



dpwr

Department:
Public Work and Roads
North West Provincial Government
Republic of South Africa

Modiri Molema Road
Provincial Head Office
Mmabatho, 2735
Private Bag X 2080, Mmabatho, 2735
Republic of South Africa
Tel.: +27 (18) 388 4481
Fax: 0866460067
E-Mail: @nwpg.gov.za

SUPPLY CHAIN MANAGEMENT DIRECTORATE

BID NO: PWR 71/21

The Department of Public Works and Roads
Private Bag x 2080
Mmabatho
2735

NAME OF BIDDER

.....

.....

TEL **FAX**.....



dpwr

Department:
Public Works and Roads
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Provincial Head Office
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Tel.: +27 (18) 388 4481
Fax: 018 – 388 1769
Email:

SUPPLY CHAIN MANAGEMENT DIRECTORATE

REF: PWR 71/21

INVITATION TO BID

BID NO PWR 71/21 : Provision of 2 697.3m² of Leased Office Accommodation for the Department of Finance Sustainable Resource Management in Mahikeng for the period of 36 Months

1. The conditions contained in the General Conditions of Contract (GCC) and the attached bid forms, as well as any other conditions accompanying this invitation, are applicable.
2. Kindly receive attached the following documents:
 - 2.1. SBD 1 - Invitation to bid form
 - 2.2. SBD 2 - Tax Clearance Requirements
 - 2.3. SBD 4 - Declaration of interest
 - 2.4. SBD 6.1- Claim form in terms of the Preferential Procurement Regulations 2011
 - 2.5. SBD 8 - Declaration of Bidder's past Supply Chain Management Practices
 - 2.6. SBD 9 - Certificate of Independent Bid Determination
3. All the documents accompanying this invitation must be completed in detail where applicable, be sealed in an envelope and be deposited in the bid box before the closing date and time. The bid box is situated at **Department of Public Works and Roads, Modiri Molema Road, Old Parliament Building**
4. Duly completed and signed original bid documents should be sealed in an envelope marked:

Bid No : PWR 71/21

Bid Description : Provision of 2 697.3 m² of Leased Office Accommodation for the Department of Finance Sustainable Resource Management in Mahikeng for the period of 36 Months

Closing Date : 17th February 2022

Closing Time : 11h00

No telegraphic or facsimile bids will be considered.

5. Documents will be available from the **08th February 2022** at a non-refundable fee of **R500.00** payable at :

Bank Name : FNB
Account Name : NW – Department of Public Works and Roads
Account no : 62811747841
Ref. No. : Quote Company name and bid number

NB: The original deposit slip must be attached to the document upon return if purchased from Departmental Office

Bid documents downloaded from E Portal website are not payable but bidders who will purchase bid Documents from the Departmental Office are to pay the non-refundable fee of R500.00

6. The Department of Public Works and Roads reserves the right to accept any bid in whole or in part and does not bind itself to accept the lowest or any bid.
7. For more information please contact the following:

Department : Public Works and Roads

Contact Person : Ms. P. Matshe / Ms. M. Motlhaping / Mr. L. Mothusi Tel (018) 388 4594 / 4639 / 1321

NO BRIEFING SESSION WILL BE HELD. ALL THE ENQUIRIES SHOULD BE DIRECTED TO THE RELEVANT OFFICIALS STATED IN THE BID DOCUMENT

BID REQUIREMENTS

- a. All bidding Vendors must have a VALID bank account
- b. All the Relevant Forms attached to this bid documents must be completed and signed in ink where applicable by a duly authorised official

8. REQUIRED DOCUMENTATION

The prospective bidders are required to provide the following documentation:

- Original completed and signed applicable Bid Documents
- Company Registration Certificate from the Registrar of Companies
- Original Valid Tax Clearance Certificates
- BBBEE Certificate or an Originally Certified Copy thereof
- A consolidated BBBEE Certificate in case of a Joint Venture
- Joint Venture Agreement signed by both parties where applicable
- Originally Certified Copies of Identity Documents of the main shareholders / Directors of the Company
- CSD Report of the Company

9. EVALUATION CRITERIA AND PROCESSES TO BE USED

The evaluation process will entail the following phases:

- Phase 1 – Evaluation on Legal requirements
- Phase 2—Technical/ Functional requirements
- Phase 3- 80/20 Points Preference System


.....
MR. MJ MOIPOLAI
DIRECTOR SUPPLY CHAIN MANAGEMENT


.....
DATE

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE DEPARTMENT OF COMMUNITY SAFETY AND TRANSPORT MANAGEMENT

BID NUMBER:	PWR 71/21	CLOSING DATE:	17 th February 2022	CLOSING TIME:	11h00
DESCRIPTION	PROVISION OF 2697.3m ² LEASED OFFICE ACCOMODATION FOR THE DEPARTMENT OF FINANCE SUSTAINABLE RESOURCES MANAGEMENT IN MAHIKENG FOR A PERIOD OF 36 MONTHS				

THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).

BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT GATEHOUSE OLD PARLIAMENT BUILDING MMABATHO

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			

	TCS PIN:		OR	CSD No:	
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]	☐ Yes		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	☐ Yes	
	☐ No			☐ No	
IF YES, WHO WAS THE CERTIFICATE ISSUED BY?					

AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA) AND NAME THE APPLICABLE IN THE TICK BOX	☐	AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA)
	☐	A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS)
	☐	A REGISTERED AUDITOR
	NAME:	

[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 PART B:3 BELOW]
---	--	--	--

SIGNATURE OF BIDDER		DATE	
---------------------	--	------	--

CAPACITY UNDER WHICH THIS BID IS SIGNED (Attach proof of authority to sign this bid; e.g. resolution of directors, etc.)			
--	--	--	--

TOTAL NUMBER OF ITEMS OFFERED		TOTAL BID PRICE (ALL INCLUSIVE)	
-------------------------------	--	---------------------------------	--

BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO: TECHNICAL INFORMATION MAY BE DIRECTED TO:

DEPARTMENT/ PUBLIC ENTITY	PUBLIC WORKS AND ROADS	CONTACT PERSON	MS P MATSHE
CONTACT PERSON	MS J SETLALENTOA	TELEPHONE NUMBER	018-388 4639
TELEPHONE NUMBER	018-3881390	FACSIMILE NUMBER	

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 ONLINE
- 1.3. BIDDERS MUST REGISTER ON THE CENTRAL SUPPLIER DATABASE (CSD) TO UPLOAD MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS; AND BANKING INFORMATION FOR VERIFICATION PURPOSES). B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.
- 1.4. WHERE A BIDDER IS NOT REGISTERED ON THE CSD, MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS MAY NOT BE SUBMITTED WITH THE BID DOCUMENTATION. B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.
- 1.5. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER LEGISLATION OR SPECIAL CONDITIONS OF CONTRACT.

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 VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.
- 2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.
- 2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS TOGETHER WITH THE BID.
- 2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE PROOF OF TCS / PIN / CSD NUMBER.
- 2.6 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.

3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

- | | |
|--|--|
| 3.1. IS THE BIDDER A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? | ☐ YES ☐ NO |
| 3.2. DOES THE BIDDER HAVE A BRANCH IN THE RSA? | ☐ YES ☐ NO |
| 3.3. DOES THE BIDDER HAVE A PERMANENT ESTABLISHMENT IN THE RSA? | ☐ YES ☐ NO |
| 3.4. 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.

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

TAX CLEARANCE CERTIFICATE REQUIREMENTS

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

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

DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state¹, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority and/or take an oath declaring his/her interest, where-

- the bidder is employed by the state; and/or
- the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

2. In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

2.1 Full Name of bidder or his or her representative:

2.2 Identity Number:

2.3 Position occupied in the Company (director, trustee, shareholder²):

2.4 Company Registration Number:

2.5 Tax Reference Number:

2.6 VAT Registration Number:

2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / persal numbers must be indicated in paragraph 3 below.

¹"State" means -

- (a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (b) any municipality or municipal entity;
- (c) provincial legislature;
- (d) national Assembly or the national Council of provinces; or
- (e) Parliament.

²"Shareholder" means a person who owns shares in the company and is actively involved in the management of the enterprise or business and exercises control over the enterprise on a daily basis.

2.7 Are you or any person connected with the bidder presently employed by the state? YES / NO

2.7.1 If so, furnish the following particulars:

Name of person / director / trustee / shareholder/ member:

Name of state institution at which you or the person connected to the bidder is employed :

Position occupied in the state institution:

Any other particulars:

.....

.....

.....

2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector? YES / NO

2.7.2.1 If yes, did you attached proof of such authority to the bid document? YES / NO

(Note: Failure to submit proof of such authority, where applicable, will result in the disqualification of the bid.

2.7.2.2 If no, furnish reasons for non-submission of such proof:

.....

.....

.....

2.8 Did you or your spouse, or any of the company's directors / trustees / shareholders / members or their spouses conduct business with the state in the previous twelve months? YES / NO

2.8.1 If so, furnish particulars:

.....

.....

.....

2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid? YES / NO

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1012 1013 1014 1015 1016 1017 1018 1019 1020 1021 1022 1023 1024 1025 1026 1027 1028 1029 1030 1031 1032 1033 1034 1035 1036 1037 1038 1039 104

YES/NO

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YES/NO

[illegible]

3 Full details of directors / trustees / members / shareholders.

[illegible]

DECLARATION

I, THE UNDERSIGNED (NAME).....

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 3 ABOVE IS CORRECT.
I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF
PARAGRAPH 23 OF THE GENERAL CONDITIONS OF CONTRACT SHOULD THIS DECLARATION
PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of bidder

April 2011

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017

This preference form must form part of all bids invited. It contains general information and serves as a claim form for preference points for Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution

NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.

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).

1.2

- a) The value of this bid is estimated to **exceed/not exceed** R50 000 000 (all applicable taxes included) and therefore the..... preference point system shall be applicable; or
- b) Either the 80/20 or 90/10 preference point system will be applicable to this tender (*delete whichever is not applicable for this tender*).

1.3 Points for this bid shall be awarded for:

- (a) Price; and
- (b) B-BBEE Status Level of Contributor.

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

	POINTS
PRICE	
B-BBEE STATUS LEVEL OF CONTRIBUTOR	
Total points for Price and B-BBEE must not exceed	100

1.5 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution 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 preferences, 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) **"B-BBEE status level of contributor"** means the B-BBEE status of an entity 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;
- (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. POINTS AWARDED FOR PRICE

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

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

80/20

or

90/10

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

Where

P_s = Points scored for price of bid under consideration

P_t = Price of bid under consideration

$P_{\min}$ = Price of lowest acceptable bid

4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

- 4.1 In terms of Regulation 6 (2) and 7 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

5. BID DECLARATION

- 5.1 Bidders who claim points in respect of B-BBEE Status Level of Contribution must complete the following:

6. B-BBEE STATUS LEVEL OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1

- 6.1 B-BBEE Status Level of Contributor: =(maximum of 10 or 20 points)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

7. SUB-CONTRACTING

- 7.1 Will any portion of the contract be sub-contracted?

(Tick applicable box)

YES	☐	NO	☐
-----	--------------------------	----	--------------------------

- 7.1.1 If yes, indicate:

- What percentage of the contract will be subcontracted.....%
- The name of the sub-contractor.....
- The B-BBEE status level of the sub-contractor.....
- Whether the sub-contractor is an EME or QSE

(Tick applicable box)

YES	☐	NO	☐
-----	--------------------------	----	--------------------------

- v) Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations, 2017:

Designated Group: An EME or QSE which is at least 51% owned by:	EME ✓	QSE ✓
Black people		
Black people who are youth		
Black people who are women		

Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		
Black people who are military veterans		
OR		
Any EME		
Any QSE		

8. DECLARATION WITH REGARD TO COMPANY/FIRM

8.1 Name of company/firm:.....

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

Partnership/Joint Venture / Consortium

One person business/sole propriety

Close corporation

Company

(Pty) Limited

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

8.6 COMPANY CLASSIFICATION

Manufacturer

Supplier

Professional service provider

Other service providers, e.g. transporter, etc.

[TICK APPLICABLE BOX]

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

8.8 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 B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, 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 6.1, 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 *audialterampartem* (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

.....

.....

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

- 1 This Standard Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by institutions in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
- 3 The bid of any bidder may be disregarded if that bidder, or any of its directors have-
 - a. abused the institution's supply chain management system;
 - b. committed fraud or any other improper conduct in relation to such system; or
 - c. failed to perform on any previous contract.
- 4 In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

Item	Question	Yes	No
4.1	Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector? (Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied). The Database of Restricted Suppliers now resides on the National Treasury's website(www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.	Yes ☐	No ☐
4.1.1	If so, furnish particulars:		
4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.	Yes ☐	No ☐
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes ☐	No ☐
4.3.1	If so, furnish particulars:		

4.4	Has any contract between the bidder and any organ of state been terminated during the past five years on account of failure to perform on or comply with the contract?	Yes ☐	No ☐
4.4.1	If so, furnish particulars:		

SBD 8

CERTIFICATION

**I, THE UNDERSIGNED (FULL NAME).....
CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION
FORM IS TRUE AND CORRECT.**

**I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT,
ACTION MAY BE TAKEN AGAINST ME SHOULD THIS DECLARATION
PROVE TO BE FALSE.**

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

Js365bW

CERTIFICATE OF INDEPENDENT BID DETERMINATION

SBD 9

- 1 This Standard Bidding Document (SBD) must form part of all bids¹ invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).² Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
 - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
 - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
- 4 This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

¹ Includes price quotations, advertised competitive bids, limited bids and proposals.

² Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Institution)

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

I certify, on behalf of: _____ that:
(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder

6. 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^a will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
 - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. 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.

^a 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.

10. 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.

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

Js914w 2

6. FUNCTIONALITY CRITERIA

No	Functionality Criteria-Tender Rating Matrix		A	B	C
			Tenderer rating score 1-2	Weighting	Tenders score(%)=(AxB)/2
a.	Size: Office Space As per floor plan)	1998 m ²	2	60%	
		1898 m ²	1		
		Detailed floor plan to be attached			
b.	Support Space (As per floor plan)	499.5 m ²	2	20%	
		449.5 m ²	1		
		Detailed floor plan to be attached			
c.	Reserved parking bays (As per floor plan)	60 or	2	10%	
		50	1		
		Detailed floor plan to be attached			
d.	Condition Grading (As per valuation report)	Grade A	2	10%	
		Grade B or Grade C	1		

The minimum threshold on the functionality criteria is 60 points

PROVINCIAL DEPARTMENT OF PUBLIC WORKS AND ROADS (North West Province)

**BID FOR PROVISION OF OFFICE ACCOMMODATION FOR THE DEPARTMENT OF FINANCE, NGAKA
MODIRI MOLEMA SUSTAINABLE RESOURCE MANAGEMENT**

BID NO: PWR: 71/21

CONTACT PERSONS:

- 1. Mr Wandi Lechoenyo, Tel (018) 388 4594, Facilities Management ,West Wing, Ground Floor, Old Parliament Building, Mmabatho**
- 2. Ms Phidelia Yuze, Tel (018) 388 4639, Facilities Management, West Wing, Ground Floor, Old Parliament Building, Mmabatho**
- 3. Mr Lebogang Mothusi ,Tel (018) 388 1321, Facilities Management, West Wing, Ground Floor, Old Parliament Building, Mmabatho**

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SECTION 1

BID INVITATION

BID INVITATION FOR THE PROVISION OF OFFICE & OTHER WORKSPACE FOR THE DEPARTMENT OF
FINANCE IN NGAKA MODIRI MOLEMA SUITABLE RESOURCE MANAGEMENT

BID NUMBER : **PWR 71/21**

BID CLOSING DATE :

BID CLOSING TIME : **11:00 am**

BID VALIDITY PERIOD : 90 calendar days

Interested Lessors / Owners are invited to offer suitable accommodation in an existing building for occupation by the Head Office of the North West Department of **FINANCE** in **MAFIKENG**. The accommodation must be situated in **MAFIKENG**, an accessible distance which is the main town centre of **MAFIKENG**, and has to provide for a lettable area of offices, and support space (boardrooms, stores, ablutions, and parking, in line with the attached National Public Works Norms and Standards.

The premises offered must make provision for easy access by both private and public transport as well as easy access and use of the facilities by officials, clients and the physically challenged.

The proposed office and workspace layout should cater for flexibility in arrangement and utilisation of space.

SECTION 2

SPECIAL CONDITIONS OF CONTRACT (SCC)

PART A: IMPORTANT BID CONDITIONS & REQUIREMENTS

Bidders must take cognisance of the details, conditions and requirements stipulated here. (These stipulations can be used as a checklist to ensure all documents are submitted.)

1. THE LEASE

1.1 The base date for calculation of rent must utilise the prescribed year 2020 needs of the tenant, based on the Space Norms of the National Department of Public Works.

1.2 Bidders must provide offers for an initial lease period of 3 years as allowed for in the bid form

1.3 The lease agreement and payment of rental will commence from the agreed occupation date

a. In the case where the Lessor is unable to provide the building on the agreed occupation date the Lessor will be held accountable for providing alternative suitable and similar accommodation to the Lessee at the Lessor's cost including relocation and other similar costs the Lessee might encounter as a result of the delayed occupation date

b. In the case where the Lessee occupies the building on a later date than the agreed occupation date, the Lessee will be accountable for rental from the first date of the agreed occupation date

1.4 Rental will escalate on a yearly in line with the going national inflation rate and capitilisation rate linked to the property

1.5 Occupation must be as soon as possible. However, it is understood that time must be allowed to achieve various requirements; therefore, the anticipated occupation date is being determined as follows (Please indicate anticipated dates below):

- Space Planning and reconfiguration to tenant needs: _____
- Adjustments/renovations ,if necessary

- Occupation: _____

1.6 The successful bidder will be required to meet the final set target dates, which will be agreed on between the department and the owner, subsequent to acceptance of the bid

2. THE BID DOCUMENTS

2.1 A non-refundable amount of **R 500** is payable per bid document. The original copy of receipt obtained when purchasing bid documents must be attached and submitted with the bid

2.2 Bids should be submitted on official forms. Do not retype, redraft or photocopy Bid Documents)

2.3 The entire document must be returned for bid purposes.

2.4 The document must be signed where indicated and each page initialed by the bidder.

2.5 Bids by telegram, facsimile or other similar apparatus will not be accepted for consideration

2.6 The offer/bid should be submitted in a sealed envelope that clearly indicates the bid number, name of bidder, closing date and time.

2.7 A Copy of company registration certificate, where applicable, indicating names and percentage of shareholders and shareholding (equity) respectively, must be attached.

2.8 Certified copies of identity documents for all shareholders should be included. Bidders will forfeit the points for certain preference or may be disqualified if copies of ID's for all shareholders are not attached.

2.9 Bids that are not accompanied by written proof (i.e. Company directors' resolution) that the bidder is authorised to offer the accommodation for leasing will not be considered.

2.10 Bidders should attach a tax clearance certificate, obtainable from South African Revenue

Services and must meet the following requirements:

- The tax clearance certificate must be original and valid.
- The certificate must be in the bidding entity's name.
- Failure to submit a tax clearance certificate that meets the requirements as indicated will lead to the disqualification of the bid.

2.11 The forms must be signed in the original that is in ink. Bids with photocopied signatures or other such reproduction of signatures will be rejected.

2.12. The bid documents must be deposited in the tender box which is identified as the tender box of the tender section in the North West Department of Public Works, Roads and Transport

Situated at: The Gate House,

Old Parliament Building

Modiri Molema Road

Mmabatho

The tender box is accessible 24 hours a day, 7 days a week.

2.13 No bids will be accepted for consideration after the closing date and time.

3. THE BID

3.1 This bid document will become part and parcel of the agreement between the State and the successful bidder

3.2. The bid price will be the yearly rental amount of the first year

3.3 The North West Department of Public Works does not bind itself to accept the lowest or any other bid in whole or in part, and reserves the right to re-advertise the bid after the closing date.

3.4 The bid will be evaluated in accordance with the Preferential Procurement Policy with an 80/20 point scoring system formula, as per SDB 6.1 attached. Bidders must indicate and declare on the relevant documents which preference points they are claiming and should also provide proof that they qualify for the points. If the declaration part of the forms is not signed, points will not be awarded.

3.5 Bidders are welcome to be present at the opening of the bid.

4. CONDITIONS RELATING TO THE OFFICE AND OTHER ACCOMMODATION TO BE PROPOSED /OFFERED

4.1 It is not a requirement to submit designs or layouts, however the bidder undertakes to appoint suitably qualified professionals for the design and supervision of the space planning and allocation as per departmental requirements

4.2 The successful bidder will be responsible for the cost of alterations necessary to adapt the offered accommodation in existing buildings to the specific needs of the Department in accordance with the Public Works Norms and Standards document and specified minimum requirements, if the bidding property is not currently configured as offices

4.3 Lettable areas must be determined in accordance with the **South African Property Owners Association (SAPOA) method for measuring floor areas** in office building, the final rental payable will be calculated on the lettable areas so identified

4.4 The Department is the sole adjudicator of the suitability of the accommodation for the purpose for which it is required. **The Department's decision in this regard will be final.**

4.5 It is a requirement that the accommodation offered, including all equipment and installations, must comply with the National Building Regulations.

4.6 It is a requirement that the accommodation offered must fully comply with the State's current norms and requirements regarding building accessibility for and use by the physically challenged.

4.7 It is a requirement that the accommodation offered, including all equipment and installations, must comply with the requirements of the Occupational Health and Safety Act, 1993 (Act 85 of 1993), as amended. A certificate to this effect must be issued **prior to occupation** of the premises.

4.8. **It is a requirement** that a copy of the bidding building floor plans which indicate the floor area measurements (size), or from which size can be measured /calculated. **(Compulsory)**

- 4.9 It is a requirement that the accommodation offered must be located within an accessible distance from the local town centre
- 4.10 Bidders must attach an original municipal zoning certificate as proof of location of the building or site. The zoning certificate must confirm that the municipal zoning is appropriate for the proposed office accommodation- **Compulsory**
- 4.11 The integrity of the electricity supply and installations must be confirmed by attaching a Certificate of Compliance, **prior to occupation**
- 4.12 In case of rural areas/villages where there are no established townships, in the place of the deeds and zoning certificates, a letter from the Chief of tribal resolution confirming ownership and permitting the intended use of the property, should be submitted along with the Bid-**Compulsory**
- 4.13 Bidders must attach a Municipal Clearance Certificate, which indicates that the building offered is clear of any arrears from the **NGAKA MODIRI MOLEMA Local Municipality** (Services and Rates & Taxes Accounts) - **Compulsory**
- 4.14 Bidders are further required to attach a Fire Clearance Certificate from the local municipality for the building on offer, **prior to occupation**
- 4.15 Bidders must have real right/legal ownership or proof of verifiable agency to offer the building for sale by means of a title deed for all bidding properties – **Compulsory**
- 4.16 If bidders offers more than one property to meet the bid space requirements, all the applicable addresses must be submitted, along with separate title deeds/agency agreements, separate floor plans, separate zoning certificates and separate municipal account as part of the bid documentation, as well as separate electrical certificates of compliance (COC) AND Fire Clearance Certificates for each building, before occupation.
- 4.17 for purposes of evaluating this Bid, Bidders must attach a valuation report for each bidding property, done by a registered Professional Property Valuer, which is not older than 12 Months- **Compulsory**
- 4.18 It is a requirement for Bidders to attach a structural report for each multi storey (two floors or more) bidding property along with bidding documentation, not older than 12 months. - **Compulsory**

5. FAILURE TO COMPLY:

FAILURE TO COMPLY WITH THE ABOVE-MENTIONED CONDITIONS WILL INVALIDATE A BID.

**I / WE BID FOR THE SERVICES AS INDICATED HEREIN SUBJECT TO THE CONDITIONS
CONTAINED IN THE BID FORMS AND GCC CONTENTS OF WHICH I / WE ACKNOWLEDGE
MYSELF / OURSELVES TO BE FULLY ACQUAINTED WITH.**

NAME OF BIDDER

INCOME TAX REFERENCE NUMBER

VALUE ADDED TAX NUMBER

TEL: _____

FAX: _____

CELL: _____

e-mail: _____

Street address: _____

Postal address: _____

SIGNATURE OF BIDDER: DATE:

NAME OF AUTHORISED REPRESENTATIVE:.....

PART B: DETAIL OF COSTS AND BUILDING REQUIREMENTS

B.1. THE COST OF THE FOLLOWING SERVICES WILL BE THE RESPONSIBILITY OF THE LESSEE (STATE):

1. SERVICES

- a. Costs for water usage
- b. Cost for electricity usage
- c. Sanitary Services
- d. Refuse removal
- e. Security Services
- f. Domestic cleaning Services
- g. Consumables, i.e. toilet paper, soap, towels. etc
- h. Information and telecommunication equipment and its installation costs

B.2. THE COST OF THE FOLLOWING SERVICES WILL BE THE RESPONSIBILITY OF THE LESSOR (OWNER):

1. MAINTENANCE

- a. External building maintenance – Fair wear & tear
- b. Internal building maintenance – Fair wear & tear
- c. Landscaping, its upkeep and maintenance
- d. Air conditioning (Servicing, repair, etc)
- e. Lift (Servicing, repair, etc),if any

- f. Fire prevention & fighting (Equipment, servicing, repair, etc)

2. RATES and TAXES & INSURANCE

- a. Municipal and other Rates including increases
- b. Building insurance including increases
- c. SASRIA insurance including increases

3. OTHER

- a. Partitioning office areas according to client needs
- b. Contract costs
- c. Stamp duty

B.3. SPECIFICATION OF MINIMUM REQUIREMENTS AND FINISHES TO WHICH THE BUILDING MUST COMPLY.

B.3.1. GENERAL:

1. The category of accommodation offered must be in line with that of a **Grade A, B or C**, office building as per the client requirement and tender briefing notes, as categorised by the general office grading **SAPOA** stipulations.
2. Any requirements laid down in this specification shall be considered as supplementary to those set out in the written offer of the bidder.
3. The fact that the Department will scrutinise the documentation of the proposed alterations /reconfiguration of the building on offer, the Department's approval thereof does not exempt the bidder from his responsibilities with regard to the fulfillment of the requirements of this specification.
4. As far as possible the building offered, must attempt to provide for and promote energy efficiency
 - a. The extent of the implementation of specifications to provide an "Energy Efficient Building" will be finalised with the successful bidder.

B.3.2. CONSTRUCTION AND APPEARANCE OF BUILDING:

1. The design, construction and appearance of the building, including the internal and external finishes shall be of a standard acceptable to the Department.

B.3.3. SECURITY:

1. General:

- External walls of all floors shall be of a heavyweight / load bearing structure such as minimum 220 mm thick brick or 190 mm thick concrete.
- The complete site, where applicable, must be fenced with steel palisade type security fence or solid wall.
- A secure parking lot for state vehicles must be provided as required as specified in the space needs/requirement norm provided for in the Bid Document.

2. Motor and Pedestrian Gates:

Where necessary a separate motor and pedestrian gate should be provided and make for easy access into the building, including persons with physical disabilities. And where possible provision should be made for escape routes in the building for emergency situations.

3. Office Doors Locks & Keys:

All offices shall be provided with a door of at least 813 mm and each fitted with a good quality five pin cylinder lock with two keys fitting one lock only ,and which shall be handed over to the Departmental Representative upon occupation of the building. Two master keys that can unlock the locks of all offices shall also be provided.

4. Registries:

Registries must have service counters and must be fitted with suitable security barriers / grills / glazing to the satisfaction of the department.

5. Burglar Proofing

The building must be securely protected against burglary to the satisfaction of the department.

6. Record Rooms

Record rooms shall be rooms with category 1 record room doors which can be opened from both sides and which comply with SABS Specification 949. Record room walls shall be of masonry of not less than 220 mm thick or of concrete of not less than 150 mm thick or of such structure approved by the

Department. Record rooms may have no external windows and all ventilation openings in the walls shall be fitted with fire dampers. All keys shall be handed over to the Department.

7. Room and Partitions

Partition walls shall be used to divide the total floor area of the building into office and other areas required. The walls shall have a noise reduction factor of not less than 45 dB within a range of 100 to 1000 hertz. The factor has a bearing on complete wall sections including glass and doors if any.

8. Passage

As a general standard an average passage width with a minimum of 1.5m shall be provided. Where certain functions within the building necessitate wider passages those specific areas will be identified and the passage width specified as part of the accommodation particulars.

9. Floor to Ceiling Heights

A clear floor to ceiling height of as close as possible to 2.7m throughout shall be maintained in all general areas of the building. Where a certain function inside a building necessitates a higher floor to ceiling height, the specific areas will be identified and the height specified as part of the accommodation particulars. Conduits, water pipes, air ducts and other services shall not be visible underneath the ceiling in offices and public areas.

10. Power Points

Offices and other rooms where electrical appliances can be used shall be provided with a double 15 amp socket outlet for every 12m². The Department shall indicate any additional socket outlets, which are required, in the accommodation particulars for special services. The wiring and securing of electrical circuits shall be such that computer equipment can be run from separate UPS socket outlets in each area where computers are used. Electrical circuits for socket outlets shall be secured by means of single-phase earth leakage relays having a sensitivity of 25 amps.

11. Lights

1.1 Office interior

Each office shall be provided with its own light switch in a suitable position near the door. Lighting conforming to the following standard must be provided:

- Reception areas 100 lux
- General offices 300 lux

- Specialised offices 500 lux i.e. drawing rooms, etc.
- Passages 50 lux
- Auditoriums 100 lux
- Conference rooms 100 lux
- Classrooms 200 lux
- Libraries 300 - 400 lux
- Store rooms 200 lux
- Parking 50 lux

The lighting levels all measured at working plane.

11.2 Site Lighting

Floodlights must be provided on the premises for proper patrol during the night.

12. Facilities for Cleaners

On every floor of a multi-storey building or for every 1 350m² gross floor area a cleaner's room of not less than 6m² shall be provided as a storeroom for cleaning equipment and material. It shall be provided with a drip sink, 4m long shelves and sufficient cross ventilation, preferably by means of an outside window.

13. Toilet Facilities

Toilet facilities for both sexes must comply with National Building Regulations of 1975 requirements, and provision must be made for disabled ablutions

14. Material and Finishes

All walls and ceilings, whether painted or finished otherwise, shall be according the Department's corporate identity. Walls of tea kitchens, stairs, entrance halls and toilets shall be washable and hardwearing and acceptable to the Department.

15. Floor Covering

Floor covering must be as agreed with the client.

16. Water Quality

All building must provide drinkable water and must comply with the minimum water quality standard meeting the requirements of SANS 241:2015

17. INSPECTION

The Department considers it a condition of contract that in consultation with the Lessor and with reasonable frequency during the process of refurbishment or reconfiguration, its inspector/s shall be given access to the building. The inspector's approval of any part of the building does not exempt the owner from complying with any of the minimum standard requirements. A deviation from the minimum requirements may only be allowed with written permission from the Department.

B4. BUILDING SPACE NORMS

Notice is made to the bidders that the Department will apply the approved national Public Works norms and standards for the allocation and utilisation of office accommodation offered for lease. The table below is for indicative purposes only.

Table 1 – Office Accommodation Norms and Standards of the National Department of Public Works

<u>NATIONAL PUBLIC WORKS OFFICE NORMS AND STANDARDS</u>	SALARY LEVELS

1. <u>MINISTERS/MEC</u>	132²	17
Consist of		
1.1 Office	44 ²	
1.2 (Bathroom/Toilet)	4 ²	
1.3 Secretary	16 ²	
1.4 Boardroom	36 ²	
1.5 Other Personnel	32 ²	
<u>2. SINGLE</u>		
2.1 Director General	40 ²	16
2.2 Deputy Director General	32 ²	15
2.3 Chief Director	28 ²	14
2.4 Director	24 ²	13
2.5 Deputy Director	20 ²	11/12
2.6 Assistant Director	16 ²	9/10
2.7 Senior Admin Officer	12 ²	8
2.8 Admin Officer/ Chief Clerk	12 ²	7
<u>3. OPEN PLAN</u>		
3.1 Admin Clerk	8 ²	4/5/6
3.2 Typist / data captures and other lower rank Required for administration	6 ²	4/5/6

B.5. PARKING REQUIREMENTS:

The provision of parking should as far as possible, be in line with the Local Municipality town planning scheme. In terms of this regulation, the bidder must provide for a minimum, of 2 parking bays per 100 square meters of office space within a secure, parking lot inside the office block premises.

B .6 THE PRICING FORMULAR

The Pricing Formular for the bid will apply as follows:

- 1. Total lettable office space per m², per month + Total Number of Parking Bays X cost per bay, per month X 12 months = Total rental for Year 1 , (Inclusive of VAT)***
- 2. Pricing for years 2 and 3 of the lease agreement will include total rental payable for the previous year plus the agreed annual escalation, (Inclusive of VAT)***

The pricing for the bid will be completed in the following table:

Rental Year 1	Escalation for Year 2	Rental for Year 2	Escalation for Year 3	Rental for Year 3	Total Bid Price
P.M = R- --	-----%	P.M=R-----	-----%	P.M=R-----	
P.A =R--- -	-----%	P.A= R-----	-----%	P.A=R-----	R-----

Rental Per Annum for Year 1+Year 2+Year 3 (Including escalations and VAT) = Total Bid Price (For 3 years)

(Bidders are advised to create a separate similar table to show their pricing)

SECTION 3: GENERAL CONDITIONS OF CONTRACT (GCC)

(Supply Chain to provide)

SECTION 4: FORMA TO BE COMPLETED

(Supply Chain to provide)



LEASE AGREEMENT

MADE AND ENTERED INTO BY AND BETWEEN

THE DEPARTMENT OF _____

NORTH-WEST PROVINCE

A Provincial department duly established in terms of Section 7 (2) and schedule 2 of the Public Service Act, as Amended, herein represented by _____ in his capacity as the Superintendent General appointed in terms Public Service Act, 1994

(Proclamation No: 3 of 1994)

(Hereinafter referred to as the Lessee")

AND

A close corporation established in terms of the close corporation laws of the Republic of South Africa, with registration number _____ herein represented by _____ in his capacity as the Director. Who warrants that s/he is duly authorised to act on behalf of the company in terms of the resolution attached as

Annexure "A"

(Hereinafter referred to as the "Lessor")

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LEASE

1. PARTIES

The parties to this agreement are;

AND

2. DEFINITIONS AND INTERPRETATION

2.1 In this agreement, unless the context indicates otherwise, the following words have the meaning assigned to them hereunder;

"Adjustment date" – lapse of a period of twelve (12) month, on which the escalated rate comes into effect;

"The agreement" – means this lease agreement together with any schedules annexed thereto;

"Building" – the entire structure known as _____ situated at _____;

"Commencement date" – means the date this agreement shall come into effect, being _____;

"Escalation rate" – the seven (%) percentages, which adjusts the rental on every adjustment date;

"Expenses" – those adjustments in respect of the premises which are occasioned by the ownership or the operation thereof; including but not limited to, assessment rates, municipal levies, air-conditioning maintenance, lift maintenance and insurance premiums;

"Lessee" – means the North West Department of _____;

"Lessor" – the owner of the premises is he/she does not sign personally, is herein represented by the director who warrants that s/he is authorised to sign this agreement on behalf of the lessor;

"Exit Maintenance" – everything which is required to be done in order for the lessee to return the premises to the lessor, on termination or expiry of this agreement, in the condition they were in at the commencement date, fair wear and tear excepted;

"Parties" – means both the lessee and the lessor;

"Premises" – the building and/or the structure and/or the land, or portions thereof, including _____ parking bay, which is situated at _____,

which form the subject of this agreement;

"Repairs" – everything which is required to be done in order to achieve the same goal as that envisaged in the definition of "maintenance" but which requires more labour and more expense than maintenance, such as the replacement of cables, taps, locks, floor tiles, geysers and the like.

"Signature date" – the date stipulated of this agreement by the party which signs last in time;

"Termination date" – means the expiry of a period of 3 years;

"VAT" – Value-added Tax in terms of the Value Added Tax Act No. 89 Of 1991 as amended;

- 2.2 The clause headings of this agreement have been inserted for reference purpose only and shall not be taken into account in its interpretation. Unless the context indicated otherwise, words importing the singular shall include the plural, words importing persons shall include body corporate, and, in each instance, also the opposite thereof;
- 2.3 If a provision in a definition is substantive provision conferring rights or imposing obligations on any party, effect shall be given to it as if it were a substantive provision in the body of the agreement, notwithstanding that it is in the definitions clause.
- 2.4 Any reference to an enactment, regular, rule or by-law is to that enactment, regulation, rule or by law as at the signature date and as amended or replaced from time to time.
- 2.5 Where any number of days is prescribed, such number shall exclude the first and include the last day, unless the last day falls on a Saturday, Sunday or Public Holiday in South Africa, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or Public Holiday.
- 2.6 The use of the word "including" followed by a specific example/s shall not be construed as limiting the meaning of the general wording succeeding it and the *eiusdem generis* rule shall not be applied in the interpretation of such general wording or such specific example/s
- 2.7 The expiration or termination of this agreement shall not affect those provisions of this agreement which expressly provide that they will operate after any such expiration or termination or which of necessary must continue to have effect after such expiration or termination, notwithstanding the fact that the clauses themselves do not expressly provide this.
- 2.8 In its interpretation, the *contra proferentem* rule of construction shall not apply (this agreement be the product of negotiations between the parties) nor shall this agreement be construed in favour of or against any party by reason of the extent to which any party or its professional advisors participated in the preparation on this agreement.

3 THE LEASE

- 3.1 The lessor hereby leases the premises to the lessee who hires the premises on the terms and conditions set out in this agreement, it being specifically recorded and notwithstanding anything to the contrary contained in this agreement, that the only persons who are mandated to negotiate, enter into, amend or otherwise agree the terms and conditions of this agreement are lessor and lessee;

4. DURATION AND RENEWAL

- 4.1 This agreement shall commence on the commencement date and shall endure for the period _____ (start date) and shall continue to run for a period of three (3) years.
- 4.2 Upon the expiry of the initial lease period, the lessee shall have the option of renewing this agreement for an additional period as the secondary lease period upon the terms and conditions contained in this agreement provided that in respect of rental payable from the date on which the secondary lease period commences ("the renewal date"), the parties will be based on an escalation rate which is not higher than the increased rate of the last period of the agreement.
- 4.3 The lessee shall give written notice to the lessor of its intention to exercise the option to renew this agreement (refer to in clause 4.2 above) by no later than 3 months prior to the expiry of the initial lease period.
- 4.4 On expiry of the first period and upon receipt of a written notice from the lessee in terms of clause 3 above, the terms of the contract shall remain for the duration of the extension exercised by the lessee unless otherwise agreed to in writing.
- 4.5 On expiry of the secondary lease period, the lease shall automatically terminate unless the parties agree in writing to a further extension of this agreement.
- 4.6 The terms and conditions of lease during the secondary lease period and any further lease period as referred to in 4.5 shall be those contained in this agreement.

5. THE RENTAL

- 5.1 During the initial rental period, with effect from the commencement date, the monthly rental payable by the lessee to the lesser shall be R _____ (in words _____) Vat included
- 5.2 Thereafter the rental shall escalate each year, one each anniversary date of the lease, in accordance with the escalation rate of _____ % (seven percent), per annum

- 5.3 The rental shall be paid by the lessee to the lesser, upon submission of an invoice every month, according to the following schedule :

R	per month for the period	to
R	per month for the period	to
R	per month for the period	to

- 5.4 All payments made by the lessee to the lesser in terms of this agreement, shall be effected by electronic payment directly into the lesser nominated bank account.
- 5.5 The parties agree that all rental payable in terms of this agreement shall include value-added tax where such tax is payable. The lesser shall specify such as tax for record and tax purposes separately from basic rental.
- 5.6 The lessee undertakes to pay all VAT, at the standard rate applicable from time to time, leviable on any amounts payable by the lessee in terms of this agreement.
- 5.7 The lessor shall be liable to pay all rates, taxes, and other regulatory amounts and the levies in respect of the premises to the relevant authority as well as any expenses and increases

6. USE OF PREMISES

- 6.1 The lessee records that the premises shall be used for any legitimate Government purpose;
- 6.2 The lessor hereby warrants and undertakes that the premises are fit for use for purpose set out in clause 6.1.
- 6.3 The lessor shall be obliged to such consents and authorisations (excluding trade and other licences) as may be required by competent authorities or title conditions to enable the lessee to use the premises for the purpose referred to in 6.1
- 6.4 The lessor hereby warrants that all permits, licence and / or consents in respect of the conduct of the business at the premises have been granted and / or renewed

7. OCCUPATION OF THE PREMISES

The lessor warrants the lessee's right to free and undisturbed possession of the premises from the commencement date until termination of this agreement.

8. CONDITION OF PREMISES AT THE COMMENCEMENT DATE AND AT THE TERMINATION DATE

- 8.1 The lessor shall be responsible for installing disable ramps, toilets, service air conditions, do all maintenance of the building and ensure it complies with occupational health and safety, together with National Building Regulations requirements.
- 8.2 Should the Lessor fail to comply with the clause 8.1, lessee may have such installations made at the reasonable cost thereof and the party which was responsible for such installation shall become liable for such amount; provided that where the lessor does not make such installation and the lessee makes such installation on its behalf, the lessee shall be entitled to reduce its rental payment due to the lessor until such time as it has recouped its costs in respect of making the installation on behalf of the lessor.
- 8.3 The lessee shall in writing issue a Certificate of Occupation, in which Lessee accept the the lessor has complied with terms of the agreement and that the Building is ready and available and ready to use, inclusive of the date of occupation.
- 8.4 The lessee shall, within 30 days of occupation of the premises, furnish the lessor with three (3) dates and times, which dates must be within thirty-one (31) days of occupation, to convene a meeting to inspect the premises, so as to ascertain any damages or defect in the premises and general condition of the premises and to record them in a list which is a three parties shall sign.
- 8.5 The Lessor shall within thirty (30) days of such inspection repair the defect(s), failing which the lessee may be entitled to rectify those defects as its own expense and to recover the costs thus incurred in accordance with procedure laid down in sub-clause 8.1 above.
- 8.6 Should the lessor fail to comply with his obligations in respect of installations required by the lessee, if any, or fail to repair the damages or defect(s), he lessee shall notify the lessor of such failure and unless the lessor so complies within fourteen (14) days, save in emergencies, the lessee shall be entitled to rectify those matters at his own expense and to recover the costs thus incurred by means of direct deduction from monies due to the lessor.
- 8.7 The lessor shall furnish dates and times at least at fourteen (14) working days prior to the expiry of the lease for inspection of the premises after termination of the lease.

Within fourteen (14) days after expiry of this agreement, the lessor shall ensure that the following lists are compiled and delivered to the lessee;

- 8.7.1 A list of all items where the parties agree that such items are damaged or defective and that the lessee is liable; and
- 8.7.2 List of the items where the damaged or defective and which in the opinion of the lessor and lessee is liable for, whereas the lessee denies liability.
- 8.8 The items recorded in the list contemplated in clause 8.7.2 shall be replaced as per agreement between the parties. Should parties fail to reach an agreement within seven (7) days from the date of delivery of the lists to the lessee, the dispute may by agreement between the parties be referred to an independent professional who shall act as a mediator in an attempt to resolve dispute.
- 8.9 The lessee shall be liable for a pro rata rental in the event the premises/part of the premises are not available for use.

9. FIXTURES

- 9.1 The parties agree that for the purpose of the interpretation of this clause and of this agreement, fixtures shall refer to movable or immovable fittings installed by the lessee and required for its purpose, such as computer cables and telephone systems. The lessee shall be entitled, at its expense and with the written consent of the lessor, which consent shall not be unreasonably withheld, to install fixtures (which shall remain the property of the lessee) on the premises; provided that after the termination of this agreement-
- 9.2 Fixtures may be removed by the lessee on condition that the premises are resorted to the condition in which they were before the installation of the fixtures, fair wear and tear excepted; or
- 9.3 The lessor may demand that fixtures which have not been thus removed, shall be removed by the lessee, in which event the same requirement regarding the restoration of the premises 9.2 above shall apply

10. EXPENSES, MAINTANANCE AND REPAIRS

- 10.1 Subject to 10.3 below, the lessor shall be responsible for and pay all and any expenses in respect of the premises
- 10.2 the lessor shall be responsible for contracting the suppliers of utilities to the premises referred to in clause 10.1 above and shall be directly responsible for payment of these charges and any connection fees and deposits in respect thereof.
- 10.3 The lessee shall be responsible for and will pay the cost of utilities, cleaning and security on the premises for the duration of this agreement. Electricity shall be charged according to the relevant meter reading, provided prima facie by reading meters or sub-meters and

recording same.

- 10.4 Notwithstanding the provisions of 5.7, 10.1, 10.2 and 11.1 the lessee shall be responsible for any increase in the rates and taxes payable by the lessor in respect of the premises after commencement date.
- 10.5 In the event of the premises being a portion of a building and it consequently being necessary to determine the lessee's pro rata share in respect of maintenance or consumption of necessary service, the pro rata share of the lessee, for the purpose of this agreement, shall be determined by calculating the area of the premises as a fraction of the total area of the building.
- 10.6 Should the lessor fail to pay expenses or to undertake repairs, the lessee may remain the such longer period which the parties may have agreed upon the lessee shall be entitled to demand specific performance or to pay such expenses or to undertake such repairs and to recover the amounts thus disbursed from rental due to the lessor by set off or by legal action. A certificate by the lessee of such of such expenses shall be prima facie proof thereof.

11. OBLIGATIONS OF THE LESSOR

In addition to any other obligations contained in this agreement, the lessor shall be responsible:

- 11.1 For the payment of assessment rate and fixed municipal levies not referred to in 10.4 above, including all related increases;
- 11.2 For insuring the premises, including the buildings as provided for in clause 13 below;
- 11.3 For installation and maintenance of mechanical and fire services equipment, including fire detection equipment, fair wear and tear excepted, as further stipulated in clause 14 hereof;
- 11.4 For landscape maintenance of the premises;
- 11.5 to provide, at the Lessor's expense, all electric, fluorescent, and incandescent light bulbs required on the property;
- 11.6 For the maintenance of, and for all repairs and replacements becoming necessary from time to time in or to, the roofs and outside walls of the buildings including the maintenance and repairs of the structure of the buildings including the maintenance and repair of the structure of the buildings, and all systems, works and installations contained therein;
- 11.7 For maintaining in good order and condition the exterior, roof, gutters and down-pipes of the premises and shall make good any structural defects, other than damage caused by the lessee, (for which the lessee shall be liable, and in respect of which the provisions of this agreement shall apply);
- 11.8 For normal maintenance and repair (including painting) of both the exterior and interior

- 12.7 Take all reasonable measure to prevent blockages and obstructions from occurring in drains, sewerage pipes and water pipes serving the premises
- 12.8 At all times comply with any law, by law or regulation of the local authority relating to the conduct of its business at the premises and also with the conditions of the title deed under which the premises are held by the lessor;
- 12.9 Be permitted to place such electrical or other signage on the exterior of the premises as it may reasonably;
- 12.10 Forthwith disclose in writing to the lessor details of any act, matter or thing, stored or carried out upon the premises which may affect, vitiate or endanger the fire insurance policy in respect of the property or which may results in an increase of the fire insurance premium
- 12.11 undertake domestic cleaning of the interior of the premises, including domestic services such as the provision of toilet paper, soap, towels, etc.; excluding common areas
- 12.12 be responsible for the cost of sanitary services

13. INSURANCE

- 13.1 The lessor shall comprehensively insure the property and the building, and fittings at its replacement value, at the Lessor's own risk and cost.
- 13.2 The lessee and the occupant may not after commencement of the lease do, or allow anything that is contrary to the provision of the insurance policy which will cause an increase in the premiums of any insurance policy held by the lessor over the property, provided that the conditions or the insurance policy will be communicated in writing to the lessee. The lessor will communicate the conditions or insurance policy on the premises in writing to the lessee within seven (7) days of the commencement of the lease agreement.
- 13.3 Should the lessee knowingly do or cause to be done anything that causes an increase in the premiums of such insurance policy, the lessee will be liable for the increase in the premiums occasioned by the actions of the lessee. The lessor shall furnish to the lessee proof from the insurer of such increase any payment shall be due from the lessee.
- 13.4 The lessor shall not be liable for any damage which the lessee may suffer as a consequence of rain, wind, hail, lighting, fire, earthquake, storm ,riots ,strikes, actions by enemies of the State or in consequence of the interruption of any facility or services supplies to the premises by third parties, unless such damage could have been prevented by the lessor, his employees or agents.
- 13.5 The lessor shall not be liable for any accident, injury or damage incurred by the lessee, his employees, agents or visitors, in or near the premises, unless this could have been prevented on the part of the lessor, his employees or agents.

14. FIRE FIGHTING EQUIPMENT AND LIFTS

- 14.1 The lessor shall be obligated to install, maintain and operate on the premises fire extinguishing and fire detection equipment complying with the national building, and/or any other applicable legislation.
- 14.2 The lessor shall be obliged to maintain the fire extinguishers and ensure that regular checks done on the fire extinguishers
- 14.3 The lessor shall provide the lessee with quarterly reports of regular checks done on the fire extinguishers to ensure safety and security of the occupants of the premises.

15 ALTERATIONS, ADDITIONS AND IMPROVEMENTS

- 15.1 The lessee shall not make any alterations or additions to any of the building, the premises or any part thereof. Without the Lessor's prior written consent, but the lessor shall not withhold its consent unreasonably to any such alterations or addition.
- 15.2 in the event that the lessee does make any such prohibited alterations or additions, it is agreed between the parties that such alterations and/or additions shall become an immovable part of the respective building or premises to which it is made and shall thus be owned by the lessor. When alterations or additions has added value to the buildings, the lessor shall negotiate with the lessee on the monetary amount to be paid to the lessee for making such alterations or additions.
- 15.3 Notwithstanding the aforesaid, the lessee shall be entitled to make any non-structural alterations or additions to the interior of the premises without the Lessor's prior written consent, provided that the lessee may, on the expiration of this agreement, remove such non-structural alterations or additions as it may have made, provided that simultaneously with any such removal, it reinstates the premises or part of the premises in question, at the lessee's cost, to their same condition (fair, wear and tear excepted) as they were in prior to the carrying out such alterations or additions.

16 DAMAGE TO OR DESTRUCTION OF THE PREMISES

- 16.1 In the event of the premises being destroyed and there rendered totally unfit for occupation, this agreement shall be terminated automatically
- 16.2 In the event of the premises being damaged and remaining partially suitable for the purpose of the lessee, the parties shall be entitled to terminate this agreement by thirty (30) days notice in writing given to the other party within thirty (30) days after such destruction or damage
- 16.3 Should no notice in terms of 16.2 above be given, then this agreement shall continue and the lessor shall be obliged to proceed expeditiously with work of rebuilding the premises. Should the parties continue with the agreement, the lessee shall be entitled to

a reduction in rental to the extent to which the lessee is deprived of the full and beneficial use and occupation of the premises until such time as the premises have been rebuilt or re-instated.

- 16.4 Should there be any dispute as to the extent to which the premises are unfit for occupation and capable of being used for the purpose for which they are let, the dispute shall be referred to an expert and not as an arbiter, and whose decision shall be final and binding on the parties. The parties shall be, failing which they expect shall be appointed by the chairperson of the Law Society of South Africa or his delegate.

17 BREACH

- 17.1 Subject to any specific provision in this agreement to the contrary, should:

- 17.1.1 the rental or any other amount payable by the lessee in terms of this agreement not be paid by due date or should the lessee commit or suffer or permit the commission of any breach of the remaining conditions of this agreement and fail to pay such rental or amount or to remedy breach within

18. MANAGEMENT RULES

- 18.1 The lessor will furnish the lessee with all management rules, if any, prior to entering into this Agreement.

19 LESSORS RIGHTS OF ENTRY AND CARRYING OUT WORKS

- 19.1 The Lessor's representatives, agents, servants and contractors may at reasonable times and on reasonable notice, without thereby giving rise to any claim or right of action on the part of the lessee of the property or any part thereof, enter the property or any of the buildings in order to inspect them, to carry out any necessary repairs, replacements, or the other works, or to perform any other lawful function in the bona fide interests of the lessor or the lessee or the occupant, but the lessor shall ensure that this right is exercised with due regard for and a minimum of interference with the beneficial enjoyment of the property by those in occupation thereof, and provided further that such rights will be exercised subject to the lessee's specific security requirements relating to the physical security of the property

20. NAMING RIGHTS

- 20.1 The lessor shall grant the lessee the right to name the premises if the lessee is the sole or majority user of such premises for the duration of such lease.

21 CESSION, ASSIGNMENT AND SUB-LETTING

- 21.0 The lessee shall not, except with the prior written consent of the lessor, which shall not be unreasonably withheld;
- 21.1 cede or assign all or any of the rights and obligations of the lessee under his agreement; or
- 21.2 sublet the premises in whole or in part; or
- 21.3 give up possession of the premises or any portion thereof to any third party;
Provided that it is an explicit provision of this agreement that the lessee may substitute one occupant with another as its own discretion, taking into consideration any concerns communicated by the lessor.

22 NON-WAIVER

- 22.1 Neither party shall be regarded as having waived, or been in any way from exercising, any right under or arising from this agreement by reason of such party having at any time granted any extension of time for or having shown any indulgence to the other party with reference to any payment or performance hereunder, or having failed to enforce, or delayed in the enforcement of any right of action against the other party.
- 22.2 The failure of either party comply with any non-material provision of this agreement shall not excuse the other parties from performing their obligations hereunder fully and timeously.

23 RIGHTS OF FIRST REFUSAL

- 23.1 The lessor hereby grants to the lessee and the lessee hereby accepts the rights of first refusal to purchase the property.
- 23.2 Pursuant to the right granted by the lessor in favour of the lessee in 21.1, the lessor shall not dispose of any part or whole of the property at any time except in accordance with the following:
- 23.2.1 if the lessor intends to so dispose, the lessor shall deliver to the lessee a written notice offering ("the offer notice") so to dispose. To the lessee at a consideration (which shall sound in money currency) and on such terms as may be stipulated in the offer notice; and on such terms as may be stipulated in the offer notice; and
- 23.2.2 the lessee may, at any time within 60 days after the receipt of the offer, accept it by giving written to the lessor to that effect.
- 23.3 if the lessee does not accept the offer within the period aforesaid, the lessor may dispose of the property on terms no more favourable than the terms contained in the offer notice within a period of 90 (ninety) days after the lessee has rejected the offer, where after the lessor shall again be obliged to follow the procedure in clause.
- 23.4 should the lessee not exercise its right of first refusal in relation to the property or in

relation to any rights thereto or pursuant thereto, the relevant acquire shall acquire the property free of the right of first refusal contained in this clause.

24 SALE OF PREMISES

24.1 Transfer of the ownership of premises from the lessor to a third party pursuant to a sale Thereof shall not in any way affect the validity of this agreement. It shall accordingly, upon Registration of transfer of the premises into the name of the purchaser, remain of full force and effect save that the purchaser shall be substituted as lessor, as lessor, enjoyed against or was liable to fulfil in favour of the lessee in terms of this agreement.

24.2 Nothing shall prevent the lessor from advertising the premises as "for sale" or as "to let" as long as it does not disturb the lessee in its use and enjoyment of the premises an any activities which the lessor undertakes are undertaken on reasonable notice to the occupant.

25 WHOLE AGREEMENT

25.1 This is the entire agreement between the parties

25.2 Neither party relies, in entering into this agreement, on any warranties, representations, disclosures or expressions of opinion, which have not been incorporated into this agreement as warranties of undertakings.

25.3 No variation, alterations, or consensual cancellation of this agreement shall be of any force or effect unless reduced to writing and signed by the duly authorised representatives of both parties

26. DOMICILIUM CITANDI ET EXECUTANDI

26.1 The parties respectively choose as domicilium citandi et executandi and as the address for the serving of notices the address appearing below

PARTY DETAIL	DEPARTMENT	SERVICE PROVIDER
Physical address		
Postal address		
Tel no		
Cell no		
Email address		
Fax no		
For attention		

26.2 Any notice given by one of the parties to the other ("the addressee") which:-

26.2.1 is delivered by hand to a responsible person during ordinary hours at the physical address chosen as the addressee's domicilium citandi shall be deemed to have been received by the addressee on the date of the delivery, until the contrary is provided;

26.2.2 is posted by prepaid registered post from an address within the Republic of South Africa to the addressee at the addressee's domicilium citandi et executandi, shall be deemed to have been received by the addressee on the tenth (10Th) business day of the date of posting (unless the contrary is proved; or

26.3 Either party shall be entitled, on 14 days notice to the other, to change the address of his domicilium citandi et executandi.

27 WARRANTY OF AUTHORITY

- 27.1 The parties hereby warrant that each of them has the power, authority and legal right to sign and perform this agreement and that this agreement has been duly authorised by all necessary actions of its directors, to the extent applicable, and constitutes valid and binding obligation on it in accordance with the terms thereof.

28 SEVERABILITY

- 28.1 Any provision in this agreement which is or may become illegal, invalid or unenforceable in any jurisdiction affected by this agreement shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be treated pro non scrip to and severed from the balance of this agreement, without invalidating the remaining provisions of this agreement or enforceability, of such provision in any other jurisdiction.

DONE AND SIGNED AT MMABATHO ON THIS _____ DAY OF _____ 2018

AS WITNESSES

1. _____
2. _____

For and/or on behalf of the "LESSEE", who warrant that s/he is duly authorised thereto:

DONE AND SIGNED AT _____ ON THIS _____ DAY OF _____ 2017

AS WITNESSES

1. _____
2. _____

For and/or on behalf of the "LESSOR", who warrant that he is duly authorised in terms of the company resolution attached hereto:

GOVERNMENT PROCUREMENT
GENERAL CONDITIONS OF CONTRACT
July 2010

NOTES

The purpose of this document is to:

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

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

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

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General Conditions of Contract

1. Definitions

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

RSA.

- 1.12 "Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events may include, 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 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.

7. Performance security

- 7.1 Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in 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 and documents

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

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

11. Insurance

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

12. Transportation

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

13. Incidental services

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

- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
- (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
- (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;

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

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

14. Spare parts

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

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

15. Warranty

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

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

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

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

15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take

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

16. Payment

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

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

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

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

17. Prices

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

18. Contract amendments

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

19. Assignment

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

20. Subcontracts

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

21. Delays in the supplier's performance

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

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

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

21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the

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

21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.

21.6 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without canceling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.

22. Penalties

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

23. Termination for default

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

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

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

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

23.4 If a purchaser intends imposing a restriction on a supplier or any

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

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

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

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

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

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

24. Anti-dumping and countervailing duties and rights

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

may be due to him

25. Force Majeure

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

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

26. Termination for insolvency

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

27. Settlement of Disputes

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

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

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

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

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

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

28. Limitation of liability

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

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

- (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.
- 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.
- 34. Prohibition of Restrictive practices**
- 34.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).
- 34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.

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

Js General Conditions of Contract (revised July 2010)