agencies and IRBA, or BBBEE sworn Affidavit signed and stamped by Commissioner or Oath.

Joint Ventures / Consortium / Partnerships must submit a BBBEE document as indicated above for that particular entity e.g JV or Consortium otherwise no BBBEE points shall be awarded.

For Specific Goals, bidders must complete SBD 6.1 and attach accompanying documentation as proof.

No BBEE points shall be awarded to a tenderer who fails to comply with the above.

15. AMPLIFICATION OF SUBMISSIONS

The ARC may, after the opening of submissions, call on the prospective Bidder to amplify in writing any matter which is not clear in the prospective Bidder's submission and such amplification shall form part of the original submission. In the event of the prospective Bidder failing to supply such information, the submission will be liable to rejection.

16. COST OF PROPOSAL

Bidders shall bear all costs associated with the preparation and submission of their proposals, the ARC will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the Bid.

17. BID DOCUMENTS

This document in its entirety serves as the complete Bid document. Proposals offering only part of the requirements will be rejected. The Bidder is expected to examine all corresponding instructions, forms, terms and specifications contained in this document. Failure to comply with these documents will be at the Bidder's risk and may affect the evaluation of their proposal.

18. DOCUMENTS COMPRISING THE PROPOSAL

In preparing the technical and price components of the submissions all references to descriptive material and brochures should be included in the appropriate response paragraph, although material documents themselves may be provided as annexes to the proposal / response. Bidders are requested to focus on the provision of relevant information and to limit the amount of marketing and "boilerplate" material. The successful Bidder's proposal may be incorporated in whole or in part in the final contract. Any information that the Bidder considers proprietary should be marked as such.

19. INFORMATION

Information that the Bidder considers proprietary, if any, should be clearly marked "proprietary" next to the relevant part of the text and it will be treated as such accordingly.

20. PERIOD OF VALIDITY

Proposals shall remain valid for one hundred and eighty (180) days after the date of proposal submission. A proposal valid for a shorter period may be rejected by the ARC on the grounds that it is non-responsive.

In exceptional circumstances, the ARC may solicit the Bidder's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing.

21. FORMAT AND SIGNING OF PROPOSALS

The Bidder shall prepare one copy of the proposal, clearly marking one "Original Proposal" and "Copy of Proposal" as appropriate. In the event of any discrepancies between them, the original shall govern. shall be signed by the Bidder or a person or persons duly authorised to bind the Bidder to the contract.

22. INTERLINEATIONS

A proposal shall contain no interlineations, erasures, or overwriting except, as necessary to correct errors made by the Bidder, in which case such corrections shall be initiated by the person or persons signing the proposal.

23. PAYMENT

The successful Bidder shall be paid upon submission of an invoice for each transaction of satisfactory work detailed in the scope.

24. DUE DILIGENCE EXERCISE

The ARC reserves the right to perform due diligence exercise for the purpose of appointing a credible tenderer.

25. PRICE AND PRICING STRUCTURE

(To be inserted or deposited into the Proposal Envelope)

- Bidders shall indicate the basis on which the services will be charged.
- Bidders' submissions must reflect the detailed breakdown of the bid price as follows:
 - Prices must include VAT, if it is applicable and all other costs related to the execution of the required services.

26. CANCELLATION OF THE BID

The ARC reserves the right to cancel the bid at any time of the process should the recommended service provider/s fail to meet the requirements of the bid.

27. SITE INSPECTION

All bidders must attend a compulsory site inspection and must be on time at 11:00 with grace of 20 minutes they will not be allowed to sign the register or enter after 11:20 am. Suppliers who did not attend the site inspection will not be allowed to BID for this Tender.

28. SUB-CONTRACTING/ JOINT VENTURE BUSINESS

Bidders must ensure that both/all service providers submit their tax compliant pin numbers, standard bidding documents and central supplier database report.

29. SIGNING OF THE SERVICE LEVEL AGREEMENT

The successful service provider will be expected to sign the service level agreement within ten (10) working days after receiving the appointment letter from the ARC Supply Chain Management Unit.

The Agricultural Research Council will then send the letter of award to the preferred bidder with two copies of the completed version of the said contract specimen and the preferred bidder will be firmly obliged to duly sign, initial and properly date both copies of the same and return them to the Agricultural Research Council for its signature within 10 (Ten) working days of their receipt of the said documents, failing which the Agricultural Research Council will be entitled, in its sole and total discretion and without further notice to such preferred bidder to write to such preferred bidder, summarily withdrawing the tender award, due to such contract signing process delay on the part of the given preferred bidder.

**PART A
INVITATION TO BID**

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (AGRICULTURAL RESEARCH COUNCIL)					
BID NUMBER:	ARC/31/03/2024/1	CLOSING DATE:	17 SEPTEMBER 2024	CLOSING TIME:	11:00
DESCRIPTION	SUPPLY, DELIVERY, AND INSTALLATION OF A FLAT TOP SHADE NET STRUCTURE (TREE BREEDING STRUCTURE) AT BIEN DONNE RESEARCH FARM				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
ARC INFRUITEC CAMPUS, HELSHOOGTE ROAD, STELLENBOSCH AT RECEPTION.					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	MS LINDA MGWATYU		CONTACT PERSON	MS LINDA MGWATYU	
TELEPHONE NUMBER	021-809-3172		TELEPHONE NUMBER	021-809-3172	
FACSIMILE NUMBER	N/A		FACSIMILE NUMBER	N/A	
E-MAIL ADDRESS	Mgwyatul@arc.agric.za		E-MAIL ADDRESS	Mgwyatul@arc.agric.za	
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]					

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

QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?

YES NO

DOES THE ENTITY HAVE A BRANCH IN THE RSA?

YES NO

DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?

YES NO

DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?

YES NO

IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?

YES 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, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
- 1.4. **THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).**

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 SARS PIN 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:

NB: FAILURE TO PROVIDE ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.

ANY ENQUIRIES REGARDING THE BIDDING PROCEDURE AND TECHNICAL QUIRIES MAY BE DIRECTED TO:

Department: Supply Chain Management

Contact Person: Ms Linda Mgwatyu

E-mail address: Mgwatyul@arc.agric.za

All technical enquiries must be forwarded in writing to Supply Chain Management who will act as communicator between the Bidder and ARC to ensure that all Bidders receive the same information.

TAX CLEARANCE CERTIFICATE REQUIREMENTS

It is a condition of bid that the taxes of the successful bidder must be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the bidder's tax obligations.

1. In order to meet this requirement bidders are required to complete in full the attached form TCC 001 "Application for a Tax Clearance Certificate" and submit it to any SARS branch office nationally. The Tax Clearance Certificate Requirements are also applicable to foreign bidders / individuals who wish to submit bids.
2. SARS will then furnish the bidder with a Tax Clearance Certificate that will be valid for a period of 1 (one) year from the date of approval.
3. The original Tax Clearance Certificate must be submitted together with the bid. Failure to submit the original and valid Tax Clearance Certificate will result in the invalidation of the bid. Certified copies of the Tax Clearance Certificate will not be acceptable.
4. In bids where Consortia / Joint Ventures / Sub-contractors are involved, each party must submit a separate Tax Clearance Certificate.
5. Copies of the TCC 001 "Application for a Tax Clearance Certificate" form are available from any SARS branch office nationally or on the website www.sars.gov.za
6. Applications for the Tax Clearance Certificates may also be made via eFiling. In order to use this provision, taxpayers will need to register with SARS as eFilers through the website www.sars.gov.za.

**PRICING SCHEDULE
(Professional Services)**

NAME OF BIDDER: BID NO.: **ARC/31/03/2024/1**

CLOSING TIME **11:00** CLOSING DATE: **17 SEPTEMBER 2024**

OFFER TO BE VALID FOR 180 DAYS FROM THE CLOSING DATE OF BID.

1.2 PRICING SCHEDULE

Item description- OPTION 1	QTY	Unit price	Total Price
1. Supply, delivery, and installation of a 1.0 hectare, Flat Roof Shade net Structure.	1		
2. Soil preparation of 2.25 Hectares	1		
3. Supply, delivery and installation of weed mat type floor for 1.0 Ha.	1		
4. Other: (Please specify)			
Subtotal			
VAT			
Grand Total			

1.2 (b) PRICING SCHEDULE

Item description- OPTION 2	QTY	Unit price	Total Price
1. Supply, delivery, and installation of a 0.5 Hectare tree, Flat Roof Shade net Structure or breeding structure.	1		
2. Soil preparation of 2.25 Hectares	1		
3. Supply, delivery and installation of weed mat type floor for 0.5 Ha.	1		
4. Other: (Please specify)			
Subtotal			
VAT			
Grand Total			



SUPPLIER'S DETAILS:

Company Name:

Contact person:

Contact number & Email:

Date & Signature:

Any enquiries regarding bidding procedures may be directed to the –

AGRICULTURAL RESEARCH COUNCIL – INFRUITEC

Department: Supply Chain Management

Contact Person: Miss Linda Mgwatyu

Tel: (021) 809 3172

E-mail address: Mgwatyul@arc.agric.za

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

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

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

2. Bidder's declaration

2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest¹ in the enterprise, employed by the state? **YES/NO**

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

Full Name	Identity Number	Name of State institution

2.2 Do you, or any person connected with the bidder, have a relationship with any person who is employed by the procuring institution? **YES/NO**

2.2.1 If so, furnish particulars:
.....
.....

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

2.3.1 If so, furnish particulars:
.....

3 DECLARATION

I, the undersigned, (Name).....

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.

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

- 3.1 I have read, and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect.
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium² will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be,

disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.
- 3.6 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 and 3 ABOVE IS CORRECT.
I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of bidder

² Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

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

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

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

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to invitations to tender: the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and

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 80/20 preference point system.

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

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

Price; and Specific Goals.

1.4 **To be completed by the organ of state:**

The maximum points for this tender are allocated as follows:

- Ps = Points scored for price of tender under consideration
- Pt = Price of tender under consideration
- Pmax = Price of highest acceptable tender

	POINTS
PRICE	80
SPECIFIC GOALS	20
Total points for Price and SPECIFIC GOALS	100

- 1.1 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.
- 1.2 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.

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).

FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

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

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

80/20

or

90/10

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

Where

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

3.1. **FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT**

3.1.1. **POINTS AWARDED FOR PRICE**

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

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

3. **POINTS AWARDED FOR SPECIFIC GOALS**

3.1. 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:

3.2. 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

Specific goals	Number of points allocated. (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (To be completed by the tenderer)
Percentage (%) Ownership by HDI's	Points (6)	
51% and above	6	
Below 51%		
Percentage (%) Ownership by Women	Points (4)	
51% and above	4	
Below 51%		
Percentage (%) Ownership by Youth	Points (4)	
51% and above	4	
Below 51%		
Percentage (%) Ownership by PwD	Points (2)	
51% and above	2	
Below 51%		
RDP Goals	Points (2)	
Promotion of South African entities situated in the Western Cape	2	
BEE Status	Points (2)	
Level 1-4	2	

DECLARATION WITH REGARD TO COMPANY/FIRM

3.1. Name of company/firm.....

3.2. Company registration number:
.....

3.3. TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
- One-person business/sole propriety
- Close corporation
- Public Company
- Personal Liability Company
- (Pty) Limited
- Non-Profit Company
- State Owned Entity

3.4. I, the undersigned, who is duly authorized 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 favorable arrangements due to such cancellation.

- (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
- (e) forward the matter for criminal prosecution, if deemed necessary

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

ADHERENCE TO THE ARC'S CODE OF ETHICS

1. INTRODUCTION

This statement forms part of the Agricultural Research Council's "Ethics and Fraud Prevention strategy". It sets out the tone, culture and expectations of the ARC in promoting a policy of fair dealing and integrity in the conduct of business and the countering of fraudulent activities.

2. POLICY

2.1 The ARC's vision is to provide Excellence in Agricultural Research and Development.

2.2 The ARC will do everything possible to promote honesty, integrity and to adhere to all applicable laws in everything it does and is committed to the prevention, deterrence, detection and investigation of all forms of non-adherence to policies, laws and the Code of Ethics.

2.3 ARC Council members, Audit Committee members and employees at all levels are expected to adopt the highest standards of propriety and accountability. These standards are also expected from organisations that the ARC deals with such as suppliers, contractors, customers, partners, etc.

2.4 If it is established that suppliers, contractors, customers and partners have engaged in corrupt, dishonest, fraudulent activities or have contravened the supply chain policy of the Code of Ethics in competing or executing the contract awarded, the ARC will immediately terminate the contract. Any supplier, contractor, partner or officer representing any of the entities if found guilty of any of the above they will be declared ineligible to supply goods, works and services to the ARC under any programmes or projects managed and administered by the ARC on behalf of its clients.

2.5 The ARC can in its sole judgement proceed to pursue any legal remedies available.

3. CULTURE

3.1 Adherence to laws, policies and procedures, the prevention and detection of fraud and corruption and the protection of ARC's assets is every stakeholder's responsibility.

3.2 Council members, Audit Committee members, all employees are expected to carry out their duties to the best of their ability for the benefit of the ARC and not to take advantage of any situation for personal gain, for themselves, members of their family or friends.



4. CODE OF ETHICS AND FRAUD PREVENTION STATEMENT

4.1 Members of the public, suppliers, contractors and partners are expected to act with integrity in their business dealings with the ARC and not to behave dishonestly to the detriment of the ARC.

4.2 The ARC has set up a secure and confidential framework, within which any employee, member of the public, suppliers, contractors, partners are encouraged to raise concerns if they know of or suspect that the following is about to occur or has occurred:

- Fraud.
- Corruption.
- Abuse of assets.
- Irregular transactions are taking place;
- Fruitless expenditure has been incurred.
- Endangering of an individual's health and safety.
- A violation of applicable laws, rules, policies or regulations of the Code of Ethics.

4.3 The ARC will ensure that any allegations received are taken seriously and investigated in an appropriate manner.

4.4 The ARC will deal firmly with those who act dishonestly. Following proper investigation, appropriate disciplinary action and / or criminal proceedings will be instigated.

4.5 Suppliers, contractors and partners acknowledge that they have read and understood relevant sections of the Code of Ethics policies, procedures and laws applicable to them.

4.6 Stakeholders who wish to remain anonymous when raising concerns are encouraged to use the following secure hotline:

Free Call Telephone Number: 0800 000 604

Free Call Facsimile Number: 0800 007 788

E-mail: arc@tip-offs.com

"Please call me" number: 32840

Tip-offs anonymous url: www.tip-offs.com

No-one will be subjected to retaliation for good faith reporting of a suspected violation.



4.7 Concerns can only be adequately investigated if all relevant facts concerning the issue being reported are disclosed. Stakeholders are encouraged to provide relevant facts including supporting documentation of available.

I, the undersigned in my capacity as an authorized representative of registration number

HEREBY ACKNOWLEDGE:

1. That I have been explicitly informed of and consequently and fully aware of the fact that:
 - a) I must adhere to sections of the ARC Code of Ethics, supply chain policy and laws that apply to me as a supplier or contractor.
 - b) I will report to the ARC any violations and contraventions of its Code of Ethics, policies, procedures that I may become aware of.
 - c) Failure to adhere to (a) and (b) above will result in the cancellation of my contract with the ARC and the ARC in its sole judgement may pursue any other legal action it deems appropriate.

NAME(s): (BLOCK LETTERS)

CAPACITY of authorized agents:

SIGNATURE(s) of authorized agents:

SIGNED AT on this day of

WITNESSES: (Full name – BLOCK LETTERS – and signature)

1.
2.



THE NATIONAL TREASURY

Republic of South Africa



**GOVERNMENT PROCUREMENT:
GENERAL CONDITIONS OF CONTRACT**

July 2010

GENERAL CONDITIONS OF CONTRACT



1. Definitions

The following items shall be interpreted as indicated:

- 1.1 “Closing time” means the date and hour specified in the bidding documents for the receipt of bids.
- 1.2 “Contract” means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- 1.3 “Contract price” means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
- 1.4 “Corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.
- 1.5 “Countervailing duties” are imposed in cases where an enterprise abroad is subsidised by its government and encourage 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 recognised 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 specific 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 goods are so delivered and a valid receipt is obtained.

- 1.11 “Dumping” occurs when a private enterprise abroad markets 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, by 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 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 sub-contractors) 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 goods 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 organisation 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 ancillaries 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 “Supplier” means the successful bidder who is awarded the contract to maintain and administer the required and specified service(s) to the State.
- 1.26 “Tort” means in breach of contract.
- 1.27 “Turnkey” means a procurement process where one service provider assumes total responsibility of all aspects of the project and delivers the full end product / service required by the contract.
- 1.28 “Written” or ‘in writing” means hand-written 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 (excluding professional services related to the building and construction industry), 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 goods, 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, 0111, or accessed electronically from 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 written consent, make use of any document or information mentioned in the GCC clause 5.1 except for purposes of performing the contract.

5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so, required by the purchaser.

5.4 The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so, required by the purchaser.

6. Patent rights.

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

7. Performance Security



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

8. Inspections, tests and analysis

- 8.1 All pre-bidding testing will be for the account of the bidder.
- 8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organisation acting on behalf of the Department.
- 8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analysis shall be defrayed by the purchaser.



- 8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.
- 8.7 Any contract supplies may on or after delivery be inspected, tested or analysed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his 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 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



The goods supplied under the contract shall be fully insured in a freely convertible currency against loss and 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 to 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 relive 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 the SCC.
- 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfilment of other obligations stipulated in the contract.
- 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 service performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorised in SCC or in the purchaser's request for bid validity extension, as the case may be.

18. Variation orders

- 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 the 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 sub-contractor(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 by 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 service from a national department, provincial department or a local authority.
- 21.4 The right is reserves to procure outside of the contract small quantities or to have minor essential services executed is an emergency arises, the supplier's point of supply is 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 supplier contract, the purchaser shall, without cancelling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitles 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 judgement 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 purchase 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 purchase 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 purchase intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of 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 Is 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.

23.7 If a court of law convicts a person of an offense as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, 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 in 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

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 subsidised 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 reduces, 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 supplied or services which he delivered or rendered, or is to deliver or render in terms of the contract or any other contract or any other amount which may be due to him.

25. Force Majeure

25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default is and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.

25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to



perform its obligations under the contract as far as is reasonable practical and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

26. Termination for Insolvency

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

27. Settlement of disputes

27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.

27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.

27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African Court of Law.

27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.

27.5 Notwithstanding any reference to mediation and / or court proceedings herein

- a) The parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
- b) The purchaser shall pay the supplier any monies due to the supplier.

28. Limitation of Liability

28.1 Except in cases of criminal negligence or wilful misconduct, and in the case of infringement pursuant to Clause 6.



- a) The supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and / or damages to the purchaser; and
- b) The aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

29. Governing language

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

30. Applicable law

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 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, licence 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. Transfer of contracts

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. Amendments of contracts

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 Of a bidder(s) or contractor(s), based in 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 Is 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.

