



## provincial treasury

**Department:**  
**Provincial Treasury**  
**North West Provincial Government**  
Republic of South Africa

Second Floor, Garona Building, Mmabatho  
Private Bag X2060  
MMABATHO 2735  
[www.treasury.nwpg.gov.za](http://www.treasury.nwpg.gov.za)

Enquiries:

### **FINANCIAL MANAGEMENT SERVICES**

Email: [etenderenquiries@nwpg.gov.za](mailto:etenderenquiries@nwpg.gov.za)

Departmental Supply Chain Management

### **INVITATION TO BID**

**NWDF 07/2025 - APPOINTMENT OF A PANEL OF SERVICE PROVIDERS TO CONDUCT A FINANCIAL VIABILITY ASSESSMENT OF PUBLIC ENTITIES IN THE NORTH WEST PROVINCE FOR A PERIOD OF THIRTY-SIX MONTHS ON AN AS AND WHEN REQUIRED BASIS.**

You are invited to submit a bid for the service as indicated in the attached bid documents.

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. The work procedure, the bidder proposes to follow in order to obtain the required result must be clearly outlined and its terms may not conflict with those contained in the General Conditions of Contract (GCC).
3. All the documents accompanying this invitation to bid must be completed in detail, be sealed in an envelope and be deposited in the tender box before the closing date and time. The tender box is situated at **Second Floor, Provincial Treasury, CFO Section, Supply Chain Management, Garona Building, Dr. James Moroka Drive, Mmabatho, 2735**
4. Kindly receive attached the following bid documents:
  1. **Terms of Reference**
  2. **SBD 1 - Invitation to Bid Form**
  3. **SBD 4 - Declaration of Interest**
  4. **SBD 6.1 - Declaration in terms of the Preferential Procurement Regulations**
  5. **General Conditions of Contract (GCC)**

**NWDF 07/2025 - APPOINTMENT OF A PANEL OF SERVICE PROVIDERS TO CONDUCT A FINANCIAL VIABILITY ASSESSMENT OF PUBLIC ENTITIES IN THE NORTH WEST PROVINCE FOR A PERIOD OF THIRTY-SIX MONTHS ON AN AS AND WHEN REQUIRED BASIS.**

---

**8. General Conditions of Contract (GCC)**

5. Duly completed and signed original bid documents should be sealed in an envelope marked:

**BID NO : NWDF 07/2025**

**BID DESCRIPTION : APPOINTMENT OF A PANEL OF SERVICE PROVIDERS TO CONDUCT A FINANCIAL VIABILITY ASSESSMENT OF PUBLIC ENTITIES IN THE NORTH WEST PROVINCE FOR A PERIOD OF THIRTY-SIX MONTHS ON AN AS AND WHEN REQUIRED BASIS.**

**CLOSING DATE : 26<sup>th</sup> FEBRUARY 2026**

**CLOSING TIME : 11H00 AM**

6. Department of Provincial Treasury reserves the right to accept or reject any bid.
7. For more information please contact the following:

**Email address : [TMkhize@nwpg.gov.za](mailto:TMkhize@nwpg.gov.za) AND [NSidumo@nwpg.gov.za](mailto:NSidumo@nwpg.gov.za)**

**8. BID CONDITIONS**

- a) Late bids will not be considered. Please note that bids are late if they are received at the address given in the bid document after the bid closing date and time.
- b) Bids will be valid for a period of 120 days.
- c) All the relevant forms attached to this bid document must be completed and signed in ink where applicable by a duly authorised official. No telegraphic, e- mailed or facsimile bids will be considered.



**MR. N.I. KUNENE**  
**ACCOUNTING OFFICER**

  
**DATE:**



## **provincial treasury**

Department:  
Provincial Treasury  
North West Provincial Government  
**REPUBLIC OF SOUTH AFRICA**

### **TERMS OF REFERENCE**

**NWDF 07/2025 - APPOINTMENT OF A PANEL OF SERVICE PROVIDERS TO CONDUCT A FINANCIAL VIABILITY ASSESSMENT OF PUBLIC ENTITIES IN THE NORTH WEST PROVINCE FOR A PERIOD OF THIRTY-SIX MONTHS ON AN AS AND WHEN REQUIRED BASIS.**

#### **1. PROJECT DESCRIPTION AND BACKGROUND**

The Auditor General continues to raise concerns about the financial viability of Public Entities. Section 18(2)(e) of the PFMA states that the Provincial Treasury may assist provincial departments and provincial public entities in building their capacity for efficient, effective and transparent financial management; and Section 18(2) may do anything further that is necessary to fulfil its responsibilities effectively.

The liquidity and financial challenges as well as under collection of own revenue faced by most Public Entities is a concern, and simultaneously the reporting on the non-financial performance of the entities needs to be improved. The entities are not self-sustainable and have serious financial difficulties.

North West Provincial Treasury has identified six (6) Public Entities of which:

- Two (2) are schedule 3D entities, meaning that they must be able to sustain themselves and not depend on Government grants to sustain their operations.
- Four (4) entities are schedule 3C entities, meaning that they are typically an extension of provincial government departments established to fulfill specific economic or social responsibilities.

These entities are funded by the provincial government, either directly or through taxes and levies, and are accountable to provincial legislature.

The following entities have been identified:

- **The North West Gambling Board** is a statutory body established in terms of section 3 of the North West Gambling Act No 2 of 2001 as amended and classified as a Schedule 3C Public Entity in terms of the Public Finance Management Act, 1999 as amended. It has its mission as to provide effective and efficient regulatory services through the maintenance of gambling standards towards contributing to socio-economic growth and development.
- **Mmabana Arts, Culture and Sports Foundation** Act 07 of 2000, Mmabana, Arts, Culture and Sports Foundation (MACSF) is charged with the responsibility of developing the artistic and sporting talents of the people of the North West province, to assist in the development, fostering and promotion of culture through development of individuals and groups of people interested in the arts, culture and sporting activities. It is funded through a combination of sources including provincial government grant, independent funding institutions and project specific funds from donor communities.
- **The North West Parks and Tourism board (NWPTB) (with subsidiaries)** mandate is underpinned by Section 24(b) of the Constitution of the Republic of South Africa, Act 108 of 1996. To provide support services to core functions through effectiveness and efficiency of administration, training and skills development to enhance tourism and hospitality industry performance, effective management of provincial state managed protected areas and to market the province as the preferred destination.
- **Northwest Transport Investments (NTI) (with subsidiaries)** was established in 1973. NTI is the holding company of North West Star (SOC) Ltd and Atteridgeville Bus Service (SOC) LTD (NWS). NTI renders affordable, reliable, safe and sustainable transport services to satisfy customers in human capital, community and environment.
- **North West Housing Corporation** was established in 1982 through the North West Housing Corporation Act 24. The entity is responsible for development of feasibility studies, compilation of business plans for proposed housing projects, funding and procuring alternative capital sources. It focuses on title deeds restoration, provision of rental housing and accommodation as well as disposal of assets.
- **The North West Development Corporation (NWDC) (with subsidiaries)** was established in 1999 through the North West Development Corporation Limited Act (No. 6 of 1995).

The failure to adequately collect revenue created a burden on government to sustain the operations and results in the entities having serious financial difficulties. With the current

fiscal constraints faced by government, Public Entities must explore new sources of revenue to boost growth and sustainability.

## **2. SCOPE OF WORK**

The appointed bidder must:

- Develop specific initiatives to improve financial health and to maintain financial sustainability.
- Conduct a thorough review of the financial statements for the past 5 years
- Assess if programs are in line with mandate, programme, objective/priorities, performance and budget.
- Review of the organisational structure
- Conduct a skills audit
- Examine the loan portfolio and related risk management practices
- Examine the property portfolio, investment strategies, and related risk management practices
- Assess the efficiency and effectiveness of financial management and internal controls
- Evaluate the impact of external factors on financial stability using a PESTEL analysis
- Analyse income streams, other revenue sources including use of modern technologies
- Assess the alignment of activities, corporate governance structure with its mandate and mission
- Assess and evaluate the Governance Structures inclusive of sub-committees and its functionality
- Develop Revenue Enhancement Strategy, optimization of current revenue sources and identify new revenue streams
- Develop a sustainable Funding Model
- Advise debt collection initiatives
- Develop strategies with timelines to secure additional capital through a mix of own revenue generation, public, private partnerships and community-based financing
- Develop appropriate institutional arrangements that will ensure operational efficiencies and the achievement of the mandate
- Review of concession agreements

### 3. DELIVERABLES

- Comprehensive assessment report including:
  - *Financial Viability Assessment*
  - *Assessment of financial, physical Assets and liabilities*
  - *Revenue enhancement strategies and new revenue streams*
  - *Clear and actionable recommendations*
  - *Governance and operational structure assessments*
  - Skills audit
  - Review of concession agreements
- Comprehensive financial model in MS Excel including:
  - *User-friendly and interactive*
  - *Capable of modeling various scenarios*
  - *Incorporating economic variables, cost inputs and funding products*
- Sustainable Funding Model including:
  - *New sources of revenue*
  - *Best practice Models from similar institutions*
  - Revenue Enhancement Strategy
- Executive comprehensive presentation to all stakeholders

### 4. RESOURCE REQUIREMENTS

The following skills and expertise to manage the various tasks as highlighted above are required.

- **Experience and Qualification of the resources (personnel) supplied by the bidder**

The resources supplied by the prospective bidder should have experience in conducting the financial viability assessments in a public/private sector organization and detailed CVs of personnel involved. CVs must be submitted to demonstrate the level of expertise and qualifications.

- **Skills and Knowledge**

The prospective bidder must have an understanding and knowledge of the Public sector environment. It is important that the bidder has skills to initiate processes that monitor and manage various activities as part of the project. References of such work to be included as part of the supporting documents.

## 5. PRICING AND PAYMENT TERMS

Provincial Treasury will pay for official travelling, subsistence and accommodation costs of the Bidder incurred during the performance of their duties in terms of this project in line with PFMA cost containment measures applicable at the time of award. Cost Containment Measures related to travel and subsistence and timeline as indicated will be detailed in the SLA.

Disbursement shall not exceed 20% of the total project cost

Provincial Treasury further undertakes to pay out in full, within thirty (30) days, all valid claims for work done to its satisfaction upon submission of a substantiated claim. The successful bidder will be paid on the actual number of assessments completed and paid per milestone basis. Payment will be affected in line with conditions of SLA, subject to submission of a valid claim with the relevant supporting documents.

## 6. MANDATORY REQUIREMENTS

Bidders must submit the following information.

- All bidders must submit detailed CVs of 1 Project / Team Leader and 1 key personnel. (The above CVs will be used under technical evaluation in Phase 2)
- All academic qualifications for Project / Team Leader and 1 key personnel must be supported by copies of actual qualifications certificates. **These need not be certified.** In respect of all foreign qualifications evidence of endorsement by the South African Qualifications Authority (SAQA) must be provided/ submitted with the bid. **(Provincial Treasury will verify qualifications for the recommended bidder)** (The above qualifications will be used under technical evaluation in Phase 2)
- Standard Bidding document 4 – Bidders declaration of interest must be fully completed and signed. Failure to do so will result in the bidder being disqualified
- Standard Bidding document 6.1 – Specific goals declaration in terms of PPR 2022 fully complete and signed. Failure to do so will result in the bidder being disqualified
- Standard bidding document 1 - Invitation to bid
- Proof of CSD registration with the supplier number
- In case of Joint Ventures, a joint venture agreement and proof of registration on CSD for the joint venture and BBBEE for the joint venture



Failure to submit the above documents will lead to the bid being disqualified. All documents must be submitted with the bid.

## **7. EVALUATION CRITERIA**

### **Phase I: Initial screening process**

- The process would verify if the required documents as stated on the mandatory requirements have been submitted.

### **Phase II: Technical Evaluation**

- Bidders will be evaluated strictly according to the evaluation criteria stipulated in the Terms of Reference.
- Bidders must, as part of their application documents, submit supporting documentation for all technical requirements as indicated hereunder.
- All bidders must submit detailed CV together with copies of academic qualifications and SAQA accreditation in respect of foreign qualifications.

<b>Technical / functional Requirements</b>	<b>Details</b>	<b>Points allocated</b>	<b>Maximum Points</b>
<b>SUB-COMPONENT 1: COMPANY EXPERIENCE</b>			<b>30</b>
The prospective bidder should have completed financial viability assessments in a public/private sector.  <b>Reference letters for the company for each project to be submitted.</b>	5 or more completed assessments	30	
	3 - 4 completed assessments	20	
	1 – 2 completed assessments	10	
<b>SUB-COMPONENT 2: EXPERIENCE OF PERSONNEL - PROJECT / TEAM LEADER</b>			<b>20</b>
Detailed CV of the Project Leader demonstrating experience for completed financial viability assessments in a public/private sector.	5 or more completed assessments	20	
	3 - 4 completed assessments	10	



Technical / functional Requirements	Details	Points allocated	Maximum Points
<b>Contactable references for each completed assessment must be submitted.</b>	1 – 2 completed assessments	5	
<b>SUB-COMPONENT 3: QUALIFICATION OF PERSONNEL - PROJECT / TEAM LEADER</b>			<b>15</b>
One (1) Project / Team Leader with a Qualification in any of the following fields: <ul style="list-style-type: none"> <li>• Financial Management/ Accounting / Economics</li> <li>• Public Administration</li> <li>• Business Management</li> <li>• Property management</li> <li>• Legal</li> <li>• Investment management</li> </ul>	Post Graduate Degree (NQF Level 8 or above)	15	
	Bachelor's Degree / Advanced Diploma or (NQF7)	10	
	On the fields as described on the technical/functional requirements		
<b>SUB-COMPONENT 4 : EXPERIENCE OF KEY PERSONNEL</b>			<b>20</b>
One (1) Key Personnel Experience detailed CV for completed financial viability assessments of a public/private sector.  <b>Contactable references for each completed assessment must be submitted.</b>	5 or more completed assessments	20	
	3 - 4 completed assessments	10	
	1 - 2 completed assessments	5	
<b>SUB-COMPONENT 5: QUALIFICATION OF KEY PERSONNEL</b>			<b>15</b>
One (1) Key Personnel with a Qualification in any of the following fields:	Bachelor's Degree / Advanced Diploma (NQF7 or higher)	15	

Technical / functional Requirements	Details	Points allocated	Maximum Points
<ul style="list-style-type: none"> <li>• Financial Management/ Accounting / Economics</li> <li>• Public Administration</li> <li>• Business Management</li> <li>• Property management</li> <li>• Legal</li> <li>• Investment management</li> </ul>	National Diploma (NQF 6)	10	
<b>TOTAL POINTS</b>			<b>100</b>

**NB:**

**Bidders who obtain 70% or more for technical evaluation criteria will be appointed in the panel**

#### **CONDITIONS OF THE PANEL**

Successful bidders will be required to submit quotations as and when services are required. Evaluation will be concluded in line with phase 3 of the evaluation process (as outlined below).

For transparency and fairness, all bidders in the panel will be invited to quote for services required. Awards will be made to bidders who score the highest points on phase III below, in line with PPR 2022

When submitting quotes, bidders must describe the approach and methodologies to be employed, including data collection methods, financial modelling best practices, and benchmarking. (The financial model used must be provided to North West Provincial Treasury) and must specify the timeframe for the assessment.

### **Phase III: Price and Specific goals**

- Bids will be evaluated in terms of the approved 80/20, (as indicated below) point system in accordance with the Preferential Procurement Regulation 2022.
- A maximum of 80 points is allocated for price and 20 points for specific goals using the following formula.

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

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

This tender will be evaluated on the 80/20 Preference points system where 80 is for price and 20 points for specific goals. Only qualifying bidders (who obtained a minimum of 60% threshold in Phase 2 functionality / technical requirement) will be evaluated in Phase IV for pricing and specific goals.

**NB: In order to claim preference points, bidders must use the SBD 6.1 attached to this document and not any other SBD 6.1 form will be accepted as the goals differ per institution.**

The specific goals for the preference points are as follows:

<b>Specific Goals in terms of PPR 2022</b>	<b>Procurement Transactions</b>
<b>Persons historically disadvantaged on the basis of race.</b>	<b>Maximum of 10 points for black ownership</b>
	<ul style="list-style-type: none"> <li>• 100% black ownership = 10</li> <li>• 75% - 99% black ownership = 8</li> <li>• 60% - 74% black ownership = 6</li> <li>• 51% - 59% black ownership = 3</li> <li>• 1% - 50% black ownership = 2</li> <li>• 0% black ownership = 0</li> </ul> <p><b>BBBEE Certificate must be attached</b></p>

Specific Goals in terms of PPR 2022	Procurement Transactions
<b>Enterprises located in North West</b>	<b>Maximum 4 points</b>
<ul style="list-style-type: none"> <li>• Rural / Township / Village Area</li> <li>• Local Municipality</li> </ul>	<ul style="list-style-type: none"> <li>• Rural / Township / Village Area in North West= 04 points</li> <li>• Local Municipality in North West = 02 points</li> </ul> <p><b>Proof of residence must be attached as per any of the following:</b></p> <ul style="list-style-type: none"> <li>• A municipal rates invoice in the name of the company / any of the directors submitting the quotation that has been issued within the last three months.</li> <li>• An affidavit or equivalent from an authorised traditional leaders or local councillor in regions where municipal rates invoices are not available, showing the township name and ERF number or physical address.</li> <li>• A valid lease with a property owner located in that municipality/township (NWPT may request a recent statement from the landlord) or confirmation letter from the landlord.</li> <li>• A utilities rates statement (examples, Eskom or Telkom fixed line service, etc) showing the physical address and in company or director name; or</li> <li>• A bank statement showing the company name and address.</li> </ul>
<b>Enterprises owned by:</b>	<b>Maximum 6 points</b>
<ul style="list-style-type: none"> <li>• Enterprise owned by black women.</li> <li>• Enterprise owned by black youth.</li> <li>• EMEs or QSEs</li> </ul>	<p>2 Points</p> <p>2 Points</p> <p>2 Points</p>

**8. TENDER VALIDITY PERIOD**

The tender will be valid for a period of one hundred and twenty (120) days.

**9. SPECIAL CONDITIONS**

- **Intellectual Property**

The Provincial Treasury will remain the intellectual property owner of everything developed during this engagement, including systems, methodologies, software. The Provincial Treasury also retain copyright and other intellectual rights in all reports, written advice or other material provided by the service provider on this project.

- **Service Level Agreement.**

Successful service provider must be prepared to enter into a contract and service level agreement with the Provincial Treasury.

- **Approved / Identified Resources**

The identified resources should be deployed and available until the completion of the project. No change of resources will be allowed without the prior approval of the Provincial Treasury and only based upon uncontrollable circumstances, and if approved, the change must be on a like for like basis.

- **Variation of Scope.**

In the case of a need for a change of scope, the Provincial Treasury and the successful bidder will enter into a change of scope agreement, which is initiated by the department, and this change of scope agreement will form part of the contract.

**10. DURATION OF CONTRACT**

The time frame for the envisaged assignment is 36 months from the date of awarding the contract.

**11. CONDITIONS OF BID**

- Late applications / bids will not be considered. Please note that the applications / bids are late if they are received at the address given in the bid document after the bid closing date and time.
- Where applicable, all the relevant forms attached to this bid document must be completed and signed in ink by the applicant.
- The successful bidder must be in a position to commence work within five (5) calendar days of the awarding of an assignment contract.
- General Conditions of Contract (GCC) are also applicable to this tender.
- Misrepresentation of facts and criminal records will render your bid unsuccessful.

**12. CANCELLATION OF BID**

- Provincial Treasury reserves the right to cancel the contract if the bidder fails to adhere to the conditions of the contract.
- On termination of the contract for whatever reason, the bidder shall on demand deliver, without the right to retention, all documents and information gained in terms of this agreement.

**13. ENQUIRIES**

For more information, please contact the following:

Contact Person 1 : Mr. Tom MKhize (SCM Related Issues)  
Acting Director: Supply Chain Management  
Tel: 018 388 4060  
Email: [TMkhize@nwpg.gov.za](mailto:TMkhize@nwpg.gov.za)

Contact Person 2 : Mr. Ndinga Sidumo (**Technical Issues**)  
Chief Director: Sustainable Resource Management  
Tel: 018 388 - 2227  
Email: [NSidumo@nwpg.gov.za](mailto:NSidumo@nwpg.gov.za)



**SUBMITTED BY:**

A handwritten signature in black ink, consisting of a large, stylized 'G' followed by a horizontal line.

**MR. C GABRIEL**

12 / 11 / 2025

**DATE**

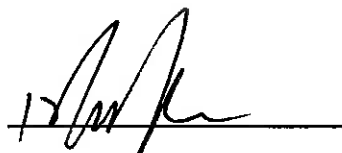
**CHAIRPERSON: BID SPECIFICATION COMMITTEE**

**APPROVED / NOT APPROVED**

A handwritten signature in black ink, featuring a large, stylized 'K' followed by a horizontal line.

**MR. N.I. KUNENE**

**HEAD OF DEPARTMENT**

A handwritten signature in black ink, consisting of a stylized 'N' followed by a horizontal line.

**DATE**

## INVITATION TO BID

**YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF  
PROVINCIAL TREASURY**

**BID NO: NWDF07/2025 CLOSING DATE: 26 FEBRUARY 2026 CLOSING TIME: 11:00 AM**

**APPOINTMENT OF A PANEL OF SERVICE PROVIDERS TO CONDUCT A FINANCIAL VIABILITY ASSESSMENT OF PUBLIC ENTITIES IN THE NORTH WEST PROVINCE FOR A PERIOD OF THIRTY-SIX MONTHS ON AN AS AND WHEN REQUIRED BASIS.**

**The successful bidder will be required to fill in and sign a written Contract Form (SBD 7.2)**

**BID DOCUMENTS MAY BE DELIVERED AT:**

**SUPPLY CHAIN MANAGEMENT OFFICE,  
2<sup>nd</sup> FLOOR, GARONA BUILDING,  
DR. JAMES MOROKA DRIVE,  
MMABATHO  
2735**

Bidders should ensure that bids are delivered timeously to the correct address. If the bid is late, it will not be accepted for consideration.

The bid box is generally open 24 hours a day, 7 days a week.

**ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS – (NOT TO BE RE-TYPED)**

**THIS BID IS SUBJECT TO THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT**

**THE FOLLOWING PARTICULARS MUST BE FURNISHED  
(FAILURE TO DO SO MAY RESULT IN YOUR BID BEING DISQUALIFIED)**

NAME OF BIDDER .....

POSTAL ADDRESS .....

STREET ADDRESS .....

TELEPHONE NUMBER CODE.....NUMBER.....

**APPOINTMENT OF A PANEL OF SERVICE PROVIDERS TO CONDUCT A FINANCIAL VIABILITY ASSESSMENT OF PUBLIC ENTITIES IN THE NORTH WEST PROVINCE FOR A PERIOD OF THIRTY-SIX MONTHS ON AN AS AND WHEN REQUIRED BASIS.**

CELL PHONE NUMBER .....

FACSIMILE NUMBER CODE ..... NUMBER.....

VAT REGISTRATION NUMBER .....

HAS A TAX CLEARANCE CERTIFICATE BEEN SUBMITTED (SBD 2)? YES/NO

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS/SERVICES  
OFFERED BY YOU? YES/NO

(IF YES ENCLOSE PROOF)

SIGNATURE OF BIDDER .....

DATE .....

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

**APPOINTMENT OF A PANEL OF SERVICE PROVIDERS TO CONDUCT A FINANCIAL VIABILITY  
ASSESSMENT OF PUBLIC ENTITIES IN THE NORTH WEST PROVINCE FOR A PERIOD OF THIRTY-SIX  
MONTHS ON AN AS AND WHEN REQUIRED BASIS.**

## BIDDER'S DISCLOSURE

### 1. PURPOSE OF THE FORM

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

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

### 2. Bidder's declaration

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

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

Full Name	Identity Number	Name of State Institution

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

---

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

## BIDDER'S DISCLOSURE

### 1. PURPOSE OF THE FORM

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

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

### 2. Bidder's declaration

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

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

Full Name	Identity Number	Name of State institution

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

---

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

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

---

<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

)

## SPECIFIC GOALS DECLARATION IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

### TENDERS

This specific goals form must form part of all quotations. It contains general information required by legislation and serves as the declaration for the specific goals claimed by the bidder.

**NB: IN COMPLETING THIS FORM, BIDDERS MUST BE AWARE OF THE CONDITIONS OF TENDER, GENERAL CONDITIONS OF CONTRACT, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, THE PREFERENTIAL PROCUREMENT REGULATIONS 2022 AND THE BROAD-BASED BLACK ECONOMIC EMPOWERMENT ACT AND CODES OF GOODS PRACTICE.**

#### 1. GENERAL CONDITIONS

- 1.1 The following point systems are applicable to all quotations:
  - the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included).
- 1.2 Points for this bid shall be awarded for:
  - 1.2.1 Price; and
  - 1.2.2 Specific goals.
- 1.3 The points for price and the points for specific goals will be added and subject to section 2(1)(f) of the PPPFA, the award will be to the bidder that scores the highest points.
- 1.4 Failure on the part of a bidder to declare or submit proof when requested, will be interpreted to mean that points for specific goals are not claimed.
- 1.5 NWPT 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 NWPT.

#### 2. DEFINITIONS

- 2.1.1 **"Acceptable quotation"** means a quotation which in all respects complies with the specifications and Conditions of Tender as set out in the tender document.
- 2.1.2 **"Black people"** means Africans, Coloureds and Indians (refer to the B-BBEE Act for more details)
- 2.1.3 **"Broad-Based Black Economic Empowerment Act"** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- 2.1.4 **"Central Supplier Database"** means the database managed by National Treasury at [www.csd.gov.za](http://www.csd.gov.za).
- 2.1.5 **"Disabled person"** means, in respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of, ability to perform an activity in the manner, or within the range, considered normal for a human being AND is in possession of a proof of disability.
- 2.1.6 **"EME"** means an Exempted Micro Enterprise in terms of the relevant code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;

- 2.1.7 **"Locality"** means that the enterprise has either its head office or an operational office located in that location AND they are in possession of proof of locality.
- 2.1.8 **"Military Veteran"** has the meaning assigned to it in Section 1 of the Military Veterans Act, 2011 (Act No. 18 of 2011).
- 2.1.9 **"Proof of Disability"** means:
- 2.1.9.1 A completed SARS "Confirmation of Diagnosis of Disability" form endorsed by a duly registered medical practitioner which will remain valid for 10 years where the disability is of a permanent nature;
- 2.1.9.2 A medical report and functional assessment report confirming the disability; or
- 2.1.10 **"Proof of Locality"** means:
- 2.1.10.1 A municipal rates invoice in the name of the company submitting the quotation that has been issued within the last six months;
- 2.1.10.2 An affidavit or equivalent from an authorised traditional leaders or local councillor in regions where municipal rates invoices are not available, showing the township name and ERF number or physical address issued within the last six months
- 2.1.10.3 A signed lease with a property owner located in that municipality/township (NWPT may request a recent statement from the landlord); Confirmation letter from the landlord issued within the last six months.
- 2.1.10.4 Valid Tax pin letter issued by SARS
- 2.1.10.5 Certified CIPC Registration certificate within the last six months
- 2.1.10.6 A utilities rates statement (examples, Eskom or Telkom fixed line service) showing the physical address and the company issued within the last six months; or
- 2.1.10.7 A bank statement showing the company name and address issued within the last six months.
- 2.1.10.8 All of the above documents may be in Company Director name where applicable
- 2.1.11 **"Proof of Ownership"** means:
- 2.1.11.1 The % ownership indicated on the Central Supplier Database. The CSD integrates with the systems at Home Affairs (demographic information); Companies and Intellectual Property Commission (CIPC) (for company information such as shareholding); and other databases (such as the banks).
- 2.1.12 **"Proof of B-BBEE status level of contributor"** means:
- 2.1.12.1 B-BBEE Status level certificate issued by an authorized body or person (such as a SANAS verification agent);
- 2.1.12.2 A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
- 2.1.12.3 A CIPC B-BBEE certificate; or
- 2.1.12.4 Any other requirement prescribed in terms of the B-BBEE Act.

2.1.13 **"Proof of Military Veteran"** means a:

2.1.13.1 Military veteran certificate as issued by the Department of Military Veterans in the name of the individual; or

2.1.13.2 Military veteran certificate as issued by the Department of Military Veterans in the name of the company.

2.1.14 **"price"** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;

2.1.15 **"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;

2.1.16 **"Rand value"** means the total estimated value of a contract in Rand inclusive of value added tax (VAT), calculated at the time of the tender invitation.

2.1.17 **"Specific Goals"** means those goals as contemplated in section 2(1)(d) of the PPPFA which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994.

2.1.18 **"tender for income-generating contracts"** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions

2.1.19 **"Youth"** means persons between the ages of 18 and 35.

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

#### 3.1 POINTS AWARDED FOR PRICE - THE 80/20 PREFERENCE POINT SYSTEMS

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

**80/20**

$$Ps = 80 \left( 1 - \frac{Pt - P_{min}}{P_{min}} \right)$$

Where

Ps = Points scored for price of the quotation or bid under consideration

Pt = Price of the quotation or bid under consideration

Pmin = Price of lowest acceptable quotation or bid

#### 3.2 PRICE FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME-GENERATING CONTRACTS

#### 3.3 POINTS AWARDED FOR PRICE

A maximum of 80

**80/20**

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

Where

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

#### 4. POINTS AWARDED FOR SPECIFIC GOALS FOR THIS QUOTATION

4.1 The following Specific Goals and points apply to this tender:

Specific Goals in terms of PPR2022	Points out of 20 for the 80/20 system	Points Claimed (Tick Only one box)
<b>Persons historically disadvantaged on the basis of race.</b>	<b>Maximum of 10 points for black ownership</b>	<b>10 Max</b>
	• 100% black ownership = 10	
	• 75% - 99% black ownership = 8	
	• 60% - 74% black ownership = 6	
	• 51% - 59% black ownership = 3	
	• 1% - 50% black ownership = 2	
	• 0% black ownership = 0	
<b>Valid BBBEE Certificate must be attached</b>		
<b>Enterprises located in North West</b>		<b>4 Max</b>
• Rural / Township / Village Area	• Rural / Township / Village Area = 04 points	
• Local Municipality	• Local Municipality = 2 points	
<b>Proof of residence must be attached</b>		
<b>Enterprises owned by</b>		<b>6 Max</b>
• Enterprise owned by black male	3 Points	
• Enterprise owned by black women.	6 Points	
• Enterprise owned by black military veterans	3 Points	
• Enterprise owned by black youth.	2 Points	
<b>NB:</b> - Copy of ID and Registration on CSD must be attached for enterprises owned by black male, women, or youth.		

<b>TOTAL:</b>		<b>20 max</b>

4.1.2 Bidders must attach a valid BBBEE certificate or a sworn affidavit certified by a Commissioner of Oaths.

4.1.3 The BBBEE certificate must be issued by SANAS accredited verification agency or Companies and Intellectual Property Commission (CIPC).

4.2 Where reference is made to Locality, the following location and points apply:

Specific Goal	Location (if applicable)	Max Points	Points Claimed (Tick Only one box)
Rural / Township / Village	Anywhere in North West	4	
Local Municipality	Anywhere in North West	2	

4.2.1 Bidders must choose only one of the above (only one proof to be attached for location, either a rural/ township/ village, Local Municipality or Any area within a District Municipality)

4.2.2 Locality. The points claimed for locality will be the maximum points if the bidder declares that they have Proof of Locality at the time of the declaration. If no proof of locality for the location described exists, then zero points must be claimed.

4.2.2.1 Note that if NWPT requests proof of location, and the proof can either not be provided OR if the proof is dated after the declaration date, this will be deemed to be misrepresentation and NWPT will begin the remedy outlined below.

## 5. DECLARATION WITH REGARD TO COMPANY/FIRM

5.1. Name of company/firm.....

5.2. Company registration number: .....

5.3. CSD Number: MAAA.....

5.4. TYPE OF COMPANY/ FIRM

<input type="checkbox"/> Partnership/Joint Venture / Consortium	<input type="checkbox"/> Personal Liability Company
<input type="checkbox"/> One-person business/sole propriety	<input type="checkbox"/> (Pty) Limited
<input type="checkbox"/> Close corporation	<input type="checkbox"/> Non-Profit Company
<input type="checkbox"/> Public Company	<input type="checkbox"/> State Owned Company
[TICK APPLICABLE BOX]	

6. I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, declare the points claimed and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The points claimed are in accordance with the General Conditions as indicated in paragraph 1, 2 and 5 of this declaration;
- iii) In the event of a contract being awarded as a result of points claimed and any other



information at the disposal of the NWPT, the bidder may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;

- iv) If the points claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
- (a) disqualify the person from the bidding process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
  - (e) forward the matter for criminal prosecution.

.....  
SIGNATURE(S) OF BIDDER(S)

**SURNAME AND NAME:** .....

**DATE:** .....

**ADDRESS** .....

# **THE NATIONAL TREASURY**

**Republic of South Africa**



---

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

**July 2010**

**GOVERNMENT PROCUREMENT**  
**GENERAL CONDITIONS OF CONTRACT**  
**July 2010**

**NOTES**

The purpose of this document is to:

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

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

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

## TABLE OF CLAUSES

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

## **General Conditions of Contract**

### **1. Definitions**

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

RSA.

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



obligations of the supplier covered under the contract.

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

**2. Application**

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

**3. General**

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

**4. Standards**

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

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

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

**6. Patent rights**

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

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