



**Western Cape
Government**

**Department of Police Oversight and Community Safety
Supply Chain Management**

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POCS02-2023-2024

REQUEST TO BID

**ADMINISTRATION OF THE EXPANDED
PUBLIC WORKS PROGRAMME (EPWP) FOR
A PERIOD OF 24 MONTHS FOR THE
DEPARTMENT OF POLICE OVERSIGHT AND
COMMUNITY SAFETY**

CLOSING DATE: 21 JULY 2023 @ 11H00

VALIDITY: 90 Days

- **PLEASE NOTE THAT IT IS REQUIRED THAT ALL BIDDERS BE REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD)**
- **To complete your CSD registration please log onto <https://secure.csd.gov.za/Account/Login>**

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ADMINISTRATION OF THE EXPANDED PUBLIC WORKS PROGRAMME (EPWP)

TERMS OF REFERENCE

1. Introduction

The content of the Terms of Reference (ToR) is intended to form the basis of a contract between the Western Cape Government: Department of Police Oversight and Community Safety (POCS) and the successful bidder to administer the Expanded Public Works Programme (EPWP) on behalf of POCS. The EPWP is a National programme aimed at young people (referred to as participants) between the ages of 18 and 35 to gain personal development and professional experience by offering the youth temporary work opportunities to make them more employable. The Departmental Youth Work Project is implemented in line with the Expanded Public Works Ministerial determination as well all other legislative governing conditions of employment in the Republic of South Africa.

In the previous financial years it has proven to be fraught with difficulty and challenges as the formal processes and bureaucracy were not suited to the operation and requirements of the EPWP, resultant in late payments to participants, impacting on their ability to travel to their placement institutions and on their economic situations. During the 2022/2023 financial year, POCS decided to outsource the EPWP administration function to an external Service Provider going forward. A Service Provider (CAMISSA Solutions) was contracted by POCS in May 2022 for a duration of 12 months. The contract ended on 30 April 2023. A three (3) month extension from 01 May 2023 until 31 July 2023 was granted for the Service provider.

The Directorate must follow the open tender process in procuring a Service Provider to continue with the management of existing participants from POCS/existing Service Provider and manage the administration of any additional participants recruited. The Bid is proposed for a duration of 24 months from 01 August 2023 or soon after this date.

2. Objectives and Scope of the Project

2.1 Overall scope of the project

The Directorate: Safety Promotion and Partnerships is responsible for the implementation of a Youth Work Programme (YWP) which creates temporary work opportunities with the emphasis on unemployed youth, within the safety promotion ambit and to provide youth with a sustainable alternative to crime. The purpose of the YWP is to provide unemployed youth with training, skills, work experience and provide them with a monthly stipend. The project is implemented through a multi-sectoral partnerships and agreements.

2.1.2 The Directorate implements 5 projects under the auspices of EPWP namely:

- Chrysalis Academy – Alpha, Bravo and Charlie intakes (April, August and December) – 3 months residential training and 12 months placement internship.
- General Projects (Amandla EduFootball, Seven Passes, Jazzart and Artscape) – 12 months.
- Safer Festive Season Special Deployments (November until January – rural municipalities – (3 months).
- Tourism Safety Officers – deployments at Tourist attractions – Metro - 4 months
- Peace Officers and Law Enforcement Officers – rural municipalities (12 months).

2.2 The Objectives of the administration of the EPWP are for the bidder:

- a) To enter into a contract with EPWP Participants;
- b) To manage all of the administration associated with the contract, including but not limited to recruitment, payment of stipends, leave administration, monitoring the day-to-day activities of participants and dealing with disciplinary matters as reported by supervisors:

- c) To manage the placement of EPWP Participants at Placement Institutions (e.g. schools and other government and community organisations) by facilitating the signing of a Memorandum of Understanding;
- d) Each beneficiary is to be provided with a clear job description stipulating the day-to-day duties to be performed as well as the performance standards; and
- e) To manage the administration and disbursement of funds to service providers around personal and professional development activities where applicable.

3. Project Deliverables

The successful bidder will be expected to deliver on the following to the POCS as its deliverables:

- a) To recruit EPWP participants, who must preferably be between 18 and 35 years old.
- b) All participants recruited must adhere to criteria as indicated in the Ministerial determination and/or any other criteria as determined by POCS.
- c) To enter into contracts with the participants in line with relevant legislation (Basic Conditions of Employment Act & Ministerial Determination).
- d) To manage the placement of participants with placement institutions.
- e) Supervise and manage the participants on site and attend to their labour matters.
- f) To manage all administration associated with the contract, including payment of stipends, leave administration, and other issues around employment.
- g) To manage the administration and disbursement of funds to other service providers in respect of personal and professional development opportunities where required.
- h) To facilitate the availability of participants to attend personal development interventions by providing them with the required transport to attend the sessions should this be required.
- i) To keep an up-to-date database(s) reflecting the personal details, placement details, monthly stipend payments processed, Unemployment Insurance Fund

(UIF) and Compensation of Injuries and Diseases Act (COIDA) payments as well as mobility of EPWP participants in the programme.

- j) To keep on file all the personal documentation in compliance to the Protection of Personal Information Act (POPI) as well to always ensure compliance to the POPI Act.

4. Project Methodology

The EPWP YWP provides opportunities for participants to participate in meaningful, productive service to communities in a structured environment. These opportunities will be availed to eligible youth who would otherwise not be engaged in any realistic prospects of personal and professional development. It will serve as opportunities for participants to gain work experience, while at the same time learning what it is that they are interested in or passionate about, which will guide further development. Those recruited from the Chrysalis Academy are placed in accordance with the skills training done during their time at the academy.

It is hypothesised that in providing participants with a structured, positive environment, along with opportunities to be productive and for personal and professional development, these participants will be provided with the initial tools to avert various forms of violence (gang, domestic, structural) in their communities.

POCS will furthermore avail a basket of services for personal and professional development to the participants. In terms of professional development, this will include services such as various psycho-social sessions facilitated by the Chrysalis Academy which will seek to assist participants in developing personal awareness and capacities to deal with various social challenges.

The bulk of the EPWP participants (600) includes participants from the Chrysalis Academy's three intakes. These students graduate in April, August and November each year. The remaining participants are recruited through General Projects with the general partners, such as Amandla EduFootball, Seven Passes, Jazzart and Artscape. During the festive season period, POCS also recruits for special deployments for a

period of 3 to 4 months at tourist destinations, such as dams, swimming pools, holiday resorts, etc.

This is done in partnership with local municipalities. Similarly, in support of the Rural Safety Strategy, Peace Officers and Law Enforcement Officers are recruited in partnership with the local municipalities in the rural areas. POCS guides the partners on which communities the EPWP participants must be selected from.

At any given time, the number of active participants in the programme will fluctuate between 500 and to a maximum of 950 participants. The overlapping period between the different intakes' participants and the duration of contracts results in fluctuating figures.

5. Documents to be provided by POCS

To facilitate the process, the following documents will be provided to the successful bidder by POCS, in either hardcopy or electronic format:

- a) Database of currently active participants;
- b) Employment contract;
- c) Code of Conduct;
- d) Ministerial Determination on EPWP;
- e) Memorandum of Understanding (MOU);
- f) Attendance Registers and/or Timesheets;
- g) Bank Forms and
- h) Beneficiary Forms, Leave Forms, Induction Presentations, Induction Attendance Registers.

6. Project Milestones

The milestones and activities are set out for a duration of 12 months. This will be repeated for two cycles, until the entire duration of the 24-month contract is completed.

The project will be rolled out in the following steps represented in Table 1:

Table 1: Project milestones as per 24-month cycle

No.	Milestone	Activity	Timeframe
1	Year 1: Briefing of Service Provider and submission of project plan	On receipt and review of a project plan – within 1 (one) month after appointment.	On appointment - 1 st August 2023
2	Execute hand over of existing participants (including concluding new contracts)	On completion of transfer of all project information and development of templates to be used – within 1 (one) month after appointment.	1 month after appointment – 31 August 2023
3	First quarterly progress report from Service Provider	On provision and approval of a 1 st (first) monthly progress report and a spreadsheet highlighting payments already made – within 3 months after appointment.	3 months – 30 October 2023
4	Second quarterly progress report from Service Provider	On provision and approval of 1 st (first) and 2 nd (second) quarterly reports and proof of payments made for a 6 (six) months' duration – within 6 (six) months of implementation.	6 months – 31 January 2024
5	Third quarterly progress report from Service Provider	On provision of a 3 rd (third) quarterly report and proof of payments made for 9 (nine) months – within 9 (nine) months of implementation.	9 months – 30 April 2024
6	Fourth quarterly progress (Annual) report from Service Provider	On provision of a 4 th (Annual report) quarterly report and proof of payments made for 12	12 months – 30 July 2024

No.	Milestone	Activity	Timeframe
		(twelve) months – within 12 (twelve) months of implementation.	
7	Year 2: First quarterly progress report from Service Provider	On provision of a 1 st (first) quarterly report and proof of payments made for 3 (three) months – within 3 (three) months of implementation.	15 months – 30 October 2024
8	Second quarterly progress report from Service Provider	On provision and approval of 1 st (first) and 2 nd (second) quarterly reports and proof of payments made for a 6 (six) months' duration – within 6 (six) months of implementation.	18 months – 31 January 2025
9	Third quarterly progress report from Service Provider	On provision of a 3 rd (third) quarterly report and proof of payments made for 9 (nine) months – within 9 (nine) months of implementation.	21 months – 30 April 2025
10	Final and closure report	On provision of the 4 th (fourth) quarterly report and a closure report – within the last week of the Agreement and handing over of all documents and information of the Participants to the Department	24 months (31 July 2025)
11	Final payments and hand over of information files	On payment of all last month's payments and hand over all files, information and documentation.	1 month on conclusion of the contract – 30 August 2025

* Milestones 1-6 are **year one's** activities repeated overlapping to year two of the contract. Milestones 7 – 11 are **year two's** activities.

7. Project Duration

The project will be implemented for a period of twenty-four months (24)_months, as the EPWP project might not be a long-term priority, in terms of the strategic focus of POCS. Only in exceptional cases, prospects of extension under the same conditions of the existing contract will be considered on condition that all options have been explored and open tender compliances are met.

8. Mandatory Requirements

The successful bidder must:

- a) Have the demonstrable technical ability to process the administration as described hereinabove, by showing they have good contract administration and payroll systems in place;
- b) Provide a unit price, per participant, regarding the management of individual contracts. The number of participants fluctuates every month as people leave the projects and new ones come on board;
- c) The unit cost will be paid based on the total number of participants (e.g. 950) paid per month;
- d) Provide a budget breakdown of the different costing aspects, which will include the administration fee, fixed stipend rates, COIDA and UIF costs;
- e) Provide detail of the project team in terms of experience and appropriate project management qualifications and experience;
- f) Have at least 3 years' experience in dealing with large administration projects of similar work involving payment of stipends (500 or more participants) with specific focus on contracting, supervision and timeous processing of stipend payments;
- g) Have a payment system and payrolls in place that will be used to pay the participants and for reporting purposes.

- h) Have a strong proven track record of data information management at the highest standards, including strong ability to compile and continuously update detailed databases;
- i) Be in good standing with the South African Revenue Service (SARS) by providing a tax compliance certificate;
- j) Have excellent written, verbal and graphic communication skills by providing examples of previous reports generated;
- k) Demonstrate the ability to apply good governance principles;
- l) Be proficient in English and one of the other official languages in the Province being either Afrikaans or isiXhosa; and
- m) The successful bidder will use its own computer and software systems for capturing and analysing data and information for the purposes of this project.

9. Budget and payment schedule

The bidder must compile a detailed breakdown of costs and submit it together with the proposal. All budgets should include VAT. Competitive pricing and functional competence of the bidder will be major considerations in the evaluation of proposals.

10. Payment

- 10.1 No pre-payments will be made to the successful Service Provider. The Service Provider must have an upfront cashflow/investments or bank overdraft facility of R2 million for the first month of contract for the payment of stipends for the first month.
- 10.2 Payment will be made based on the invoicing for the services rendered. Payrolls or payment systems, confirming payments made to participants, should be in place for auditing purposes.

11. Structure of the Proposal

A clear and concise project proposal covering the aspects listed below is required:

- 11.1 A detailed project implementation plan, setting out the methodology, project milestones, activities, outputs and timeframe.
- 11.2 The Service provider must preferably have experience in dealing with youth and understand the parameters of youth at risk to enhance their development.
- 11.3 An all-inclusive budget. The budget should be in Rand value and should include VAT as well as the management fee.
- 11.4 The Service Provider to indicate the unit cost (per person) for managing the EPWP participants.
- 11.5 The appendices and technical information listed in section 12 below must be submitted with the proposal.
- 11.6 Prospective bidders are encouraged to attend a briefing session in person or via an online option (Microsoft Teams). The briefing session will be taking place on 4th July 2023 at 10h00 and will be held in the Ground Floor Boardroom, 35 Wale Street, Cape Town. Prospective bidders should notify the Department beforehand should they would like to attend via the online option.

Failure to provide the abovementioned will result in disqualification.

12. Evaluation Criteria for the Proposals and Allocation of Points

12.1 Phase 1: SCM Evaluation / Verification Phase:

All prospective bidders must deposit their proposals in the bid box, situated on the Ground Floor Entrance of 35 Wale Street on the date and time as stipulated on the tender documents. Only bids meeting the SCM Evaluation Criteria will proceed to the Technical Evaluation Criteria.

12.1.1 A site visit may be conducted with all compliant service providers to verify the filling, payment systems, staff component etc. to assess administrative capacity.

12.2 Phase 2: Mandatory Criteria (Appendices)

In this phase, all bids that meet the SCM verification will proceed for Mandatory (Appendices) verification phase. All bids received are to be assessed according to the following mandatory appendices to attach to the bid:

Appendix A: A detailed project implementation plan, setting out the methodology, project milestones, activities, outputs and timeframe.

Appendix B: Example of similar work. Example of a report submitted on EPWP administration produced in the past two (2) years.

This must demonstrate excellent written and graphic communications skills and proficiency in English.

Appendix C: Audited financial statements for the past three (3) years of the company.

Appendix D: Two written and signed references for the last three (3) years.

Appendix E: Detailed budget breakdown for a period of twenty-four (24) months including the management fee.

Appendix F: An example of previous large administration projects involving payment of stipends.

Appendix G: An example of a payment system and payrolls that will be used to pay the participants.

12.3 Phase 3: Technical Evaluation Phase (Technical Specification).

Only bids meeting the Technical Evaluation Criteria will proceed to the Pre-qualification Phase / Discriminatory (Capability) Phase.

All bids received are to be assessed according to the following mandatory appendices and supporting information to attach to the bid.

Failure to provide the abovementioned will result in disqualification.

12.4 Phase 4: Pre-qualification Phase / Discriminatory (Capability) Phase

A cut-off point of 60 out of 100 (for functionality) will be used in the process of the evaluation. A bidder should score 60 points and above to be recognised as a potential bidder and to proceed to the next round of the bidding process.

In terms of evaluating the proposals from interested parties, the 100 points for functionality will be according to the following focus areas as indicated in Table 2:

Table 2: Criteria to be used during the evaluation process (scoring sheet)

DOMAIN	CRITERIA	CATEGORY	WEIGHT
Experience in conducting previous similar projects	Have at least 3 years' experience in administering projects with government departments, preferably in the field of youth development.	30%	10%
	Strong administrative systems that can execute timeous payments.		10%
	Strong information management and compliance record.		10%
Report writing skills	Experience writing reports of a similar nature in English in the past 3 years.	10%	10%
Project Team (Relevant experience and qualifications)	Broad team listed with at least 5 members.	40%	10%
	Demonstrate high level of expertise in all disciplines listed (Section 8) .		30%
		10%	10%

DOMAIN	CRITERIA	CATEGORY	WEIGHT
Proposed capacity development and skills sharing	Methodology for communicating, capacitating and working with youth from vulnerable communities.		
Financial stability	Assessment of audited financial statements.	10%	10%

The following four-point scale will be used evaluate functionality according to the criterion stipulated in Table 2 above:

- Does not comply with requirements: 0
- Partial compliance with requirements 1
- Full compliance with requirements 2
- Exceeds requirements 3

12.5 Phase 5: Evaluation phase

12.5.1 The 90/10 preference point system will be used as reflected in Table 3.

Table 3: The 90/10 preference point system

DOMAIN	CATEGORY
Price, including management fee	90 points
B-BBEE status	10 points

12.5.2 In terms of Regulation 5(2) and 6(2) of the Preferential Procurement Regulations, preference points will be awarded to a bidder of attaining the B-BBEE status level contribution in accordance with the Table 4 below:

Table 4: B-BBEE status level contribution

B-BBEE STATUS LEVEL CONTRIBUTION	NUMBER OF POINTS (90/10 SYSTEM)
1	10
2	9
3	6
4	5
5	4
6	3
7	2
8	1
Non-compliant contribution	0

13. Contract Management within POCS

The commissioning Directorate is the Directorate: Safety Promotion and Partnerships. The contact person will be Ms Thumeka Lamani, Deputy Director (Thumeka.Lamani@westerncape.gov.za)

Any urgent matters that affect the successful bidder's ability to meet the deliverables/deadlines must be brought to the attention of the Project Manager immediately.

The following principles should be applied throughout the project

- Adherence to all relevant Legislation

- Maintain a commitment to confidentiality in relation to personal information especially the reuse of personal data for projects not included in the Service Level Agreement;
- Provide demonstrable ability on how personal information collected from data subjects will be safeguarded in line with the Protection of Personal Information Act (POPIA).
- Maintain a commitment to deadlines;
- Adherence to contractual relationship and agreement; and
- The successful bidder will be expected to enter into a Service Level Agreement with POCS.

14. Intellectual Property Rights, Conflict of Interest and Confidentiality

14.1 Intellectual property rights

All electronic and hard copy information captured/utilised to provide the output of the project remains the property of POCS. All data collected during the course of the project must be given to POCS at the end of the project, and it cannot be used or shared, whether for profit or otherwise with any other party, without written permission from POCS.

14.2 Conflict of interest

The appointed bidder may not act in any way that is inconsistent with his/her duties or expose him/herself to any situation involving the risk of any conflict of interest between the official responsibilities required of the outsourced tender and with that of private interests.

14.3 Confidentiality

The successful bidder will regard all information and personal information of participants as confidential and may not use or share any information beyond the scope of the project.

15. Exit Clause

15.1 POCS reserves the right not to appoint if suitable bidders are not found, at the complete discretion of POCS.

15.2 POCS reserves the right to terminate the contract if there is clear evidence of non-performance.

16. Enquiries

For further information and enquiries, contact:

Ms Thumeka Lamani

Deputy Director: EPWP Project Office

Western Cape Department of Police Oversight and Community Safety (POCS)

Private Bag X9043, Cape Town, 8000

Tel: (021) 483 4936

E-Mail: Thumeka.Lamani@westerncape.gov.za

WCBD 1

PART A INVITATION TO BID

ZERO-TOLERANCE TO FRAUD, THEFT AND CORRUPTION (ANTI-FRAUD, THEFT AND CORRUPTION)

THE WCG IS COMMITTED TO GOVERN ETHICALLY AND TO COMPLY FULLY WITH ANTI-FRAUD, THEFT AND CORRUPTION LAWS AND TO CONTINUOUSLY CONDUCT ITSELF WITH INTEGRITY AND WITH PROPER REGARD FOR ETHICAL PRACTICES.

THE WCG HAS A ZERO TOLERANCE APPROACH TO ACTS OF FRAUD, THEFT AND CORRUPTION BY ITS OFFICIALS AND ANY SERVICE PROVIDER CONDUCTING BUSINESS WITH THE WCG.

THE WCG EXPECTS ALL ITS OFFICIALS AND ANYONE ACTING ON ITS BEHALF TO COMPLY WITH THESE PRINCIPLES TO ACT IN THE BEST INTEREST OF THE WCG AND THE PUBLIC AT ALL TIMES.

THE WCG IS COMMITTED TO PROTECTING PUBLIC REVENUE, EXPENDITURE, ASSETS AND REPUTATION FROM ANY ATTEMPT BY ANY PERSON TO GAIN FINANCIAL OR OTHER BENEFIT IN AN UNLAWFUL, DISHONEST OR UNETHICAL MANNER.

INCIDENTS AND SUSPICIOUS ACTIVITIES WILL BE THOROUGHLY INVESTIGATED AND WHERE CRIMINAL ACTIVITY IS CONFIRMED, RESPONSIBLE PARTIES WILL BE PROSECUTED TO THE FULL EXTENT OF THE LAW.

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE DEPARTMENT OF POLICE OVERSIGHT AND COMMUNITY SAFETY

BID NUMBER:	POCS02- 2023/2024	CLOSING DATE:	21 July 2023	CLOSING TIME:	11 H00 AM
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DESCRIPTION	ADMINISTRATION OF THE EXPANDED PUBLIC WORKS PROGRAMME (EPWP)
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BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)

35 Wale Street (Ground Floor Foyer)

Cape Town CBD

8000

5000

BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO		TECHNICAL ENQUIRIES MAY BE DIRECTED TO:	
CONTACT PERSON	Esethu Makanda	CONTACT PERSON	Thumeka Lamani
TELEPHONE NUMBER	021 483 4415	TELEPHONE NUMBER	021 483 4936
FACSIMILE NUMBER		FACSIMILE NUMBER	
E-MAIL ADDRESS	Esethu.Makanda@Westerncape.gov.za	E-MAIL ADDRESS	Thumeka.Lamani@westerncape.gov.za

SUPPLIER INFORMATION

NAME OF BIDDER			
POSTAL ADDRESS			
STREET ADDRESS			
TELEPHONE NUMBER	CODE	NUMBER	
CELLPHONE NUMBER			
FACSIMILE NUMBER	CODE	NUMBER	
E-MAIL ADDRESS			
VAT REGISTRATION NUMBER			
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:	AND	CENTRAL SUPPLIER DATABASE No: MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	[TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No	B-BBEE STATUS LEVEL SWORN AFFIDAVIT	[TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No

- 6.6 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- 6.7 A trust, consortium or joint venture (including unincorporated consortia and joint ventures) must submit a consolidated B-BBEE status level verification certificate for every separate tender.
- 6.8 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.

7. BID DECLARATION

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

8. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPH 6

- 8.1 B-BBEE Status Level of Contribution..... = *(maximum of 20 points)*

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 6.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or an affidavit confirming annual total revenue and level of black ownership in terms of the relevant sector code applicable to the tender.

9. SUB-CONTRACTING

- 9.1 Will any portion of the contract be sub-contracted? **YES/NO** *(delete which is not applicable)*

- 9.1.1 If yes, indicate:

- (i) what percentage of the contract will be subcontracted?..... %
- (ii) the name of the sub-contractor?
- (iii) the B-BBEE status level of the sub-contractor?
- (iv) whether the sub-contractor is an EME or QSE? **YES/NO** *(delete which is not applicable)*

applicable)

- 9.1.2 Sub-contracting relates to a **particular** contract and if sub-contracting is applicable, the bidder to state in their response to a particular RFQ that a portion of that contract will be sub- contracted.

10 DECLARATION WITH REGARD TO COMPANY/FIRM

10.1 Name of company/ entity:

10.2 VAT registration number:

10.3 Company Registration number:

10.4 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

[SELECT APPLICABLE ONE]

- 10.5 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBEE status level of contribution indicated in paragraph 7 above, qualifies the company/ firm for the preference(s) shown and I/we acknowledge that:

(a) The Western Cape Government reserves the right to audit the B-BBEE status

claims submitted by the bidder.

- (b) As set out in Section 13O of the B-BBEE Act as amended, any misrepresentation constitutes a criminal offence. A person commits an offence if that person knowingly:
 - (i) misrepresents or attempts to misrepresent the B-BBEE status of an enterprise;
 - (ii) provides false information or misrepresents information to a B-BBEE Verification Professional in order to secure a particular B-BBEE status or any benefit associated with compliance to the B-BBEE Act;
 - (iii) provides false information or misrepresents information relevant to assessing the B-BBEE status of an enterprise to any organ of state or public entity; or
 - (iv) engages in a fronting practice.
- (c) If a B-BBEE verification professional or any procurement officer or other official of an organ of state or public entity becomes aware of the commission of, or any attempt to commit any offence referred to in paragraph 10.5 (a) above will be reported to an appropriate law enforcement agency for investigation.
- (d) Any person convicted of an offence by a court is liable in the case of contravention of 10.5 (b) to a fine or to imprisonment for a period not exceeding 10 years or to both a fine and such imprisonment or, if the convicted person is not a natural person to a fine not exceeding 10 per cent of its annual turnover.
- (e) The purchaser may, if it becomes aware that a bidder may have obtained its B-BBEE status level of contribution on a fraudulent basis, investigate the matter. Should the investigation warrant a restriction be imposed, this will be referred to the National Treasury for investigation, processing and imposing the restriction on the National Treasury's List of Restricted Suppliers.

The bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, may 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.

- (f) The purchaser may, in addition to any other remedy it may have –
 - (i) disqualify the person from the bidding process;
 - (ii) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (iii) 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; and
 - (iv) forward the matter for criminal prosecution.
- (g) The information furnished is true and correct.
- (h) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 2 of this form.

SIGNATURE(S) OF THE BIDDER(S):

DATE:

ADDRESS:

.....

WITNESSES:

1.

2.

APPENDIX D

Proposed Budget for EPWP (SA) – Department of Police Oversight and Community Safety		
Funding Allocation		
Category Funding	Amount	Breakdown of Allocation
<u>Unit Cost</u>		
* Stipend rate of R155.00 per day (350 Students)	R29 946 000.00	R155x23=R3565 R3565x350=R1247750. R1247750.x24= R29 946 000.
* Maximum 23 days per month		
* Amount calculated for 24-months		
* Stipend rate of R125.00 per day (600 Students)	R41 400 000.00	R125x23=R2875 R2875x600=R1725000 R1725000x24= R41 400 000.
* Maximum 23 days per month		
* Amount calculated for 24-months		
<u>UIF</u> (Calculated at 2% of stipend payment of 950 students / stipend payments)	R1 426 920.00	
<u>COIDA Registration</u> (Calculated at 1% of stipend payment 950 students / stipend payments)	R713 460.00	
<u>Other Expenses</u> (Travel, accommodation, etc where applicable)	N/A	
<u>Total Management Fee</u>		
<u>Total Cost Allocation</u>		

THE NATIONAL TREASURY

Republic of South Africa



GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT

July 2010

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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

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.

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| 16. Payment | <p>16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.</p> <p>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.</p> <p>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.</p> <p>16.4 Payment will be made in Rand unless otherwise stipulated in SCC.</p> |
| 17. Prices | <p>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.</p> |
| 18. Contract amendments | <p>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.</p> |
| 19. Assignment | <p>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.</p> |
| 20. Subcontracts | <p>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.</p> |
| 21. Delays in the supplier's performance | <p>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.</p> <p>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.</p> <p>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.</p> <p>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</p> |

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.