

Tender Number: RFP13/05/2023

Procurement of a panel of real estate agents/ real estate brokers/ landlords/ landlord representatives to be utilized on an as and when required basis by the Department of Infrastructure Development for a period of 3 years.

JUNE 2023

TABLE OF CONTENT

1. Cover Page
2. Invitation to Bid (SBD 1 form)
3. Bidder's Disclosure (SBD 4)
4. Invitation to tender
5. Terms of Reference (Specifications)
6. General Conditions of Contract

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)					
BID NUMBER:	RFP13/05/2023	CLOSING DATE:	29 June 2023	CLOSING TIME:	11:00 AM
DESCRIPTION	Procurement of a panel of real estate agents/ real estate brokers/ landlords/ landlord representatives on an as and when basis for the Department of Infrastructure Development for a period of 3 years.				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
GAUTENG DEPARTMENT OF INFRASTRUCTURE DEVELOPMENT GROUND FLOOR CORNERHOUSE BUILDING CORNER COMMISSIONER AND PRILEY KA ISAKA SEME (SAUER) STREET MARSHALLTOWN, JOHANNESBURG					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:			TECHNICAL INFORMATION MAY BE DIRECTED TO:		
CONTACT PERSON	Gopolang Monkwe		CONTACT PERSON	Phumlani Radebe	
TELEPHONE NUMBER			TELEPHONE NUMBER		
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS	Gopolang.monkwe@gauteng.gov.za		E-MAIL ADDRESS	Phumlani.radebe@gauteng.gov.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 STATUS PIN:		OR	CSD NUMBER:	
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	[TICK APPLICABLE BOX] ☐ Yes ☐ No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	[TICK APPLICABLE BOX] ☐ Yes ☐ 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]					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS / SERVICES / WORKS OFFERED?	☐ Yes ☐ No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS / SERVICES / WORKS OFFERED?	☐ Yes ☐ No [IF YES ANSWER FOREIGN SUPPLIERS QUESTIONNAIRE BELOW]	

QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

- | | | |
|---|------------------------------|-----------------------------|
| IS THE BIDDER A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? | ☐ YES | ☐ NO |
| DOES THE BIDDER HAVE A BRANCH IN THE RSA? | ☐ YES | ☐ NO |
| DOES THE BIDDER HAVE A PERMANENT ESTABLISHMENT IN THE RSA? | ☐ YES | ☐ NO |
| DOES THE BIDDER HAVE ANY SOURCE OF INCOME IN THE RSA? | ☐ YES | ☐ NO |

IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN, IT IS NOT A REQUIREMENT TO OBTAIN A TAX COMPLIANCE STATUS / TAX COMPLIANCE SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE.

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, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
- 1.4. **THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).**

2. TAX COMPLIANCE REQUIREMENTS

- 2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
- 2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
- 2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
- 2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
- 2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
- 2.6 WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
- 2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

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

SIGNATURE OF BIDDER:

.....

CAPACITY UNDER WHICH THIS BID IS SIGNED:

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

.....

DATE:

.....

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

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

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

2. BIDDER'S DECLARATION

2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling 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**

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.

2.2.1 If so, furnish particulars:

.....
.....

2.3 Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract?

YES/NO

2.3.1 If so, furnish particulars:

.....
.....

3 DECLARATION

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

3.1 I have read and I understand the contents of this disclosure;

3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;

3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However,

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.

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

INVITATION TO TENDER

Short description of requirements:	Procurement of a panel of real estate agents/ real estate brokers/ landlords/ landlord representatives on an as and when basis for the Department of Infrastructure Development for a period of 3 years.		
Tender number:	RFP13/05/2023		
Tender Validity Period:	180 Calendar days		
Tender documents available from: <u>9 June 2023</u>	E-Tender portals: National Treasury: https://www.etenders.gov.za Gauteng Provincial Government e-tender portal: http://e-tenders.gauteng.gov.za		
Price of tender documents:	Bidders may download the tender documents from the above tender portals at their own cost		
Closing date:	29 June 2023		
Closing time:	11:00AM		
Address for submission of tenders:	Department of Infrastructure Development Corner House Building, Corner Commissioner and Pixley Ka Isaka Seme (Sauer Street) Marshalltown Johannesburg		
Compulsory pre-bid meeting/site briefing meeting (all bidders who fail to attend the meeting will be disqualified)	No Yes <input style="width: 50px; height: 20px; border: 1px solid black;" type="checkbox"/> <input checked="" style="width: 50px; height: 20px; border: 1px solid black;" type="checkbox"/> Details of the compulsory pre-bid meeting/site briefing meeting is indicated below. NB: Tenderers that do not attend the compulsory pre-bid meeting/ site meeting will be disqualified. The representative attending the compulsory pre-bid meeting / site briefing may only attend on behalf of one bidding enterprise and/or Joint Venture/Consortium/Trust.		
	<table style="width: 100%; border: none;"> <tr> <td style="width: 30%; border: none; vertical-align: top; padding: 5px;">Meeting Address:</td> <td style="border: none; padding: 5px;"> Department of Infrastructure Development, Cornerhouse Building AUDITORIUM, Corner Sauer and </td> </tr> </table>	Meeting Address:	Department of Infrastructure Development, Cornerhouse Building AUDITORIUM, Corner Sauer and
Meeting Address:	Department of Infrastructure Development, Cornerhouse Building AUDITORIUM, Corner Sauer and		

		commissioner Streets, Marshalltown, Johannesburg
	Date of meeting:	15 June 2023
	Time of meeting:	10:00
Tender Evaluation Steps:	1)	Mandatory / Compulsory Administrative Requirements
	2)	Other Admin Requirements Applicable to this Procurement
	3)	Functionality Evaluation Criteria
Mandatory / Compulsory Administrative Requirements	Failure to submit, meet and comply with the requirements outlined in <u>Section 7.1.</u> of the Terms of Reference, constitutes automatic disqualification of tender offer.	
Other Administrative Requirements Applicable to this Procurement	The returnable documents applicable to <u>Section 7.2.</u> of the Terms of Reference must be fully completed and submitted	
Functionality Evaluation Criteria	Functionality evaluation will be conducted in accordance with <u>Section 8.</u> of the Terms of Reference, as summarized below.	
Enquiries technical:	Ms. Charity Kunene charity.kunene@gauteng.gov.za	
Enquiries general:	Ms. Gopolang Monkwe gopolang.monkwe@gauteng.gov.za	
	Queries will be entertained a day after the briefing meeting until 3 days before the closing of tender.	
<u>Note to tenderers:</u> This tender is subject to the General Conditions and Special Conditions of Contract, the Preferential Procurement Policy Framework Act no 5 of 2000 and its Regulations of 2022.		

1. INTRODUCTION

- 1.1 The purpose of this request is to invite interested Landlords, Landlords Representatives' Property Brokers and Real Estate Agents to be included in the panel on as an when basis in the Department of Infrastructure Development for a period of 3 years from the date of appointment on the panel.

2. PROBLEM STATEMENT

- 2.1 The Department of Infrastructure Development (DID) strategic goal amongst others is to manage the property portfolio for the optimum benefit of all citizens, with an emphasis on maximizing access, utilization and value.
- 1.2 The Government Immovable Asset Management Act 19 of 2007 provides the framework for the management of immovable asset that is held or used by a national or provincial department. The Act guides the role of custodian and users in how immovable assets are managed throughout their life cycle.
- 1.3 One of the primary objectives of GIAMA is to optimize the efficient and cost-effective service delivery through the acquisition, operation, maintenance and disposal of an immovable asset. It is on this basis that the Department of Infrastructure Development (DID) as the main custodian of Gauteng Provincial Government (GPG) owned immovable properties has been mandated by client departments to acquire various properties through leasing of suitable office accommodation at both head office and regional level to meet service delivery objectives.
- 1.4 DID currently leases a total of 42 buildings owned by private landlords throughout the province. DID is currently working on a total of 51 mandates from various client departments for procurement of office accommodation.
- 1.5 Over the years, DID has experienced challenges on timeous procurement of suitable office accommodation. These challenges range from various factors including but not limited to:
- Non responsiveness of the market.
 - Shortage of suitable buildings available in certain targeted areas (non-availability of stock).
 - Few or none of the bidders meeting minimum tender requirements.
 - Stringent government procurement processes resulting to delays in procurement of required facilities.
- 1.6 These challenges mostly result to tenders being cancelled, which has a huge impact on service delivery. It is due to these challenges that DID has identified a need to establish a panel of Landlords, Landlords' representatives, Property Brokers, and Real Estate Agents to assist in improving service delivery efficiency and turnaround time.

3. BACKGROUND

GPG operates in various corridors within the province. Below is a list of the corridor and the relevant areas:

NO.	CORRIDOR	MUNICIPAL BOUNDARIES (define the corridors)
1.	Eastern Corridor	Areas in Ekurhuleni Municipality and Lesedi Municipality
2.	Central Corridor (Johannesburg)	Johannesburg, Areas within City of JHB Municipality
3.	Southern Corridor (Sedibeng)	Sedibeng
4.	Western Corridor (West Rand)	Westonaria, Carletonville, Randfontein Krugersdorp etc
5.	Northern Corridor (City of Tshwane)	City of Tshwane, Bronkhorstspuit, Ekangala

Refer to Annexure A (Map)

- 3.1 To mitigate the identified challenges, the Department of infrastructure Development in Gauteng Province, Property Management Branch invites service providers for the establishment of a panel of Landlords, Landlords' representatives, Property Brokers, and Real Estate Agents for the provision of space for office, residential, industrial and special use for a period of 3 years.

4. OBJECTIVES

- 4.1 To reduce the turnaround time on procurement of suitable office accommodation.
- 4.2 To ensure compliance with various legislative prescripts by eliminating audit findings and issues of irregular expenditure which are a result of leases not renewed timeously.
- 4.3 To manage adverse media reporting and perception that government is not doing enough to support small to medium business / property owners.
- 4.4 To reduce accommodation costs
- 4.5 To ensure the province has a contingency plan in case of unforeseen emergencies related to office accommodation
- 4.6 To empower SMMEs in real estate and create jobs
- 4.7 To have a database of landlords/property agents and buildings in different areas around the province
- 4.8 The space will be utilized by various GPG client departments as listed below:
 - Department of Health,
 - Department of Education,
 - Department of Economic Development,
 - Department of Social Development,
 - Department of Human Settlement,

- Office of the Premier,
- Department of Community Safety,
- Gauteng Provincial Treasury,
- Department of e-Government,
- Department of Transport and Logistics,
- Department of Infrastructure Development.
- Department of Sports Arts Culture and Recreation,
- Department of Cooperative Governance and Traditional Affairs
- Department of Agriculture, Rural Development and Environment,

4.9 The service providers will form part of DID's database for provision of space in various corridors as and when a need arise. DID will only consider real estate brokers or agents that are recognized and registered through the Property Practitioners regulatory authority and have formal mandates from the respective property owners' landlords and/or property owners that have proof of ownership and/or legal authority to conclude and/or enter into a lease agreement. The service providers will assist in the purchasing of buildings and land when a need arises for the department.

4.10

4.11 DID will approach service providers as per specific area

- 4.11.1 Client Department to provide their confirmed accommodation needs.
- 4.11.2 Prospective landlords and/or property agents retrieved on the database to source buildings based on the requirements of the client departments.
- 4.11.3 Bid documents to be provided to landlords to populate and offer available buildings
- 4.11.4 Upon receipt of bid documents, an evaluation of the submitted bid documents
- 4.11.5 Presentation of bids to Bid Adjudication Committee
- 4.11.6 Award to successful bidder.
- 4.11.7 Contracting with successful bidder
- 4.11.8 Conducting of tenant installation
- 4.11.9 Handover of building upon receipt of compliance certificates and occupation certificates

5. PROJECT CATEGORIES

The buildings that will be procured for DID on behalf of client departments will fall into the below building categories:

5.1 Platinum / Prestige Category

- 5.1.1 This category will consist of Estate Agents/ Brokers / Landlord representatives that focuses on P- Grade meant to accommodate the Office of the Premier.
- 5.1.2 Facilities that during load shedding are powered through 100% renewable energy sources such as Solar Power etc. and or/ 100% Generator Capacity powering the whole building. (It must be noted that the backup power sources should be able to generate in

excess of 8 hours in case of a power outage to ensure that service delivery is not interrupted.

5.1.3 Facilities that have 100% backup water supply reserves.

5.1.4 Facilities that are fully compliant in terms of Occupational Health and Safety requirements

5.2 **Gold Category**

5.2.1 This category will consist of Estate Agents/ Brokers / Landlord representatives that focuses on Grade A buildings which are meant to accommodate MECs of various provincial departments.

5.2.2 Facilities that during load shedding have clean power back-up generators 100% Capacity powering the whole building. (It must be noted that the backup power sources should be able to generate in excess of 8 hours in the case of a power outage to ensure that service delivery is not interrupted.

5.2.3 Facilities that have 100% backup water supply reserves.

5.2.4 Facilities that are fully compliant in terms of Occupational Health and Safety requirements

5.3 **Silver Category**

5.3.1 This category will consist of Estate Agents/ Brokers / Landlord representatives that focuses on Grade B and below buildings which are meant to accommodate the likes of Head / Regional /District office and special type of buildings of various provincial departments.

5.3.2 Facilities that during load shedding have clean back up power with 100% capacity to power the whole building. (It must be noted that the backup power sources should be able to generate in excess of 8 hours in the case of a power outage to ensure that service delivery is not interrupted.

5.3.2.1 For special buildings with 24 hour operations, the backup power should be able power the building for 24 hours.

5.3.2.2 Facilities that have 100% backup water supply reserves.

5.3.2.3 Facilities that are fully compliant in terms of Occupational Health and Safety requirements

The definition of the gradings must be in line with SAPOA's office grading in terms of specifications technical criteria, technology and communication, services, amenities, finishes and quality. **(Refer to Annexure B)**

6. DURATION AND CONDITIONS OF THE TENDER

6.1 Duration

- (a) The duration of the contract will be for three (3) years commencing from the date determined by DID.
- (b) The successful tenderer shall be required to sign a Service Level Agreement (SLA) immediately after the tender is awarded.

7. MANDATORY BID REQUIREMENTS

Each bidder will be evaluated by a Bid Evaluation Committee based on compliance with requirements and submission of required documents as indicated in the table below. Certified copies should not be older than six (6) months at date of submission as articulated in the Justices of the Peace and Commissioners of Oath Act 16 of 1963. Failure to comply with mandatory requirements will lead to disqualification.

7.1	Mandatory Documents required	Comply	Do not comply	Comments
7.1.1	Fully completed and signed Invitation to bid (SBD1)			
7.1.2	Fully completed and signed Bidder's Disclosure (SBD 4)			
7.1.3	Attendance of a compulsory site briefing meeting. Bidders are required to sign an attendance register circulated at the briefing meeting, failure to which, they will be disqualified			
7.1.4	A valid B-BBEE certificate issued by a SANAS Accredited Agency or valid sworn affidavit to substantiate preference points claimed. NB! Sworn affidavit must be signed by the deponent and attested to by a Commissioner of Oaths. A B-BBEE certificate for an EME, issued by the Companies & Intellectual Property Commission (CIPC) on behalf of the DTIC which serves as an Affidavit, must be valid. (A Trust, Consortium or JV must submit a valid SANAS accredited consolidated B-BBEE certificate for this specific project/ tender, no sworn affidavit will be accepted for a Trust, Consortium or JV).			
7.1.5	Valid Registration with Property Professional Bodies: - Proof of registration with Property Practitioners Regulatory Authority			

<pre> (Previously known as Estate Agency Affairs Board) OR Proof of Estate Agent Fidelity Fund Certificate - If not yet registered, bidders to submit proof of application to register with the Property Practitioners Regulatory Authority (Previously known as Estate Agency Affairs Board) OR Proof of Estate Agent Fidelity Fund Certificate NB: In case of a company or sole proprietary. </pre>			
7.1.6 Joint venture agreement or consortia in case of JV venture or consortium must be signed by all parties thereto and must indicate the percentage revenue split between the parties			

Bidders will not be disqualified for non-submission. However, they are required to submit the below information.

7.2	Other administrative requirements that will be applicable to this procurement	Comply	Do not comply	Comments
7.2.1	Copies of the Founding Statement – CM1 and in the case of a JV documents of each JV members should be submitted.			
7.2.2	Certificate of Incorporation – CM1 and in the case of a JV documents of each JV members should be submitted.			
7.2.3	Copy of the Identity Document of owners and in the case of a JV documents of each JV members should be submitted.			
7.2.4	Bidders are required to submit their unique personal identification number (pin) issued by SARS to enable the organ of state to view the taxpayer's profile and tax status			
7.2.5	Registration with Central Supplier Database (CSD)/ MAAA number			

8 FUNCTIONALITY EVALUATION

Functionality Evaluation Criteria:

- 8.1 During this stage bids that do not meet the minimum threshold of 65 points for functionality evaluation will be disqualified and will not be considered for the second stage of evaluation

FUNCTIONALITY EVALUATION	
Functionality total points	100 points
Minimum threshold points	65 points

Main functionality criteria:	Sub criteria	Points allocation for sub-criteria	Total Points:
1. Company Experience	5 signed reference letters on client's letterhead and 5 corresponding award/ appointment letters or purchase orders on clients letterhead (in property management).	25 Points	25 Points
	4 signed reference letters on client's letterhead and 4 corresponding award/ appointment letters or purchase orders on clients letterhead (in property management).	20 Points	
	3 signed reference letters on client's letterhead and 3 corresponding award/ appointment letters or purchase orders on clients letterhead (in property management).	15 Points	
	2 signed reference letters on client's letterhead and 2 corresponding award/ appointment letters or purchase orders on clients letterhead (in property management).	10 Points	
	1 signed reference letter on client's letterhead and 1 corresponding award/ appointment letter or purchase orders on clients letterhead (in property management).	5 Points	
	No signed reference letters and no corresponding award/ appointment letters on clients letterhead (in property management).	0 Points	
	NB: Submission of a signed reference letter without the award/ appointment letters or submission of award/ appointment letter without a corresponding signed reference letter will not be considered for scoring. Points will be forfeited.		
2. KEY STAFF Refers to the following: Professionally registered Landlords, Landlords Representatives' Property Brokers and Real Estate Agents-Registration with: 1.Property Practitioners Regulatory Authority (previously	Key Staff (assigned personnel) in relation to the scope of Property Management/ Leasing. Attach CV's and proof of registration with Practitioners Regulatory Authority (previously referred to as Estate Agency Affairs Board)/ Estate Agent Fidelity Fund		25 points
	- 8 years or more experience and proof of registration with the Practitioners Regulatory Authority (previously referred to as Estate Agency Affairs Board) OR Estate Agent Fidelity Fund	25oints	
	- 6 to less than 8 years experience and proof of registration with the Practitioners Regulatory Authority (previously referred to as Estate Agency Affairs Board) OR Estate Agent Fidelity Fund	20oints	

referred to as Estate Agency Affairs Board) OR 2.Estate Agent Fidelity Fund	- 4 to less than 6 years experience and proof of registration with the Practitioners Regulatory Authority (previously referred to as Estate Agency Affairs Board) OR Estate Agent Fidelity Fund	15 Points	
	- 2 to less than 4 years experience and proof of registration with the Practitioners Regulatory Authority (previously referred to as Estate Agency Affairs Board) OR Estate Agent Fidelity Fund	10 Points	
	- 1 to less than 1 year experience or proof of application to register for the Practitioners Regulatory Authority (previously referred to as Estate Agency Affairs Board) OR Estate Agent Fidelity Fund prior 2023	5 Points	
	- None submission of the required documentation	0 Points	
	NB: The awards of projects will be subject to the registration with the Practitioners Regulatory Authority (previously referred to as Estate Agency Affairs Board) OR Estate Agent Fidelity. No award of project will be made to a serve provider who is not registered with either of the 2 professional bodies.		
3. HDI targeted – at-least 51% ownership as follows:	- Black Owned Companies (Provide ID documents for Members / shareholder / Directors / Owner, no points will be allocated if ID's are not provided)	4 Points	20 Points
	- Women (Provide ID documents for Members / shareholder / Directors / Owner, no points will be allocated if ID's are not provided)	4 Points	
	- Youth (Provide ID documents for Members / shareholder / Directors / Owner, no points will be allocated if ID's are not provided)	4 Points	
	- People with Disabilities (PwD) (provide a confirmation letter / certificate from medical practitioner, no points will be allocated if no confirmation letter or certificate from medical practitioner stating the permanent disability for the owner/ director / member shareholder of the company)	4 Points	
	- Military veterans (provide a confirmation letter with a force number from department of military veterans, no points will be allocated if no confirmation letter or certificate from department of military veterans stating the membership of the owner/ director / member shareholder of the company)	4 Points	

11.2 Outcomes

- The expected outcome is the roll-out of a panel of landlords and/or property agents to address the office accommodation issues encountered by the custodian and client departments
- To encourage landlords and/property agents to participate in procurement process.
- Procurement of office accommodation for Gauteng Provincial Government Departments.
- Purchase of buildings and Land for Gauteng Provincial Government Departments.

The appointment on the panel does not automatically guarantee allocation of work.

Annexure A

GOVERNMENT PROCUREMENT GENERAL CONDITIONS OF CONTRACT

NOTES

The purpose of this document is to:

- (i) Draw special attention to certain general conditions applicable to government bids, contracts and orders; and (ii) To ensure that clients be familiar with regard to the rights and obligations of all parties involved in doing business with government.

In this document words in the singular also mean in the plural and vice versa and words in the masculine also mean in the feminine and neuter.

- The General Conditions of Contract will form part of all bid documents and may not be amended.
- Special Conditions of Contract (SCC) relevant to a specific bid, should be compiled separately for every bid (if applicable) and will supplement the General Conditions of Contract. Whenever there is a conflict, the provisions in the SCC shall prevail.

TABLE OF CLAUSES

1. Definitions
2. Application
3. General
4. Standards
5. Use of contract documents and information; inspection
6. Patent rights
7. Performance security
8. Inspections, tests and analysis
9. Packing
10. Delivery and documents
11. Insurance
12. Transportation
13. Incidental services
14. Spare parts
15. Warranty
16. Payment
17. Prices
18. Contract amendments
19. Assignment
20. Subcontracts
21. Delays in the supplier's performance
22. Penalties
23. Termination for default
24. Dumping and countervailing duties
25. Force Majeure
26. Termination for insolvency
27. Settlement of disputes
28. Limitation of liability
29. Governing language
30. Applicable law
31. Notices
32. Taxes and duties
33. National Industrial Participation Programme (NIPP)

General Conditions of Contract

1. Definitions

1. The following terms shall be interpreted as indicated:
 - 1.1 “Closing time” means the date and hour specified in the bidding documents for the receipt of bids.
 - 1.2 “Contract” means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
 - 1.3 “Contract price” means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
 - 1.4 “Corrupt practice” means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.
 - 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
 - 1.6 “Country of origin” means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
 - 1.7 “Day” means calendar day.
 - 1.8 “Delivery” means delivery in compliance of the conditions of the contract or order.
 - 1.9 “Delivery ex stock” means immediate delivery directly from stock actually on hand.
 - 1.10 “Delivery into consignees store or to his site” means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
 - 1.11 "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.

- 1.12 "Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- 1.13 "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.
- 1.14 "GCC" means the General Conditions of Contract.
- 1.15 "Goods" means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.16 "Imported content" means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.
- 1.17 "Local content" means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- 1.18 "Manufacture" means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.19 "Order" means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20 "Project site," where applicable, means the place indicated in bidding documents.
- 1.21 "Purchaser" means the organization purchasing the goods.
- 1.22 "Republic" means the Republic of South Africa.
- 1.23 "SCC" means the Special Conditions of Contract.
- 1.24 "Services" means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance,

training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.

1.25 “Written” or “in writing” means handwritten in ink or any form of electronic or mechanical writing.

2. Application 2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding

immovable property, unless otherwise indicated in the bidding documents.

2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.

2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

3. General 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.

3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from www.treasury.gov.za

4. Standards 4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.

5. Use of 5.1 The supplier shall not, without the purchaser’s prior written consent, **contract** disclose the contract, or any provision thereof, or any specification, **documents** plan, drawing, pattern, sample, or information furnished by or on **and** behalf of the purchaser in connection therewith, to any person other **information**; than a person employed by the supplier in the performance of the **inspection**. contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.

5.2 The supplier shall not, without the purchaser’s prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.

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

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

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

7. Performance 7.1 Within thirty (30) days of receipt of the notification of contract award, **security** the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.

7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.

7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:

- (a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or
- (b) a cashier's or certified cheque

7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified in SCC.

8. Inspections, tests and analyses 8.1 All pre-bidding testing will be for the account of the bidder.

8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department.

8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.

8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.

8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.

8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.

8.7 Any contract supplies may on or after delivery be inspected, tested or analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.

8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of GCC.

9. Packing 9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in SCC, and in any subsequent instructions ordered by the purchaser.

10. Delivery 10.1 Delivery of the goods shall be made by the supplier in accordance with **and documents** the terms specified in the contract. The details of shipping and/or other documents to be furnished by the supplier are specified in SCC.

10.2 Documents to be submitted by the supplier are specified in SCC.

11. Insurance 11.1 The goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the SCC.

12. Transportation 12.1 Should a price other than an all-inclusive delivered price be required, this shall be specified in the SCC.

13. Incidental 13.1 The supplier may be required to provide any or all of the following **services** services, including additional services, if any, specified in SCC:

- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
- (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;

- (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
- (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
- (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.

13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.

14. Spare parts 14.1 As specified in SCC, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:

- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and
- (b) in the event of termination of production of the spare parts:
 - (i) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
 - (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

15. Warranty 15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.

15.2 This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in SCC.

15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.

15.4 Upon receipt of such notice, the supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.

15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

16. Payment 16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.

16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.

16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.

16.4 Payment will be made in Rand unless otherwise stipulated in SCC.

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

18. Contract 18.1 No variation in or modification of the terms of the contract shall be **amendments** made except by written amendment signed by the parties concerned.

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

20. Subcontracts 20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.

21. Delays in the 21.1 Delivery of the goods and performance of services shall be made by **supplier's** the supplier in accordance with the time schedule prescribed by the **performance** purchaser in the contract.

21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.

21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.

- 21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.
- 21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.
- 21.6 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without canceling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.

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

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

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

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

23.3 Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.

- 23.4 If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the intended penalty as not objected against and may impose it on the supplier.
- 23.5 Any restriction imposed on any person by the Accounting Officer / Authority will, at the discretion of the Accounting Officer / Authority, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Accounting Officer / Authority actively associated.
- 23.6 If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:
- (i) the name and address of the supplier and / or person restricted by the purchaser;
 - (ii) the date of commencement of the restriction
 - (iii) the period of restriction; and (iv) the reasons for the restriction.

These details will be loaded in the National Treasury's central database of suppliers or persons prohibited from doing business with the public sector.

- 23.7 If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.

24. Anti-dumping 24.1 When, after the date of bid, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference shall on demand be paid forthwith by the contractor to the State or the State may deduct such amounts from moneys (if any) which may otherwise be due to the contractor in regard to supplies or services which he delivered or rendered, or is to deliver or render in

terms of the contract or any other contract or any other amount which may be due to him

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

25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

26. Termination 26.1 The purchaser may at any time terminate the contract by giving written **for insolvency** 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 27.1 If any dispute or difference of any kind whatsoever arises between the **Disputes** purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.

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

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

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

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

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

28. Limitation of 28.1 Except in cases of criminal negligence or willful misconduct, and in **liability** the case of infringement pursuant to Clause 6;

(a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and

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

29. Governing language 29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.
30. Applicable law 30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.
31. Notices 31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice
- 31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.
32. Taxes and duties 32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
- 32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- 32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.
33. National Industrial Participation Programme (NIP) 33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.