

## PART A REQUEST FOR PROPOSALS (RFP)

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (DEPARTMENT OF TOURISM)</b>					
<b>BID NUMBER:</b>	NDT0001/24	<b>CLOSING DATE:</b>	30 JANUARY 2023	<b>CLOSING TIME:</b>	11:00
<b>DESCRIPTION</b>	<b>APPOINTMENT OF A PANEL OF SERVICE PROVIDERS TO OFFER BUSINESS ADVISORY SERVICES TO ENTERPRISES IN THE TRAVEL, ACCOMODATION AND HOSPITALITY SECTOR FOR A PERIOD OF THREE YEARS.</b>				
<b>BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE RFQ BOX SITUATED AT (STREET ADDRESS)</b>					
<b>PHYSICAL ADDRESS:</b> 17 TREVENNA STREET SUNNYSIDE PRETORIA 0002					
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:</b>			<b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>		
CONTACT PERSON	Ms Maphoso Ramogale		CONTACT PERSON	Mr Soza Simango	
TELEPHONE NUMBER	012-444-6224		TELEPHONE NUMBER	012-444-6465	
E-MAIL ADDRESS	mramogale@tourism.gov.za		E-MAIL ADDRESS	ssimango@tourism.gov.za	
<b>SUPPLIER INFORMATION</b>					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS/ SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?		<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER PART B:3]
<b>QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?				<input type="checkbox"/> YES	<input type="checkbox"/> NO
DOES THE ENTITY HAVE A BRANCH IN THE RSA?				<input type="checkbox"/> YES	<input type="checkbox"/> NO
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?				<input type="checkbox"/> YES	<input type="checkbox"/> NO
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?				<input type="checkbox"/> YES	<input type="checkbox"/> NO
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?				<input type="checkbox"/> YES	<input type="checkbox"/> NO
<b>IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.</b>					

## PART B TERMS AND CONDITIONS FOR BIDDING

### 1. BID SUBMISSION:

- 1.1. BIDS MUST BE DELIVERED BY THE STIPULATED DATE AND TIME TO THE CORRECT ADDRESS. ALL COMPLETED DOCUMENTS SHOULD BE SEND TO DELIVERED AT **TOURISM HOUSE, 17 TREVENNA STREET, SUNNYSIDE, PRETORIA 0002**. PHYSICAL SUBMISSION OR HAND DELIVERED RFP DOCUMENTS MUST BE COMPLETED IN THE REGISTER. BIDDERS FAILURE TO COMPLETE THE REGISTER MAY INVALIDATE THE RFP. LATE RFP WILL NOT BE CONSIDERED WHEN MAKING A DECISION TO AWARD.
- 1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED – OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT. THE **STANDARDS BIDDING DOCUMENTS (SBD) FORMS MUST BE COMPLETED, SIGNED AND RETURNED** WITH THE RFQ / BID DOCUMENTS.
- 1.3. BIDDER'S ARE NOT ALLOWED TO ALTER THE CONTENT AND SEQUENCE OF INFORMATION IN THE SBD4 FORM.
- 1.4. THE UNDERSIGNED BIDDER DECLARES AND FURTHER AGREES TO HAVE READ 2010 VERSION OF THE GENERAL CONDITIONS OF CONTRACT (GCC) IS AVAILABLE ON THE NATIONAL TREASURY WEBSITE. TO ACCESS THE GCC THE BIDDER SHOULD CLICK THE FOLLOWING LINK <http://www.treasury.gov.za/divisions/ocpo/sc/GeneralConditions/> OR DOWNLOAD THE DOCUMENT FROM THE NATIONAL TREASURY.
- 1.5. THE **80 / 20** PREFERENTIAL POINT SYSTEM WILL BE APPLIED WHEREIN **80** POINTS IS FOR PRICE AND **20** POINTS IS FOR SPECIFIC GOALS. TENDERS WITH A RAND VALUE OF BETWEEN R 30 000 BUT NOT EXCEEDING R 50 MILLION (INCLUSIVE OF ALL APPLICABLE TAXES). FIRSTLY, THE BID SUBMISSION / RFQ WILL EVALUATED IN LINE WITH THE SET CRITERIA OR FUNTIONALITY (*IF APPLICABLE*) AND THEREAFTER PROPOSAL WILL BE EVALUATED ON POINTS FOR PRICE AND SPECIFIC GOALS.
- 1.6. THE DEPARTMENT WILL APPLY THE 80/20 POINT SYSTEM IN RESPECT OF INVITATION TO THESE RFP.
- 1.7. POINTS SCORED FOR **SPECIFIC GOALS WILL BE ADDED TO THE POINTS SCORED FOR PRICE** AND THE TOTAL WILL BE ROUNDED OFF TO THE **NEAREST TWO (2) DECIMAL PLACES**.
- 1.8. A **TENDER OR RFQ MUST BE AWARDED TO THE TENDERER WHO SCORE THE HIGHEST TOTAL NUMBER OF POINTS** IN TERMS OF THE PREFERENCE POINT SYSTEM (*PRICE AND SPECIFIC GOALS*) UNLESS OBJECTIVE CRITERIA IN TERMS OF SECTION 2 (1)(F) OF THE PPPFA ACT NO 5 OF 2000 JUSTIFY THE AWARD OF THE TENDER TO ANOTHER TENDERER.
- 1.9. THE DEPARTMENT RESERVES THE RIGHT TO **NEGOTIATE WITH THE BIDDERS PRIOR OR POST AWARD**.
- 1.10. THE DEPARTMENT MAY **ALLOCATE ZERO/NIL POINTS FOR SPECIFIC GOALS WHERE PROOF IS NOT SUBMITTED** WITH THE RFQ.
- 1.11. THE BID WILL BE VALID FOR A PERIOD OF 120 DAYS FROM THE DATE OF ADVERTISEMENT.
- 1.12. THE DEPARTMENT RESERVES THE RIGHT NOT TO AWARD.

### 2. TAX COMPLIANCE REQUIREMENTS

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

### 3. LIST OF RETURNABLES

**BIDDERS SHOULD PLEASE ADHERE TO THE FOLLOWING INSTRUCTIONS**

- a) TICK APPLICABLE BOX
- b) ENSURE THAT THE FOLLOWING DOCUMENTS ARE COMPLETED, SUBMITTED AND SIGNED WHERE

APPLICABLE

c) USE THE PRESCRIBED SEQUENCE IN ATTACHING THE **ANNEXURES** THAT COMPLETE THE BID OR RFQ DOCUMENT.

ANNEXURES	DOCUMENT DESCRIPTION	YES	NO
<b>PART A &amp; B</b>	IS BID INVITATION FORM AND <b>TERMS AND CONDITIONS</b> FOR BIDDING COMPLETED, SIGNED AND SUBMITTED?		
<b>ANNEXURE A</b>	(IF APPLICABLE) AUTHORITY FOR CONSORTIA OR JOINT VENTURES TO SIGN BID, JOINT VENTURES INVOLVEMENT DECLARATION AND SPECIAL RESOLUTION OF CONSORTIA OR JOINT VENTURES		
<b>ANNEXURE B</b>	<p>(i).SHAREHOLDING (CERTIFICATE) PORTFOLIO BY <b>PROOF OF REGISTRATION OF THE COMPANY</b> WITH COMPANIES AND INTELLECTUAL PROPERTY REGISTRATION OFFICE (CIPRO) / COMPANIES INTELLECTUAL PROPERTY COMMISSION (CIPC). IN CASE OF JOINT VENTURE, A BIDDER MUST SUBMIT PROOF OF REGISTRATION FOR BOTH ENTERPRISES;</p> <p>(ii).CERTIFIED COPY (COPIES) OF ID-DOCUMENT(S) OR OF THE WOMAN OR WOMEN; AND</p> <p>(iii).A <b>CSD FULL REPORT</b> AND NOT SUMMARIZED PREFERABLY DRAWN PRIOR TO THE CLOSING DATE MUST BE SUBMITTED BY BIDDERS.</p> <p><b>SHOULD A BIDDER WISH TO CLAIM THE 12 POINTS FOR WOMEN OWNERSHIP, BIDDERS SHOULD SUBMIT THE REQUIRED DOCUMENTS.</b></p>		
<b>ANNEXURE C</b>	<p>(i). SHAREHOLDING (CERTIFICATE) PORTFOLIO BY <b>PROOF OF REGISTRATION OF THE COMPANY</b> WITH COMPANIES AND INTELLECTUAL PROPERTY REGISTRATION OFFICE (CIPRO) / COMPANIES INTELLECTUAL PROPERTY COMMISSION (CIPC).IN CASE OF JOINT VENTURE, A BIDDER MUST SUBMIT PROOF OF REGISTRATION FOR BOTH ENTERPRISES;</p> <p>(ii). CERTIFIED COPY (COPIES) OF ID-DOCUMENT(S) OF BLACK PERSON(S); AND</p> <p>(iii). A <b>CSD FULL REPORT</b> AND NOT SUMMARIZED PREFERABLY DRAWN PRIOR TO THE CLOSING DATE MUST BE SUBMITTED BY BIDDERS.</p> <p><b>SHOULD A BIDDER WISH TO CLAIM THE 06 POINTS FOR BLACK OWNERSHIP, BIDDERS SHOULD SUBMIT THE REQUIRED DOCUMENTS.</b></p>		
<b>ANNEXURE D</b>	<p>QUALIFYING EXEMPTED MICRO ENTERPRISE (EME) – AND OR QUALIFYING SMALL ENTERPRISE (QSE) – MUST SUBMIT A VALID B-BBEE SWORN AFFIDAVIT (<b>VALID FOR A PERIOD OF 12 MONTHS FROM THE DATE SIGNED BY THE COMMISSIONER</b>) ACCOMPANIED BY CIPS BUSINESS REGISTRATION AND SHARE CERTIFICATE. IN CASE <b>OF JOINT VENTURE TO CLAIM POINTS</b>, A CONSOLIDATED B-BBEE CERTIFICATE ISSUED BY AN ACCREDITED VERIFICATION AGENCY, IRRESPECTIVE OF THE SIZE OF THE COMPANIES INVOLVED IN A JOINT VENTURE MUST BE SUBMITTED. THE DEPARTMENT <b>CANNOT ACCEPT JOINT VENTURE</b> AFFIDAVIT.</p> <p><b>SHOULD A BIDDER WISH TO CLAIM THE 02 POINTS FOR SMMEs, BIDDERS SHOULD SUBMIT THE REQUIRED DOCUMENTS.</b></p>		
<b>ANNEXURE E</b>	STANDARD BID DOCUMENTS (SBD4) FORM BIDDER'S DISCLOSURE.		
<b>ANNEXURE F</b>	PROOF OF OFFICE		
<b>ANNEXURE G</b>	CERTIFIED COPY OF VALID B-BBEE CERTIFICATE		
<b>ANNEXURE H</b>	(IF APPLICABLE) SWORN AFFIDAVIT OF B-BBEE GENERAL		
<b>ANNEXURE I</b>	(IF APPLICABLE) SWORN AFFIDAVIT OF B-BBEE SPECIALIZED ENTITY		
<b>ANNEXURE J</b>	FINANCIAL PROPOSAL/ SUBMISSION (BUDGET BREAKDOWN) WITH VAT INCLUSIVE.		

## 4. APPLICATION OF PREFERENCE POINT SYSTEM

### 4.1 DEFINITIONS

- 4.2 HISTORICALLY DISADVANTAGED INDIVIDUALS (HDI) IS DEFINED AS A SOUTH AFRICAN CITIZEN.
- 4.3 WHO, DUE TO THE APARTHEID POLICY THAT WAS IN PLACE, HAD NO VOTING RIGHTS IN THE NATIONAL ELECTIONS PRIOR TO THE INTRODUCTION OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1983 (ACT NO. 100 OF 1983) OR THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1993 (ACT NO. 200 OF 1993) (*"THE INTERIM CONSTITUTION"*) AND OR
- WHO IS A WOMAN, AND /OR
  - WHO HAS DISABILITY
- 4.4 WITH THE UNDERSTANDING THAT ANY PERSON WHO RECEIVED SOUTH AFRICAN CITIZENSHIP ON OR BEFORE THE INTRODUCTION OF THE INTERIM CONSTITUTION, WILL NOT BE DEEMED TO BE HDI.
- 4.5 ANY REFERENCE TO WORDS "BID" OR "BIDDER" HEREIN AND/OR IN ANY OTHER DOCUMENTATION SHALL BE CONSTRUED TO HAVE THE SAME MEANING AS THE WORDS "TENDER" OR "TENDERER".
- 4.6 **"A WOMAN"** REFERS TO A FEMALE PERSON WHO IS A SOUTH AFRICAN CITIZEN
- 4.7 **"HDI EQUITY OWNERSHIP"** REFERS TO THE PERCENTAGE OF A PARTNERSHIP OR BUSINESS THAT IS OWNED BY INDIVIDUALS, OR IN THE CASE OF A COMPANY, THE PERCENTAGE OF SHARES WHICH IS OWNED BY INDIVIDUALS WHO ARE ACTIVELY INVOLVED IN THE MANAGEMENT DECISIONS AND DAY TO DAY OPERATIONAL ACTIVITIES OF THE COMPANY OR BUSINESS AND WHO EXERCISES CONTROL IN THE BUSINESS IN RELATION TO THEIR OWNERSHIP AT THE CLOSE OF TENDER. WHERE INDIVIDUALS ARE NOT ACTIVELY INVOLVED IN THE MANAGEMENT AND DAY TO DAY OPERATIONAL ACTIVITIES OF THE BUSINESS AND WHO DOES NOT EXERCISE CONTROL IN RELATION TO THE PERCENTAGE OF THEIR OWNERSHIP, EQUITY OWNERSHIP POINTS CANNOT BE AWARDED.
- 4.8 **"BLACK PEOPLE"** IS A GENERIC TERM WHICH MEANS AFRICANS, COLOURED AND INDIANS WHO ARE CITIZENS OF THE RSA BY BIRTH OR DESCENT OR BY NATURALISATION BEFORE 27 APRIL 1994 OR AFTER.
- 4.9 **"EXEMPTED MICRO ENTERPRISE (EME)"** IN TERMS OF THE GENERIC CODES OF GOOD PRACTICE, IT REFERS TO AN ENTERPRISE WITH AN ANNUAL TOTAL REVENUE OF R 10 MILLION OR LESS.
- 4.10 **"QUALIFYING SMALL ENTERPRISE (QSE)"** IN TERMS OF THE GENERIC CODES OF GOOD PRACTICE, IT REFERS TO AN ENTERPRISE WITH AN ANNUAL TOTAL REVENUE OF BETWEEN R10 MILLION AND R50 MILLION.
- 4.11 **"SPECIFIC GOALS"** REFERS TO CONTRACTING WITH PERSONS, OR CATEGORIES OF PERSONS, HISTORICALLY DISADVANTAGED BY UNFAIR DISCRIMINATION ON THE BASIS OF RACE, GENDER OR DISABILITY AND IMPLEMENTING PROGRAMME AS PUBLISHED IN THE GOVERNMENT GAZETTE NO. 16085 DATED 23 NOVEMBER 1994.

### 4.12 80/20 PREFERENCE POINT SYSTEM

TENDERERS WILL BE AWARDED POINTS AS FOLLOWS:

a)	TENDER PRICE:	80 POINTS	}	<b>SPECIFIC GOALS - MAXIMUM OF 20 POINTS</b>
b)	WOMEN OWNERSHIP:	12 POINTS		
c)	BLACK OWNERSHIP:	06 POINTS		
d)	SMME'S (EME OR QSE):	02 POINTS		
<b>TOTAL</b>		<b>100 POINTS</b>		

- 4.13 THE POINTS SCORED FOR SPECIFIC GOALS WILL BE ADDED TO THE POINTS SCORED FOR PRICE AND THE TOTAL MUST BE ROUNDED OFF TO THE NEAREST 2 DECIMAL PLACES

### 4.14 TENDER PRICE

THE FOLLOWING FORMULA WILL BE USED TO CALCULATE THE POINTS OUT OF 80 FOR PRICE IN RESPECT OF TENDER WITH A RAND VALUE NOT EXCEEDING R 50 MILLION (INCLUSIVE OF ALL APPLICABLE TAXES). THE LOWEST ACCEPTABLE TENDER MUST SCORE 80 POINTS FOR PRICE, AND OTHER TENDERS WHICH ARE HIGH IN PRICE MUST SCORE FEWER POINTS, ON PRO RATA BASIS.

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

WHERE:

PS = POINTS SCORED (AWARDED) FOR PRICE OF TENDER UNDER CONSIDERATION  
 PT = PRICE OF TENDER UNDER CONSIDERATION; AND  
 PMIN = PRICE OF THE LOWEST ACCEPTABLE TENDER

#### 4.15 SPECIFIC GOALS

##### 4.15.1 PERCENTAGE (%) OWNED BY PEOPLE WHO ARE WOMEN

A MAXIMUM OF TWELVE (12) POINTS WILL BE AWARDED TO A TENDERER WHO IS A WOMAN. EQUITY OWNERSHIP FOR WOMEN WILL BE DETERMINED BY THE % OF THE ENTERPRISE OWNED BY SUCH A PERSON OR BY THE % OF SHARES OWNED BY MEMBER/S WHO ARE ACTIVELY INVOLVED IN THE DAY TO DAY MANAGEMENT OF THE COMPANY OR ENTERPRISE. **DOCUMENTS REQUIRED ARE DETAILED ON ANNEXURE B ABOVE AND MUST BE SUBMITTED WITH THE RFQ/BID RESPONSE TO CLAIM POINTS.**

% OF ENTERPRISE OWNED BY WOMEN-----%

THUS, POINTS AWARDED:  $12 \times \frac{\% WO}{100} =$

##### 4.15.2 PERCENTAGE (%) OWNED BY BLACK PEOPLE

A MAXIMUM OF SIX (6) POINTS WILL BE AWARDED TO A TENDERER WHO IS A BLACK AND DID NOT HAVE VOTING RIGHTS ACCORDING TO THE DEFINITION OF AN HDI. EQUITY OWNERSHIP FOR BLACKS WILL BE DETERMINED BY THE % OF THE ENTERPRISE OWNED BY SUCH A PERSON OR BY THE % OF SHARES OWNED BY MEMBERS WHO ARE ACTIVELY INVOLVED IN THE DAY TO DAY ACTIVITIES OF THE COMPANY OR ENTERPRISE. **DOCUMENTS REQUIRED ARE DETAILED ON ANNEXURE C ABOVE AND MUST BE SUBMITTED WITH THE RFQ/BID RESPONSE TO CLAIM POINTS.**

% OF ENTERPRISE OWNED BY BLACK PERSON(S) WHO DID NOT HAVE VOTING RIGHTS..... %

THUS, POINTS AWARDED:  $06 \times \frac{\% BO}{100} =$

##### 4.15.3 SMALL, MEDIUM AND MICRO ENTERPRISES (SMMEs)

A MAXIMUM OF TWO (2) POINTS WILL BE AWARDED TO A TENDERER WHO IS CLASSIFIED AS SMME

IS THE COMPANY CLASSIFIED AS EME OR QSE? **DOCUMENTS REQUIRED MUST BE SUBMITTED WITH THE RFQ/BID RESPONSE TO CLAIM POINTS.**

YES = 2 POINTS =

NO = 0 POINT

**4.16** THE DEPARTMENT CAN ONLY AWARD POINTS PROVIDED SUFFICIENT INFORMATION AND REQUIRED DOCUMENTS ARE CORRECTLY COMPLETED AND RETURNED WITH THE PROPOSALS IN LINE WITH LIST OF RETURNABLE DOCUMENTS ON PARAGRAPH THREE (3) ABOVE. POINTS OBTAINED FOR PRICE SHOULD BE ADDED TO POINTS OBTAINED FOR SPECIFIC GOALS.

**4.17** INFORMATION ON THE DETAILED **CSD FULL REPORT (DIRECTORS / SHAREHOLDERS)** SHOULD BE THE SAME AND SUPPORTED BY **COPIES OF IDENTITY DOCUMENTS AND COMPANY REGISTRATION DOCUMENTS / SHAREHOLDER CERTIFICATES.**

#### 5. CRITERIA FOR BREAKING DEADLOCK IN SCORING

- IF TWO OR MORE OF THE TENDERERS HAVE SCORED EQUAL TOTAL NUMBER OF POINTS, THE CONTRACT WILL BE AWARDED TO THE TENDERER THAT SCORED THE HIGHEST POINTS FOR SPECIFIC GOALS;
- IF TWO OR MORE TENDERES SCORE EQUAL TOTAL NUMBER OF POINTS IN ALL RESPECTS, THE

AWARD WILL BE DECIDED BY THE DRAWING OF LOTS.

## 6. POPIA DISCLAIMER

### 6.1. COMPLIANCE WITH PERSONAL INFORMATION ACT, 2013 (ACT NO. 4 OF 2013)

PERSONAL INFORMATION SHARED WITH THE DEPARTMENT OF TOURISM (DEPARTMENT) SHALL BE TREATED WITH CONFIDENTIALITY AND IN COMPLIANCE WITH THE PROTECTION OF PERSONAL INFORMATION ACT, 4 OF 2013 (POPIA) AND OTHER APPLICABLE LAWS. FOR PURPOSES OF THIS DISCLAIMER, "PERSONAL INFORMATION" SHALL BE DEFINED AS DETAILED IN THE PROMOTION OF ACCESS TO INFORMATION ACT, ACT 2 OF 2000 (PAIA) AND POPIA, AND "PROCESSING" AND "FURTHER PROCESSING" SHALL BE READ, INTERPRETED AND UNDERSTOOD AS DETAILED AND DEFINED IN POPIA.

### 6.2. CONSENT TO PROCESSING AND FURTHER PROCESSING OF PERSONAL INFORMATION

THE DEPARTMENT MAY PROCESS AND FURTHER PROCESS RECEIVED PERSONAL INFORMATION, INTERNALLY OR EXTERNALLY, IN THE EXECUTION OF ITS MANDATE AND/OR AS REQUIRED BY LAW. THE DEPARTMENT MAY SHARE PERSONAL INFORMATION WITH ITS SERVICE PROVIDERS, AGENTS, CONTRACTORS, LEGAL AND OTHER PROFESSIONAL ADVISORS AUTHORISED TO PROCESS THIS INFORMATION. THE DEPARTMENT MAY THUS PLACE RECEIVED PERSONAL INFORMATION IN THE PUBLIC DOMAIN DUE TO THE NATURE AND REQUIREMENTS OF ITS WORK.

### 6.3. FURTHER PROCESSING OF PERSONAL INFORMATION

YOU FURTHER GRANT THE DEPARTMENT EXPRESS AND/OR IMPLIED PERMISSION TO FURTHER PROCESS RECEIVED PERSONAL INFORMATION AND PLACE IT IN THE PUBLIC DOMAIN, IN THE EXECUTION OF ITS MANDATE AND STATUTORY OBLIGATIONS.

### 6.4. DUTY OF CARE

THE DEPARTMENT VALUES YOUR PRIVACY AND SHALL TAKE ALL REASONABLE MEASURES TO PROTECT RECEIVED PERSONAL INFORMATION.

### 6.5. EXEMPTION FROM LIABILITY

THE DEPARTMENT (INCLUDING ITS OFFICIALS AND/OR EMPLOYEES) ACCEPTS NO LIABILITY WHATSOEVER, FOR ANY LOSS, DAMAGE (WHETHER DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL) AND/OR EXPENSES OF ANY NATURE WHATSOEVER WHICH MAY ARISE AS A RESULT OF, OR WHICH MAY BE ATTRIBUTABLE DIRECTLY OR INDIRECTLY, FROM INFORMATION MADE AVAILABLE HEREIN, OR ACTIONS OR TRANSACTIONS RESULTING THEREFROM.

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

**IT IS THE RESPONSIBILITY OF THE BIDDER TO CAREFULLY READ THE BID DOCUMENT AND UNDERSTAND THE TERMS AND CONDITIONS OF THE BID AND ADHERE TO THE PRE-QUALIFICATION BID CONDITIONS AS STATED ON PARAGRAPH 5 BELOW.**

**SIGNATURE OF BIDDER:** .....

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

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

**DATE:** .....



## BACKGROUND

- 1.1 Small, Medium and Micro Enterprises (SMMEs) play a critical role in the development of the South African economy through job creation and improving the standard of living. The Department of Tourism has developed the Long-Term Enterprise Development Framework as a guiding policy for the delivery of SMME support services by the Department of Tourism. The framework is based on the seven (7) strategic thrusts or pillars aligned to the vision and objectives of the Framework:

STRATEGIC THRUST 1: Build the competitiveness of SMMEs through entrepreneur development, skills training, advisory services, mentorship, and information sharing and market exposure programmes.

STRATEGIC THRUST 2: Driving sector transformation through strategic and deliberate SMME empowerment programmes.

STRATEGIC THRUST 3: Embedding technology as an integral element in SMME tourism operations.

STRATEGIC THRUST 4: Inculcate a culture of entrepreneurship amongst youth entering into tourism careers.

STRATEGIC THRUST 5: Facilitate ease of access to finance, financial literacy and competencies.

STRATEGIC THRUST 6: Build capacity for SMME networks for business and market linkages.

STRATEGIC THRUST 7: Partnership development to leverage resources and skills for effective programme implementation

Strategic thrust 5 and 6 (access to finance and business linkages) are the focus of the programme that this document is talking about.

- 1.2 During the COVID-19 Pandemic period in 2020, the Department of Tourism launched the Covid-19 Tourism Relief Fund (TRF) to cushion the financial impact of the pandemic and the restrictions imposed among Small Medium and Micro Enterprises (SMMEs) in the sector and to save jobs. The TRF guidelines outlined the qualifying criteria and requirements for award and included enterprises offering core tourism services, comply with Broad Based Black Economic Empowerment policy, operators with a valid tax certificate and adhere to other business operating permits and licenses. The implementation of the fund demonstrated *the high levels of non-compliance by SMMEs to mandatory documents required by the TRF criteria*. About 72% of the applicants were not funded due to outstanding mandatory documents such as business plans, management accounts and reports, valid tax certificate, proof of UIF documents and other requirements.
- 1.3 The Department observed poor compliance to development support requirements by SMMEs more especially those classified as Exempted Micro Enterprises (EMEs) by the Tourism Broad Based Black Economic Empowerment Sector Codes. The EMEs are entities with an annual turnover of zero to R5 million per annum. This phenomenon is common as well to applicants to the various marketing, trade and funding instruments offered by the Department through the Tourism Incentive Programme (TIP). Data analysis of declined applications from both the Tourism Transformation Fund (TTF), the Green

Tourism Incentive Programme (GTIP) and the Tourism Grading Support Programme (TGSP) demonstrate similar non-compliance challenges by EMEs to mandatory/ regulatory and standard business requirements.

- 1.4 The Tourism Sector Support Services Branch, through the Chief Directorate: Enterprise Development and Transformation therefore intends to introduce a support programme to addresses EMEs failure on business compliance and poor demonstration of business viability. The programme seeks to help build the competitiveness of EMEs by aiding in business compliance and resilience strategies. The objective of the programme is to enhance business regulatory standards and compliance and to increase EMEs access to various state and private development support instruments.
- 1.5 The programme will initially be piloted by providing support to applicants for various TIP instruments in the first year and later extend to all EMEs struggling with business compliance within the tourism sector at large.
- 1.6 This compliance support programme is proposed for implementation from 2023/2024 financial year and beyond. The target group for the programme are EMEs in the travel, accommodation and hospitality sector as defined in the Tourism Broad Based Black Economic Empowerment Sector Codes.
- 1.7 A database of service providers who can assist EMES across the country with business advisory services and compliance requirements will be established in order to expedite the appointment, reporting, service delivery, contract management and monitoring of services rendered.
- 1.8 Business advisory services cover a broad areas of consulting services of commerce ranging from business strategy and development, mentorship and coaching, transaction advisory services, regulatory compliance, tax compliance, marketing planning and operational strategies among other activities.

## 2 SCOPE AND DEFINITION OF WORK

- 2.1 Guided by the departmental Supply Chain Management (SCM) Policy, the bid seeks to appoint a panel of service providers that will provide various business compliance support services in the implementation of the programme. The core activities that will be delivered by the service provider(s) include amongst others the following;
  - **Provide general business advisory services**
    - (i) Development of bankable business plans,
    - (ii) Development of market Intelligence/strategy/linkages and Viability studies,
    - (iii) Provide business Coaching and Mentorship to EMEs;
    - (iv) Business strategy, planning and operational support or any other related service as required by the business to achieve success.
  - **Offer regulatory compliance support to EMEs,**
    - (i) Tax compliance, business insurance and disaster coverage,
    - (ii) Municipal and other regulatory business compliance i.e. Rezoning and Permits,



- (iii) Facilitate and advise on Industry specific compliance (TGCSA, SATSA and OHS) and; any other related service as required by the business to achieve success.

- **Financial Readiness /Literacy.**

- (i) Provide funding compliance support – preparation of documents for submission of applications,
- (ii) Business finance structure/gearing advisory services,
- (iii) Liquidity and cash flow management,
- (iv) Working capital management and its effects on profitability and credit,
- (v) Breakeven analysis,
- (vi) Budgeting and tax management,
- (vii) Auditing of records,
- (viii) Record and book keeping and Reporting systems,
- (ix) On-going mentorship and support,
- (x) Good governance coaching and; any other related service as required by the business to achieve success.

### **3. PRE-QUALIFICATION CRITERIA**

- 3.1 According to Treasury Regulation 16A.9.2 the department may disregard the bid of any bidder if that bidder, or its directors –
  - 3.1.1 Have abused the institution's supply chain management system;
  - 3.1.2 Have committed fraud or any other improper conduct in relation to such system; and
  - 3.1.3 Have failed to perform on any previous contract.
- 3.2 Only Bidders or any of its Directors/ Shareholders not listed on the register of Tender Defaulters and not prohibited from doing business with the public sector, may apply.
- 3.3 Foreign directors or owners should have the correct Immigration/VISA that allows them to trade in South Africa.
- 3.4 Bidders as well as bidders with home-based office infrastructure must have a physical office within the borders of South Africa and within the province they are applying for and submit proof thereof. Three (3) months' municipal bill, or valid lease agreement.
- 3.5 The Department will conduct a site visits to verify the existence of the office/s at the provided addresses in the tender document in line with the department's suitability criteria. Should the site visit reveal that the bidder does not have an office as stipulated in the tender documentation the bidder will be disqualified;
- 3.6 Only South African registered companies are allowed to bid for this project. In instances where a company is owned by foreign nationals is recommended, the service provider will therefore be required to adhere to the country's localization policies where 70% of staff working on the project should be local and 40% can be foreign nationals that are legal and permitted to trade in South Africa.
- 3.7 Attend a virtual compulsory briefing session and complete attendance register in the meeting scheduled. Please refer to the last page of this document for date, time, and link.

***NB: Any bid that fails to meet/ adhere to the pre-qualification criteria conditions stipulated above (paragraph 3) will be disqualified from the bidding process.***

#### 4 BID EVALUATION PROCESS

- 4.1 Bid proposals will first be evaluated for responsiveness and adherence to the pre-qualification criteria as stipulated in paragraph 3 above. Bid proposals that do not comply with pre-qualification criteria as stipulated and/or where required documents have not been submitted will result in the bid proposal being disqualified.
- 4.2 In the evaluation process, the technical submission will be opened first in order to verify compliance with all pre-qualification criteria after which it will be evaluated and assessed on functionality. A minimum score of **60 points out of 100 points** must be obtained on functionality by the bidder. A bidder will be eliminated if it fails to meet a minimum of **60 out of 100 points** as the threshold for functionality requirements of the bid.

#### EVALUATION CRITERIA AND WEIGHTING

The following rating scale will be applied:

No	Criteria description	Documents to be submitted	Weight (100)
6.1	<b>EXPERIENCE IN BUSINESS ADVISORY SERVICES AND DEVELOPMENT SUPPORT FOR QSEs IN THE TRAVEL, ACCOMMODATION AND HOSPITALITY SECTOR.</b>		
	<p>Bidders will be scored based on their submission of relevant contactable reference letters/ case studies/ testimonials received in the past 5 years attesting to their work on SME development, tourism enterprise support, market access support, business mentorship and coaching, entrepreneurial skills facilitation, project finance/ transaction advisory services, financial literacy support and any other relevant work.</p> <p><b>NB:</b> The following scoring matrix will be used to evaluate this criterion:</p> <ul style="list-style-type: none"> <li>• Less than 3 relevant contactable references = 1</li> <li>• More than 3 relevant contactable references = 2</li> <li>• More than 5 relevant contactable references = 3</li> <li>• More than 7 relevant contactable references = 4</li> <li>• Ten or more relevant contactable references = 5</li> </ul>	<ul style="list-style-type: none"> <li>• Attach relevant reference letters of the current and previous work done. The reference letter/s should include project type, project budget, project duration, role played in the project, completion period, and project variation.</li> <li>• Relevant case studies of successfully implemented projects.</li> </ul>	<b>30</b>
6.2	<b>PROJECT METHODOLOGY AND APPROACH -</b>	<b><u>Documents to be submitted</u></b>	
	<p>The bidders should demonstrate understanding of the enterprise development and project finance/ viability assessment functions and ecosystem by illustrating how they will tackle the project. <b>NB:</b> The following scoring matrix will be used to evaluate this criterion:</p> <ul style="list-style-type: none"> <li>• Detailed project proposal (SMART) = 1</li> <li>• Project delivery method = 1</li> <li>• Samples/ templates of a developed business plan &amp; development plans, marketing plan or any other evidence relevant to this programme) = 1</li> <li>• Project resource/organogram plan = 1</li> <li>• Project risk identification and risk management plan -</li> </ul>	<ul style="list-style-type: none"> <li>• Project proposal;</li> <li>• GANT Chart of the project;</li> <li>• Risk identification and mitigation plan;</li> <li>• Organogram for this project; and</li> <li>• Samples of business support instruments used i.e. templates, software, previous work done.</li> </ul>	<b>25</b>

6.3	SKILLS AND EXPERIENCE OF PROJECT TEAM		
	<p>The bidders should demonstrate availability of the team with requisite experience in business advisory services, project finance, business viability assessment, mentorship and coaching and all areas of business support areas as identified in the terms of reference. NB: The following scoring matrix will be used to evaluate this criterion:</p> <ul style="list-style-type: none"> <li>• Five (5) years and above experience in business advisory services, mentorship/coaching and other services by core team members. = 1,</li> <li>• NQF 8 qualification in commercial studies by core team members = 1,</li> <li>• Accreditation or certification in relevant training programmes of the bidding company= 1,</li> <li>• Registration / membership with a relevant professional body (SAICA or Business Advisory body) by core team members = 1,</li> <li>• Ten (10) years and above experience in <i>general</i> tourism business management support and development by the bidding company = 1</li> </ul>	<ul style="list-style-type: none"> <li>• Expertise in the team – CVs;</li> <li>• Certificates of membership / training as facilitators;</li> <li>• Reference letters (individual team members);</li> <li>• Certified proof of qualifications and,</li> <li>• Accreditation certificates.</li> </ul>	<p><b>45</b></p>

## **7. MISREPRESENTATION DURING THE LIFECYCLE OF THE CONTRACT**

- 7.1. The bidder should note that the terms of its bid will be incorporated in the contract by reference and that the Department of Tourism relies upon the bidder's bid as a material representation in making an award to a successful bidder and in concluding a contract with the bidder.
- 7.2. It follows therefore that misrepresentations in a bid shall give rise to service termination and a claim by the Department of Tourism against the bidder notwithstanding the conclusion of the contract between the Department of Tourism and the bidder for the provision of the service in question. In the event of a conflict between the bidder's proposal and the contract concluded between the parties, the contract will prevail.

## **8. PREPARATION COST**

The Bidder will bear all costs in preparing, submitting and presenting any response to this bid including other costs incurred throughout the bidding process. Furthermore, no statement in this bid will be construed as placing the Department of Tourism, employees or agents under any obligation whatsoever, including in respect of costs, expenses or losses incurred by the bidder(s) in the preparation of their response to this bid.

## **9. SUBMISSION OF BID/ TENDER PROPOSAL**

Original bid must be submitted in a sealed envelope or file clearly marked:

**“APPOINTMENT OF A PANEL OF SERVICE PROVIDERS TO OFFER BUSINESS ADVISORY SERVICES TO ENTERPRISES IN THE TRAVEL, ACCOMODATION AND HOSPITALITY SECTOR FOR A PERIOD OF THREE YEARS”. NDT0001/24**

### **COMPULSORY BRIEFING SESSION DATE, TIME, AND LINK:**

**DATE:** 17 January 2024

**TIME:** 10:00

**VENUE:** Ms Teams

**LINK:** [Click here to join the meeting](#)

**Meeting ID:** 340 497 197 531

**Passcode:** qZ4uoq

### **BID CLOSING DATE, TIME AND DELIVERY ADDRESS:**

**DATE:** 30 January 2024

**TIME:** 11:00

**VENUE:** 17 Trevenna Street, Tourism House, SUNNYSIDE, PRETORIA, 0002

**Bid Enquires:** Ms Maphoso Ramogale; telephone. 012-444-6224 or email: [mrarmogale@tourism.gov.za](mailto:mrarmogale@tourism.gov.za)

**Technical Enquiries:** Mr Soza Simango; telephone 012-444-6465 or e-mail: [ssmango@tourism.gov.za](mailto:ssmango@tourism.gov.za)

## **10. BID PROPOSAL OPENING**

The Department of Tourism shall publicly open and read out all bids received by the deadline, at the date, time and place specified for submission of bid proposals, in the presence of any bidder/s designated representatives and anyone who choose to attend. Only envelope/s that are opened and read out at bid opening shall be considered further. All envelopes shall be opened one at a time reading out: the name of the bidder and any other details as the Department of Tourism may consider appropriate.

The Department of Tourism shall neither discuss the merits of any bid nor reject any bid. The Department shall prepare a record of the bid opening. The bidders' representatives who are present shall be requested to sign the record. The omission of a bidder's signature on the record shall not invalidate the contents and effect of the record. The record of all opened bids submitted by the closing date and time of this bid shall be uploaded on the departmental website and be available to all the bidders.

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tourism

Department:  
Tourism  
REPUBLIC OF SOUTH AFRICA

## ANNEXURE A (1)

### AUTHORITY FOR CONSORTIA OR JOINT VENTURES TO SIGN BID

**RESOLUTION** of a meeting of the Board of \*Directors / Members / Partners of:

---

---

*(Legally correct full name and registration number, if applicable, of the Enterprise)*

held at (town): \_\_\_\_\_

on  
(date): \_\_\_\_\_

**RESOLVED that:**

1. The Enterprise submits a Bid, in consortium/Joint Venture with the following Enterprises:

---

---

*(List all the legally correct full names and registration numbers, if applicable, of the Enterprises forming the Consortium/Joint Venture)*

In respect of the following project:

\_\_\_\_\_

---

Bid Number:

2. \* Mr. / Mrs. / Ms.: \_\_\_\_\_ in

\*his/her Capacity  
as: \_\_\_\_\_ (*Position in the Enterprise*)

and who will sign as  
follows:

- \_\_\_\_\_
3. be, and is hereby, authorised to sign a consortium/joint venture agreement with the parties listed under item 1 above, and any and all other documents and/or correspondence in connection with and relating to the consortium/joint venture, in respect of the project described under item 1 above. The Enterprise accepts joint and several liability with the parties listed under item 1 above for the due fulfillment of the obligations of the joint venture deriving from, and in any way connected with, the Contract to be entered into with the Department in respect of the project described under item 1 above.
4. The Enterprise chooses as its *domicilium citandi et executandi* for all purposes arising from this joint venture agreement and the Contract with the Department in respect of the project under item 1 above:

Physical  
address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Postal Address: \_\_\_\_\_ (Postal Code)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ (Postal Code)

Telephone number: *(Dialing Code followed by number)* \_\_\_\_\_

Fax number: *(Dialing Code followed by number)* \_\_\_\_\_

Email Address: \_\_\_\_\_

**\*BOARD OF DIRECTORS / MEMBERS / PARTNERS in Consortium of Joint Venture**

	<b>Name</b>	<b>Capacity</b>	<b>Signature</b>
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

11			
12			
13			
14			
15			

**Note:**

1. \* Delete which is not applicable.

2. **NB.** This resolution / Power of Attorney must be signed  
by all the Directors / Members / Partners of the Bidding Enterprise.

3. Should the number of Directors / Members/Partners exceed the space available above, additional names and signatures must be supplied on a separate page.

	<b>ENTERPRISE STAMP</b> (If Any)



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**REPUBLIC OF SOUTH AFRICA**

**ANNEXURE A (2)**  
**SPECIAL RESOLUTION OF CONSORTIA OR JOINT VENTURES**

**RESOLUTION** of a meeting of the duly authorised representatives of the following legal entities who have entered into a consortium/joint venture to jointly bid for the project mentioned below:  
*(legally correct full names and registration numbers, of the Enterprises forming a Consortium/Joint Venture)*

1. \_\_\_\_\_  
\_\_\_\_\_
2. \_\_\_\_\_  
\_\_\_\_\_
3. \_\_\_\_\_  
\_\_\_\_\_
4. \_\_\_\_\_  
\_\_\_\_\_
5. \_\_\_\_\_  
\_\_\_\_\_
6. \_\_\_\_\_  
\_\_\_\_\_

7. \_\_\_\_\_

\_\_\_\_\_

8. \_\_\_\_\_

\_\_\_\_\_

held at: \_\_\_\_\_ <sup>(place)</sup>  
on \_\_\_\_\_ <sup>(date)</sup>

**RESOLVED that:**

A. The above-mentioned Enterprises submits a Tender in Consortium/Joint Venture to the Department of Tourism in respect of the following project:

---

Tender Number:

B. Mr/Mrs/Ms: \_\_\_\_\_ in

\*his/her Capacity as: \_\_\_\_\_ <sup>(Position in the Enterprise)</sup>

and who will sign as follows:

be, and is hereby, authorised to sign the Tender, and any and all other documents and/or correspondence in connection with and relating to the Tender, as well as to sign any Contract, and any and all documentation, resulting from the award of the Tender to the Enterprises in Consortium/Joint Venture mentioned above.



C. The Enterprises constituting the Consortium/Joint Venture, notwithstanding its composition, shall conduct all business under the name and style of:

---

D. The Enterprises to the Consortium/Joint Venture accept joint and several liability for the due fulfillment of the obligations of the Consortium/Joint Venture deriving from, and in any way connected with, the Contract entered into with the Department in respect of the project described under item A above.

E. Any of the Enterprises to the Consortium/Joint Venture intending to terminate the consortium/joint venture agreement, for whatever reason, shall give the Department 30 days written notice of such intention. Notwithstanding such decision to terminate, the Enterprises shall remain jointly and severally liable to the Department for the due fulfillment of the obligations of the Consortium/Joint Venture as mentioned under item D above.

F. No Enterprise to the Consortium/Joint venture shall, without the prior written consent of the other Enterprises to the Consortium/Joint Venture and of the Department, cede any of its rights or assign any of its obligations under the consortium/joint Venture and of the Department, cede any of its rights or assign any of its obligations under the consortium/joint venture agreement in relation to the Contract with the Department referred to herein.

G. The Enterprises choose as the *domicilium citandi et executandi* of the consortium/joint venture for all purposes arising from the consortium/joint venture agreement and the Contract with the Department in respect of the project under item A above:

Physical address:

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---

(Postal Code)

Postal Address:

---

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ (Postal Code)

(Dialing Code followed by  
number)

\_\_\_\_\_

(Dialing Code followed by  
number)

\_\_\_\_\_

Telephone number:

Fax number:

Email Address :

\_\_\_\_\_

**\*BOARD OF DIRECTORS / MEMBERS / PARTNERS in Consortium of Joint Venture**

	<b>Name</b>	<b>Capacity</b>	<b>Signature</b>
1			
2			
3			
4			
5			
6			
7			
8			
9			

10			
11			
12			
13			
14			
15			

**Note:**

1. \* Delete which is not applicable.
2. **NB.** This resolution / Power of Attorney must be signed by all the Duly Authorised Representatives of the Legal Entities to the Consortium/Joint Venture submitting this Bid.
3. Should the number of Duly Authorised Representatives of the Legal Entities joining forces in this Bid exceed the space available above, additional names and signatures must be supplied on a separate page.
4. Resolutions, duly completed and signed, from the separate Enterprises who participate in this Consortium/Joint Venture must be attached to the Special Resolution.



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**ANNEXURE A (3)  
JOINT VENTURES INVOLVEMENT DECLARATION**

<b>Project title:</b>			
<b>Bid no:</b>			

**DECLARATION RELATING TO A BID SUBMITTED BY A  
JOINT VENTURE:**

I/We the undersigned parties do hereby declare that our respective involvement in the project, of which I/we tender by Joint Venture, would be as follows: -

<b>Party No. 1</b>		
Name		
Address		
Percentage involvement	%	

<b>Party No. 2</b>		
Name		
Address		
Percentage involvement	%	

<b>Party No. 3</b>		
Name		
Address		
Percentage involvement	%	

**Signed - Party No. 1**

I/We (*Full Name*) \_\_\_\_\_

duly authorised in my capacity as \_\_\_\_\_

of (*Enterprise name*): \_\_\_\_\_

do jointly and severally accept responsibility for the due performance of the Works contained in the above project should such bid submitted by the Joint Venture be accepted.

\_\_\_\_\_  
Signed by Authorised Representative

\_\_\_\_\_  
Date

**Signed - Party No. 2**

I/We (*Full Name*) \_\_\_\_\_

duly authorised in my capacity as \_\_\_\_\_

of (*Enterprise name*): \_\_\_\_\_

do jointly and severally accept responsibility for the due performance of the Works contained in the above project should such tender submitted by the Joint Venture be accepted.

\_\_\_\_\_  
Signed by Authorised Representative

\_\_\_\_\_  
Date

**Signed - Party No. 3**

I/We (*Full Name*) \_\_\_\_\_

duly authorised in my capacity as \_\_\_\_\_

of (*Enterprise name*): \_\_\_\_\_

do jointly and severally accept responsibility for the due performance of the Works contained in the above project should such tender submitted by the Joint Venture be accepted.

\_\_\_\_\_  
Signed by Authorised Representative

\_\_\_\_\_  
Date

**ANNEXURE E****BIDDER'S DISCLOSURE****1. PURPOSE OF THE FORM**

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

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

**2. Bidder's declaration**

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

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

Full Name	Identity Number	Name of State institution

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





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

2.2.1 If so, furnish particulars:

.....  
.....

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

2.3.1 If so, furnish particulars:

.....  
.....

### 3 DECLARATION

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

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

3.5 There have been no consultations, communications, agreements or

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



arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.

- 3.6 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 and 3 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....	.....
Signature	Date
.....	.....
Position	Name of bidder

# **THE NATIONAL TREASURY**

**Republic of South Africa**



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## **GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT**

**July 2010**

## **NOTES**

The purpose of this document is to:

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

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

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

## **TABLE OF CLAUSES**

1. Definitions
2. Application
3. General
4. Standards
5. Use of contract documents and information; inspection
6. Patent rights
7. Performance security
8. Inspections, tests and analysis
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32. Taxes and duties
33. National Industrial Participation Programme (NIPP)
34. Prohibition of restrictive practices

## **General Conditions of Contract**

### **1. Definitions**

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



origin and which have the potential to harm the local industries in the RSA.

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

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

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

## **2. Application**

- 2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
- 2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.
- 2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

## **3. General**

- 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.
- 3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from [www.treasury.gov.za](http://www.treasury.gov.za)

## **4. Standards**

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

## **5. Use of contract documents and information; inspection.**

- 5.1 The supplier shall not, without the purchaser’s prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 5.2 The supplier shall not, without the purchaser’s prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.
- 5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier’s performance under the contract if so required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier’s records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

## **6. Patent rights**

- 6.1 The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights

arising from use of the goods or any part thereof by the purchaser.

**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

- (d) for each appropriate unit of the supplied goods; 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.
<b>29. Governing language</b>	29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.
<b>30. Applicable law</b>	30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.
<b>31. Notices</b>	<p>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</p> <p>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.</p>
<b>32. Taxes and duties</b>	<p>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.</p> <p>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.</p> <p>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.</p>
<b>33. National Industrial Participation Programme (NIP)</b>	33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.
<b>34 Prohibition of Restrictive practices</b>	<p>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).</p> <p>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.</p>

- 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)