

# MPUMALANGA PROVINCIAL GOVERNMENT



## DEPARTMENT OF HUMAN SETTLEMENT

**BID NUMBER: DHS/222/23/MP -B**

### **APPOINTMENT OF A SERVICE PROVIDER (S) TO REVIEW THE EMALAHLENI MUNICIPAL IDP HUMAN SETTLEMENTS CHAPTERS/HOUSING SECTOR PLANS FOR A PERIOD SIX (6) MONTHS**

ISSUED BY:

Department of Human Settlements  
Private Bag X111328  
Mbombela  
1200

**NAME OF BIDDER:** .....

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

**(Also in words):** .....

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

| <b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE DEPARTMENT OF HUMAN SETTLEMENTS</b> |   |               |                 |                     |
|--|---|---------------|-----------------|---------------------|
| BID NUMBER:  | EDU/222/23/MP-B   | CLOSING DATE: | 06 OCTOBER 2023 | CLOSING TIME: 12H00 |
| DESCRIPTION  | APPOINTMENT OF A SERVICE PROVIDER (S) TO REVIEW THE EMALAHLENI MUNICIPAL IDP HUMAN SETTLEMENTS CHAPTERS/HOUSING SECTOR PLANS FOR A PERIOD OF SIX (6) MONTHS |               |                 |                     |

**BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)**

**MBOMBELA**, Riverside Government Complex, Building No 9, Government Boulevard, Mbombela, 1200, **PIET RETIEF**, No. 11 Measroch Street, Piet Retief Office, **KWAMHLANGA**, KwaMhlanga Government Complex, Department of Finance, Building No. 12, Computer Centre **EVANDE** 10 Cornell Road (previously occupied by Evander Home Affairs Offices), Evander, 2280, **BUSHBUCKRIDGE**, Bushbuckridge Advice Centre, Department of Finance, Protea building (old Telkom building), **MIDDELBURG**, Department of Public Works, Cnr. Lillian Ngoyi and Dr Beyers Naudé Streets – Old TPA Building, Upper ground floor, Office numbers A20, 21 and 25, **MALELANE**, 24 Air Street, Malelane, **ELUKWATINI**, Elukwatinini Sub Regional offices, Office numbers A49 and A50 (opposite Elukwatinini Community Hall) Stand number 12 Extension A, Elukwatinini.

| <b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b> |                           | <b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b> |                   |
|---|---------------------------|--|-------------------|
| CONTACT PERSON  | Ms. RS Motsilanyana       | CONTACT PERSON                                 | Ms. JB zuma       |
| TELEPHONE NUMBER                                      | 013 766 6426              | TELEPHONE NUMBER                               | 081 5040 863      |
| FACSIMILE NUMBER                                      |                           | FACSIMILE NUMBER                               |                   |
| E-MAIL ADDRESS  | Rsmotsilanyana@mpg.gov.za | E-MAIL ADDRESS                                 | bjzuma@mpg.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 SYSTEM PIN:   |                             | OR  | CENTRAL SUPPLIER DATABASE No:            | MAAA                        |
| ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES OFFERED? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES OFFERED? | <input type="checkbox"/> Yes             | <input type="checkbox"/> No |
|  | [IF YES ENCLOSURE PROOF]     |                             |   | [IF YES, ANSWER THE QUESTIONNAIRE BELOW] |                             |

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

**2. TAX COMPLIANCE REQUIREMENTS**

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

**NB: FAILURE TO PROVIDE / OR COMPLY WITH ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.**

SIGNATURE OF BIDDER: .....

CAPACITY UNDER WHICH THIS BID IS SIGNED: .....

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

DATE: .....

# TERMS OF REFERENCES FOR THE APPOINTMENT OF A SERVICE PROVIDER(S) TO REVIEW THE EMALAHLENI MUNICIPAL IDP HUMAN SETTLEMENTS CHAPTERS / HOUSING SECTOR PLANS FOR A PERIOD OF SIX (6) MONTHS (B)

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## 1. BACKGROUND

The Bill of Rights contained in the Constitution of the Republic of South Africa entrenches certain basic rights for all citizens of South Africa including: "The right to have access to adequate housing". The Constitution also describes the objectives of local government, as:-

- 1.1 The provision of services to communities in a sustainable manner;
- 1.2 The promotion of social and economic development;
- 1.3 The promotion of safe and healthy environments; and
- 1.4 The encouragement of community and community organization involvement in matters of local government.

This section goes on to state that a municipality must strive, within its financial and administrative capacity, to achieve the above objectives.

With regard to the development duties of local government, a municipality must structure and manage its administration and budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community; and Participate in national and provincial development programmes.

In terms of section 7(2)(g) of the Housing Act, 1997 (Act No 107 of 1997) "Every provincial government must prepare and maintain a multi-year plan in respect of the execution in the province of every national housing programme and every provincial housing programme".

Furthermore, in terms of Section 9 (1) of the Housing Act, 1997 the function of Municipalities include that: "*every municipality must, as part of the municipality's process of integrated development planning, take all reasonable and necessary steps within the framework of national and provincial housing legislation and policy to -*

*(a) ensure that -*

*(i) The inhabitants of its area of jurisdiction have access to adequate housing on a progressive basis;*

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- (ii) *Conditions not conducive to the health and safety of the inhabitants of its area of jurisdiction are prevented and removed;*
- (iii) *Services in respect of water, sanitation, electricity, roads, storm water drainage and transport are provided in a manner which is economical”, (Housing Act 107 of 1997).*

The Human Settlements Sector Plan/ Housing Chapter is a five-year strategic plan that will guide transformation of the existing settlements and development of new sustainable human settlements in accordance with the Constitution of the Republic of South Africa, national policy on human settlement and development agenda of the Municipality. The municipality will review the chapter annually considering changes in development trends, progress made in the implementation of the plan and emerging (new) human settlement needs within its area of jurisdiction.

In order to give effect to the legislation, the Mpumalanga Department of Human Settlements requires the services of a service provider(s) to assist the Emalahleni Local municipality to develop, compile and/or review its IDP Housing Chapter in preparation for the Municipality's 2023/24 financial year. The IDP Housing Chapter document must be compiled in line with the guidelines provided in the Resource Book on Housing Chapters published by the National Department of Housing in 2008, and which requires the Municipal IDP Housing Chapter to achieve the following: -

- a) To define the scope of the housing planning component of the municipal IDP in relation to the requirements of the Housing Act and housing policies;
- b) To outline and unpack clear roles and responsibilities of relevant stakeholders critical to achieving integration of housing planning with integrated development planning in the municipality;
- c) To guide vertical and horizontal sector alignment within the municipal area;
- d) To provide an institutional structure to give effect to a demand-defined and supply negotiated approach to housing provision;
- e) To introduce systems and procedures to support and reward strategic and operational planning by enforcing Housing Plan-led budgeting and implementation;
- f) To inform multi-year housing development plans of the Mpumalanga Department of Human Settlement as the basis for vertical alignment;

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- g) To ensure that the housing planning activities which occur as part of the IDP are able to draw on existing housing related documentation and data resources;
- h) To ensure that the housing planning activities which occur as part of the IDP reflect community level concerns about housing demand as determined during the municipal IDP process;
- i) To ensure that the definition of the various types of housing demand as part of the IDP balances technical inputs with community-based inputs;
- j) To ensure the definition of housing demand is comprehensive and inform IDP objectives, strategies and project formulation and enable the specification of a municipal-wide picture of housing demand in the context of sustainable human settlements;
- k) To achieve agreement at municipal level about whether housing is a priority issue for the IDP or not, and if so, to specify which aspects of the housing demand are to be prioritized for the IDP to also contribute towards overall strategic objectives of the Municipality.

## 2. OBJECTIVES OF THE PROJECT

The main objectives of the Human Settlements Sector Plan/ Housing Chapter are as follows:

- 2.1.** To ensure effective allocation of limited resources, financial and human, to a wide variety of potential development initiatives;
- 2.2.** To provide guidance in prioritising housing projects in order to obtain consensus for the timing and order of their implementation;
- 2.3.** To ensure more integrated development through co-ordinating cross-sector role players to aligning their development interventions in one plan;
- 2.4.** To ensure budget allocations to local and district municipalities as well as provinces are most effectively applied for maximum impact;
- 2.5.** To provide effective linkages between the spatial development framework and the project locations of physical implementation of a range of social, economic, environmental and infrastructure investments;
- 2.6.** To ensure there is a definite housing focus in the IDP and SDF with clear direction for future

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housing delivery across all social and economic categories and locations in the municipality.

- 2.7. The scope of the Human Settlements / Housing Chapter is not just for those people and developments related to government's subsidised housing programmes;
- 2.8. To provide the IDP process with adequate information about the housing plan, its choices, priorities, benefits, parameters as well as strategic and operational requirements;
- 2.9. Ensuring that the contents and process requirements of planning for housing are adequately catered for in the IDP process; and
- 2.10. To ensure that there is indicative subsidy budgeting and cash flow planning at both the municipal and provincial levels.
- 2.11. To ensure that the following aspects of a sustainable human settlements are addressed namely:
  - a) Upgrading of informal settlements;
  - b) Densification and integration;
  - c) Location of new projects;
  - d) Urban renewal and inner city regeneration; and
  - e) Social and economic infrastructure provision.

## 3. PURPOSE OF THE PROJECT

- 3.1. The overall outcome of the project is to develop: -
  - 3.1.1. To develop Human Settlements/ Housing Chapter for the Emalahleni Local Municipality;
  - 3.1.2. To facilitate the necessary consultative forums with the province in aligning municipal and provincial projects as per Provincial Human Settlements Master Plan and the Provincial Human Settlements Informal Settlements Upgrading and Management Strategy;
  - 3.1.3. To develop a detailed Action/Operational Plan linked to the Provincial Budget and MTEF; MTSF; and
  - 3.1.4. To develop Integrated Human Settlements Project pipeline linked to the Provincial Priority Housing Development Areas (PHDA'S).

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## 4. SCOPE OF WORK

- 4.1. The successful Service Provider would be expected to undertake the following towards the development of the Human Settlements/ Housing Chapter in responding to the human settlement issues facing the municipality while also enabling the municipality to perform its human settlement duties and functions. These are prescribed in the Constitution and the National Housing Act, No. 107 of 1997. It covers the following: -
  - 4.1.1. Review of national and provincial human settlement policy and its implications for the development of sustainable human settlement in a Local Municipality.
  - 4.1.2. Analysis of the current state of state/situation of the human settlement to ascertain the sustainability of the existing human settlement;
  - 4.1.3. Establishing current housing backlog and demand (numerical extent and number of potential beneficiaries per subsidy instrument/ priority issue);
  - 4.1.4. Formulation of a human settlement strategy and alignment with the municipal development strategy in the IDP and other associated sector plans;
  - 4.1.5. Land identification of strategically located land for the future development and implementation of sustainable human settlement projects;
  - 4.1.6. Developing a pipeline of human settlement projects to inform allocation of funds and other resources at a provincial and national level; and
  - 4.1.7. Developing an appropriate institutional framework for an effective management of the human settlement development programme in the Municipality.

## 5. DELIVERABLES & OUTPUTS

In line with the overall objectives as stipulated above, it is required that the project be conducted according to seven distinct phases as listed below and within a period of 6months from date of appointment.

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## 5.1. Phase 1: Inception and Orientation

- 5.1.1. During this phase the service provider will meet with officials of the Mpumalanga Department of Human Settlements and the Municipality to finalise the Programme of Action, the methodology to be followed, and the final deliverables.
- 5.1.2. As part of Phase 1 it is also required that a Project Steering Committee with representatives from Mpumalanga Department of Human Settlements, Sector Departments and the local municipalities be established in order to oversee the execution of the project.

## 5.2. Phase 2: Situational Analysis

The Situational Analysis will comprise of at least the following aspects: -

- 5.2.1. An assessment of the institutional set-up and capacity within the municipality to deal with human settlement/housing.
- 5.2.2. Quantifying and mapping the spatial location of housing demand in different parts of the municipality focusing on RDP demand, Gap Market, Affordable Rental, Social Rental etc. in both the urban and rural parts of the municipality.
- 5.2.3. Identification of strategic land areas (or buildings for social/affordable rental) that can/should be considered to accommodate future sustainable human settlement projects in the municipal area.
- 5.2.4. Collect ancillary information for each of the identified strategic land areas/buildings identified in relation to the following: -
  - a) alignment with the spatial directives contained in the municipal SDF;
  - b) land/building ownership and current development status of the land;
  - c) natural environmental features on the site to be considered;
  - d) availability and capacity of closest bulk engineering infrastructure and reticulation networks, and implications for development of the site;
  - e) community facilities in surrounding neighbourhoods that can be shared (if any);
  - f) preliminary assessment of development capacity (number of units) of the site;

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- g) indication of the potential beneficiary communities to be accommodated on the site;
- h) summary of critical issues related to the site/building which need to be considered.

A summary of existing human settlement/housing projects in process in the municipal area; location, implementing agent, capacity and housing typologies catered for, beneficiary communities, current status of project, estimated date of completion.; and

- 5.2.5. Lastly, an outline of housing-related results from the IDP analysis phase, and especially the IDP analysis of priority issues. Should provide an overview of critical challenges of the Human Settlements / Housing Chapter in the municipal area and the definition of demand from the IDP prioritisation activities. Summarised statements on the identification of housing demand, and specification describing the different types of housing demand and an analysis of this information to clarify the social, economic, environmental, infrastructural and spatial nature of the dynamics and causes of the demand.

## 5.3. Phase 3 (Synthesis)

- 5.3.1. Phase 3 should comprise a summary of the Priority Human Settlement Issues identified in the municipal area, as well as the Human Settlement Development Opportunities and Constraints identified.

## 5.4. Phase 4: Human Settlement Strategy

- 5.4.1. During Phase 4 the service provider should formulate a Human Settlement Strategy for the municipality. This will firstly comprise the formulation of a set of Human Settlement Objectives for the municipality followed by a Human Settlement Strategy. The Strategy will address the Priority Issues identified and seek to achieve the Objectives formulated. Furthermore, in the strategy section of the Human Settlements / Housing Chapter, requires an indication of the IDP objectives and strategies relate to housing spatially, economically, environmentally, infrastructurally and socially. How the housing objectives and strategies will address the IDP objectives and strategies and summarise the identified housing supply options chosen to meet the housing demand. This should include the negotiated supply objectives, or goals as referred to in the Housing Act, and

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the negotiated supply strategies which should complement the IDP development strategies.

## 5.5. Phase 5: Projects

- 5.5.1. Following from the Human Settlement Strategy, the Priority Projects to be implemented in the municipality need to be defined, quantified, prioritised, and incorporated into a programme/schedule for implementation in the short term (5 years), medium term (within 10 years), and long term (beyond 10 years). It should also give a clear indication of the top two or three projects (and associated number of units) for the municipality and the priority actions to be implemented towards activating these projects.
- 5.5.2. Moreover, the project section of the Human Settlements/ Housing Chapter should further outline the basic information on the prioritised IDP housing projects or housing components of multi-sectoral projects. This information should include a summary of the projects' objectives, description and indicators, national housing subsidy programme or instrument if applicable, target group/s, spatial location, major activities, estimated timeframes for implementation, implementation agencies, preliminary capital and operational budget implications and sources of finance.

## 5.6. Phase 6: Integration

- 5.6.1. This component of the IDP Housing Chapter will highlight the implications of the priority human settlement projects on other departments in the municipality in terms of, for example, land acquisition, township establishment, engineering services, community facilities, LED etc. It should further highlight their relationship to the IDP objectives and strategies, after having considered how integration with the other affected sectors is to occur.
- 5.6.2. Clarify the integration through a preliminary assessment of the social, economic, environmental, infrastructural as well as the spatial feasibility of the housing projects and how further issues for implementation are to be resolved. Also clarify the co-ordination of the housing projects' funding with the 5- year financial plan and capital investment programme of the IDP. A broad action plan for delivery including all the priority housing

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projects and the institutional arrangements for municipal management should be developed.

## Phase 7: Approval

- 5.7.1. This will be the last phase in the study, and will comprise the circulation of the Municipal Housing Chapter for public comment, the final amendment of the document, and Approval by the municipality.
- 5.7.2. The final output, which includes the above components, is an adopted Human Settlements/ Housing Chapter aligned to the Municipal IDP.
- 5.7.3. Submissions of reports should be in a form of both hard and electronic versions. Ownership of documentation collected from this project vest in MPDHS. The MPDHS will become the custodian of documentation submitted. The service provider will be responsible for the layout design and editing of the publication.
- 5.7.4. Mapping should be submitted in Arc View GIS capable file format (shape-files, layer files, mxd files) for use in a GIS environment. All mapping notation should be in keeping with the standards already established in the MPDHS and in accordance with the collaborative processes undertaken throughout the project.
- 5.7.5. The Service Provider should ensure that all GIS data and meta-data is fully compatible with that of the MPDHS GIS Unit i.e. (ArcGIS 10.5.1).
- 5.7.6. All documents and communication media should be prepared well in advance of any stakeholder engagement process and should be to the satisfaction of MPDHS.
- 5.7.7. The Service Provider will be expected to submit all reports and associated communications media i.e. minutes, agendas and attendance registers for each phase of the project.
- 5.7.8. Final consolidated report should consist of the following and be submitted to MPDHS:
  - 5.7.8.1. Two (2) copies of the prepared hard copies of the report;
  - 5.7.8.2. One (1) soft copy report copied on a CD/DVD with attached maps (in both PDF and Word format). Maps should be submitted in both Arch View and JPEG format.

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## 6. MILESTONES AND TIMEFRAMES

- 6.1. This project will commence after a letter of appointment has been issued and a Service Level Agreement has been signed which will expire in six (6) months thereafter and is subject to addition, extension or early termination, depending on the need and performance assessment of the appointed service provider.
- 6.2. The MPDHS reserves full right to implement the above mentioned clause.
- 6.3. Refer to Table 1 below which sets out the project milestones and timeframes.

**Table 1: Project Milestones and Timeframes**

| Milestone  | Timeframe           |
|--|---------------------|
| <b>Phase 1:</b> Inception and Orientation  | 2 weeks             |
| <b>Phase 2:</b> Situational Analysis   | 1 month             |
| <b>Phase 3:</b> Draft Human Settlements/ Housing Chapter                         | 1 month and 2 weeks |
| <b>Phase 4:</b> Stakeholder Engagements/ Workshops on Human Settlements Chapter. | 1 month             |
| <b>Phase 5:</b> Integration and Implementation Plan                              | 3 weeks             |
| <b>Phase 6:</b> Final Human Settlements/ Human Settlements Chapter               | 4 weeks             |
| <b>Phase 7:</b> Close Out Report   | 1 week              |
| <b>Total Estimated Project Timeframe</b>   | <b>6 Months</b>     |

## 7. SKILLS AND EXPERTISE

- 7.1. The service provider must demonstrate the following characteristics as an indication of its capacity and readiness to implement the project: -
  - 7.1.1. At least 10 years' experience in the field of human settlements development with emphasis on the Human Settlements / Housing Chapter or sector plan and experience in the development of human settlements master plan would be an added advantage;

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- 7.1.2. Extensive and demonstrable experience in human settlements programme(s), in terms of the National Housing Code;
- 7.1.3. Extensive and demonstrable experience in research and analysis;
- 7.1.4. Knowledge of the South African legislative and regulatory environment relating to human settlements, informal settlement upgrading and planning processes;
- 7.1.5. Proven ability in effective written and oral communication;
- 7.1.6. Proficiency in the use of standard word processing, web browsers, and presentation software;
- 7.1.7. Institutional capacity to successfully carry out a project of this nature.

## 8. INFORMATION GATHERING

- 8.1. The selected service provider will be expected to make contact with all the relevant officials and units within all spheres of government and other stakeholders of government or any entity holding information relevant to the project to obtain relevant information that will be required for the project when a need arises.
- 8.2. Existing information, which is available within the MPDHS: Integrated Human Settlements and Planning unit will be made available to the appointed service provider during the execution of the project.
- 8.3. In the case where a letter to confirm and motivate for requesting information from the different spheres of government or parastatals is required, the Department will provide the requested letter.
- 8.4. Notwithstanding anything written in this terms of reference, the responsibility for collecting information necessary for the successful execution of the project remains entirely with the service provider.

## 9. TERMS AND CONDITIONS OF APPOINTMENT

- 9.1. Appointment will be subject to the Service Provider's express acceptance of the MPDHS Supply Chain Management general contract conditions.

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- 9.2. The MPDHS and successful Service Provider(s) will sign a Service Level Agreement upon appointment.
- 9.3. The service provider should submit an acceptance letter and be available to commence with the project within five (5) days after receiving official order and the service level agreement signed.
- 9.4. During the execution of the project, the service provider is required to give reports on the progress of the project. It is the responsibility of the service provider to organise the progress report meetings, and have one of their representatives assigned to taking minutes and circulating them to the steering committee members.
- 9.5. Project team members must be available for the duration of the project, the service provider is not allowed to change the composition without prior consent of the MPDHS.
- 9.6. Any deviation from the project plan should be put in writing and signed by the project manager of MPDHS.
- 9.7. Any suggestions during the progress meetings, once accepted by both parties, shall form part of the contract.
- 9.8. Payments will be on work-completed basis i.e. on set milestones as per the project plan.
- 9.9. Financial penalties will be imposed for agreed upon milestones, targets, and deadline not met without providing: -
  - a) Timely notification of such delays.
  - b) Reasons for the delays.
  - c) Supporting evidence that the delays were outside of the influence of the service provider.
- 9.10. Payment will **ONLY** be made as per deliverables and upon **SATISFACTION** of good and quality product. Therefore, original invoices submitted for payments must be submitted for payment with relevant supporting documents. No copies or e-mailed invoices will be processed.
- 9.11. Financial penalties will be imposed if the outputs produced do not meet the agreed upon deliverables criteria as stipulated in the General Conditions of Contract.
- 9.12. When MPDHS accepts the final product, the appointed service provider will be liable to correct errors and fill gaps that may be discovered in the data/project, at no charge

# TERMS OF REFERENCES FOR THE APPOINTMENT OF A SERVICE PROVIDER(S) TO REVIEW THE EMALAHLENI MUNICIPAL IDP HUMAN SETTLEMENTS CHAPTERS / HOUSING SECTOR PLANS FOR A PERIOD OF SIX (6) MONTHS (B)

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to MPDHS. This condition will apply for a period of one (1) month from the day the project was completed and submitted to MPDHS.

- 9.13. The Department reserves the right not to appoint anyone.
- 9.14. No material or information derived from the provision of the services under the contract may be used for any other purposes except for those of the MPDHS, except where duly authorized to do so in writing by the MPDHS.
- 9.15. Copyright in respect of all documents and data prepared or developed for the purpose of the project by the Service Provider shall be vested in MPDHS.
- 9.16. The successful Service Provider agrees to keep confidential all records and information of, or related to the project and not disclose such records or information to any third party without the prior written consent of MPDHS.

## 10. MANDATORY REQUIREMENTS

**NB: Failure to submit/attach proof of the following requirements with the proposal will disqualify the bidder's proposal.**

- 10.1. Valid Tax Clearance Certificate issued by the South African Revenue Services (SARS) or TCS pin, where **consortium/joint ventures/sub-contractor** are involved each party to the association must submit a separate valid Tax Clearance Certificate or TCS pin.
- 10.2. The Project leader must be registered with SACPLAN as a Professional Town and Regional Planner (attach certified copies of certificates not older than 3 months).
- 10.3. Attendance of compulsory briefing session.
- 10.4. Certified ID copies of Directors (not older than 3 months).

## 11. EVALUATION PROCESS

- 11.1. The MPDHS needs to be satisfied, in all respects, that the appointed service provider has the necessary resources, qualifications and abilities for this project, and that all submissions are regarded in a fair manner in terms of evaluation criteria and process;

**TERMS OF REFERENCES FOR THE APPOINTMENT OF A SERVICE PROVIDER(S) TO REVIEW  
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11.2. The general methodology of selection will be that proposals will first be evaluated on their technical ability to perform the task. Any proposals scoring below 70% of the points noted in the table below will be disqualified for the second evaluation. The second evaluation of technically competent proposals will be evaluated against Price and specific goals using 80/20 Price/specific formula.

11.3. Table 2: Evaluation Criteria

| Criteria   | Sub-Criteria   | Weighting/ Points  |
|--|--|--|
| <b>1. Lead Company profile<br/>(Attach Organogram)</b> | Company profile (s) to be submitted demonstrating relevant skills and capacity, level of relevant knowledge and experience in spatial policy planning development (in case of a joint Venture, all companies must submit separate profiles) indicating the Lead Company. | 20+ years -30 points<br>10-20 years- 20 points<br>5-10 years 10 points<br>0-5 years 5 points<br><br>(30) |
| <b>2. CVs of team members proposed to do the work</b>  | Demonstrable proof of related work experience and capacity of team members.  | 10+ years- 15 points<br>5-10 years 10 points<br>0-5 years 5 points<br><br>(15)                           |
|  | Proof of related experience of the Team Leader.  | 10+ years- 15 points<br>5-10 years 10 points<br>0-5 years 5 points<br><br>(15)                           |
| <b>Approach, Methodology, Work Plan and Process</b>    | Work programme, plan and allocation of resources and tasks.  | <b>15</b>  |
|  | Proposed methodology.  | <b>15</b>  |
| <b>Locality</b>  | 1. District – 10 points  | <b>10</b>  |

**TERMS OF REFERENCES FOR THE APPOINTMENT OF A SERVICE PROVIDER(S) TO REVIEW THE EMALAHLENI MUNICIPAL IDP HUMAN SETTLEMENTS CHAPTERS / HOUSING SECTOR PLANS FOR A PERIOD OF SIX (6) MONTHS (B)**

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|   |   |            |
|---|---|------------|
| <b>This is in respect to the area where the company's head office or main address is located,.e.g. local municipality within a District</b> | 2. Mpumalanga Province – 6 points<br>3. National (RSA) – 3 points |            |
| <b>Total</b>  |   | <b>100</b> |

11.4. The following criteria will be used for point's allocation for price and Historically Disadvantaged Individuals (H.D.I) compliance on **80/20-point** system: -

| <b>Criteria</b>       | <b>Sub-Criteria</b>                                | <b>Weighting/ Points</b> |
|-----------------------|--|--------------------------|
| <b>Price</b>          | Detailed budget Breakdown                          | 80                       |
| <b>Specific Goals</b> | HDI, Youth, Women, People living with disabilities | 20                       |
| <b>Total</b>          |  | <b>100</b>               |

| <b>Specific goals</b>                  | <b>Maximum Preference Points Allocated</b> |
|--|--|
| <b>Black people</b>                    | <b>5</b>                                   |
| <b>Youth</b>                           | <b>5</b>                                   |
| <b>Women</b>                           | <b>8</b>                                   |
| <b>People living with disabilities</b> | <b>2</b>                                   |
| <b>TOTAL</b>                           | <b>20 Points</b>                           |



## **Application for a Tax Clearance Certificate**

## Purpose

Select the applicable option  Tenders  Good standing

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

11. *What is the primary purpose of the following statement?*

**Particulars of applicant**

|   |  |  |  |  |  |  |                                      |  |  |  |  |  |
|---|--|--|--|--|--|--|--------------------------------------|--|--|--|--|--|
| Name/Legal name<br>(Initials & Surname<br>or registered name) |  |  |  |  |  |  |                                      |  |  |  |  |  |
| Trading name<br>(if applicable)                               |  |  |  |  |  |  |                                      |  |  |  |  |  |
| ID/Passport no  |  |  |  |  |  |  | Company/Close Corp.<br>registered no |  |  |  |  |  |
| Income Tax ref no   |  |  |  |  |  |  | PAYE ref no 7                        |  |  |  |  |  |
| VAT registration no 4   |  |  |  |  |  |  | SDL ref no L                         |  |  |  |  |  |
| Customs code  |  |  |  |  |  |  | UIF ref no U                         |  |  |  |  |  |
| Telephone no  |  |  |  |  |  |  | Fax<br>no                            |  |  |  |  |  |
| E-mail address  |  |  |  |  |  |  |                                      |  |  |  |  |  |
| Physical address  |  |  |  |  |  |  |                                      |  |  |  |  |  |
| Postal address  |  |  |  |  |  |  |                                      |  |  |  |  |  |

**Particulars of representative (Public Officer/Trustee/Partner)**

|                  |  |  |  |  |  |  |                   |  |  |  |  |  |
|------------------|--|--|--|--|--|--|-------------------|--|--|--|--|--|
| Surname          |  |  |  |  |  |  |                   |  |  |  |  |  |
| First names      |  |  |  |  |  |  |                   |  |  |  |  |  |
| ID/Passport no   |  |  |  |  |  |  | Income Tax ref no |  |  |  |  |  |
| Telephone no     |  |  |  |  |  |  | Fax no            |  |  |  |  |  |
| E-mail address   |  |  |  |  |  |  |                   |  |  |  |  |  |
| Physical address |  |  |  |  |  |  |                   |  |  |  |  |  |

**Particulars of tender (If applicable)**Tender number Estimated Tender amount R Expected duration of the tender  year(s)**Particulars of the 3 largest contracts previously awarded**

| Date started | Date finalised | Principal | Contact person | Telephone number | Amount |
|--------------|----------------|-----------|----------------|------------------|--------|
|--------------|----------------|-----------|----------------|------------------|--------|

**Audit**

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

|                      |
|----------------------|
| <input type="text"/> |
| <input type="text"/> |

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

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

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

|                      |
|----------------------|
| <input type="text"/> |
| <input type="text"/> |

-  -   
Date

Signature of representative/agent

Name of representative/agent

**Declaration**

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

|                      |
|----------------------|
| <input type="text"/> |
| <input type="text"/> |

-  -   
Date

Signature of applicant/Public Officer

Name of applicant/ Public Officer

**Notes:**

1. It is a serious offence to make a false declaration.
2. Section 75 of the Income Tax Act, 1962, states: Any person who
  - (a) fails or neglects to furnish, file or submit any return or document as and when required by or under this Act; or
  - (b) without just cause shown by him, refuses or neglects to-
    - (i) furnish, produce or make available any information, documents or things;
    - (ii) reply to or answer truly and fully, any questions put to him ...

As and when required in terms of this Act ... shall be guilty of an offence ...
3. **SARS will, under no circumstances, issue a Tax Clearance Certificate unless this form is completed in full.**
4. Your Tax Clearance Certificate will only be issued on presentation of your South African Identity Document or Passport (Foreigners only) as applicable.

## BIDDER'S DISCLOSURE

### 1. PURPOSE OF THE FORM

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

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

### 2. Bidder's declaration

2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest<sup>1</sup> in the enterprise, employed by the state? YES/NO

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

| Full Name | Identity Number | Name of State institution |
|-----------|-----------------|---------------------------|
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |

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

---

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

SBD4

with any person who is employed by the procuring institution? YES/NO

2.2.1 If so, furnish particulars:

.....  
.....  
.....  
.....

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

2.3.1 If so, furnish particulars:

.....  
.....

### 3 DECLARATION

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

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium<sup>2</sup> will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

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

**SBD4**

- 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

## SPECIFIC GOALS

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

**NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS AND DEFINITIONS**

### 1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to all bids:

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.21.2

- a) The value of this bid is estimated to not exceed R50 000 000 (all applicable taxes included) and therefore the .....preference point system shall be applicable; or
- b) Either the 80/20 preference point system will be applicable to this tender.

1.3 Points for this bid shall be awarded for:

- (a) Price; and
- (b) Specific goals.

1.4 The maximum points for this bid are allocated as follows:

| POINTS   |            |
|--|------------|
| PRICE  | 80         |
| SPECIFIC GOALS   |            |
| <b>Total points for Price and Specific goals must not exceed</b> | <b>100</b> |

- 1.5 Failure on the part of a bidder to submit the required documents to substantiate the points claimed with the bid, will be interpreted to mean that points for specific goals are not claimed.
- 1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to specific goals in any manner required by the purchaser.

### 2. DEFINITIONS

- (a) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act.
- (b) **“Specific goals”** means specific goals as contemplated in section 2(1)(d) of the Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development

Programme as published in *Government Gazette* No. 16085 dated 23 November 1994

- (c) “**bid**” means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services, through price quotations, advertised competitive bidding processes or proposals.
- (d) “**Broad-Based Black Economic Empowerment Act**” means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (e) “**EME**” means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (f) “**functionality**” means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents;
- (g) “**prices**” includes all applicable taxes less all unconditional discounts;
- (h) “**proof of B-BBEE status level of contributor**” means:
  - 1) B-BBEE Status level certificate issued by an authorized body or person;
  - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
  - 3) Any other requirement prescribed in terms of the B-BBEE Act;
- (i) “**QSE**” means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (j) “**rand value**” means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

### 3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

#### 3.1 POINTS AWARDED FOR PRICE (the 80/20 or 90/10 preference point systems)

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

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

Where

- Ps = Points scored for price of bid under consideration  
 Pt = Price of bid under consideration  
 Pmin = Price of lowest acceptable bid

### 3.2 FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME-GENERATING PROCUREMENT.

#### 3.2.1 POINTS AWARDED FOR PRICE

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

80/20 or

90/10

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

Where

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

### 4. POINTS AWARDED FOR SPECIFIC GOALS

- 4.1 In terms of Regulation 3 (1) an organ of state must, in the tender documents, stipulate the specific goal in the invitation to submit the tender for which a point may be awarded, and the number of points that will be awarded to each goal, and proof of the claim for such goal.

| SPECIFIC GOAL  | NUMBER OF POINTS FOR (80/20 PREFERENCE SYSTEM) | NUMBER OF POINTS (90/10 PREFERENCE SYSTEM) |
|--|--|--|
| 1. Enterprise owned by Black people                    | 5  | 2.5  |
| 2. Enterprise owned by Women                           | 8  | 4  |
| 3. Enterprise owned by Youth                           | 5  | 2.5  |
| 4. Enterprise owned by People living with Disabilities | 2  | 1  |

## 5. BID DECLARATION

5.1 Bidders who claim points in respect of specific goals must complete the following:

| SPECIFIC GOAL  | NUMBER OF POINTS FOR (80/20 PREFERENCE SYSTEM) | NUMBER OF POINTS (90/10 PREFERENCE SYSTEM) |
|--|--|--|
| 1. Enterprise owned by Black people                    |  |  |
| 2. Enterprise owned by Women                           |  |  |
| 3. Enterprise owned by Youth                           |  |  |
| 4. Enterprise owned by People living with Disabilities |  |  |

## 6. B-BBEE STATUS LEVEL OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 3.1

6.1 Specific goals: = ..... (maximum of 10 or 20 points)

(Points claimed in respect of paragraph 6.1 must be in accordance with the table reflected in paragraph 3.1 and must be substantiated by submitting the required documents.

## 7. DECLARATION WITH REGARD TO COMPANY/FIRM

7.1 Name of company/firm:.....

7.2 VAT registration number:.....

7.3 Company registration number:.....

### 7.4 TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
  - One person business/sole proprietor
  - Close corporation
  - Company
  - (Pty) Limited
- [TICK APPLICABLE BOX]

### 7.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

## 7.6 COMPANY CLASSIFICATION

- Manufacturer
  - Supplier
  - Professional service provider
  - Other service providers, e.g. transporter, etc.
- [TICK APPLICABLE BOX]

7.7 Total number of years the company/firm has been in business:.....

7.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals indicated in paragraphs 1.4 and 5.1 of the foregoing certificates, qualifies the company/ firm for the preference(s) shown and I / we 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 5.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct.
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
  - (a) disqualify the person from the bidding process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury 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.

## WITNESSES

1. .....

2. .....

## SIGNATURE(S) OF BIDDERS(S)

DATE: .....

ADDRESS .....

**THE NATIONAL TREASURY**

**Republic of South Africa**



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**GOVERNMENT PROCUREMENT:  
GENERAL CONDITIONS OF CONTRACT**

**July 2010**

# **GOVERNMENT PROCUREMENT**

## **GENERAL CONDITIONS OF CONTRACT**

### **July 2010**

#### **NOTES**

The purpose of this document is to:

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

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

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

## 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)
34. Prohibition of restrictive practices

## **General Conditions of Contract**

### **1. Definitions**

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

RSA.

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

- obligations of the supplier covered under the contract.
- 1.25 “Written” or “in writing” means handwritten in ink or any form of electronic or mechanical writing.
- 2. Application**
- 2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
- 2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.
- 2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.
- 3. General**
- 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.
- 3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from [www.treasury.gov.za](http://www.treasury.gov.za)
- 4. Standards**
- 4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.
- 5. Use of contract documents and information; inspection.**
- 5.1 The supplier shall not, without the purchaser’s prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 5.2 The supplier shall not, without the purchaser’s prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.
- 5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier’s performance under the contract if so required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier’s records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.
- 6. Patent rights**
- 6.1 The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof by the purchaser.

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| <b>7. Performance security</b>            | <p>7.1 Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.</p> <p>7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.</p> <p>7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:</p> <ul style="list-style-type: none"> <li>(a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or</li> <li>(b) a cashier's or certified cheque</li> </ul> <p>7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified in SCC.</p>  |
| <b>8. Inspections, tests and analyses</b> | <p>8.1 All pre-bidding testing will be for the account of the bidder.</p> <p>8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department.</p> <p>8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.</p> <p>8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.</p> <p>8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.</p> <p>8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.</p> <p>8.7 Any contract supplies may on or after delivery be inspected, tested or</p> |

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

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

**9. Packing**

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

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

**10. Delivery and documents**

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

**11. Insurance**

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

**12. Transportation**

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

**13. Incidental services**

- 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:
- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
  - (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
  - (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;

- (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
  - (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.
- 13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.
- 14. Spare parts**
- 14.1 As specified in SCC, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:
- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and
  - (b) in the event of termination of production of the spare parts:
    - (i) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
    - (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.
- 15. Warranty**
- 15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.
- 15.2 This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in SCC.
- 15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.
- 15.4 Upon receipt of such notice, the supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.
- 15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take

such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

- 16. Payment**
- 16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.
  - 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.
  - 16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.
  - 16.4 Payment will be made in Rand unless otherwise stipulated in SCC.
- 17. Prices**
- 17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized in SCC or in the purchaser's request for bid validity extension, as the case may be.
- 18. Contract amendments**
- 18.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.
- 19. Assignment**
- 19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.
- 20. Subcontracts**
- 20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.
- 21. Delays in the supplier's performance**
- 21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.
  - 21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.
  - 21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.
  - 21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the

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

- 21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.
  - 21.6 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without canceling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.
- 22. Penalties**
- 22.1 Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.
- 23. Termination for default**
- 23.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:
    - (a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
    - (b) if the Supplier fails to perform any other obligation(s) under the contract; or
    - (c) if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
  - 23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.
  - 23.3 Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.
  - 23.4 If a purchaser intends imposing a restriction on a supplier or any

person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the intended penalty as not objected against and may impose it on the supplier.

23.5 Any restriction imposed on any person by the Accounting Officer / Authority will, at the discretion of the Accounting Officer / Authority, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Accounting Officer / Authority actively associated.

23.6 If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:

- (i) the name and address of the supplier and / or person restricted by the purchaser;
- (ii) the date of commencement of the restriction
- (iii) the period of restriction; and
- (iv) the reasons for the restriction.

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

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

**24. Anti-dumping and countervailing duties and rights**

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

may be due to him

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| <b>25. Force Majeure</b>              | 25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.  |
|                                       | 25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.  |
| <b>26. Termination for insolvency</b> | 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.  |
| <b>27. Settlement of Disputes</b>     | 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,<br><br>(a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and<br>(b) the purchaser shall pay the supplier any monies due the supplier.   |
| <b>28. Limitation of liability</b>    | 28.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6;<br>(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 |

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|  |      | (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.  |
| <b>29. Governing language</b>                                | 29.1 | The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.   |
| <b>30. Applicable law</b>                                    | 30.1 | The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.  |
| <b>31. Notices</b>   | 31.1 | Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice                                   |
|  | 31.2 | The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.   |
| <b>32. Taxes and duties</b>                                  | 32.1 | A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.   |
|  | 32.2 | A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.  |
|  | 32.3 | No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.  |
| <b>33. National Industrial Participation (NIP) Programme</b> | 33.1 | The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.  |
| <b>34 Prohibition of Restrictive practices</b>               | 34.1 | In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging). |
|  | 34.2 | If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.    |

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

Js General Conditions of Contract (revised July 2010)