



**Nedbank Building, 63 Strand street, Private Bag PO Box 4390, Cape Town office, 8000**

**REQUEST FOR QUOTATION OF GOODS AND SERVICES**

**RFQ NO: DFFEQ261 BULK MEAT(25/26)**

**IMPORTANT INFORMATION FOR CONSIDERATION BY SUPPLIERS**

**NOTE 1: RFQ INSTRUCTION**

- a) Tenderers are required to use this Request for Quotation (RFQ) Form when quoting and include VAT per item (where applicable), and the quotation must be on your company's letterhead including correct banking details should also be included on the quotation.
- b) All quotations received [RFQCT@dffe.gov.za](mailto:RFQCT@dffe.gov.za) after the closing date and time will NOT be accepted for consideration.
- c) For quotations with a Rand value up to R1 000 000, the preference point system of **80/20** will apply, where **80** points will be for (Price) and **20** points will be for **Specific Goals** (more than 50% ownership by either Black People, Women or People living with Disability) in terms of section 2(1)(d) of the Preferential Procurement Policy Framework Act, 2000, (Act No 5 of 2000), If the application is made by a Joint Venture or Partnership, the accreditation credentials in the name of joined entities must be submitted. Members of the joint venture must submit a consolidated BBB-EE certificate in the name of joined entities in order to claim points for specific goals.
- d) DFFE reserves the right to request additional information to validate any information submitted by bidders, including preference points claimed.
- e) Unless specifically stated by DFFE in the specification, all received prices must be firm until the required goods or services are delivered to the specified location. **No price adjustment will be accepted, except those that are subject to the rate of exchange.**

**NOTE 2: PREFERENTIAL POINT SYSTEM**

**For bidders to claim preference points, the following must be adhered to;**

- a) Submit a complete and signed SBD 6.1, which is used for claiming specific goals.
- b) Submit a Medical Certificate signed by a medical practitioner with a practice number when claiming for disability.
- c) Submit a SANAS/ Companies and Intellectual Property Commission (CIPC) Accredited B-BBEE certificate or sworn affidavit indicating the level of ownership in the enterprise by persons historically disadvantaged by unfair discrimination on the basis of race, gender, or
- d) Submit ownership Certificate issued by the Companies and Intellectual Property Commission (CIPC)
- e) CSD Registration Report or MAAA. number.
- f) Failure on the part of a tenderer to submit proof or document required in terms of this tender to claim points for specific goals with the tender will be interpreted to mean that preference points for specific goals are not claimed.

**NOTE 3: TAX LEGISLATION**

- a) Bidder must at all-time be compliant when submitting a proposal to DFFE and remain compliant for the entire contract term with all applicable tax legislation, including but not limited to the Income Tax Act, 1962 (Act No. 58 of 1962) and Value Added Tax Act, 1991 (Act No. 89 of 1991).
- b) Bidders who make taxable supplies more than R1 million in any 12-month conservative period are liable for compulsory VAT registration, but a person may also choose to register voluntarily provided that the minimum threshold of R50 000 has been exceeded in the past 12-month period.
- c) SARS Tax Status Pin requirements / or Central Supplier Database (CSD) number or report must be provided.

**NOTE 4: DFFE'S RESERVATION**

**DFFE reserves the right to:**

- a. Perform due diligence during the evaluation of quotations on information submitted by tenderers.
  - b. NOT to appoint any tenderer.
  - **Tenderers must indicate delivery timelines and quotation expiry date (Unless otherwise stated, quotations will be deemed valid for a period of 90 days from the date the RFQ closes)**
  - **Tenderers are required to duly complete and sign the SBD 4, SBD 6.1 forms, respectively.**
  - DFFE reserves the right to negotiate prices with the preferred tenderers in line with the legislative requirements.
- In a case where there are pictures and or brand names on the specification, tenderers must note that those pictures are for illustration purposes, and similar or equivalent brand specifications will be accepted by the Department.**

**SUPPLIER DETAILS (TO BE COMPLETED BY THE USER)**

<b>SUPPLIER NAME:</b>			
<b>TEL NO:</b>		<b>EMAIL ADDRESS:</b>	
<b>CENTRAL SUPPLIER DATABASE (CSD) NUMBER</b>			
<b>ATTENTION TO:</b>			

\*Any reference to the 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"

DATE REQUESTED:								
SERVICE/GOODS DELIVERY ADDRESS								
<b>SUBMIT QUOTATION TO THE DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT</b>								
ATTENTION TO:	Andiswa Charlie							
TEL NO:	021 493 7149	EMAIL ADDRESS:	RFQCT@dffe.gov.za					
CC EMAIL ADD:								
CLOSING DATE: 11/11/2025 (Quotations to be advertised for at least 5 working days)		CLOSING	TIME	1	1	H	0	0
<b>MANDATORY REQUIREMENTS (YES/NO)</b>			<b>Proof Attached (to be completed by DFFE)</b>					
Halaal Certificate (refer to paragraph: 1.1.6)								
Submit the Food Premises Certificate issued by the Municipality			YES					
ISO 22000 certification			YES					
The above mandatory requirements will apply, and bidders must submit the requested evidence as indicated above with the RFQ documents at the closing date and time of the RFQ. Bidders who fail to comply with any of the mandatory requirements will be disqualified and will not be evaluated further.								



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NO	BRIEF DESCRIPTION OF ITEM(S)/ SERVICE(S) REQUIRED:	UNIT OF ISSUE (BOX/ ITEM)	QUANTITY OF ITEM(S)
01	<p>Please provide RFQ for the meat required for the annual SANAE IV (ANARCTICA) 2025 Relief Voyage as per the attached documents:</p> <ol style="list-style-type: none"><li>1. Meat Requirements list 2025 Annexure A and the</li><li>2. Specification for fresh meat requirements and Deliverables Document</li></ol> <p><b>NB. Service providers must comply with the specifications and deliverables as indicated in the Specification for fresh meat requirements and deliverables document attached hereto. Please read entire document carefully.</b></p> <p><b>The SA Agulhas II is scheduled to depart for SANAE (ANTARCTICA) on the 9<sup>th</sup> of December 2025, the delivery would be expected by the beginning of December 2025</b></p>		
<p>Note: All delivery costs and all applicable taxes, includes value-added tax, pay-as-you-earn, income tax, unemployment insurance fund contributions, and skills development levies, must be included in the bid price for delivery at the prescribed destination.</p>			
<p>NB: The service provider must submit a valid quotation as per the above guideline on his/ her letterhead reflecting the item descriptions, validity, banking details, contact details and CSD MAAA number.</p>			
<p><b>NB: No goods/ services should be delivered before an official order is received from the Department of Forestry, Fisheries and the Environment.</b></p>			
<ul style="list-style-type: none"><li>• <b>Failure to deliver goods within the agreed timelines might result in an order being cancelled and possible inclusion on the Database of</b></li></ul>			

\*Any reference to the 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"

**Restricted suppliers by the National Treasury**

**MEAT REQUIREMENT LIST 2025 ANNEXURE A**

<b>RFQ FRESH MEAT REQUIREMENTS AS PER SPECIFICATIONS IN ANNEX B</b>			
<b>NOTE: EVERY ITEM MUST BE QUOTED ON</b>			
		<b>PACK SIZE</b>	<b>SANAE</b>
		<b>REQUIRED</b>	<b>2025</b>
		<b>BY DFFE IN</b>	<b>Requirement</b>
<b>No.</b>	<b>DESCRIPTION</b>	<b>GRAMS</b>	<b>PACKS</b>
<b>NON-PORK (HALAAL MEATS)</b>			
1	Beef Boerewors	1000	<b>400</b>
2	Beef Fillet Steak	170	<b>400</b>
3	Beef Ox-Tail	1000	<b>220</b>
4	Beef Rump Steak	330	<b>400</b>
5	Beef T-Bones	350	<b>750</b>
6	Beef Hamburger Patties	125	<b>200</b>
7	Beef Diced	1000	<b>120</b>
8	Beef Topside Mince	1000	<b>200</b>
9	Beef Tenderized Steak	1000	<b>200</b>
10	Beef SCHNITZEL	150	<b>400</b>
11	Chicken Livers	500	<b>100</b>
12	Chicken Fillets	2000	<b>220</b>
13	Crumbed Chicken	120	<b>400</b>
14	Mutton Legs	3000	<b>30</b>
15	Mutton Raised Shoulder	2000	<b>30</b>
16	Mutton Rib Chops	1000	<b>450</b>
17	Mutton Raw, Green, Clean Tripe	1000	<b>10</b>
18	Mutton Trotters (Cleaned)	1000	<b>10</b>

19	Mutton Offal	1000	10
20	Vienna's Smoked	1000	60
21	French Polony	1000	20
22	Chicken Polony	1000	40
	<b>PORK (NON-HALAAL MEATS)</b>		
23	Bacon Vacuum Pack	500	200
24	Pork Rib Chops	1000	200
25	Pork Legs	3000	15
26	Pork Sausage	1000	140
27	Pork Spare Ribs	500	250
28	Salami Cervelat	1000	70
29	Sandwich Ham	1000	50

**1.1. SPECIFICATION FOR THE MEAT REQUIREMENTS & DELIVERABLES  
THE SUCCESSFUL SERVICE PROVIDER WILL BE RESPONSIBLE TO:**

1.1.1. Supply and deliver meat and meat products to the SANAP Warehouse situated at East Pier Building, V&A Waterfront, Cape Town as per meat list.

1.1.2. Ensure that all the meat supplies comply with the following requirements and other relevant acts including:  
South African Foodstuffs, Cosmetics and Disinfectants Act No 54 of 1972 or later as amended.

Health Act No 63 of 1977 or later as amended

Meat Safety Act No 40 of 2000

SA Trade Metrology Act No 77 of 1973 or later as amended

Supply the ISO 22000 certification

Supply the Halaal Certificate

1.1.3. All meat products shall conform to the current SABS, agricultural product standards and other relevant standards.

**Batho pele-** putting people first

- 1.1.4. Ensure all Meat products supplied to the DFFE are of high quality and allow for quality control inspection by the DFFE or its appointed delegate.
- 1.1.5. Supply Halaal products and also have the ability to provide certified Kosher products as and when required. These specifications will extend to the handling, packaging and transport of the meat products.
- 1.1.6. Where the service provider outsources the supply of other products such as Halaal products, proof of partnership or outsourcing agreement or relationship must be provided. This could be a Letter confirming such an agreement or equivalent proof explicitly outlining the nature of the agreement. **NB: The Service Provider should ensure that documentary evidence is provided should any part of the order be outsourced.**
- 1.1.7. Supply Meat items with the longest possible shelf life (at least for a minimum of 14months). Any non-compliance should be accompanied by a letter from the manufacturer/s confirming the shelf life of that particular item category.
- 1.1.8. Obtain the meat supplies from State approved abattoirs and prepared in factories, which comply unconditionally with applicable regulation that include but not limited to Animal Slaughter, Meat and Animal Products Hygiene Act No 87 of 1967 (as amended). All products must comply with the SA Foodstuffs, Cosmetics and Disinfectants Act No 54 of 1972 (as amended).
- 1.1.9. Ensure that the processing factory maintain a quality management system such as ISO 22000.
- 1.1.10. Ensure that the premises comply with all relevant government regulations guiding hygiene and health standards of South Africa.
- 1.1.11. Keep their own store /facility clean and free of insects and plant propagules, open foodstuffs and rubble. The facilities may be subjected to inspection by DFFE environmental control officers or their appointed delegates.
- 1.1.12. Carry out all examinations, measurements, and tests during or after manufacture or processing to ensure that all items are fully in accordance with the specification outlined in Annexure A & B. The DFFE or approved representative shall have the right to witness or verify any examinations, measurements, and tests, which have been carried out.
- 1.1.13. At all times adhere to the quantities and portion sizes as referred to on the meat list any deviation should be proactively communicated and substantiated with a written confirmation from the manufacturer/s for the consideration and approval by DFFE.
- 1.1.14. Delivery of items ordered must take place within 10 working days after having received a complete order. A penalty of up to 5% of the total order value will be levied against the service provider for noncompliance depending on the severity.
- 1.1.15. Ensure deliveries are made during DFFE working hours (07:30 – 16:00) unless otherwise approved by prior arrangement.
- 1.1.16. Provide the necessary manpower during delivery and ensure that the necessary care is taken to avoid transferring of undesired potential contaminants into the DFFE storage facility.

- 1.1.17. Replace damaged or expired items due to negligent or incorrect delivery on the part of the service provider at their own expense.
- 1.1.18. Submit upon delivery, a fully updated stock list of all items delivered to the DFFE and items replaced.
- 1.1.19. Ensure that sufficient time is allocated for an inspection of each delivery and a list of non-compliant items are recorded immediately and replaced within 48 hours.
- 1.1.20. Submit a detailed invoice for services rendered to the head of Supply Chain Management (SCM) within five (5) days after final delivery
- 1.1.21. Ensure that the appropriate cold chain is maintained up to delivery of the Meat to DFFE stores.

## **1.2. PACKAGING**

### **Primary packaging:**

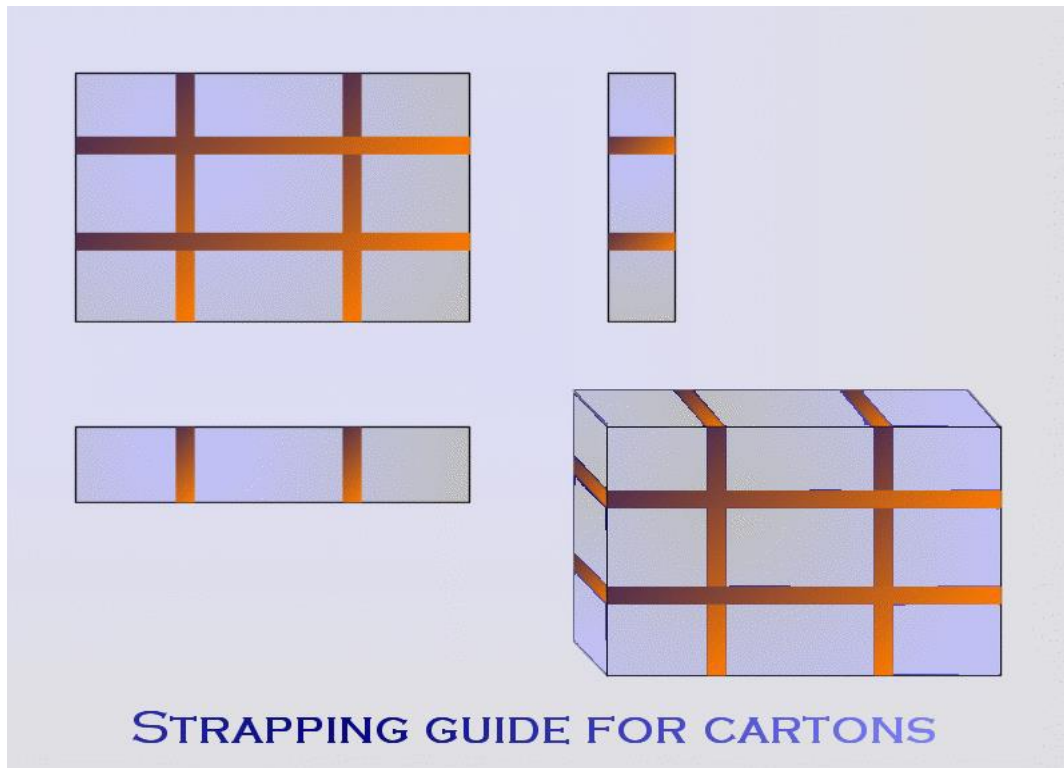
- 1.2.1. All grade markings shall be clearly visible on the different cuts.
- 1.2.2. Packaging of meat must be done as per “packaging grams” on the unit price list (see annexure A).
- 1.2.3. All meat products must be frozen after Multi Wrap vacuum packaging (blown bags will not be accepted) and before carton packaging.
- 1.2.4. The cardboard cartons must be labelled, clean, neat and unbroken on delivery.

### **Secondary packaging:**

- 1.2.5. Packaged products to be packed in approved clean food grade cardboard cartons:
- 1.2.6. Maximum of 16Kg Glued lid and tray cartons to be double-crossed strapped with tape (see Figure 1).
- 1.2.7. The cardboard carton must be damp-proof and strong enough to resist rough handling and to protect the contents thereof.

1.2.8. ALL CARTONS MUST BE STRAPPED AS PER FIGURE 1.

FIGURE1:



## Labelling

1.2.9. The following information must appear on each cardboard container:

(Please note that these markings should be between 48 - 72 points lettering size)

Name of company, Date of packaging, Use by date

Nett weight of contents, Product Description

Number of portions, User eg. Gough Island

Halaal or Kosher

## 1.3. TRANSIT, DELIVERY, STORAGE AND HANDLING

1.3.1. During transit, delivery, storage and handling, from the contractor to the DFFE distribution points and distribution to units, a cold chain shall be maintained.

1.3.2. In accordance with SABS specification 0156-1979, all meat will be frozen via the quick freeze Nitrogen-tunnel method, which will ensure that the core temperature of the product remains at  $-18^{\circ}\text{C}$  (minus eighteen degrees Celsius) or lower. The following are applicable:

1.3.2.1. The freezing process must ensure that the meat is protected from dehydration and discoloration.

1.3.2.2. Cold air must be circulated during freezing to ensure that the core temperature of the product does not rise above  $-18^{\circ}\text{C}$ .

1.3.2.3. Product during transit delivery and storage must have a core temperature of  $-18^{\circ}\text{C}$  or lower.

1.3.2.4. Transportation shall take place in a refrigerated vehicle provided by the service provider.

1.3.3. Receipt of the product above  $-18^{\circ}\text{C}$  (core temperature of product) shall result in the rejection of the consignment.

1.3.4. During off-loading and handling, conducted by the service provider, any delays should be reduced to a minimum to prevent an increase in product temperature.

## 1.4 THE SPECIFICATION FOR FRESH MEAT TABLE BELOW ANNEXURE B

### ANNEXURE B

#### SPECIFICATIONS FOR FRESH MEAT

TYPE	WEIGHT	SIZE	GRADE
<b>BEEF</b>			
T-BONE STEAK	300 – 350G INDIVIDUALLY PACKED		AAA222 (A2)
RUMP STEAK	300 – 330G INDIVIDUALLY PACKED	25 MM THICK	AAA222 (A2)
FILLET STEAK	150 – 170G	25 MM THICK	AAA222 (A2)
HAMBURGER PATTIES (PURE BEEF)	110 – 125G		BBB333 (B3) (MAXIMUM FAT 15%)
LEAN TOPSIDE MINCE	1KG PACKETS		BBB333 (B3) (MAXIMUM FAT 10%)
DICED BEEF	1KG PACKETS	20 X 20MM	BBB333 (B3)(BONELESS)
BOEREWORS (90% MEAT)	1KG PACKETS	28 - 35 CASING CALIBRATION	NO SOYA
OX TAIL	1KG PACKETS	CUT IN SECTIONS AT JOINTS;TIP EXCLUDED	BBB222 (B2)
SCHNITZEL (CUT OUT OF TOPSIDE 45° AGAINST GRAIN)	120 – 150G	5MM THICK	AAA222 (A2)
TENDERIZED STEAK	1 KG PACKETS		BBB333 (B3) (BONELESS)
RAW, GREEN, CLEAN TRIPE (STOMACH)	1 KG PACKETS	CUT IN 50x50MM PIECES	A2
TROTTERS (CLEANED)	1 KG PACKETS	CUT IN 25MM THICK PIECES	A2
OFFAL (LIVER, KIDNEY,HEART, TROTTER,TONGUE)	1 KG PACKETS	DICED IN 2MM x 2MM x 3MM PIECES	A2

TYPE	WEIGHT	SIZE	GRADE
<b>MUTTON</b>			
RIB CHOPS	125 – 135G 1KG PACKETS	20MM THICK	BBB222 (B2)
RAISED SHOULDER BONED	2KG PACKETS	WHOLE	BBB222 (B2)
LEGS, WITHOUT SHIN	3KG PACKETS	WHOLE	BBB222 (B2)
RAW, GREEN, CLEAN TRIPE (STOMACH)	1 KG PACKETS	CUT IN 50MMx50MM PIECES	B2
TROTTERS (CLEANED)	1 KG PACKETS	MMINIUM 10MM to MAXIMUM 40MM THICK PIECES	B2
OFFAL (LIVER, KIDNEY,HEART, TROTTER,TONGUE)	1 KG PACKETS	DICED IN 2MM x 2MM x 3MM PIECES	B2

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TYPE	WEIGHT	SIZE	GRADE
<b><u>PORK</u></b>			
LEGS WITHOUT SHANK	3KG PACKETS	WHOLE	XO
RIB CHOPS	130 – 150G 1KG PACKETS	20MM THICK	XO (MAXIMUM 7MM FAT)
SPARE RIBS 400 – 500G XO			
SAUSAGES (ESKORT OR EQUIVALENT) MINIMUM 75% MEAT	1KG PACKETS		NO SOYA
BACON (RINDLESS SHOULDER)	500G PACKETS		
TROTTERS (CLEANED)	1 KG PACKETS	CUT IN 25MM THICKNESS	XO

TYPE	WEIGHT	SIZE	GRADE
<b><u>CHICKEN</u></b>			
FILLETS (VACUUM PACKED)	100 – 120 G 2KG PACKETS	4PKTS PER CARTON 5 – 8 MM THICK CARTON	A GRADE
LIVERS	500G PACKETS	20X 500G PER CARTON	

## 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

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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.

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 arrangements made by the bidder with any official of the procuring

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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.

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

**PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL  
PROCUREMENT REGULATIONS 2022**

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

**NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022**

**1. GENERAL CONDITIONS**

1.1 The following preference point systems are applicable to invitations to tender:

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

**1.2 To be completed by the organ of state**

- a) The applicable preference point system for this tender is the **80/20** preference point system.
- b) The **80/20** preference point system will be applicable in this tender. The lowest/highest acceptable tender will be used to determine the accurate system once tenders are received.

1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:

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

**1.4 To be completed by the organ of state:**

The maximum points for this tender are allocated as follows:

	POINTS
<b>PRICE</b>	<b>80</b>
<b>SPECIFIC GOALS</b>	<b>20</b>
<b>Total points for Price and SPECIFIC GOALS</b>	<b>100</b>

1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.

- 1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

## 2. DEFINITIONS

- (a) “**tender**” means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- (b) “**price**” means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (c) “**rand value**” means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (d) “**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; and
- (e) “**the Act**” means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

## 3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

### 3.1. POINTS AWARDED FOR PRICE

#### 3.1.1 THE 80/20 PREFERENCE POINT SYSTEMS

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

**80/20**

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

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

#### 3.2.1. POINTS AWARDED FOR PRICE

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

## 80/20

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

Where

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

### 4. POINTS AWARDED FOR SPECIFIC GOALS

- 4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:
- 4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—
- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
  - (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,
- then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

**Table 1: Specific goals for the tender and points claimed are indicated per the table below.**

***(Note to organs of state: Where the 80/20 preference point system is applicable, corresponding points must also be indicated as such.***

***Note to tenderers: The tenderer must indicate how they claim points for each preference point system.)***

The specific goals allocated points in terms of this tender	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (To be completed by the tenderer)
More than 50% (fifty percent) ownership by Black people	20	
More than 50% (fifty percent) ownership by Women	20	
More than 50% (fifty percent) ownership by people with disabilities	20	

### DECLARATION WITH REGARD TO COMPANY/FIRM

4.3. Name of company/firm.....

4.4. Company registration number: .....

4.5. TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
- One-person business/sole propriety
- Close corporation
- Public Company
- Personal Liability Company
- (Pty) Limited
- Non-Profit Company
- State Owned Company

[TICK APPLICABLE BOX]

4.6. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in

addition to any other remedy it may have –

- (a) disqualify the person from the tendering 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 tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted 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, if deemed necessary.

.....	
<b>SIGNATURE(S) OF TENDERER(S)</b>	
<b>SURNAME AND NAME:</b>	.....
<b>DATE:</b>	.....
<b>ADDRESS:</b>	.....
	.....
	.....
	.....

# **THE NATIONAL TREASURY**

**Republic of South Africa**



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

**July 2010**

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

**NOTES**

The purpose of this document is to:

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

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

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

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## General Conditions of Contract

### 1. Definitions

1. The following terms shall be interpreted as indicated:
  - 1.1 “Closing time” means the date and hour specified in the bidding documents for the receipt of bids.
  - 1.2 “Contract” means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
  - 1.3 “Contract price” means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
  - 1.4 “Corrupt practice” means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.
  - 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
  - 1.6 “Country of origin” means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
  - 1.7 “Day” means calendar day.
  - 1.8 “Delivery” means delivery in compliance of the conditions of the contract or order.
  - 1.9 “Delivery ex stock” means immediate delivery directly from stock actually on hand.
  - 1.10 “Delivery into consignees store or to his site” means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
  - 1.11 "Dumping" occurs when a private enterprise abroad 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.
- 29. Governing language** 29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.
- 30. Applicable law** 30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.
- 31. Notices** 31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice
- 31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.
- 32. Taxes and duties** 32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
- 32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- 32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.
- 33. National Industrial Participation Programme (NIP)** 33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.
- 34 Prohibition of Restrictive practices** 34.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).
- 34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.

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