



higher education
& training
Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA



westcol
Western College for Technical, Vocational Education and Training

TENDER NO: WTC (L/CORP) 06/2025

**TENDERS ARE HEREBY INVITED FROM FOR REGISTERED AND EXPERIENCED PANEL OF
LEGAL PRACTITIONER(S)/ LAW FIRM(S) FOR THE PROVISION PROFESSIONAL LEGAL
SERVICES ON AN AS AND WHEN REQUIRED BASIS FOR THIRTY-SIX (36) MONTHS.**

Prospective suppliers who are interested in participating in afore-mentioned tender are invited to submit their bids in full compliance to the requirement of this tender document. The completed document with all attachments must, be signed, and submitted in a clearly labelled sealed envelope and deposited in the tender box at the following address.

**RECEPTION DESK
WESTERN TVET COLLEGE
42 JOHNSTONE STREET
HECTORTON
RANDFONTEIN
(33°55'36.27" S 18°51'22.28" E)**

NAME OF BIDDING ENTITY : _____

NAME OF BIDDING ENTITY : _____
REPRESENTATIVE

PHYSICAL ADDRESS OF BIDDING : _____
ENTITY

POSTAL ADDRESS OF BIDDING ENTITY : _____

CONTACT DETAILS OF BIDDING ENTITY Tel: _____ Cell: _____

E-MAIL ADDRESS : _____

Tendering Details

Publishing Date	Monday, 08 September 2025
Closing Date	Wednesday 15 October 2025 at 11:00am
Published on	The Star and Krugersdorp News
Documents Availability	www.etenders.gov.za ; www.westcol.co.za

Contact Details

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**BIDDERS ARE REQUESTED TO GO THROUGH
ALL THE BIDDING CONDITIONS/MANDATORY
REQUIREMENTS BEFORE ATTEMPTING TO
COMPLETE THIS DOCUMENT.**

1. Bidding Conditions

a)	All suppliers of goods and services are encouraged to register in the National Treasury's web-based Central Suppliers Database from July 1, 2016, at www.csd.gov.za .
b)	According to National Treasury Instruction No.4 A of the 2016/2017 National Treasury Supplier Database, states must guarantee that suppliers awarded business with the State are registered on the CSD before issuing an award letter/purchase order/signed contract.
c)	Each Supplier submitting a tender agrees to do so on the terms and conditions set out in this bid document.
d)	A person fully authorized to commit to the terms must sign the tender and conditions set out in this Tender. Westcol is entitled to assume that there is full authority in the signatory of the person.
e)	If an error has been made on the pricing schedule, it shall be crossed out in black ink and accompanied by initials at each and every alteration.
f)	Completed and Signed Schedule of Pricing as issued in the document failure to do so will lead to disqualification.
g)	No electronic initials and signature will be accepted in the bidding document. The bidder's signature must be signed by hand and with black ink.
h)	Tippex is not allowed on tender documents.
i)	Bids completed in pencil will be regarded as invalid and rejected.
j)	Each page to be initialized as indicated in the document failure to do will lead to disqualification.
k)	E-mailed bid documents will not be accepted.
l)	No pages will be removed from the tender document
m)	All bid prices must be inclusive of 15% VAT for all registered VAT vendors.
n)	The validity period for this tender is one hundred and twenty (120) days.
o)	Bids from people in the service of state as defined in the Public Financial Management Act and Regulations will not be accepted.
p)	Westcol reserves the right, exercisable at its sole discretion, to review, evaluate and dispose of any tender as it sees fit. Nothing stated in this request (whether express or implied) binds or obligates Westcol, or any other member of Westcol to accept the lowest of any price contained in bid document or to accept any tender. Suppliers or their representatives can expect to discuss the details of their tender during the evaluation process. Westcol reserves the right to negotiate specific terms with the preferred suppliers prior to the award of a final contract (if any).

2. Mandatory documents. If not provided the bidder will immediately be disqualified.

a)	Valid Tax Compliance Status
b)	BBB-EE Certificate or Sworn affidavit (Not copy of a certified copy)
c)	Central Supplier database report not older than three (3) months
d)	Certified ID copy of director/s not older than three (3) months (Not copy of a certified copy)
e)	The bidding entity must submit a municipal account or valid signed lease agreement which is in the name of the business
f)	The director(s) of the bidding entity must submit a municipal account or valid signed lease agreement which is in the name of the director(s)
g)	If the bidding entity operates from parents' place / director's place or any other place and is not responsible for Municipal account / Services. The bidder must submit the property owner's Municipal account and Sworn Affidavit of the property owner with the original stamp from the Commissioner of Oaths. Not copy of a certified copy

3. Fully completed and signed standard bidding documents (Compulsory)

- SDB 1: Invitation to bid
- SDB 4: Bidder's Disclosure
- SDB 6.1: Preference Points claim form in terms of the Preferential Procurement Regulations 2022

4. TERMS OF REFERENCE (TOR) / SPECIFICATIONS

TERMS OF REFERENCE FOR REGISTERED AND EXPERIENCED PANEL OF LEGAL PRACTITIONER(S)/ LAW FIRM(S) FOR THE PROVISION PROFESSIONAL LEGAL SERVICES ON AN AS AND WHEN REQUIRED BASIS FOR THIRTY-SIX (36) MONTHS.

Tenderers are hereby invited from experienced Legal practitioner(s)/Law Firm(s) on an as and when required for thirty-six (36) months period. Physical inspection and interviews of the qualifying Legal practitioner(s)/Law Firm(s) may be conducted at the College's discretion on specific day(s) as part of the verification process. All qualifying Legal practitioner(s)/Law Firm(s) will be notified of the proposed interview /inspection date(s) in advance. All qualifying Legal practitioner(s)/Law Firm(s) will be subjected to annual performance assessment.

1.1. SCOPE OF WORK

- 1.1.1. The Legal practitioner(s)/Law Firm(s) selected should have the requisite qualifications and experience to render legal services over a broad spectrum of the law fields and be able to handle legal work in the following practice (specialization) areas:
 - Constitutional law
 - Corporate Law
 - Commercial Litigation
 - Labour law
 - Conveyance
 - Criminal law
 - Contractual law
 - Forensic Investigations
 - All any other specialization related to the educational environment.
- 1.1.2. The Western TVET College (the College) requires the services of appropriately qualified Legal practitioner(s)/Law Firm(s) to render such legal services as may be required. The College will appoint a panel of Legal practitioner(s)/Law Firm(s) for thirty-six 36 months to perform specific legal services for the College on an as-and-when-required basis.
- 1.1.3. To avoid any possible conflict of interest, prospective service providers who are appointed will be required not to accept any instructions from any party against the College irrespective of the nature thereof.
- 1.1.4. The College therefore reserves the right in its sole discretion to appoint any number of Legal practitioner(s)/ Law Firm(s) to serve on its legal panel as it may deem fit.
- 1.1.5. It is expected that the appointed Legal practitioner(s)/Law Firm(s) shall always provide the services diligently and professionally.

1.2. URGENT MATTERS

- 1.2.1. Urgent matters should be attended to as a priority and may, depending on the circumstances, require special rules. Depending on the forum in which the urgent proceedings are instituted, the general rules for conducting matters in the High Court, Magistrates' Court and Labour Court/Labour Appeal Court will apply. Instructions will be issued by the College in writing and will be delivered by hand or emailed, after telephonic arrangements have been made with the Legal practitioner(s)/Law Firm(s) and will be as complete as possible under the circumstances.

- 1.2.2. The Office of the Principal or his or her delegate assigned to the matter will be specified in the instructions to allow for easy communication in the circumstances. The Legal practitioner(s)/Law Firm(s) will make every effort to resolve the issue before any matter is addressed on an urgent basis.
- 1.2.3. Instructions must be acknowledged in writing within 2 hours, from receipt thereof to the extent that it is practical within the circumstances. Where required, verbal instructions will be provided, but the same will be confirmed in writing as soon as possible. Advocates will be appointed with consent and in consultation with the College and based on the availability of suitable Counsel under the circumstances.
- 1.2.4. All consultations, discussions and requests for information will be arranged through the Office of the College Principal or his or her delegate assigned to the matter.

PLEASE NOTE: FAILURE TO INDICATE OR MARK THE AREA OF INTEREST WILL RENDER YOUR BID NON-RESPONSIVE AND WILL BE DISQUALIFIED (MARK WITH AN 'X')

FIELD	YES	NO
1. Constitutional law		
2. Corporate Law		
3. Commercial Litigation		
4. Labour law		
5. Conveyance		
6. Criminal law		
7. Contractual law		
8. Forensic Investigations		
9. All any other specialization related to the educational environment. (specify)		

1.3. THE WORK SHALL BE CATEGORIZED

1.3.1. CORPORATE TRANSACTIONS:

The services you will be expected to offer the College include:

- 1.3.1.1. Advising the College on its rights and obligations under its various operations and other agreements.
- 1.3.1.2. Advising the College on potential disputes arising out of its various operations and other agreements.
- 1.3.1.3. Advising the College regarding possible acquisitions, sales, joint ventures, and incidental matters.
- 1.3.1.4. Advising the College on compliance and corporate governance issues.
- 1.3.1.5. General corporate transactions.

1.3.2. CONVEYANCING TRANSACTIONS:

- 1.3.2.1. You would be expected to advise the College on conveyancing, notarial and other property-related services.
- 1.3.2.2. Advising the college on its rights and obligations with respect to illegal land occupation and evictions.
- 1.3.2.3. General conveyancing transactions.

1.3.3. **GENERAL LITIGATION**

1.3.3.1. Advise on and handling various issues, including but not limited to:

(i) CIVIL AND CRIMINAL LITIGATION

Legal practitioner(s)/Law Firm(s) appointed for civil litigation will be utilized for matters following their field of expertise as indicated and confirmed by the references. The College will be entitled to insist that a duly qualified and admitted Legal practitioner attends to the matters of the College, where it appears that a Candidate Attorney is not able to properly assist and advise the College.

(ii) MAGISTRATES' COURTS AND SUPERIOR COURTS LITIGATION

Comprehensive instructions will be issued by the College in writing and will be delivered by hand or forwarded through e-mail. Instructions will be accompanied by background information, applicable documentation, and references for consultations.

1.3.4. **LABOUR MATTERS**

1.3.4.1. Representing the College in the Labour Court and Labour Appeal Court in applications such as reviews and interlocutory applications, interdicts as well as opposing such applications or in trials; and

1.3.4.2. The Legal practitioner(s)/Law Firm(s) will, upon instruction by the College, pursue a matter at the highest court if such is desirable.

1.3.5. **LEGAL DRAFTING AND REVIEW**

1.3.5.1. The Legal practitioner(s)/Law Firm(s) will perform its duties with skill, care, and diligence, following all relevant laws.

1.3.5.2. Services will be provided promptly, with efforts to meet the agreed deadlines.

1.3.5.3. If no deadline is set, services will be delivered within a reasonable time and in line with the applicable law or regulation.

1.3.5.4. Delays in service may be considered non-performance and could lead to termination.

1.3.5.5. The Legal practitioner(s)/Law Firm(s) cannot settle any claims or lawsuits involving the College without written approval.

1.4. **TARIFF FEE'S STRUCTURE REQUIREMENTS**

1.4.1. The office of the State Attorney's issued tariffs will be used as tariff fees to be paid for legal services.

1.4.2. No deviation will be allowed on the tariffs once adopted.

1.4.3. Where specific cases have travel and accommodation cost implications, these costs will be claimed under the government's cost containment measures and the rates prescribed by the National Treasury.

1.5. **TAX COMPLIANCE REQUIREMENTS**

- 1.5.1. It is a condition of this bid that the tax matters of the successful tenderers are in order, or that satisfactory arrangements have been made with the South African Revenue Service (SARS) to meet the Legal practitioner(s)/Law Firm(s)'s tax obligations.
- 1.5.2. The Tax Compliance status requirements are also applicable to potential foreign Legal practitioner(s)/Law Firm(s)/individuals who wish to submit a bid.
- 1.5.3. Legal practitioner(s)/Law Firm(s) are required to be registered on the Central Supplier Database (CSD) and the National Treasury shall verify the Legal practitioner(s)/Law Firm(s)'s tax compliance status through the CSD or SARS.
- 1.5.4. Where Consortia / Joint Ventures / Sub-Contractors are involved, each party must be registered on the CSD, and their tax compliance status will be verified through the CSD or SARS.
- 1.5.5. The College will not award a bid to any tenderer whose tax matters are not in order.
- 1.5.6. The successful tenderer(s) on the contract must ensure that their Tax Matters are in order during the entire contract period.

1.6. **ALLOCATION OF WORK**

- 1.6.1. Once a legal practitioner (Legal practitioner(s)/Law Firm(s) has been listed on the panel, the College may assign work to that legal practitioner as and when a need arises to represent the college, and the allocation will be on a rotational basis.

1.7. **PREFERENCE POINTS SYSTEM**

- 1.7.1. Preference points will be allocated as follows during the allocation of work stage:
- 1.7.2. The 80/20 preference points system will apply in terms of the Preferential Procurement Regulations **regarding** the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000) and responsive proposals will be adjudicated as follows:
 - (a) Price (Maximum of 80 points)
 - (b) Specific Goals (Maximum 20 points)
- 1.7.3. A maximum of 20 points may be awarded for being a historically disadvantaged individual and/or achieving any of the specified goals.
- 1.7.4. The points out of 20 will be allocated as follows:

SPECIFIC GOALS	POINTS ALLOCATED OUT OF 20	FORMULA TO GRANT THE POINTS OUT OF 20
HDI: Who had no franchise in national elections before the 1983 and 1993 Constitution	8	PSSG = $MPA \times \frac{PEO}{100}$ Where: PSSG = Points scored for a specific goal MPA = Maximum points allocated for a specific goal PEO = Percentage of equity by an HDI
HDI who is a Female	8	
HDI who has a Disability	4	

POINTS	20	
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- 1.7.4.1. The points scored by a Legal practitioner(s)/Law Firm(s) concerning the goals indicated above will be added to the points scored for price.
- 1.7.4.2. Legal practitioner(s)/Law Firm(s) are required to complete the SBD 6.1 form to claim preference points.
- 1.7.4.3. Only a Legal practitioner(s)/Law Firm(s) who has completed and signed the declaration part of the SBD 6.1 preference points claim form will be considered for preference points.
- 1.7.4.4. The tenderer must submit proof of its ownership. CSD report (submit full CSD report) together with the tenderer's CIPC registration documents must be submitted to confirm proof of ownership.
- 1.7.4.5. The tenderer must submit proof of disability (if claiming points for disability). A medical certificate/letter signed by a registered medical practitioner confirming disability status will serve as proof.

1.8. TENDER REQUIREMENTS

The following is a list of the information to be provided by the Legal practitioner(s)/Law Firm(s) for the legal services sought. A proposal that does not include the information required below may be deemed non-responsive and subject to rejection. In setting forth its qualifications, each Legal practitioner(s)/Law Firm(s) should provide concise but adequate details of the information sought below.

1.8.1. PRE-QUALIFICATION/MANDATORY INFORMATION REQUIREMENTS

The Pre-qualification/Mandatory Information Requirement phase validates the tenderers' compliance with the legal requirements to conduct business in SA, as well as to specific industry requirement for the supply of services where applicable.

Please see the table below for the list of mandatory requirements and tick yes if documentation is submitted and no if not submitted.

Appendix Number	Description of Appendix	Requirement	Submitted	
Appendix A	RFP Document	Each page of the RFP document to be initialled by a delegated representative	Yes	No
Appendix B	Technical specifications and pricing	Attach your pricing schedule as per specifications	Yes	No
Appendix C	Proof of Bank Account	Provide Confirmation letter from Bank not older than 3 months	Yes	No
Appendix D	Company registration documents	Provide Company registration documents	Yes	No
Appendix E	ID Copies of directors and Shareholders (or relevant documentation)	Certified ID copies not older than six (6) months (or relevant documentation)	Yes	No
Appendix F	Tax Pin	An original valid Tax Pin	Yes	No
Appendix G	Annual Financial Statements / Annual Financial Statements	Provide fully signed Annual Financial Statements or Annual Financial Statements for the last 3 Years or	Yes	No

		management accounts where business is in existence for less than a year		
Appendix H	B-BBEE certification	Provide a valid B-BBEE certificate from a SANAS accredited agency or Auditor registered with the IRBA or Affidavit where turnover is less than R10M	Yes	No
Appendix I	Declaration of Interest	Complete Declaration of Interest	Yes	No
Appendix J	Registration On Central Supplier Data Base (CSD)	Provide a copy of the full and summary reports of registration on National Treasury Central Supplier Database	Yes	No
Appendix K	Registration with the relevant Legal Practice Council (LPC)	Provide proof of registration of all team members as registered members of Legal Practice Council (LPC)	Yes	No
Appendix L	Valid Certificate of Good Standing	Provide valid Certificate of Good Standing: All Legal practitioner(s)/Law Firm(s) must submit their valid Certificate of Good Standing issued by the South African Legal Practice Council. For Commercial Juristic Entities, submit the valid Certificate of Good Standing of all equity partners/shareholders/ directors of the entity.	Yes	No
Appendix M	Admission Certificates (Court Orders)	The bidder/individual must have, in their current employ, admitted attorney(s). The bidder/individual must provide admission certificates of the leading partner/director/practitioner(s).	Yes	No
Appendix N	Professional indemnity and fidelity fund cover	All Legal practitioner(s)/Law Firm(s) must submit their valid Fidelity Fund Certificate as provided for in section 84 of the Legal Practice Act. All Legal practitioner(s)/Law Firm(s) practicing as either director/partners/sole practitioner, including Advocates practicing in terms of Section 34(2)(b) of the LPA are required to have a valid Fidelity Fund Certificate.	Yes	No
Appendix O	Legal Management Course	All Legal practitioner(s)/Law Firm(s) must submit proof of completion of the Legal Practice Management course as provided for in section 85 of the Legal Practice Act OR proof of full exemption from the relevant Law Society.	Yes	No

NB: No points will be allocated to this phase; however, tenders that do not meet the pre-qualification requirements will not advance to the next phase of the evaluation process.

2. STAGE 1: EVALUATION OF FUNCTIONALITY

The evaluation criterion for functionality aims to assess the capability of the tenderer to execute and maintain a tender and/ or contract. Tenderers need to obtain a minimum percentage score of 80% and above to progress to the next stage of evaluation.

All proposals will be evaluated on the following criteria indicated below. Step 1: References table. The references must be current clients that have done business with your company for a minimum of three (3) years and more for contracts of a similar size or more with a proven record of accomplishment.

FUNCTIONALITY CRITERIA		POINTS ALLOCATED
EXPERIENCE OF THE LEADING DIRECTOR/PARTNER/PRACTITIONER ➤ The leading director/partner must demonstrate at least three (3) years of relevant post-admission experience in each practice area(s) in respect of which the bid is submitted. Please refer to the Table in 1.8.1. of this RFP for the format in which the required information must be provided. The bidder should indicate on the Table in 1.8.1. the legal project(s)/ or legal work that the lead director/ partner has done and led for the relevant/applicable period of their indicated experience. ➤ The points will be allocated as follows: <ul style="list-style-type: none"> ▪ 9 and more years of experience = 20 points ▪ 6 – 8 years of experience = 15 points ▪ 3 – 5 years of experience = 10 points 	= 20 points = 15 points = 10 points	20
UNDERSTANDING OF TVET/HIGHER EDUCATION INSTITUTIONS (HEI) ENVIRONMENT AND SCOPE OF WORK The bidder must demonstrate a clear understanding of our business model, and scope of work at hand. The bidder must provide a detailed writeup, outlining their understanding of TVET/HEI business model and scope of work for their selected practice areas. If the bidder selected more than one practice area, they are to provide separate writeup for each practice area. The points will be allocated as follows: ➤ The bidder's understanding of TVET/HEI business model exceeds expectations = 10 points. ➤ The bidder's understanding of TVET/HEI business model meets expectation = 7 points. ➤ The bidder's understanding of TVET/HEI business model does not meet expectations = 3 points.	= 20 points = 14 points = 6 points	20
PROJECT EXECUTION PLAN (PEP) (METHODOLOGY AND APPROACH FOR LEGAL SERVICES FOR EACH PRACTICE AREAS). The bidder must provide a clear statement (methodology) for selected practice area(s), on how typical legal instruction relating		

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<p>to the selected practice area(s) will be carried out (e.g., how a litigation or legal opinion service will be provided, including resources to be allocated, applicable timelines, engagements with the college, etc.). The bidder's methodology must clearly state the following:</p> <p>➤ Resources: The bidder must clearly state and demonstrate how its resources will be implemented. For example, the team that will be allocated to do the task, and how such resources will be utilized. E.g., At least one resource must be admitted attorney. The points will be allocated as follows:</p> <ul style="list-style-type: none"> ▪ The bidder's resources exceed expectations = 40 points ▪ The bidder's resources experience meets expectations = 32 points ▪ The bidder's resources experience failed to meet expectations = 8 points <p>➤ Timelines: The bidder must clearly state their timelines for each field of practice they are bidding for. For example, the bidder must state their timelines regarding preparing opinions, drafting contracts etcetera (bidders are not expected to talk about litigious/ litigation matters as they vary in terms of timelines). A Legal practitioner(s)/Law Firm(s) that does not provide a proposal showing timelines will be discounted by 10 points.</p> <p>Note: The requirements as stipulated under "methodology, and approach for legal services" are not limited to the above requirements as listed in bullet points. Bidders are expected to go an extra mile in terms of demonstrating their understanding of these requirements.</p>	<p>= 20 points = 16 points = 4 points</p>	<p>20</p>
<p>CAPACITY TO DELIVER QUALITY SERVICE ON TIME AND GOOD UNDERSTANDING OF PROJECT MANAGEMENT</p> <p>The bidder should indicate whether it has the capacity to meet the requirements contained in the Terms of Reference:</p> <p>Senior Attorneys and Senior Advocates with over 3 years of High Court litigation experience with judgments in at least 3 finalized trial or opposed motion matters (case numbers required) in the relevant specialized law field = 07 points.</p> <p>Junior Attorneys and Junior Advocates with 10 to 3 years of practical experience in non-litigious matters within the specialized law field = 03 points.</p> <p>Financial resources (financial statements) = 05 points</p> <p>Reported Cases or Journals (Attach copies of the reported cases attended to by your law Legal practitioner(s)/Law Firm(s)s)</p> <ul style="list-style-type: none"> ▪ Attach the reported case and journal = 05 points 	<p>= 30 points = 16 points = 8 points = 6 points</p>	<p>30</p>
<p>REFERENCE CHECKS AND REFEREES</p>		

The bidder must submit at least three (3) relevant clients references that were serviced in the last 5 years consistent with the criteria description within providing legal practice function. Ad hoc projects will not be scored. Provide verifiable written references: <ul style="list-style-type: none"> ▪ 5 and more written verifiable references = 10 points ▪ 3 3 written verifiable references = 05 points ▪ 	= 10 Points = 05 points	10
Total points		100

3. AWARDING OF BIDS, ALLOCATION OF WORK AND PAYMENTS

- 3.1. The College reserves the right to accept any bid or part thereof and does not bind itself to accept any bid.
- 3.2. The panel will be composed of all Legal practitioner(s)/Law Firm(s) who have met the minimum requirements.
- 3.3. An RQF will be sent to panelists per specific category requesting them to submit a financial offer within the specified timeframe, which will be evaluated at the best price.
- 3.4. The allocation of instructions will be done on a fair distribution of work per legal category which is subject to the performance of the Legal practitioner(s)/Law Firm(s) as monitored by the College Principal or his or her delegate.
- 3.5. Successful Legal practitioner(s)/Law Firm(s) will be required to submit monthly invoices on work done, if applicable.
- 3.6. The College reserves the right to expand the panel by Re-advertising a particular category of legal work under the same requirements and for the same contract period.

4. LEGAL PRACTITIONER(S)/LAW FIRM(S) MUST ATTACH THE FOLLOWING COMPULSORY BID DOCUMENTS:

ATTACH PROOF OF HIGH COURT ADMISSION AS ATTORNEY/S

ATTACH PROOF OF FIDELITY FUND CERTIFICATE

ATTACH PROOF OF ADMISSION AS CONVEYANCER (if applicable)

ATTACH PROOF OF RIGHT OF APPEARANCE

ATTACH PROOF OF ADMISSION AS NOTARY (if applicable)

ATTACH PROOF OF INSURANCE COMPLIANCE

4.1. RESOLUTIONS WHERE THE LEGAL PRACTITIONER(S)/LAW FIRM(S) IS NOT A NATURAL PERSON

ATTACH PROOF OF ADDITIONAL QUALIFICATIONS

ATTACH REFERENCE LETTERS

ATTACH CV

Any disbursement claimed by a successful Legal practitioner(s)/Law Firm(s) must be accompanied by sufficient proof.

I, hereby on behalf of _____ confirm that the fees as set out above (Excl. VAT) to be paid for the work done in terms of this BID are accepted

SIGNATURE OF THE PERSON AUTHORISED TO SIGN BID DOCUMENTS

NAME IN BLOCK LETTERS

DESIGNATION

DATE

Documents to be fully completed and signed

All pages of the bidding documents need to be completed and signed in full in blank ink. Only the original tender document will be accepted.

NAME: _____

CAPACITY: _____

SIGNATURE: _____

DATE: _____

INVITATION TO BID

PART A

SBD 1

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF WESTOL TVET COLLEGE					
BID NUMBER:	WTC (L/CORP) 06/2025		CLOSING DATE:	15 OCTOBER 2025	CLOSING TIME: 11:00
DESCRIPTION	TENDERS ARE HEREBY INVITED FROM FOR REGISTERED AND EXPERIENCED PANEL OF LEGAL PRACTITIONER(S)/ LAW FIRM(S) FOR THE PROVISION PROFESSIONAL LEGAL SERVICES ON AN AS AND WHEN REQUIRED BASIS FOR THIRTY-SIX (36) MONTHS.				
THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (MBD7).					
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
WESTERN TVET COLLEGE					
42 JOHNSTONE STREET, 1760					
HECTORTON, HOMELAKE					
RANDFONTEIN					
1760					
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					
TAX COMPLIANCE STATUS	TCS PIN:		OR	CSD No:	
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]	Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT <input type="checkbox"/> Yes <input type="checkbox"/> No		
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]					

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED? <input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED? <input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER PART B:3]
TOTAL NUMBER OF ITEMS OFFERED	TOTAL BID PRICE
SIGNATURE OF BIDDER	DATE
CAPACITY UNDER WHICH THIS BID IS SIGNED	
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:	
DEPARTMENT/ DIVISION	Supply Chain Management Unit
CONTACT PERSON	Kefilwe Jobeta
TELEPHONE NUMBER	011 692 4004 /1080
FACSIMILE NUMBER	011 692 3404
E-MAIL ADDRESS	kjobeta@westcol.co.za

PART B
TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:

- 1.1 BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
- 1.2 ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED (NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.
- 1.3 THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, THE GENERAL CONDITIONS OF CONTRACT(GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.

2. TAX COMPLIANCE REQUIREMENTS

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

3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

- 3.1 IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? ☐ YES ☐ NO
- 3.2 DOES THE ENTITY HAVE A BRANCH IN THE RSA? ☐ YES ☐ NO
- 3.4 DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? ☐ YES ☐ NO
- 3.5 DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? ☐ YES ☐ NO
- 3.6 IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? ☐ YES ☐ NO
- IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.**

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

SIGNATURE OF BIDDER:

CAPACITY UNDER WHICH THIS BID IS SIGNED:
(Proof of authority must be submitted e.g. company resolution)

DATE:

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 interest¹ 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 institution

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

2.2.1 If so, furnish particulars:

.....

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

1 the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/shaving the deciding vote or power to influence or to direct the course and decisions of the enterprise

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 consortium² 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 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.

2 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.

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS1, 2 and 3 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACTAGAINST 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

.....
Bidding entity

WESTERN TVET COLLEGE

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
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.2 The applicable preference point system for this tender is the 80/20 preference point system.

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 The maximum points for this tender are allocated as follows:

	Points
Price	80
Specific Goals	20
Total Points for Price and Specific Goals	100

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 request 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 tenders, 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.

“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).
- (f) **“comparative price”** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration.
- (g) **“consortium or joint venture”** means an association of person for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.
- (h) **“contact”** means the agreement that results from the acceptance of a bid by an organ of state.
- (i) **“EME”** means an Exempted Micro Enterprise as defined by Codes of Good Practice issued in terms of section 9 (1) of the Broad Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (j) **“Firm price”** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, the execution of the contract;
- (k) **“functionality”** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, considering, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder.
- (l) **“non-firm prices”** means all prices other than “firm” prices;
- (m) **“person”** includes a juristic person.
- (n) **“QSE”** means a Qualifying Small Enterprise as defined by Codes of Good Practice issued in terms of section 9 (1) of the Broad- Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003)
- (o) **“rand value”** means the total estimated value of a contract in South African currency, calculated at the time of the bid invitations, and includes all applicable taxes and excise duties.
- (p) **“sub-contract”** means the primary contractor’s assigning, leasing, making out work to, or employing, another person to] support such primary contractor in the execution of part of a project in terms of the contract
- (q) **“total revenue”** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9 (1) of the Broad-Based Economic Empowerment Act and promulgated in the Government Gazzetted on 9 February 2007.
- (r) **“trust”** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person.

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES POINTS AWARDED FOR PRICE

THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

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

80/20 or 90/10

$$Ps = 80 \left(1 - \frac{Pt - P_{min}}{P_{min}} \right) \text{ or } Ps = 90 \left(1 - \frac{Pt - P_{min}}{P_{min}} \right)$$

Where

Ps = Points scored for price of tender under consideration
 Pt = Price of tender under consideration
 Pmin = Price of lowest 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 in the table below.

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 (90/10 system) (To be completed by the organ of state)	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed. (90/10 system) (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)
Price	X	80	X	
HDI: Who had no franchise in national elections before the 1983 and 1993 Constitution	X	8	X	
HDI who is a Female	X	8	X	
HDI who has a Disability	X	4	X	

4. DECLARATION WITH REGARD TO COMPANY/FIRM

4.1 Name of company/firm.....

4.2 VAT registration number.....

4.3 Company registration number.....

4.4 TYPE OF COMPANY/ FIRM

- ☐ Partnership/Joint Venture / Consortium
- ☐ One person business/sole propriety
- ☐ Close corporation
- ☐ Company
- ☐ (Pty) Limited
- [TICK APPLICABLE BOX]

DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....
.....
.....

4.6 COMPANY CLASSIFICATION

- ☐ Manufacturer
- ☐ Supplier
- ☐ Professional service provider
- ☐ Other service providers,
e.g. transporter, etc.
- [TICK APPLICABLE BOX]

4.7 MUNICIPAL INFORMATION

Municipality where business is situated.....

Registered Account Number:

Stand Number

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

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

- i) The information provided 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 paragraph 7, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct.
- iv) If the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –

disqualify the person from the bidding process.

(b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct.

- (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation.
- (d) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, 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.

5. Previous experience

Provide the following information on relevant previous experience (indicate specifically projects of similar or larger size and/or which is similar with regard to type of work).

Description	Value (R, Vat excluded)	Year(s) executed	Reference		
			Name	Organization	Tel no

6. Staffing Profile

Provide information on key staff you intend utilizing on this contract, should it be awarded to you.

Name	Position in your organization	Qualifications	Experience

7. Infrastructure and resources available to execute this contract

7.1 Physical facilities

Description	Address	Area (m²)

7.2 Plant and equipment

Description: Plant and equipment owned (or to be rented)	Number of units

7.3 List of shareholders by Name, Position, Identity number, Citizenship, HDI status and ownership as relevant.

Name	Date/Position Occupied in Enterprise	ID Number (please attach certified copies of ID's	Date RSA Citizenship obtained.	HDI	Women	Disabled	Youth (person not older than 35 years of age)	% of business/ enterprise owned

7.4 List of shareholders by Name, percentage (%) of business/enterprise owned, residential address.

Full Name	Identity (ID) number (Please find attached certified copies of ID's)	% of business / enterprise owned	Residential Address	

AUTHORITY FOR SIGNATORY

Please note that sole proprietors or "one person business" are not required to submit an official and duly signed authority of signatory.

Signatories for close corporations and companies shall confirm their authority by sign on behalf of the company/firm **by attaching to this page** a duly signed and dated copy of the relevant resolution of their members or their board of directors, as the case may be.

An example for a company is shown below:

Printed on company letterhead:

"By resolution of the board of directors passed on _____ 20 ____

Mr _____

has been duly authorized to sign all documents in connection with the bid for

Tender _____ No _____ and any Contract, which may arise there from on behalf of

SIGNED ON BEHALF OF THE COMPANY _____

IN HIS CAPACITY AS _____ CAPACITY AS _____

DATE: _____

SIGNATURE OF SIGNATORY: _____

AS WITNESSES: 1 _____

2 _____

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

- (i) The information furnished is true and correct.
- (ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form.
- (iii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 7, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct.
- (iv) If the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
 - (a) disqualify the person from the bidding process.
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct.
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation.
 - (d) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after the audi alteram partem (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution

SIGNATURE(S) OF TENDERER(S)

SURNAME AND NAME:

DATE:

ADDRESS:

.....

.....

SPECIAL CONDITIONS OF CONTRACT ("SCC") FOR THE PROVISION OF GOODS OR SERVICES

1. INTERPRETATION AND DEFINITIONS

1.1 In this **SCC** and the **GCC**, unless clearly inconsistent with or otherwise indicated by the context, the following words, terms or phrases have the following meanings:

- 1.1.1 "**This Agreement**" means the documents specified in clause 5 of the Contract Form, in that order of priority.
- 1.1.2 "**Business Day**" means any day other than a Saturday, Sunday or official public holiday in South Africa.
- 1.1.3 "**Confidential Information**" means the terms of **this Agreement**, any information concerning either party or its stakeholders and customers including its operations, business and financial affairs and all other matters which relate to the business of either party and in respect of which information is not readily available in the ordinary course of the business to a competitor of such party or to any third party, proprietary information or secret information.
- 1.1.4 "**Created Intellectual Property**" means all copyright works, inventions, improvements to inventions and novel designs whether or not registrable as designs or patents including any development or improvement to equipment, technology, methods, processes or techniques made by or on behalf of **the Supplier** during, in connection with or arising out of the provision of **the Goods**.
- 1.1.5 "**Effective Date**" means the date of signature of **this Agreement** by the authorised representative of **WESTCOL**.
- 1.1.6 "WESTCOL" means the Western College for FET, a juristic person established in terms of the FET Act 16 of 2006 (as amended 2012), as well as its successor in title and any other juristic person to whom **WESTCOL's** rights and obligations may be assigned and devolve upon.
- 1.1.7 "**Goods**" means the goods and / or services specified in **the Specification**, read with the Bidder's Proposal.
- 1.1.8 "**Intellectual Property Rights**" means all rights in and to the intellectual property including, without limitation, any know-how, patent, copyright, registered design, trademark or other industrial or intellectual property, whether registered or not and whether or not capable of being registered and any application for any of the aforementioned.
- 1.1.9 "**Implementation Date**" means the date on which the provision of **the Goods** commences.
- 1.1.10 "**Performance Undertakings**" means the **Performance Undertakings** as set out in **the Specification**.
- 1.1.11 "**Service Level Breach**" means a failure by **the Supplier** to maintain a target specified in respect of one or more of the **Performance Undertakings**.
- 1.1.12 "**The Specification**" means **the Specification** attached to the tender document at section 5 of the tender document.
- 1.1.13 "**Supplier**" means the party described as such in the **Contract Form**, or in lieu of a

Contract Form the party described as **the Supplier** in the Purchase Order issued by **WESTCOL** (whichever is applicable).

1.2 Any reference to the singular includes the plural and vice versa.

1.3 Any reference to natural persons includes legal persons and vice versa.

1.4 Any reference to a gender includes the other gender/s.

1.5 Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.

1.6 Where any number of days is prescribed in this Agreement same shall be considered to be calendar days and reckoned exclusive of the first and inclusive of the last day unless the last day falls on a Saturday, Sunday or public holiday, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday in the Republic of South Africa.

1.7 The use of the word "including" or "includes" followed by a specific example shall not be construed as limiting the meaning of the general wording preceding it and the *eiusdem generis* rule shall not be applied in the interpretation of such general wording or such specific example.

1.8 The rule of construction that an agreement shall be interpreted against the party responsible for the drafting or preparation of this Agreement, shall not apply.

1.9 The clause headings in this Agreement have been inserted for convenience only and shall not be taken into account in its interpretation.

1.10 Records shall be binding on the parties and are not for information purposes only.

1.11 Words and expressions defined in any sub-clause shall, for the purposes of the clause of which that sub-clause forms part, bear the meaning assigned to such words and expressions in that sub-clause.

1.12 To the extent that there is a conflict between the provisions of the documents that form part of this Agreement, such conflict shall be decided with reference to the preference of documents as contained in the Contract Form.

1.13 Terms other than those defined within this Agreement will be given their plain English meaning, and those terms, acronyms, abbreviations and phrases known in the relevant industry to which this Agreement applies shall be interpreted in accordance with their generally known meanings in such industry.

1.14 Any reference to any statute or statutory regulation shall include a reference to any amendments thereto and to the successor/s in title to such statutes and statutory regulations.

1.15 Any reference to any organisation, institution, office, body, department, organ or person vested with certain powers and authority shall include a reference to its successor/s in title.

1.16 The expiration or termination of this Agreement shall not affect those provisions of this Agreement which expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or

termination, notwithstanding the fact that the clauses themselves do not expressly provide for this.

- 1.17 If any provision in a recordal, preamble or definition is a substantive provision conferring rights or imposing obligations on any party, effect shall be given to it as if it were a substantive clause in the body of this Agreement.
- 1.18 This Agreement shall be governed by and construed and interpreted in accordance with the laws of the Republic of South Africa.
- 1.19 Wherever the GCC refer to the SCC, such reference shall be read to include reference to the Specification.

2. RECORDAL

- 2.1 The SCC is WESTCOL'S standard terms and conditions of contract and constitutes part of this Agreement between WESTCOL and the Supplier, or in lieu of a Contract Form, constitutes part of the Purchase Order issued by WESTCOL to the Supplier (whichever is applicable).
- 2.2 The details and requirements of **the Goods** to be provided to **WESTCOL** are contained in **the Specification** and any additions or amendments thereto furnished to **the Supplier** during the procurement process. It is recorded that **the Supplier** has accepted these provisions.

3. DURATION

- 3.1 This Agreement shall come into effect on the Effective Date and, unless terminated in accordance with the provisions of this Agreement, shall endure for the term of this Agreement specified in the Specification, calculated from the Implementation Date.
- 3.2 **The Supplier** acknowledges and agrees that any and all work performed prior to the **Effective Date** and all work performed after the expiry of the term of **this Agreement**, shall be at **the Supplier's** sole risk and **the Supplier** shall be without recourse against WESTCOL.

4. WARRANTY

4.1 **The Supplier warrants that:**

- 4.1.1 has the capacity to execute, deliver and undertake its obligations in terms of this Agreement and all the necessary corporate and other action has been taken to authorise the aforementioned execution, delivery and undertaking.
- 4.1.2 it is fully experienced and properly organised, financed, equipped, manned, qualified, licensed and able to fulfil its obligations under **this Agreement**.
- 4.1.3 the provision of **the Goods** will be undertaken by appropriately experienced and suitably qualified employees in a proper and professional manner, in accordance with all applicable laws including the Occupational Health and Safety Act, 1993, good industry practice and its own as well as **WESTCOL's** established internal procedures.
- 4.1.4 it shall provide **the Goods** or parts thereof as the case may be, by the relevant dates.
- 4.1.5 **the Goods** shall:

- 4.1.5.1 be free from defects due to materials and/or workmanship.
- 4.1.5.2 comply with **the Specification**.
- 4.1.5.3 be fit for the purpose for which it is being acquired by **WESTCOL**.
- 4.1.5.4 not infringe any rights of any third party including intellectual property rights.
- 4.1.5.5 comply with all lawful and reasonable standards, rules and requirements set by any Authority and shall not contravene any law or any regulation of any nature whatsoever.
- 4.2 The Supplier acknowledges that WESTCOL has entered into this Agreement relying on the warranties contained in this paragraph and elsewhere in this Agreement.
- 4.3 **The Supplier** undertakes to make good by repair or replacement defects in **the Goods**, or any part thereof as the case may be, arising from any cause whatsoever, after being notified of the defect by **WESTCOL** and within the time period specified by **WESTCOL** in the aforementioned defects notice.
- 4.3.1 All costs connected to repairs and/or replacement in terms of this paragraph, including costs in respect of the transport and handling of goods incidental to **the Goods**, between **the Supplier's** premises and **WESTCOL's** premises, shall be the responsibility of **the Supplier**.
- 4.3.2 If **the Supplier** repairs or replaces any equipment, materials or workmanship this provision will also then apply to the repaired or replaced equipment, materials and workmanship for an additional period equal to the warranty period contained in the **GCC** but commencing from the date the repairs or replacement was accepted in writing by WESTCOL and the aforesaid warranty period will be extended accordingly.
- 4.3.3 It is recorded for the sake of clarity that should **the Supplier** fail to make good by repair or replacement of any defect as contemplated above within the time period stipulated by WESTCOL in the defects notice, WESTCOL shall be entitled to enforce and call upon the performance security.
- 4.4 **The Supplier** acknowledges that the provision of the Goods includes all activities and responsibilities specifically referred to in **this Agreement** as well as activities and responsibilities not mentioned herein which are necessary for proper provision thereof.

5. SUPPLIER'S RESPONSIBILITIES AND OBLIGATIONS

- 5.1 The **Supplier** must:
 - 5.1.1 manufacture and supply the **Goods** in compliance with the terms and conditions of **this Agreement**.
 - 5.1.2 attend to the delivery of the **Goods** on working days during working hours unless **the Purchaser** agrees otherwise in writing. If **the Supplier** wishes to attend to the delivery of the **Goods** outside of working hours or on **Days** that are not working days, **the Supplier** must obtain the prior written approval of **the Purchaser**. The grant of such approval is in **the Purchaser's** discretion.
 - 5.1.3 inform itself fully of the requirements of **the Purchaser** in respect of the manufacture and supply of the **Goods**.
 - 5.1.4 comply with all reasonable directions of **the Purchaser** relating to the manufacture and

supply of the **Goods**.

- 5.1.5 ensure that the manufacture and supply of the **Goods** reach the required status by the relevant dates, as required by **this Agreement**.
- 5.1.6 ensure that the **Goods** are supplied at the stipulated address to **the Purchaser's** satisfaction by the relevant dates. **The Supplier** acknowledges that time is of the essence for the supply of the **Goods**.
- 5.1.7 provide **the Purchaser's** employees with training in the operation and maintenance of the **Goods**, if applicable.
- 5.1.8 provide **the Purchaser** with comprehensive details regarding the **Goods** including replacement and overhaul frequency, as well as recommended spare parts (if applicable).
- 5.1.9 provide **the Purchaser** in writing with details of any deviation in the **Goods** from the approved design.
- 5.1.10 provide all equipment, apparatus, appliances and/or materials necessary for the manufacture and supply of the **Goods** subject to the following:
 - 5.1.10.1 all such equipment, apparatus and/or appliances must be in good working order and suited for the purpose for which they are used; and
 - 5.1.10.2 on request and at **the Supplier's** own expense provide **the Purchaser** with samples of all materials to be used. If testing shows that the material/s do not comply with the required **Specification**, then the costs of the testing shall be paid by **the Supplier** and **the Supplier** shall replace the material with material that complies with the required specifications.
- 5.1.11 provide appropriately qualified, competent, skilled and experienced employees for undertaking the manufacture and supply of the Goods and deliver to the Purchaser information regarding the Supplier's employees on the Purchaser's request.
- 5.1.12 ensure that its employees are fully acquainted with all the obligations and responsibilities of the **Supplier** contained in this **Agreement**; provide **the Purchaser** with a list of the names of the permanent employees employed for the performance of the manufacture and supply of the **Goods**, when requested to do so by **the Purchaser**.
- 5.1.13 comply with all reasonable directions of **the Purchaser** relating to the manufacture and supply of the **Goods** including acceleration of the manufacture and supply or any activities relating thereto, suspension of the manufacture and supply or any activities relating thereto, resuming of performance of the manufacture and supply or such activities and/or rescheduling and/or reprogramming of the manufacture and supply.
- 5.1.14 provide information to **the Purchaser** on request, concerning the manner and timing of the manufacture and supply of the **Goods**.
- 5.1.15 on becoming aware of any matter which may delay the manufacture and supply of the **Goods**, promptly, but in any event no later than 3 (three) **Days** after becoming aware of the potential delay, give written notice to **the Purchaser** with detailed particulars of the cause of the delay, extent of the delay and steps taken to minimise the effect of the delay. In addition, and at its own cost, comply with all measures specified by **the Purchaser** to reduce the effects of the delay including

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increasing resources employed

- 5.1.16 consult with **the Purchaser** throughout the manufacture and supply of the **Goods** and supply any documentation reasonably requested and/or required by **the Purchaser** to use and/or operate the **Goods** including any licences including software licences (if applicable).
- 5.1.17 provide **the Purchaser** with copies of all relevant documents and/or licences issued by the authorities that relate to or are connected to the manufacture and supply of the **Goods**.
- 5.1.18 undertake the manufacture and supply of the **Goods** with the professional skill, care and diligence expected of a service provider experienced in the particular activities that are the subject of **this Agreement**.
- 5.1.19 maintain records, for a period of 5 (five) years from the end of the warranty period, and control systems that conform to the norms and standards generally accepted as good practice in the industry applicable to **the Supplier**.
- 5.1.20 if requested, provide a schedule to **the Purchaser** demonstrating **the Supplier's** resources available for the manufacture and supply of the **Goods** and to meet the dates and performance requirements listed in **the Specification**, including information regarding how **the Supplier** intends to use those resources.
- 5.1.21 arrange its activities in order to ensure that there is no danger and the least possible inconvenience caused to the public as well as the prevention of unnecessary noise or pollution or interference with public services or access to use and occupation of public roads or facilities; and
- 5.1.22 at all times act in the best interest of **the Purchaser** and avoid all conflict of interest that may arise.

6. RISK AND OWNERSHIP

- 6.1 Without derogating from the **Supplier's** obligations in terms of this **Agreement**, including in respect of remedying of defects, risk and ownership in respect of the **Goods** shall pass to the **Purchaser** once the supply and delivery of the **Goods**, as per the requirements of this **Agreement**, has been completed to the **Purchaser's** satisfaction, provided that in the event that the **Goods** are defective in whatever way and/or the **Supplier** fails to comply with the packaging and/or other requirements set out in the **Specification**, it shall be deemed that the risk in respect of such **Goods** has not so passed and the **Supplier** shall bear the risk in respect of such **Goods**.

7. SUBCONTRACTING

- 7.1 **The Supplier** shall not subcontract to any third party ("**Subcontractor**") any portion of **the Goods** that must be provided under **this Agreement** without **WESTCOL's** prior written consent.
- 7.2 **WESTCOL** shall not be under any obligation to consent to a request by **the Supplier** to subcontract to a **Subcontractor** any portion of **the Goods** that must be provided under **this Agreement**.
- 7.3 **WESTCOL** shall, when giving consideration to a request contemplated in this clause 7, take into consideration the following aspects pertaining to the **Subcontractor**:

7.3.1 An original B-BBEE Status Level Verification Certificate in respect of the **Subcontractor**, issued by an accredited verification agency, alternatively a certificate issued by the accounting officer (in respect of a close corporation) or auditor (in respect of a company) that the **Subcontractor** is an EME, furnished to **WESTCOL** by **the Supplier**.

7.3.2 An original Declaration of Interest completed and signed by the **Subcontractor** and furnished to **WESTCOL** by **the Supplier**, and

7.3.3 An original Tax Clearance Certificate in respect of the **Subcontractor** and furnished to **WESTCOL** by **the Supplier**.

7.4 **WESTCOL** may, if **WESTCOL** elects to approve a request contemplated in clause 7.1 above make such consent subject to such terms and conditions as **WESTCOL** in its sole discretion considers reasonable.

7.5 Notwithstanding that **WESTCOL** may elect to consent to a request contemplated in clause 7.1 above, such consent by **WESTCOL** shall not relieve **the Supplier** of any of **the Supplier's** obligation under **this Agreement** and **the Supplier** shall remain responsible for the actions and omission of the **Subcontractor**.

8. NON-PERFORMANCE OF THE SUPPLIER

8.1 In the event of **the Supplier** not meeting the performance standards set by **the Purchaser**, **the Purchaser** shall be entitled to call upon **the Supplier** by written notice to remedy the situation.

8.2 Should **the Supplier** fail to remedy the defective performance within 14 (fourteen) **Days** of **the Purchaser** dispatching the aforesaid notice, **the Purchaser** shall be entitled to cancel **this Agreement** forthwith and without further notice to **the Supplier**.

8.3 Following cancellation, **the Purchaser** shall be entitled to employ the services of an alternative supplier for the portion of the **Goods** that **the Supplier** has failed to supply, or which do not meet **the Purchaser's** performance standards. Any additional costs related to the employment of an additional supplier shall be for **the Supplier's** account. **The Purchaser** shall be entitled to call upon **the Supplier's** performance security in order to cover such additional costs.

8.4 Should **the Supplier** fail to meet the set performance standards, **the Purchaser** shall be entitled to cancel any outstanding payment due to **the Supplier** in terms of **this Agreement**.

9. PAYMENT

9.1 An original and detailed tax invoice must be submitted after **WESTCOL** has acknowledged receipt of **the Goods** provided in writing.

9.2 The amount invoiced must be:

- 9.2.1 inclusive of VAT.
 - 9.2.2 inclusive of all other taxes and duties which are levied or charges by any revenue authority.
 - 9.2.3 inclusive of all costs and disbursements; and
 - 9.2.4 fixed.
- 9.3 A correct and original tax invoice must be submitted to **WESTCOL** by the 1st (first) calendar day of each month.
- 9.4 All supporting documentation, including but not limited to monthly statements (where applicable) and a verification of bank details, must be received before payment can be affected.
- 9.5 **The Supplier** shall be required to verify its bank account details by furnishing **WESTCOL** with a letter from its bank with a bank stamp, alternatively it shall furnish **WESTCOL** with a cancelled cheque.
- 9.5.1 The following bank details must be verified:
 - 9.5.1.1 Account Holder and any Trading Names
 - 9.5.1.2 Bank Name
 - 9.5.1.3 Branch Name
 - 9.5.1.4 Branch Code
 - 9.5.1.5 Account Number
 - 9.5.1.6 Type of Account
- 9.6 Payment will be made by **WESTCOL** within 30 (thirty) days of receipt of the invoice from **the Supplier**, on condition that the invoice is correct and contains all the information required by **WESTCOL**.
- 9.7 **WESTCOL** may deduct and set off against any Payment due to **the Supplier** in terms of **this Agreement** any amount due or which may become due to it by **the Supplier** under **this Agreement** or otherwise as well as any Penalties not reflected in the invoice. This shall not prevent **WESTCOL** from separately recovering from **the Supplier** any debt owed by **the Supplier** to **WESTCOL** under **this Agreement**.
- 9.8 If an invoice and supporting documentation is submitted to **WESTCOL** after the 1st (first) calendar day of the month it shall only be paid by the end of the following month.
- 9.9 Should the documentation be incomplete, incorrect or late, payment shall only be affected once the correct and complete documents are received and only when **WESTCOL** is able to confirm the correctness of the amounts being invoiced. Payment shall then be made in terms of the provisions of this clause. No penalty interest shall be permitted to be charged by **the Supplier** in this event.
- 9.10 **The Supplier** acknowledges that the pricing specified in **this Agreement** is intended to compensate **the Supplier** fully for all **Services** provided pursuant to **this Agreement**. Accordingly, **WESTCOL** will not be obliged to pay **the Supplier** any amounts in addition to those specifically described in **this Agreement**.

- 9.11 Payment shall be affected by electronic bank transfer, or any other method of payment decided to be used by **WESTCOL** from time to time and at **WESTCOL's** sole discretion.
- 9.12 Value Added Tax (VAT) shall be charged on all invoices, which must include **the Supplier's** VAT registration number, in terms of the Value Added Tax legislation applicable in the Republic of South Africa.

10. PENALTIES

- 10.1 **The Supplier** acknowledges that **WESTCOL** will be prejudiced should **the Supplier** fail to strictly comply with the terms of **this Agreement** and **the Specifications**
- 10.2 In the event that **the Supplier** fails to strictly comply with the terms of **this Agreement** and **the Specification**, **WESTCOL** shall be entitled to levy the penalties stipulated in **the Specification**.
- 10.3 Notwithstanding anything to the contrary, **WESTCOL** may in its sole discretion elect to waive a penalty and pursue a claim for damages instead.
- 10.4 **The Supplier** shall credit **WESTCOL** with the penalties due to **WESTCOL** for a particular month in the invoice issued for payment in respect of that month. If all outstanding invoices have already been paid by **WESTCOL**, **WESTCOL** shall be entitled to payment of the penalties due within 30 days of demand on **the Supplier** by **WESTCOL**.
- 10.5 **WESTCOL** shall be entitled to call on the performance security in order to recover penalties from **the Supplier**.

11. CONFIDENTIAL INFORMATION

- 11.1 The parties shall hold in confidence all **Confidential Information** received from each other and not divulge the **Confidential Information** to any parties, including any of their employees, agents, consultants and sub-contractors directly, unless the parties are involved with the execution of **this Agreement** and then only on a need-to-know basis.
- 11.2 The parties shall prevent disclosure of the **Confidential Information**, except as may be required by law.
- 11.3 The parties agree that they shall protect each other's **Confidential Information** using the same standard of care that each party applies to safeguard its own **Confidential Information** and that the information shall be stored and handled in such a way as to prevent any unauthorised disclosure thereof.
- 11.4 Within thirty (30) days after the termination of **this Agreement**, for whatever reason, the receiving party of **Confidential Information** shall return same or at the discretion of the disclosing party of such **Confidential Information**, destroy such **Confidential Information**, and shall not retain copies, samples or excerpts thereof.
- 11.5 The disclosing party of **Confidential Information** may at any time request the receiving

party of such **Confidential Information** to return any material containing, pertaining to or relating to **Confidential Information** disclosed pursuant to the terms of **this Agreement**, and may in addition request the receiving party to furnish a written statement to the effect, that upon such return, the receiving party has not retained in its possession or under its control either directly or indirectly any such material.

11.6 As an alternative to the return of the material contemplated in 11.5 above, the receiving party shall at the instance of the disclosing party, destroy such material and furnish the disclosing party with a written statement to the effect that all such material has been destroyed.

11.7 The receiving party shall comply with the request in terms of clauses 11.5 and 11.6, within fourteen (14) days of receipt of same.

11.8 It is recorded that the following information shall, for the purpose of **this Agreement**, not be considered to be **Confidential Information**:

11.8.1 Information known to the receiving party prior to the date that it was disclosed to it by the other party; or

11.8.2 Information known to the public or generally available to the public prior to the date that it was disclosed by either of the parties to the other; or

11.8.3 Information which becomes known to the public or becomes generally available to the public subsequent to the date that it was disclosed by either of the parties to the other, through no act or failure to act on the part of the recipient of such Information; or

11.8.4 Information which either of the parties, in writing, authorises the other to disclose.

11.9 For the avoidance of any doubt, no provision of **this Agreement** should be construed in such a way that the disclosing party is deemed to have granted its consent to the receiving party to disclose the whole or any part of the **Confidential Information** in the event that the receiving party receives the request for the whole or any part of the **Confidential Information** in terms of the provisions of the Promotion to Access to Information Act No. 2 of 2000.

11.10 Breach of these obligations shall, without prejudice to any other rights that the parties have in law and or in terms of **this Agreement** entitle **WESTCOL** to recover damages from **the Supplier**.

12. WARRANTIES

12.1 **The Supplier** warrants that **the Goods** supplied by it in terms of **this Agreement** shall be new, unused and fit for their intended purpose.

12.2 Where **the Supplier's Goods** supplied to **WESTCOL** in terms of **this Agreement** include or come with certain warranties or guarantees, these shall be incorporated into **this**

Agreement as if specifically mentioned and **WESTCOL** shall receive the full benefits thereof.

12.3 All representations made by **the Supplier** in this regard whether in writing or verbally shall be deemed to be incorporated into **this Agreement** as if specifically stated.

12.4 Where a dispute arises regarding the terms and conditions of such warranties or guarantees and the representations made by **Supplier**, then the standard practice of **the Supplier** in giving such warranties in the normal course of its business shall be deemed to apply as the minimum warranty or guarantee benefits due to **WESTCOL**.²

13. CESSION AND ASSIGNMENT

The Supplier shall not cede, assign, abandon or transfer any of its rights and/or obligations in terms of **this Agreement** (whether in part or in whole) or delegate any of its obligations in terms of **this Agreement**, without the prior written consent of **WESTCOL**.

14. NON-EXCLUSIVE AGREEMENT

WESTCOL is not obliged to make exclusive use of **the Supplier**. Nothing in **this Agreement** shall be interpreted as precluding **WESTCOL** from procuring similar or equivalent products or service from other suppliers.

15. CONTRACTUAL RELATIONSHIP – COMMUNICATIONS AND CONSENSUAL EFFORTS AT RESOLUTION

15.1 **The Supplier** may not make a statement or furnish any information or cause any information to be furnished to any news media, on or regarding any matter relating to the contractual relationship between the parties, except with the prior written permission of the Chief Executive Officer of **WESTCOL**.

15.2 The parties agree that they shall inform each other as soon as possible about any problem relating to the contractual relationship between them that either of them may experience, and further that they shall make all reasonable effort to resolve any such problem consensually.

16. RELATIONSHIP

This Agreement does not constitute either of the Parties an agent or representative of the other for any purpose whatsoever and neither of the parties shall be entitled to act on behalf of, or to represent, the other unless duly authorised thereto in writing.

17. LIMITATION OF LIABILITY AND INDEMNIFICATION

17.1 **WESTCOL** shall not be liable for any damages arising out of death or injuries sustained by **the Supplier's** employees, consultants, agents, representatives or sub-contractors whilst such persons are on any premises or in any vehicle owned by **WESTCOL** or used by **the**

Supplier or arising out of any damage or loss of any property belonging to **the Supplier** or any such persons on or in such premises or property, whether such injury or damage or loss is caused by the negligence by **WESTCOL** or any of its employees, consultants, agents, representatives or sub-contractors or by any other cause whatsoever.

17.2 **The Supplier** indemnifies **WESTCOL** against any claims that may arise from the performance of its functions and actions in terms of **this Agreement** and that of their employees, consultants, agents, representatives or sub-contractors.

17.3 Each party hereby indemnifies the other party against all damages, losses or liabilities caused due to an event which is at its risk or due to its negligence, either contractually or delictually. The liability of each party to indemnify the other party shall be reduced proportionally if the event at the other party's risk or negligence contributed to the damage, loss or liability.

17.4 **The Supplier** shall ensure that it and its employees, consultants, agents, representatives and subcontractors concerned do not in any way infringe or allow any infringement of any other party's **Intellectual Property Rights** in the performance of this contract, and **the Supplier** hereby indemnifies and holds **WESTCOL** harmless from and against any claims arising against **WESTCOL** as a result of any such infringements by **the Supplier** of such **Intellectual Property Rights**.

17.5 Neither party shall be liable towards the other for any indirect or consequential loss of any nature and howsoever incurred.

18. INSURANCE

18.1 Without limiting **WESTCOL** liabilities or responsibilities in terms of **this Agreement**, **the Supplier** shall provide insurance to cover its liabilities and responsibilities in terms of **this Agreement**.

18.2 Notwithstanding anything elsewhere contained in this **Agreement**, **WESTCOL** shall provide at least:

18.2.1 Insurance in terms of the Compensation for Occupational Injuries and Diseases Act, 130 of 1993. **The Supplier** shall upon request from **WESTCOL** submit proof to the satisfaction of **WESTCOL** that **the Supplier** is insured under the Compensation for Occupational Injuries and Diseases Act by providing **WESTCOL** with adequate proof stating that it has paid all assessments due.

18.2.2 Insurance covering legal liability in respect of claims for death of/or injury to persons or loss of/or damage to third party property.

18.2.3 Motor vehicle liability insurance in respect of all motor vehicles brought onto the premises of **WESTCOL**.

18.3 **WESTCOL** shall have the right to examine the policies maintained by **the Supplier** at any time during the term of **this Agreement**.

19. OCCUPATIONAL HEALTH AND SAFETY ACT, 1993 ("OHS Act")

19.1 Without derogating from the generality of the obligations set out in **this Agreement**, **the Supplier** undertakes and warrants that it shall in respect of all activities conducted in respect of **this Agreement**:

19.1.1 at all times comply with the provisions of the OHS Act.

19.1.2 acquaint all its employees with the provisions and requirements of the OHS Act.

19.1.3 not endanger the health and safety of any of its or **WESTCOL's** employees in any way whilst provided **the Goods** and/or are present at **WESTCOL's** premises.

19.1.4 accepts responsibility for compliance with the duties, obligations and prohibitions imposed by the OHS Act and expressly absolves **WESTCOL** from being obliged to comply with any of the aforesaid duties, obligations and prohibitions relating to the provision of **the Goods**; and

19.1.5 shall assume the responsibility of an employer in terms of the OHS Act and, if **the Supplier** assigns any duty as provided for in the OHS Act, shall immediately provide **WESTCOL** with a copy of such written assignment.

19.2 **WESTCOL** shall be entitled to request **the Supplier** to remove any employee, agent, consultant or **Subcontractor** from its team if **WESTCOL** is of the opinion that such a person is a security or safety risk or that the conduct of such a person is detrimental to the relationship between the parties. Such a person must be removed by **the Supplier** within the time period stipulated by **WESTCOL**. **The Supplier** indemnifies **WESTCOL** against any claims that might arise due to such removal.

20. CANVASSING, GIFTS, INDUCEMENTS AND REWARDS

20.1 **The Supplier** shall not under any circumstances offer, promise or make any gift, payment, loan, reward, inducement, benefit or other advantage to any of **WESTCOL's** employees, consultants or subcontractors.

20.2 Such an act shall constitute a material breach of **this Agreement** and **WESTCOL** shall be entitled to terminate **this Agreement** forthwith, without prejudice to any of its rights in terms of **this Agreement** or in law.

21. MEETINGS

21.1 If the nature of **the Goods** provided to **WESTCOL** dictate it, authorised representatives of the parties must attend periodic meetings at such intervals as such representatives may

agree from time to time but in any event not less than once every two weeks. The meetings shall take place at the location and at such times as the representatives may agree.

21.2 Each party's representatives shall be entitled to place such items which they intend discussing at a meeting on the agenda for the meeting and shall give the representatives of the other party notice of all such items by no later than 16h00 two (2) days preceding the day on which the meeting is to be held.

21.3 **The Supplier** shall not be entitled to payment from **WESTCOL** for time spent attending the aforementioned meetings.

22. CHANGE ORDER

22.1 In **this Agreement** "**Change Order**" means a document which is used for the specific purpose of recording the details of any amendments, deletions, insertions or additions to **this Agreement** and which shall be signed by the authorised representatives of both parties before becoming effective and binding on the parties.

22.2 Should the parties wish to make any amendment, deletion, insertion or addition to **this Agreement** the parties shall prepare a **Change Order**.

22.3 No **Change Order** shall be of any force or effect until it is executed by the duly authorised signatories of each of the parties.

22.4 Each executed **Change Order** shall be subject to the terms and conditions contained in **this Agreement**, except as otherwise expressly provided for in such **Change Order** by the parties by specifically stating the parties' intention to amend such terms and conditions of **this Agreement** and identifying the specific terms and conditions being amended.

22.5 A unique, sequential, number shall be allocated to each **Change Order**.

22.6 The authorised representative of WESTCOL, for purposes of executing a **Change Order**, is **WESTCOL's** Chief Executive Officer.

22.7 No terms and conditions contained in, without limitation, any purchase order, quote, invoice, statement or similar document, other than a **Change Order** executed in pursuance to this clause 22, shall have the effect of changing any term or condition contained in this **Supplier Agreement**.

23. COMPLIANCE WITH LAWS AND TAX OBLIGATIONS

23.1 **The Supplier** warrants that it complies with all laws and regulations applicable to it, with its legal obligations pertaining to its business in general and with its obligations contained in **this Agreement** as well as with all applicable requirements of any government department (whether national, provincial or local), other public authorities and regulating bodies (whether statutory or voluntary), and undertakes to continue to take all reasonable

and necessary steps to ensure that such compliance is maintained.

23.2 **The Supplier** warrants that any of its undertakings in terms of **this Agreement** do not constitute a contravention in terms of any statute, statutory regulation, other law or regulating body's rules that it is bound by and undertakes to continue to take all reasonable and necessary steps to ensure that this remains so.

23.3 **The Supplier** furthermore specifically warrants that it complies with all of its obligations in terms of all tax laws and regulations applicable to it, including but not limited to all of its obligations pertaining to the payment of income tax, capital gains tax, employees tax (PAYE and SITE), value added tax, skills development levies, unemployment insurance **Fund** levies, workmen's compensation **Fund** levies, regional **Services** council levies and all other taxes and levies payable both now or in the future and whether it is liable in the Republic of South Africa or other jurisdictions, and undertakes to continue to take all reasonable and necessary steps to ensure that this remains so.

23.4 **The Supplier** specifically warrants that it is well acquainted with its obligations as a taxpayer, provisional taxpayer, employer, employee, labour broker, personal service company, personal service trust and the like (as the case may be) and its income tax, employees taxes and levies (SITE, PAYE, UIF, SDL, others) and other tax implications and obligations in terms of the Income Tax Act as a whole and specifically the Fourth Schedule thereto, and their successor/s in title.

23.5 Without limiting in any manner whatsoever the generality of **the Supplier's** above obligations, **the Supplier** shall, for the full and uninterrupted duration of **this Agreement**, ensure that **WESTCOL** is:

23.5.1 Placed in possession of an original, valid, unexpired Tax Clearance Certificate, issued by the

South African Revenue **Services**; and/or

23.5.2 Furnished with a new, original, valid, unexpired Tax Clearance Certificate issued by the South African Revenue Services, not less than 30 (thirty) days prior to the expiry of the Tax Clearance Certificate contemplated in clause 23.5.1 above, in the event of any such Tax Clearance Certificate expiring during the duration of this Agreement.

23.5.3 Notwithstanding anything seemingly to the contrary in **this Agreement**, until **the Supplier** complies fully with its obligation under this clause 23, **WESTCOL** has the right to withhold payment of any unpaid amounts due in terms of **this Agreement**.

23.5.4 Without prejudice to any other rights which **WESTCOL** may have in terms of **this Agreement** or in law; and

23.5.5 Without interest accruing on the amount withheld.

23.6 A breach by **the Supplier** of its obligations under this clause 23 is a material breach which will entitle **WESTCOL**, at its sole election, to cancel **this Agreement** forthwith, without prejudice to any other rights which **WESTCOL** may have in terms of **this Agreement** or in law.

24. INTELLECTUAL PROPERTY RIGHTS

24.1 **The Supplier** agrees to assign to **WESTCOL** absolutely, for the full duration thereof and throughout the world, all of **the Supplier's** right, title and interest in **the Supplier's Created Intellectual Property** on its creation. **The Supplier** undertakes, on request, to do all things and sign all documents necessary to assign the aforementioned rights, title and interest to **WESTCOL** in the **Created Intellectual Property** and necessary to record such assignment at any Office responsible for the registration of **Intellectual Property Rights**.

24.2 If the right, title and interest of any of the **Created Intellectual Property** is not capable of being assigned to **WESTCOL**, **the Supplier** undertakes, on request, to do all things and sign all documents necessary to ensure that **WESTCOL** is granted an irrevocable, fully paid up, royalty free licence to use the **Created Intellectual Property** for the full duration of the right and throughout the world.

24.3 In the event of assignment, **WESTCOL** grants **the Supplier** a licence to use the **Created Intellectual Property** for the performance of **the Goods** in terms of **this Agreement**.

25. BREACH

25.1 In the event of either one of the parties ("**the Defaulting Party**") committing a breach of any of the provisions of **this Agreement** and failing to remedy such breach within a period of fourteen (14) days after receipt of a written notice from the other party ("**the Aggrieved Party**") calling upon **the Defaulting Party** to remedy the breach complained of, then **the Aggrieved Party** shall be entitled at its sole discretion and without prejudice to any of their other rights in law and/or in terms of **this Agreement**, either to:

25.1.1 Claim specific performance in the terms of **this Agreement**; or

25.1.2 Cancel **this Agreement** forthwith and without further notice and recover damages from **the Defaulting Party**.

25.2 In the event of **the Defaulting Party** being in breach of any provision of **this Agreement** and **the Aggrieved Party** having to take legal action / dispute resolution action against **the Defaulting Party** as a result thereof, **the Defaulting Party** shall be liable to pay **the Aggrieved Party's** legal costs as well as all expenses which have reasonably been incurred in having to take such legal action, which expenses will include but not be limited to private investigator's fees, tracing agents fees, forensic auditor's fees, valuation fees and such

similar professional fees in terms of any court order, arbitration award or settlement agreement (whether legal action was instituted by way of arbitration, in a court of law or other forum, or was resolved prior to any such action having to be taken)

26. TERMINATION

- 26.1 **WESTCOL** may terminate **this Agreement**, or suspend its operation, in whole or in part, at any time and at **WESTCOL's** sole discretion, by giving not less than 1 (one) month's written notice to **the Supplier**.
- 26.2 **WESTCOL** when giving notice under clause 26.1 shall, in the written notice, specify the extent of the termination or suspension, and the **Effective Date** of such termination or suspension.
- 26.3 **The Supplier**, upon receipt of a notice contemplated under clause 26.1 shall discontinue the provision of all of the Service under **this Agreement**, to the extent specified, and on the date specified in the notice.
- 26.4 In the event of the termination or suspension, in whole or in part, of **this Agreement** by **WESTCOL** under this clause 26, **WESTCOL** shall pay **the Supplier** for **Services** already provided by **the Supplier** under **this Agreement**, up to and including the date of termination or suspension specified in the notice.
- 26.5 **WESTCOL** shall not be liable for any consequential loss resulting from the termination or suspension of **this Agreement** by **WESTCOL** under this clause 26, including, without limitation, any loss of profits or any costs associated with the termination or suspension of any sub-contracts entered into by **the Supplier**.
- 26.6 Termination or suspension of **this Agreement** under this clause 26 shall be without prejudice to any rights that may have accrued to either of the parties, in respect of **Services** provided before the date of termination or suspension, specified in the notice. It is specifically agreed that, upon termination or suspension of **this Agreement** under clause 26, no rights shall accrue to either party in respect of **Services** not yet provided under **this Agreement**.
- 26.7 **WESTCOL** shall have the right to immediately cancel **this Agreement**, without prejudice to any rights which it may have in law, in the event that **the Supplier** is liquidated, sequestrated or placed under judicial management, business rescue or any other form of management for the benefit of its creditors, whether provisional or final.

27. DISPUTE RESOLUTION

- 27.1 All disputes concerning or arising out of **this Agreement** exists once a party notifies the other in writing of the nature of the dispute and requires the dispute to be resolved under this clause. All disputes arising out of or in connection with **this Agreement** shall be resolved by:

27.1.1 Negotiation, in terms of clause 27.4; failing which.

27.1.2 Mediation, in terms of clause 27.5; failing which.

27.1.3 Arbitration, in terms of clause 28.

27.2 This clause shall not preclude any party from access to an appropriate court of law for interim relief in respect of urgent matters by way of an interdict, or mandamus pending finalisation of the dispute resolution process contemplated in this clause, for which purpose the parties irrevocably submit to the jurisdiction of the High Court of the Republic of South Africa.

27.3 This clause constitutes irrevocable consent of the parties to the dispute resolution process in terms hereof and neither of the parties shall be entitled to withdraw therefrom or to claim at any negotiation, mediation or arbitration proceedings that they are not bound by the dispute resolution provisions of **this Agreement**.

27.4 Within ten (10) days of notification by either party that a dispute exists, the parties must seek an amicable resolution to the dispute by referring the dispute to designated and authorized representatives of each of the parties to negotiate and resolve the dispute. If an amicable resolution to the dispute is found the authorized representatives of the parties must sign, within the ten (10) day period, an agreement confirming that the dispute has been resolved.

27.5 If negotiation in terms of clause 27.4 fails, either party may, within fifteen (15) days of the negotiations failing, refer the dispute for resolution by mediation under the rules of the Arbitration Foundation of Southern Africa (or its successor or body nominated in writing by it in its stead).

27.6 The periods for negotiation (specified in clause 27.4) or for referral of the dispute for mediation (specified in clause 27.5), may be shortened or lengthened by written agreement between the parties.

28. ARBITRATION OF DISPUTES

28.1 In the event of the mediation contemplated in clause 27.5 failing either party may refer the dispute, within fifteen (15) days of the mediation failing, for resolution by expedited arbitration under the then current rules of the Arbitration Foundation of Southern Africa (or its successor or body nominated in writing by it in its stead).

28.2 A single arbitrator shall be appointed by agreement between the parties within ten (10) days of the dispute being referred for arbitration, failing which the arbitrator shall be appointed by the Secretariat of the Arbitration Foundation of Southern Africa (or its successor or body nominated in writing by it in its stead).

28.3 At all times, every reasonable effort shall be made to ensure that such arbitrator has the necessary technical skills to enable him to adjudicate the dispute in a satisfactory manner.

28.4 The arbitration shall be held at Randfontein, South Africa, in English.

28.5 The laws of the Republic of South Africa shall apply.

28.6 The parties shall be entitled to legal representation.

28.7 The award of the arbitrator shall be final and binding on the parties, who hereby agree to give effect to the award. Either party shall be entitled to have the arbitrator's award made an order of court at the cost of the party requesting same.

28.8 This clause 28 read with clause 27 above is a separate, divisible agreement from the rest of **this Agreement** and shall remain in effect even if **this Agreement** terminates, is nullified, or cancelled for any reason or cause.

29. DOMICILIUM AND NOTICE ADDRESS

The parties each choose their *domicilium citandi et executandi* as the address where they will receive service of all legal process and notices at the respective physical addresses given in **this Agreement** or the Purchase Order (whichever is applicable).

30. NOTICE

30.1 All notices, correspondence and any other communication between the parties shall be made in writing and shall be sent by hand delivery, by registered post, by facsimile transmission or by e-mail with a 'read receipt'

30.2 If notice is given by way of e-mail, it must be with a 'read receipt', such notice shall be deemed to be received 1 (one) day after sending.

30.3 If notice is given by way of facsimile transmission, such notice shall be deemed to be received 1 (one) day after sending.

30.4 If notice is given by registered post, such notice shall be deemed to be received 7 (seven) days after sending.

30.5 If notice is given by hand delivery, such notice shall be deemed to be received on the day of delivery.

30.6 Any legal process shall be served at the parties' chosen domicilium citandi et executandi addresses.

30.7 Any changes to the parties' notice addresses and domicilium addresses as furnished in **this Agreement** or Purchase Order shall be given in writing and shall be deemed to apply upon the date of receipt of such notice

31. GENERAL

31.1 **This Agreement** constitutes the sole and entire agreement between the parties. **This Agreement** replaces all previous agreements between **the Supplier** and **WESTCOL** relating to the subject matter of **this Agreement**. No prior or parallel agreements relating to the subject matter of **this Agreement** are binding on the parties. All the representations, undertakings, warranties or guarantees ("the representations") made by the parties relating

to the subject matter of **this Agreement**, are contained in **this Agreement**. Any representations not contained in **this Agreement** shall not be binding on the parties and shall be without any force or effect.

- 31.2 No amendment or variation of **this Agreement** (including this clause), whether by addition, deletion, waiver, novation or consensual cancellation shall be binding on the parties and shall be without any force or effect unless reduced to writing and signed by the parties to **this Agreement**.
- 31.3 No latitude, extension of time or other indulgence which may be given or allowed by any party to the other party in respect of the performance of any obligation in **this Agreement** or any enforcement of any rights arising from **this Agreement** and no single or partial exercise of any right by any party, shall under any circumstances be construed to be an implied consent by such party or operate as a waiver or a novation of, or otherwise affect any of that party's rights in terms of or arising from **this Agreement** or stop such a party from enforcing, at any time and without notice, strict and punctual compliance with each and every provision of **this Agreement**.
- 31.4 If any term, condition or performance, or any part thereof, in **this Agreement** ("the provision") is determined to be invalid, illegal, unlawful or unenforceable to any extent, then that provision shall be removed from the remaining provisions of **this Agreement**, or amended to make it valid, legal, lawful or enforceable (as the case may be), in such a manner as to leave the amended agreement substantially the same in essence, and **this Agreement** so amended shall remain in force and effect.
- 31.5 If any provision of **this Agreement** is determined to be invalid, illegal, unlawful or unenforceable, such a provision shall be deemed to be severable from the rest of the provisions of **this Agreement** and shall not in any way affect the validity and enforceability of the rest of the provisions of **this Agreement** and **this Agreement** as a whole.
- 31.6 **WESTCOL** and **the Supplier** warrant to each other that their respective signatories and representatives have the power, authority and legal right to conclude and sign **this Agreement** and perform in terms of **this Agreement**, and that **this Agreement** has been duly authorised by all necessary actions of their respective governing organs and management, as the case may be, and constitutes valid and binding obligations on them in accordance with the provisions of **this Agreement**.
- 31.7 Each party shall pay their own legal and other consulting and advisory fees and related expenses incurred in regard to the negotiation, drafting, preparation and finalisation of **this Agreement** and the entire transaction.

Signature of person authorized to sign a bid

Date