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TERMS OF REFERENCE

**SCMU11-23/24-013: QHOKAMA 1000 (350) HOUSING PROJECT:
APPOINTMENT OF A CONTRACTOR FOR CONSTRUCTION OF 350
UNITS AT QHOKAMA IN NYANDENI LOCAL MUNICIPALITY**

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LIST OF ACRONYMS

ECDHS	Eastern Cape Department of Human Settlement
RDP	Reconstruction Development Program
BOQ	Bill of Quantities
VIP	Ventilated Improved Pit
RWG	Rain Water Goods
COC	Certificate of Compliance
FURs	Final Unit Report
EPWP	Expanded Public Works Program
B-BBEE	Broad-Based Black Economic Empowerment
DTI	Department of Trade and Industry
NHBRC	National Home Builders Regulation Council
GPS	Global Positioning System
SABS	South African Bureau of Standards
SANS	South African National Standards
JBCC	Joint Building Contracts Committee
JCC	Joint Contracts committee
VAT	Value Added Tax
EME	Exempted micro enterprise
QSE	Qualifying small enterprise
SBD	Standard Bidding Document
ECSA	Engineering Council of South Africa
DPSA	Department of Public Service and Administration
SLA	Service Level Agreement
CSD	Central Supplier Database

1. BACKGROUND

The Department of Human Settlements is engaged to improve and accelerate delivery of RDP houses in the Province. The Department is calling on contractors with high performing capacity to undertake construction of construction of top structures, tanks and tank stands, and VIP toilets for 350 units in QHOKAMA at Nyandeni Municipality.

2. PROJECT LOCATION

The site is located within Wards 28 in Qhokama under Nyandeni Local Municipality and comprises 350 units scattered over 8 villages. Qhokama Village is approximately 15 km northwest of Ngqeleni Town. The project coordinates for the 8 villages in the Qhokama area is indicated in Table 2.1 below.

Table 2.1 – GPS Coordinates of Villages falling under the Contract

Table 1: Village names and localities

Village Name	GPS Coordinates	
	Latitude (S)	Longitude (E)
Sizindeni	31°45'08.0"	29° 05'25.0"
Sidanda	31°45'17.5"	29° 08'57.0"
Ntibane	31°47'03.0"	29° 09'25.0"
Ngonyameni	31°45'22.0"	29° 03'52.6"
Mzonyane	31°50'28.0"	29° 11'05.6"
Mphimbo	31°49'35.0"	29° 11'06.0"
Kwazulu	31°45'10.0"	29° 06'46.0"
Emtsholobeni	31°46'30.0"	29° 05'25.0"

The site is sparsely populated and characterized by informal and traditional homesteads which are accessible by informal gravel roads. Topographically the Site

is typified by rugged and undulating terrain with gentle to moderate slopes for the most part, and steep slopes along hillsides which flank rivers and streams.

There are no access roads in the villages except road tracks that have been created by the movement of vehicles.

3. PROJECT DESCRIPTION

Qhokama 1000 (350) Housing Project: Construction of 350 Units at Qhokama within the Nyandeni Local Municipality.

The project details are as follows: - The total number of units to be constructed is 350.

Table 1: Project Details

NO.	AREA AND WARD NO.	LOCAL MUNICIPALITY	DISTRICT MUNICIPALITY	NO. OF PARTIAL SERVICES		NO. OF UNITS
				VIP	RWG	
1.	QHOKAMA WARD 28	NYANDENI	OR TAMBO	350	350	350
TOTAL				350	350	350

Table 2: Project Information (Available Information and Work to be done by Professional)

NO.	DESCRIPTION	STATUS	COMMENT
1.	Number of approved beneficiaries	Done	All the 350 beneficiaries are approved on HSS.
2.	Environmental Impact Assessment	Done	Exemption letter available.
3.	Geo-technical Investigation	Done	Available.
4.	House Plan, Foundation Plan, Water Tank & Stand Design, VIP Toilet Design	Done	Available.
5.	Social facilitation	Outstanding	To be done by Professional team.
6.	Monitoring and certification	Outstanding	To be done by Professional team during construction.
7.	Occupational Health and Safety Plan	Done	Available.
8.	Environmental management Plan	Done	Available.
8.	NHBRC Home Enrolment	Done	Introduction of a Home Builder to NHBRC needs to be done.
9.	Global Positioning System (GPS) – Co-ordinates for each beneficiary stand	Done	Professional team to produce coordinates per approved beneficiary.

Table 3: Work to be done by Contractor

NO.	DESCRIPTION	STATUS	COMMENT
1.	Occupational Health and Safety Plan	Outstanding	To be done by the contractor.
2.	Environmental Management Plan	Outstanding	To be done by the contractor.
3.	Construction of houses	Outstanding	To be done by the contractor.
4.	Construction of services (Water tank with tank stand and VIP toilets)	Outstanding	To be done by the contractor.

4. SCOPE OF WORKS

There will be one contractor appointed in this project for construction of 350 houses. The contractor will be instructed to build houses as per following house typologies:

Table 4 : Housing Typologies

TYOLOGY	SIZE	NO. OF UNITS
1. Normal House	40 m ²	350
2. Disabled	45 m ²	-
3. Military Veteran	50 m ²	-

It must be noted that, if the status of any of the approved beneficiaries may change due to unforeseen circumstances during the implementation of the project, the appointed contractor may be instructed to build a 45 m² houses for a Disabled person or a 50m² for a Military Veteran. This will be due to unforeseen circumstances.

4.1 CONSTRUCTION

This phase entails the construction of the partial services (VIP toilets and Water tanks with stand) and top structures.

The contractor will be responsible for the following during this stage:

- 4.1.1 Attend all project related meetings.
- 4.1.2 Installation of the required infrastructure i.e. (VIP toilets and Water tanks with stand).
- 4.1.3 Construction of forty square meter (40m²) top structures.
- 4.1.4 Construction of forty-five square meter (45m²) unit for disabled (wheelchair bound) with wheelchair ramp, fitting up a wide door and grab rails etc. Where necessary.
- 4.1.5 Construction of fifty square meter (50m²) unit for military veterans. Where necessary.

- 4.1.6 Monthly progress reporting and Extended Public Works Program (EPWP) reports.
- 4.1.7 Construction of VIP Toilets.
- 4.1.8 Occupational Health and Safety and Environment management.
- 4.1.9 Handover of houses; and partial engineering services.

5. MINIMUM SPECIFICATIONS

5.1 GENERAL

- 5.1.1 All works to be carried out under the required housing subsidy instruments.

5.2. INFRASTRUCTURE

In addition to the above, the minimum requirements for infrastructure will be in accordance with the following:

- 5.2.1 Guidelines for Human Settlements Planning and Design Vol. 1 & 2 (“Redbook”);
- 5.2.2 NHBRC Technical Requirements and SANS 10400.
- 5.2.3 Department of Housing Generic Specification, GFSH 08.

5.3. VIP TOILETS

- 5.3.1 All materials must be SABS approved;
- 5.3.2 Must be designed to withstand all weather conditions;
- 5.3.3 Top structure floor area must be a minimum of 1m² for normal size and minimum 4.8m² for disabled; and a minimum internal height of 1.8m;
- 5.3.4 Walls must be prefabricated concrete walls that can be disassembled and reassembled with ease (panel sizes must allow assembly without mechanical assistance);
- 5.3.5 Top structure must be anchored to the floor;
- 5.3.6 Doors must be stainless steel fully galvanized lockable and spring-loaded;
- 5.3.7 Roof must be concrete slab;
- 5.3.8 Floors must be concrete;

- 5.3.9** 110mm black ventilation pipe fixed to the back of the toilet top structure, extending minimum 200mm above the roof (to ventilate the pit);
- 5.3.10** Pan with toilet seat;
- 5.3.11** Pit to have a minimum volume of 2.2m³ and to be lined; and
- 5.3.12** Pit to be sealed if dictated by the Groundwater Protocol investigation.

5.4 WATER TANKS

- 5.4.1** Must be a minimum size of 5000 litres with a brass bib tap (SABS approved);
- 5.4.2** Tanks to be seated on a plinth of minimum height of 0.5m;
- 5.4.3** Tank stand must be designed to support the full tank as well as withstand all weather conditions; and
- 5.4.4** Gutters and downpipes provided to drain the entire roof into the tank and gutters must be fixed to the wall up to the water tank and must be designed to withstand all weather conditions while the tank is empty or full.

5.5 TOPSTRUCTURE

In addition to the specification already mentioned, the following are additional minimum requirements:

- 5.5.1** 2015 revised National Building regulations; South African National Standards (SANS) 10400 XA Energy Usage in Buildings;
- 5.5.2** All external doors must be SABS approved hardwood such as meranti frame ledged button doors or similar approved doors;
- 5.5.3** Internal doors to be pre-painted white Masonite doors, contractor to make provision to paint on site all edges.
- 5.5.4** All door locks must be SABS approved with a minimum of five-year guarantee;
- 5.5.5** SABS approved roof trusses to be used and Roof Covering to be cement roof tiles;
- 5.5.6** Smaller size windows and special low clear and opaque safety glass for all window types as prescribed by the engineer or competent person;

- 5.5.7 Concrete aprons to be provide on all 4 sides with a minimum width of 1328mm including storm water management precautionary measures (as per NHBRC project enrolment requirement);
- 5.5.8 Fascia's and barge boards to be provided;
- 5.5.9 House to be plastered and painted both internally and externally;
- 5.5.10 Installation of a ceiling with the prescribed air gap for the entire dwelling.
- 5.5.11 Installation of above ceiling insulation comprising a 130mm mineral fibre glass blanket for the entire house;
- 5.5.12 One work surface to be provided in the kitchen area (minimum length 1m, height 1m and width of 0.5 m) and
- 5.5.13 Electrification of houses which include tubing with electrical conduits, installation of a distribution board including plugs and lights to all living areas of the house and above external doors, as per the current norms and standards.

6. PROJECT DELIVERABLES

6.1 GENERAL

The scope of works detailed in Section 4 clearly describes the extent of what is expected from the contractor. Project deliverables can, however, be summarized as follows:

- 6.1.1 Completing construction of houses with VIP toilets and water tanks with tanks stands, and as described in the scope of works, including providing FURs, COCs and "Happy Letters".

7. FINANCIAL SCHEDULE OF RATES PROPOSAL

The Financial schedule of rates provided shall specify and state a **firm and fixed** price, including total fees and expenses (**VAT zero rated**), in order to complete the project.

Bidders must submit full details of the pricing proposal as per Bill of quantities. Blank spaces will be regarded as incomplete. Should the bidder not charge for the service, the bidder must indicate that with a zero (0). Bidders must complete the entire Pricing Schedule

The total of Table 5: Bill of quantities for activities of a 40m² will be considered as the bidders quoted amount and must be carried over to the final summit and form of offer.

It must be noted that Table 6 and Table 7 contain the implementation bill of quantities for the construction of houses for a disabled beneficiary (45m² house) and a military veteran (50m² house). These are rate only items and will only be considered in unforeseen circumstances that require the change of status of an approved beneficiary. Table 5 and 6 must not be added to the total sum of totals to be carried over the final summary and form of offer

Table 5 : Bill of Quantities for activities of 40m² house

	CONSTRUCTION (40m ²)				
1.	Foundation/ Slab – Normal – R,S,C,H(Earthworks, Concrete & reinforcement)	NO.	1		
2.	Foundation/ Slab- Modified – H2 (Earthworks, Concrete & reinforcement)	NO.	1		RATE ONLY
3.	Foundation/ slab – Stiffened – H3 (Earthworks, Concrete & reinforcement)	NO.	1		RATE ONLY
4.	Wall plate (Brickwork, door & window frames)	NO.	1		
5.	Roof (structure, covering & Beam filling)	NO.	1		
6.	Completion (ceiling & insulation, finishing's, Aprons, plastering & painting, Electrical installation & tubing, fascia & barge boards, kitchen cabinet)	NO.	1		
7.	5000L Water tank with stand	NO.	1		
8.	VIP toilets	NO.	1		
9.	Monthly progress reporting, CLO allowance & EPWP reports for 36 Months	NO.	1		
10.	Obtaining of FUR's from NHBR, COCs, Happy letters and completion certificates	NO.	1		
11.	Implementation Of Occupational Health And Safety Plan for 36 Months	NO.	1		
12.	Implementation Of Environmental Management Plan	NO.	1		
SUBTOTAL				R	R
TOTAL = SUM OF SUB TOTALS FOR 350 UNITS (RATE PER UNIT X 350 UNITS)				R	
TOTAL = SUM OF SUB TOTALS (Carried to FINAL SUMMARY & FORM OF OFFER)				R	

Table 6: Bill of Quantities for activities of 45m2 house

3	IMPLEMENTATION (45 m² House for Disabled) RATE ONLY				
3.1	Foundation/ Slab – Normal – R,S,C,H	NO.	1		Rate only
3.2	Foundation/ Slab- Modified – H2	NO.	1		Rate Only
3.3	Foundation/ slab – Stiffened – H3	NO.	1		Rate only
3.4	Wall plate (Brickwork, door & window frames)	NO.	1		Rate Only
3.5	Roof (structure, covering & Beam filling)	NO.	1		Rate Only
3.6	Completion (ceiling& insulation, finishing's, Aprons, plastering & painting, Electrical, fascia & barge boards, Floor vynal tiles, kitchen cabinet)	NO.	1		Rate Only
3.7	Electricity tubing	NO.	1		Rate Only
3.8	VIP toilet	NO.	1		Rate Only
SUBTOTAL				R	Rate Only
TOTAL = SUM OF SUB TOTALS				R	Rate Only

Table 7: Bill of Quantities for activities of 50m2 house

3	IMPLEMENTATION (50 m² House for military veteran) RATE ONLY				
3.1	Foundation/ Slab – Normal – R,S,C,H	NO.	1		Rate only
3.2	Foundation/ Slab- Modified – H2	NO.	1		Rate Only
3.3	Foundation/ slab – Stiffened – H3	NO.	1		Rate only
3.4	Wall plate (Brickwork, door & window frames)	NO.	1		Rate Only
3.5	Roof (structure, covering & Beam filling)	NO.	1		Rate Only
3.6	Completion (ceiling& insulation, finishing's, Aprons, plastering & painting, Electrical, fascia & barge boards, Floor tiles, kitchen cabinet)	NO.	1		Rate Only
3.7	Electricity tubing	NO.	1		Rate Only
3.8	VIP toilet	NO.	1		Rate Only
SUBTOTAL				R	Rate Only
TOTAL = SUM OF SUB TOTALS				R	Rate Only

8. PAYMENT MILESTONES

8.1 Payment will only be made upon the completion of milestones (payment milestones) and payment guideline as follows:

Table 8 : Payment Milestones and Price Guidelines

ITEM	MILESTONE	UNIT	QUANTIT Y	PERCENTAGE PAYABLE
1	FOUNDATION/ SLAB – MODIFIED – H2 (EARTHWORKS, CONCRETE & REINFORCEMENT)	No	1	22%
2	WALL PLATE (BRICKWORK, DOOR & WINDOW FRAMES)	No	1	22%
3	ROOF (STRUCTURE, COVERING & BEAM FILLING)	No	1	22%
4	COMPLETION (CEILING & INSULATION, FINISHING'S, APRONS, PLASTERING & PAINTING, ELECTRICAL, FASCIA & BARGE BOARDS)	No	1	22%
5	WATER TANK WITH STAND	No	1	5%
6	VIP TOILETS	No	1	5%
7	MONTHLY PROGRESS REPORTING AND EXTENDED PUBLIC WORKS PROGRAM (EPWP) REPORTS	No	1	0.2%
8	OBTAINING OF FUR'S FROM NHBRC, COCS, HAPPY LETTERS AND COMPLETION CERTIFICATES	No	1	0.8%
9	IMPLEMENTATION OF OCCUPATIONAL HEALTH AND SAFETY PLAN	No	1	0.5
10	IMPLEMENTATION OF ENVIRONMENTAL MANAGEMENT PLAN	No	1	0.5
TOTAL		NO.	1	100 %

NB: A sectional completion plan must be provided as a proposal by the contractor, agreed upon and approved by the Department. A written approval of the sectional completion plan must form part of the contract. The minimum market related rate per unit for this project is **R 185 000.00** and this include all extra ordinary site conditions i.e double handling, difficult terrain and all Geo Technical site conditions.”

9. EVALUATION CRITERIA

ECDHS has set minimum standards (Stages) that a bidder needs to meet in order to be evaluated and selected as a successful bidder. The minimum standards consist of the following:

Table 9: Evaluation stages

(STAGE 0): Administrative compliance	(STAGE 1): Price and Specific goals Evaluation	(STAGE 2): Risk Assessment
Bidders must submit all documents as outlined in Table 10 below	Bidders will be evaluated in terms of section 5 of the PPPFA 2000, Preferential Procurement Regulations, 2022.	Bidders will be evaluated in terms risk. Bidders that fail to meet the risk criteria will be considered to containing a potential high risk level and will not be considered for appointment

9.1 STAGE 0 – ADMINISTRATIVE COMPLIANCE

9.1.1 Without limiting the generality of ECDHS's other critical requirements for this Bid, bidders must submit the documents listed in the Table below. All documents must be completed and signed by the duly authorised representative of the prospective bidder. During this phase, bidders' response will be evaluated based on compliance with the listed administration and mandatory bid requirements. In case of a Joint Venture/Consortium all parties are expected to submit individual documentation:

Table 10: Administrative compliance

No	Document that must be submitted	Explanatory Information
1	SBD1: Invitation to tender	Complete and sign the supplied proforma document
2	SBD2: Tax clearance certificate	Provide proof of Tax compliance with the South African Revenue Service (SARS)
3	SBD4: Declaration of interest	Complete and sign the supplied proforma document
4	SBD6.1: Preference points claim form;	Complete and sign the supplied proforma document
5	SBD6.2: Declaration certificate for local production and content for designated sectors and Annexure A	Complete and sign the supplied proforma documents. Evaluation of local production and content
6	Bill of quantities and summary & form of offer	Submit full details of the pricing proposal as per Bill of quantities. Blank spaces will be regarded as incomplete. Should the bidder not charge for the service, the bidder must indicate that with a zero (0). Bidders must complete the entire Pricing Schedule
7	National home builders registration council (NHBRC) certificate	Bidders must submit a valid International NHBRC certificate (certified copy) at closing date. The Department will verify the NHBRC certificate prior/during evaluation. Non compliance will lead to elimination.
8	Central supplier Database (CSD) registration	Service Providers must be registered as a service provider on the Central Supplier Database (CSD). If you are not registered, prior to submitting your proposal. Visit https://secure.csd.gov.za/ to obtain your vendor number. Submit CSD printout as proof of registration.
9	Annexure A: Performance report	Completed performance reports must be submitted together with the bid proposal,

		failure to submit will result in non-allocation of points
10	Annexure B: Intent to form Joint venture consortium agreement	The joint venture and/or consortium agreements must clearly set out the shareholding and roles and responsibilities of the Lead Partner and the joint venture and/or consortium party. The agreement must also clearly identify the Lead Partner, who shall be given the power of attorney to bind the other party/parties in respect of matters pertaining to the joint venture and/or consortium arrangement. A signed agreement will be expected to be submitted prior award of contract.

9.1.2 Evaluation for local production and content for designated sectors.

9.1.2.1 On local content designated items, only locally produced goods or services with a stipulated minimum threshold for local production and content of 100% will be considered.

9.1.2.2 The relevant designated sector: Steel Components and Plastic pipes and fittings. The minimum threshold for local production and content: 100%: - Reinforcing Bars (100%) Door and Window Frames (100%) Roof Trusses (100%) Joining Connection Components (100%) and Plastic pipes and fittings (100%);

9.1.2.3 Exchange rate to be used for the calculation of local content (local content and local production are used interchangeably) must be the exchange rate published by the SARB at 12:00 on the date, one week (7 calendar days) prior to the closing date of the bid.

- 9.1.2.4** Failure to indicate minimum percentage (%) or not meeting minimum percentage for local content will automatically invalidate the bid for further consideration.
- 9.1.2.5** If the raw material or input to be used for a specific item is not available locally, bidders should obtain written authorization from the DTI should there be a need to import such raw material or input and a copy of this authorization letter must be submitted together with the bid document at the closing date and time.
- 9.1.2.6** The main contractor may not sub contract work to an extent that the local content and production is compromised. The conditions and rules applying to the main bidder on local production and content also apply to the sub-contractor(s).
- 9.1.2.7** For further information, bidders may contact the Steel products and components unit within DTI at 012 394 5157
- 9.1.2.8** Bidders must complete SBD 6.2 with Annexure C and it must be submitted with the bid at the closing date and time Bids which have not scored the required minimum percentage of 100% for Local Production and content will be disqualified unless the bidder obtains exemption form DTI at this stage. Only qualifying bids will proceed to the evaluation on price and specific goals.

9.2 STAGE 1: PRICE AND SPECIFIC GOALS EVALUATION

- 9.2.1** Regulation 3 of the Preferential Procurement Policy Framework Act 2000: Preferential Procurement Regulations 2022, (the Regulations) stipulates that an organ of state must, prior to making an invitation for tenders, determine and stipulate the appropriate preference point system to be utilized in the evaluation and adjudication of tenders. If there is uncertainty on the preference point system to be applied,

institutions must advertise the tender indicating that the tender will be evaluated on either the 80/20 or 90/10 preference point system.

9.2.2 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, 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.

9.2.3 Regulation 5 and 6 stipulates that 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).

9.3 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

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

$$\begin{array}{ccc} 80/20 & \text{or} & 90/10 \\ P_s = 80 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right) & \text{or} & P_s = 90 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right) \end{array}$$

Where

P_s = Points scored for price of bid under consideration
 P_t = Price of bid under consideration
 $P_{\min}$ = Price of lowest acceptable bid

9.3.1 POINTS AWARDED FOR SPECIFIC GOALS

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 below as may be supported by proof/ documentation stated in the conditions of this tender:

Table 11: Specific goals allocated points

The specific goals allocated points in terms of this tender	Number of points allocated (80/20 system)	Number of points allocated (90/10 system)	Number of points claimed (80/20 system) (To be completed by the tenderer)
Women owned Organizations	8	3	
Youth	4	2	
People with Disability	2	2	
Locality: Eastern Cape	5	2	
Military Veterans	1	1	

9.3.2 CLAIMING OF PREFERENCE POINTS

9.3.2.1 Preference points allocated for women may be claimed if there is sufficient evidence that such woman has ownership of 51% or more of the enterprise shareholding. Bidders must submit proof in a form of valid Central Supplier Database (CSD) supplier profile that outlines the ownership of the organisation.

9.3.2.2 Preference points allocated for persons with disabilities may only be claimed if there is sufficient evidence that such person has ownership of 51% or more of the enterprise shareholding. Bidders must submit proof in form of a medical certificate / letter not older than 6 months from a registered medical practitioner (Practitioner number, contact details to be stated on correspondence) detailing the disability. The Medical certificate will only be used for evaluation purposes.

9.3.2.3 Preference points allocated for promotion of youth may only be claimed if there is sufficient evidence that such youth has ownership of 51% or more of the enterprise shareholding. Bidders must submit proof in a form of valid Central Supplier Database (CSD) supplier profile that outlines the ownership of the organisation.

9.3.2.4 Preference points for Locality may be allocated for promotion of enterprises located within the Eastern Cape Province may be claimed by submission of proof that the enterprise is located within the borders of Eastern Cape Province. This includes an enterprise whose head office may be situated in another province but has a fully-fledged branch within Eastern Cape Province. Enterprises located outside the borders of the Eastern Cape Province and who only appoints agents and or commission warehouses in this municipal area are expressly excluded from claiming points for this goal. Bidders must submit proof of the Company's Registered Offices. Proof of rate statement, lease agreement or confirmation of locality from local authority.

9.3.2.5 Preference points allocated for Military Veterans may only be claimed if there is sufficient evidence that such person has ownership of 51% or more of the enterprise shareholding. Bidders must submit proof in terms confirmation letters from the Department of Military Veterans.

NB: Bidders must provide sufficient proof and supporting documentation in respect of the above evaluation criteria and specific goals evaluation. Bidders who do not submit the required information shall not be scored for the respective/relevant evaluation criteria. In a case of a joint venture and/or consortium the agreements must clearly set out the shareholding and roles and responsibilities of the Lead Partner and the joint venture and/or consortium party. Failure to submit shareholding will result in non-allocation of points

9.4 STAGE 2: OBJECTIVE CRITERIA/RISK ASSESMENT

9.4.1 The Department reserves the right not to appoint the highest scoring bidder, in a case where the bidder has quoted below the minimum market related amount of **185 000.00 per unit**. The market related price includes all extra ordinary development site conditions i.e. double handling, difficult terrain, scatterdness of sites, creation of access roads and all geo technical site conditions.

9.4.2 Risk analysis:

9.4.2.1 The Department has the right to conduct a risk analysis on shortlisted bidders including verification through contractors site visit and conduction of loco inspection. The loco inspection will be conducted for verification of:

9.4.2.2 Plant and equipment

9.4.2.3 Completed projects (site visits)

9.4.2.4 Personnel

9.4.3 The risk assessment implies a systematic identification and judgement of potential risks levels to create a foundation decision making.

9.4.4 The risk analysis will be conducted on the bidder's quality of work and performance on previous completed projects not older than five (05) years starting from 2018 to the date of advert of the bid. Bidders must submit all three (03) documents listed below on Table 12 for each project to be assessed for risk. Failure to submit all documents will result in non-allocation of points:

Table 12: Document that must be submitted for risk analysis

No	Document that must be submitted	Explanatory Information
1	Appointment letters.	Bidders must submit appointment letters of previous or current project undertaken that will utilised for assessment of risk
2	Performance reports which must reflect 50% completion (Attached on bid document as Annexure A),	Bidders must submit performance reports on previous or current similar projects undertaken. Reports must be completed and signed by client with contactable references.
3	Practical completion certificates or final completion certificates	Bidders must submit Practical completion certificates or final completion certificates on similar previous or current project undertaken. Reports must be completed and signed by client with contactable references.

9.4.5 Performance reports are attached as Annexure A of the bid document and must be completed signed and stamp by the client.

9.4.6 Completed performance reports must be submitted together with the bid proposal, failure to submit will result in non-allocation of points. Bidders that fail to submit performance reports will be considered as high risk as the Department will be unable to satisfy itself.

9.4.7 Where information provided for loco inspections and performance reports are found to be fraudulent or there's misrepresentation of information, the Department will eliminate the bidder from further evaluation.

9.4.8 Risk assessment scorecard

9.4.8.1 The risk assessment score card will focus on the following risk factors.

9.4.8.1.1 Performance on pervious projects.

9.4.8.1.2 Quality standard of completed projects this refers to assessment of quality, contract extension and variation orders.

9.4.8.2 Risk will be assessed through scoring risk levels as below:

9.4.8.2.1 Poor = 04 points

9.4.8.2.2 Fair= 03 points

9.4.8.2.3 Good = 02 points

9.4.8.2.4 Excellent = 01 points

9.4.8.3 The score of seven (07) points will be maximum risk level the Department is willing to accept.

9.4.8.4 Bidders who score a total of eight (08) points and above will be considered to containing a potential significant to sever risk level and will not be considered for appointment.

Table 13: Risk assessment scorecard

RISK ASSESSMENT SCORECARD			
Risk level	Risk description	Performance on previous project	Quality
4– Poor	Risk that will have a severe impact on achieving desired results to the extent that one or more of its critical outcome objectives will not be achieved	Project not completed 181 days or more past the stipulated time frames.	Project completed/not completed with outstanding compliance issues
3 – Fair	Risk that will have a significant impact on achieving desired results, to the extent that one or more stated outcome objectives will fall below acceptable levels.	Project completed within 91 to 180 days past the stipulated time frames.	Project completed with partially resolved compliance issues
2 - Good	Risk that will have a Moderate impact on achieving desired results, to the extent that one or more stated outcomes objectives will fall below goals but above minimum acceptable levels	Project completed within 90 days past the stipulated time frames.	Project completed with minor resolved compliance issues
1 – Excellent	Risk has little or no impact on achieving outcome objectives	Project completed within the stipulated time frames.	Project completed with no outstanding compliance issues

- 9.4.9** The Department reserves the right not to appoint the highest points scorer if the tenderer has already been awarded another project from the Eastern Cape Department of Human Settlements (ECDHS) and has not achieved 50% completion of the awarded project (signed performance reports to be provided).
- 9.4.10** If a bidder has been awarded a project from the ECDHS and has not achieved 50% completion on the awarded project. The bidder will be eliminated from further evaluation
- 9.4.11** Where the highest point scorer declines the appointment, the second highest point scorer will be considered, and if the second highest scorer declines the appointment the third highest point scorer will be considered and if the third highest points scorer declines the bid will be cancelled and re-advertised.
- 9.4.12** The Department will not negotiate a price higher than that quoted by the bidder.
- 9.4.13** The minimum market related amount of **R185 000.00 per unit** will be utilized as the minimum related price.
- 9.4.14** If the price offered by a tenderer scoring the highest points is above the market related price,
- 9.4.15** The Department may
- 9.4.15.1** Negotiate a market-related price with the tenderer scoring the highest points;
- 9.4.15.2** If the tenderer scoring the highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points;

9.4.15.3 If the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points and if the third highest points scorer does not agree to a market related price the bid will be cancelled and re-advertised.

9.4.16 In an event where the Department has advertised more than one (01) tender on a single notice, the highest scoring bidder will be awarded one tender of the tenders advertised. If a single bidder has scored the highest points on multiple tenders the Department will enter into negotiations with the bidder to give waver to award the second highest scoring bidder up to the third highest points scorer.

10. LEGALITIES OF CONTRACT AND TENDER RULES

10.1 GENERAL CONDITIONS OF CONTRACT

10.1.1 The JBCC shall apply.

10.2 SPECIFIC CONDITIONS OF THE CONTRACT

Special Conditions that apply to this contract are as follows:

10.2.1 The contractor will have to sign a valid contract agreement with the DoHS immediately upon approval of the award.

10.2.2 The contractor will be liable for any recollection of missing data, as a result of poor completion of questionnaire by the appointed entity;

10.2.3 Copyright of the reports to be delivered by the bidder to the Department will vest upon the Department on acceptance of the final reports.

10.2.4 Department reserves the right to conduct risk analysis on whether to appoint a contractor or not.

10.2.5 The contractor must have access to internet as basis of communication (email).

10.2.6 The contractor will draft and submit its own detailed Bill of Quantities

(BOQ).

- 10.2.7** The contractor will furnish the Department with an invoice upon Completion of each milestone (along with other required supporting documentation).
- 10.2.8** Contractor will be required to attend an initial meeting organized by the ECDHS to introduce the relevant project stakeholders.
- 10.2.9** The contractor will be liable for any recollection of missing data because of poor completion of questionnaire by the appointed entity.
- 10.2.10** Tariffs must not exceed the tariffs published by ECSA, DPSA or the Department of Public Works for specified Consultant's categories.

11. DURATION OF THE PROJECT

The duration of the project (Implementation) is expected to be for period of Thirty-six (36) months.

12. RETURNABLE SCHEDULES

The contractor must ensure that the following documents are completed and returned with the bid proposal:

- 12.1** SBD 1: INVITATION TO TENDER.
- 12.2** SBD 2: TAX CLEARANCE CERTIFICATE.
- 12.3** SBD 4: DECLARATION OF INTEREST.
- 12.4** SBD 6.1: PREFERENCE POINTS CLAIM FORM.
- 12.5** SBD 6.2: DECLARATION CERTIFICATE FOR LOCAL PRODUCTION AND CONTENT FOR DESIGNATED SECTORS.
- 12.6** FINAL SUMMARY & FORM OF OFFER.

13. COLLECTION OF BID DOCUMENTS

Bid documents will be available from the **30 June 2023** on the on Departmental website (www.ecdhs.gov.za).

14. SUBMISSION OF BID PROPOSALS

14.1 Bid proposals must be deposited in a Bid Box (that is accessible 24 hours) situated at the Ground Floor, Department of Human Settlements, Steve Tshwete Houses, 31–33 Phillip Frame Road, Waverley Park, Chiselhurst, East London.

14.2 It is the responsibility of the bidder and that of the courier in case of couriered bids to ensure that the bid is deposited in the bid box and not submitted to officials. The Department will not take any responsibility for bids not deposited in the bid box.

14.3 The Department will not take any responsibility for the posted bids that are not in the bid box during the closing time and date it is therefore the responsibility of the bidder to ensure that the bid is delivered on the bid box on or before the closing date and time.

14.4 Bid proposals must be submitted in a sealed envelope clearly marked with bidders' details as follows:

**SCMU11-23/24-013: QHOKAMA 1000 (350) HOUSING PROJECT:
APPOINTMENT OF A CONTRACTOR FOR CONSTRUCTION OF 350 UNITS AT
QHOKAMA IN NYANDENI LOCAL MUNICIPALITY**

14.5 Faxed or emailed bid proposals will not be accepted. The Technical Proposal envelope may be opened in public on the closing day.

15. BID VALIDITY

This bid will be valid for one hundred and twenty (120) days after the closing date.

16. COMPULSORY BRIEFING

Compulsory briefing session on the bid will be held on the **14 July 2023** at **11h00** on site at Qhokama Ward 28 Community Hall in Qhokama. The Coordinates are; 31°45'9.65" S 29°5'11.86" E. Failure to attend the compulsory briefing session will lead to disqualification.

17. CLOSING DATE

All bid proposals in response to this bid should reach the Department not later than the **19 July 2023 at 11H00**. Bids received after 11H00 will not be accepted and considered.

18. CONTACT DETAILS ON TERMS OF REFERENCE

All **technical enquiries** regarding this bid may be directed to:

All **technical enquiries** regarding this bid may be directed to:

Mr. K. Jumba: Construction Project Manager – Department of Human Settlements, OR Tambo Regional Office

Cell: 074 142 6441

Email: KholekileJ@ecdhs.gov.za & Jumbakid@yahoo.com

All **Supply Chain Management** related enquiries regarding this bid may be directed to:

Mr. Xolile Mpupa: Deputy Director – Demand Management; Department of Human Settlements, **EAST LONDON**

Cell: 074 142 4781

Tel: (043) 711 9641

E-mail: xolilem@ecdhs.gov.za

19. FINAL SUMMARY AND FORM OF OFFER

Table 14 : Final Summary and Form of Offer

FINAL SUMMARY & FORM OF OFFER			
SCMU11-23/24-013: QHOKAMA 1000 (350) HOUSING PROJECT: APPOINTMENT OF A CONTRACTOR FOR CONSTRUCTION OF 350 UNITS AT QHOKAMA IN NYANDENI LOCAL MUNICIPALITY			
NO.	ITEM	RATE	TOTAL
1.	CONSTRUCTION		
TOTAL = R			
TOTAL ABOVE IN WORDS			

SIGNED BY/ON BEHALF OF THE BIDDER

--

NAME

--

SIGNATURE

--

DATE

COMPANY STAMP

20. ANNEXURE A

PERFORMANCE REPORT

CONFIDENTIAL

This performance report should be completed and submitted with the bid proposal. Submission of this report is essential to assist the Department to make procurement decisions based on the most objective information. This may influence matters such as the offering of tendering opportunities; award of contracts; assessment.

Contract Details

Contract No:

Contract Title			
Original Contract Price			
Date of Contract		Original Date for Completion	

Contractor Details

Total extensions of time approved		Extended Contractual Completion Date	
Predicted Date for Completion		Actual Date of Completion	

Reference's Details

Name of Organisation				
Organisation's Representative	Name			
	Position			
	Tel		Mobile	
	Email			

Performance Report

Evaluation Criteria	N/A	Excellent	Good	Fair	Poor
Time Management	☐	☐	☐	☐	☐
Standard of Work/Quality of workmanship	☐	☐	☐	☐	☐
Personnel	☐	☐	☐	☐	☐
Subcontractor Mgmt	☐	☐	☐	☐	☐
Plans and Designs	☐	☐	☐	☐	☐

Definition and Relative Weighting of Grading

Grading	Definition	Rating*
Excellent	Risk has little or no impact on achieving outcome objectives	1
Good	Risk that will have moderate impact on achieving desired results, to the extent that one or more stated outcomes objectives will fall below goals but above minimum acceptable levels	2
Fair	Risk that will have a significant impact on achieving desired outcomes, to the extent that one or more stated outcome objectives will fall below acceptable levels.	3
Poor	Risk that will have a severe impact on achieving desired outcomes, to the extent that one or more of the critical outcome objectives will not be achieved	4

Overall Comments on Performance

Reference's opinion

I have attached further information ☐

SIGNED BY/ON BEHALF OF THE CLIENT

NAME

SIGNATURE

DATE

COMPANY STAMP

21. ANNEXURE B:

INTENT TO FORM JOINT VENTURE/ CONSORTIUM

PREAMBLE

This agreement is made and entered into by and between

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

of the first part and

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

of the second part.

Whereas the foregoing parties have resolved to form a Joint Venture under the title of

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

for the exclusive purposes of securing and/or executing the Contract to be awarded by

Eastern Cape Department of Human Settlements

for (brief description of Contract)

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

Shareholdings for each JV/Consortium Members

Members	Shareholding	Signature representative	of

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE EASTERN CAPE DEPARTMENT OF HUMAN SETTLEMENTS							
BID NUMBER:		SCMU11-23/24- 013		CLOSING DATE:		19 July 2023	
				CLOSING TIME:		11H00	
DESCRIPTION		Qhokama 1000 (350) Housing project: Appointment of a contractor for construction of 350 units at Qhokama in Nyandeni local municipality					
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT							
DEPARTMENT OF HUMAN SETTLEMENTS							
31-33 PHILLIP FRAME ROAD, STEVE TSHWETE BUILDING, GROUND FLOOR							
WAVERLY PARK							
EAST LONDON							
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO				TECHNICAL ENQUIRIES MAY BE DIRECTED TO:			
CONTACT PERSON		MR. XOLILE MPUPA		CONTACT PERSON		Mr K Jumba	
TELEPHONE NUMBER		043 711 9641		TELEPHONE NUMBER		074 142 6441	
FACSIMILE NUMBER		043 711 9796		FACSIMILE NUMBER		N/a	
E-MAIL ADDRESS		XolileM@ecdhs.gov.za		E-MAIL ADDRESS		KholekileJ@ecdhs.gov.za	
SUPPLIER INFORMATION							
NAME OF BIDDER							
POSTAL ADDRESS							
STREET ADDRESS							
TELEPHONE NUMBER		CODE		NUMBER			
CELLPHONE NUMBER							
FACSIMILE NUMBER		CODE		NUMBER			
E-MAIL ADDRESS							
VAT REGISTRATION NUMBER							
SUPPLIER COMPLIANCE STATUS		TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA	
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE		TICK APPLICABLE BOX]		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX]	
		☐ Yes ☐ No				☐ Yes ☐ 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?		☐ Yes ☐ No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?		☐ Yes ☐ No [IF YES, ANSWER PART B:3]	
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS							
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?						☐ YES ☐ NO	
DOES THE ENTITY HAVE A BRANCH IN THE RSA?						☐ YES ☐ NO	
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?						☐ YES ☐ NO	
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?						☐ YES ☐ NO	
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.							

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, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
- 1.4. THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).

2. TAX COMPLIANCE REQUIREMENTS

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

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:

.....

**Application for a Tax Clearance Certificate****Purpose**

Select the applicable option

Tenders ☐Good standing ☐

If "Good standing", please state the purpose of this application

Particulars of applicant

Name/Legal name (Initials & Surname or registered name)		
Trading name (if applicable)		
ID/Passport no		Company/Close Corp. registered no
Income Tax ref no		PAYE ref no 7
VAT registration no 4		SDL ref no L
Customs code		UIF ref no U
Telephone no	CODE NUMBER	Fax no CODE NUMBER
E-mail address		
Physical address		
Postal address		

Particulars of representative (Public Officer/Trustee/Partner)

Surname		
First names		
ID/Passport no		Income Tax ref no
Telephone no	CODE NUMBER	Fax no CODE NUMBER
E-mail address		
Physical address		

Particulars of tender (If applicable)Tender number Estimated Tender amount R Expected duration of the tender year(s)

Particulars of the 3 largest contracts previously awarded

Date started	Date finalised	Principal	Contact person	Telephone number	Amount

AuditAre you currently aware of any Audit investigation against you/the company? YES NO
If "YES" provide details

Appointment of representative/agent (Power of Attorney)I the undersigned confirm that I require a Tax Clearance Certificate in respect of Tenders or Goodstanding.I hereby authorise and instruct to apply to and receive from SARS the applicable Tax Clearance Certificate on my/our behalf.

Signature of representative/agent

Date

Name of representative/agent

Declaration

I declare that the information furnished in this application as well as any supporting documents is true and correct in every respect.

Signature of applicant/Public Officer

Date

Name of applicant/
Public Officer**Notes:**

- It is a serious offence to make a false declaration.
- Section 75 of the Income Tax Act, 1962, states: Any person who
 - fails or neglects to furnish, file or submit any return or document as and when required by or under this Act; or
 - without just cause shown by him, refuses or neglects to-
 - furnish, produce or make available any information, documents or things;
 - reply to or answer truly and fully, any questions put to him ...
 As and when required in terms of this Act ... shall be guilty of an offence ...
- SARS will, under no circumstances, issue a Tax Clearance Certificate unless this form is completed in full.**
- Your Tax Clearance Certificate will only be issued on presentation of your South African Identity Document or Passport (Foreigners only) as applicable.

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 State institution

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

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

with any person who is employed by the procuring institution? **YES/NO**

2.2.1 If so, furnish particulars:

.....

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

2.3.1 If so, furnish particulars:

.....

3 DECLARATION

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

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or 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

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.

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

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

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

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

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

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

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

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

1. GENERAL CONDITIONS

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

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

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

- a) The applicable preference point system for this tender is the 90/10 preference point system.
- b) 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 **To be completed by the organ of state:**

The maximum points for this tender are allocated as follows:

	POINTS	POINTS
PRICE	80	90
SPECIFIC GOALS	20	10
Total points for Price and SPECIFIC GOALS	100	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 require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

2. DEFINITIONS

- (a) **“tender”** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- (b) **“price”** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (c) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (d) **“tender for income-generating contracts”** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
- (e) **“the Act”** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

3.1.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

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

80/20

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

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

3.2.1. POINTS AWARDED FOR PRICE

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

$$Ps = 80 \left(1 + \frac{80/20 \cdot Pt - P_{max}}{P_{max}} \right)$$

Where

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

4. POINTS AWARDED FOR SPECIFIC GOALS

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

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

The specific goals allocated points in terms of this tender	Number of points allocated (90/10 system)	Number of points allocated (80/20 system)	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)
Women owned Organizations	4	8		
Youth	2	4		
People with Disability	1	2		
Locality: Eastern Cape	2	5		
Military Veterans	1	1		

DECLARATION WITH REGARD TO COMPANY/FIRM

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

4.4. Company registration number:

4.5. TYPE OF COMPANY/ FIRM

Partnership/Joint Venture / Consortium

One-person business/sole propriety

Close corporation

Public Company

Personal Liability Company

(Pty) Limited

Non-Profit Company

State Owned Company

[TICK APPLICABLE BOX]

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

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

- (a) disqualify the person from the tendering process;
- (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
- (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
- (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
- (e) forward the matter for criminal prosecution, if deemed necessary.

.....
SIGNATURE(S) OF TENDERER(S)

SURNAME AND NAME:

DATE:

ADDRESS:
.....
.....
.....

DECLARATION CERTIFICATE FOR LOCAL PRODUCTION AND CONTENT FOR DESIGNATED SECTORS

This Standard Bidding Document (SBD) must form part of all bids invited. It contains general information and serves as a declaration form for local content (local production and local content are used interchangeably).

Before completing this declaration, bidders must study the General Conditions, Definitions, Directives applicable in respect of Local Content as prescribed in the Preferential Procurement Regulations, 2017, the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:2011 (Edition 1) and the Guidance on the Calculation of Local Content together with the Local Content Declaration Templates [Annex C (Local Content Declaration: Summary Schedule), D (Imported Content Declaration: Supporting Schedule to Annex C) and E (Local Content Declaration: Supporting Schedule to Annex C)].

1. General Conditions

- 1.1. Preferential Procurement Regulations, 2017 (Regulation 8) make provision for the promotion of local production and content.
- 1.2. Regulation 8.(2) prescribes that in the case of designated sectors, organs of state must advertise such tenders with the specific bidding condition that only locally produced or manufactured goods, with a stipulated minimum threshold for local production and content will be considered.
- 1.3. Where necessary, for tenders referred to in paragraph 1.2 above, a two stage bidding process may be followed, where the first stage involves a minimum threshold for local production and content and the second stage price and B-BBEE.
- 1.4. A person awarded a contract in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- 1.5. The local content (LC) expressed as a percentage of the bid price must be calculated in accordance with the SABS approved technical specification number SATS 1286: 2011 as follows:

$$LC = [1 - x / y] * 100$$

Where

x is the imported content in Rand

y is the bid price in Rand excluding value added tax (VAT)

Prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by South African Reserve Bank (SARB) at 12:00 on the date of advertisement of the bid as indicated in paragraph 4.1 below.

The SABS approved technical specification number SATS 1286:2011 is accessible on [http://www.thedti.gov.za/industrial development/ip.jsp](http://www.thedti.gov.za/industrial%20development/ip.jsp) at no cost.

- 1.6. A bid may be disqualified if this Declaration Certificate and the Annex C (Local Content Declaration: Summary Schedule) are not submitted as part of the bid documentation;
2. The stipulated minimum threshold(s) for local production and content (refer to Annex A of SATS 1286:2011) for this bid is/are as follows:

<u>Description of services, works or goods</u>	<u>Stipulated minimum threshold</u>
_____	_____ %
_____	_____ %
_____	_____ %

3. Does any portion of the goods or services offered have any imported content?
(Tick applicable box)

YES	☐	NO	☐
-----	--------------------------	----	--------------------------

- 3.1 If yes, the rate(s) of exchange to be used in this bid to calculate the local content as prescribed in paragraph 1.5 of the general conditions must be the rate(s) published by SARB for the specific currency at 12:00 on the date of advertisement of the bid.

The relevant rates of exchange information is accessible on www.reservebank.co.za

Indicate the rate(s) of exchange against the appropriate currency in the table below (refer to Annex A of SATS 1286:2011):

<u>Currency</u>	<u>Rates of exchange</u>
US Dollar	
Pound Sterling	
Euro	
Yen	
Other	

NB: Bidders must submit proof of the SARB rate (s) of exchange used.

4. Where, after the award of a bid, challenges are experienced in meeting the stipulated minimum threshold for local content the dti must be informed accordingly in order for the dti to verify and in consultation with the AO/AA provide directives in this regard.

LOCAL CONTENT DECLARATION
(REFER TO ANNEX B OF SATS 1286:2011)

LOCAL CONTENT DECLARATION BY CHIEF FINANCIAL OFFICER OR OTHER LEGALLY RESPONSIBLE PERSON NOMINATED IN WRITING BY THE CHIEF EXECUTIVE OR SENIOR MEMBER/PERSON WITH MANAGEMENT RESPONSIBILITY (CLOSE CORPORATION, PARTNERSHIP OR INDIVIDUAL)

IN RESPECT OF BID NO.

ISSUED BY: (Procurement Authority / Name of Institution):
.....

NB

- 1 The obligation to complete, duly sign and submit this declaration cannot be transferred to an external authorized representative, auditor or any other third party acting on behalf of the bidder.
- 2 Guidance on the Calculation of Local Content together with Local Content Declaration Templates (Annex C, D and E) is accessible on <http://www.thdti.gov.za/industrialdevelopment/ip.jsp>. Bidders should first complete Declaration D. After completing Declaration D, bidders should complete Declaration E and then consolidate the information on Declaration C. **Declaration C should be submitted with the bid documentation at the closing date and time of the bid in order to substantiate the declaration made in paragraph (c) below.** Declarations D and E should be kept by the bidders for verification purposes for a period of at least 5 years. The successful bidder is required to continuously update Declarations C, D and E with the actual values for the duration of the contract.

I, the undersigned, (full names),
do hereby declare, in my capacity as
of (name of bidder
entity), the following:

- (a) The facts contained herein are within my own personal knowledge.
- (b) I have satisfied myself that:
 - (i) the goods/services/works to be delivered in terms of the above-specified bid comply with the minimum local content requirements as specified in the bid, and as measured in terms of SATS 1286:2011; and
- (c) The local content percentage (%) indicated below has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E which has been consolidated in Declaration C:

Bid price, excluding VAT (y)	R
Imported content (x), as calculated in terms of SATS 1286:2011	R
Stipulated minimum threshold for local content (paragraph 3 above)	
Local content %, as calculated in terms of SATS 1286:2011	

If the bid is for more than one product, the local content percentages for each product contained in Declaration C shall be used instead of the table above.

The local content percentages for each product has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E.

- (d) I accept that the Procurement Authority / Institution has the right to request that the local content be verified in terms of the requirements of SATS 1286:2011.
- (e) I understand that the awarding of the bid is dependent on the accuracy of the information furnished in this application. I also understand that the submission of incorrect data, or data that are not verifiable as described in SATS 1286:2011, may result in the Procurement Authority / Institution imposing any or all of the remedies as provided for in Regulation 14 of the Preferential Procurement Regulations, 2017

promulgated under the Preferential Policy Framework Act (PPPFA), 2000 (Act No. 5 of 2000).

SIGNATURE: _____

DATE: _____

WITNESS No. 1 _____

DATE: _____

WITNESS No. 2 _____

DATE: _____

DECLARATION CERTIFICATE FOR LOCAL PRODUCTION AND CONTENT FOR DESIGNATED SECTORS

This Standard Bidding Document (SBD) must form part of all bids invited. It contains general information and serves as a declaration form for local content (local production and local content are used interchangeably).

Before completing this declaration, bidders must study the General Conditions, Definitions, Directives applicable in respect of Local Content as prescribed in the Preferential Procurement Regulations, 2017, the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:2011 (Edition 1) and the Guidance on the Calculation of Local Content together with the Local Content Declaration Templates [Annex C (Local Content Declaration: Summary Schedule), D (Imported Content Declaration: Supporting Schedule to Annex C) and E (Local Content Declaration: Supporting Schedule to Annex C)].

1. General Conditions

- 1.1. Preferential Procurement Regulations, 2017 (Regulation 8) make provision for the promotion of local production and content.
- 1.2. Regulation 8.(2) prescribes that in the case of designated sectors, organs of state must advertise such tenders with the specific bidding condition that only locally produced or manufactured goods, with a stipulated minimum threshold for local production and content will be considered.
- 1.3. Where necessary, for tenders referred to in paragraph 1.2 above, a two stage bidding process may be followed, where the first stage involves a minimum threshold for local production and content and the second stage price and B-BBEE.
- 1.4. A person awarded a contract in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- 1.5. The local content (LC) expressed as a percentage of the bid price must be calculated in accordance with the SABS approved technical specification number SATS 1286: 2011 as follows:

$$LC = [1 - x / y] * 100$$

Where

x is the imported content in Rand

y is the bid price in Rand excluding value added tax (VAT)

Prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by South African Reserve Bank (SARB) at 12:00 on the date of advertisement of the bid as indicated in paragraph 4.1 below.

The SABS approved technical specification number SATS 1286:2011 is accessible on [http://www.thedti.gov.za/industrial development/ip.jsp](http://www.thedti.gov.za/industrial%20development/ip.jsp) at no cost.

- 1.6. A bid may be disqualified if this Declaration Certificate and the Annex C (Local Content Declaration: Summary Schedule) are not submitted as part of the bid documentation;
2. The stipulated minimum threshold(s) for local production and content (refer to Annex A of SATS 1286:2011) for this bid is/are as follows:

Commodity	Components	Local Content Threshold
Steel and plastic pipes and fittings	Reinforcing Bars (100%) Door and Window Frames (100%) Roof Trusses (100%) Joining Connection Components (100%) and Plastic pipes and fittings (100%);	100%

3. Does any portion of the goods or services offered have any imported content?
(Tick applicable box)

YES	☐	NO	☐
-----	--------------------------	----	--------------------------

- 3.1 If yes, the rate(s) of exchange to be used in this bid to calculate the local content as prescribed in paragraph 1.5 of the general conditions must be the rate(s) published by SARB for the specific currency at 12:00 on the date of advertisement of the bid.

The relevant rates of exchange information is accessible on www.reservebank.co.za

Indicate the rate(s) of exchange against the appropriate currency in the table below (refer to Annex A of SATS 1286:2011):

Currency	Rates of exchange
US Dollar	
Pound Sterling	
Euro	
Yen	
Other	

NB: Bidders must submit proof of the SARB rate (s) of exchange used.

4. Where, after the award of a bid, challenges are experienced in meeting the stipulated minimum threshold for local content the dti must be informed accordingly in order for the dti to verify and in consultation with the AO/AA provide directives in this regard.

LOCAL CONTENT DECLARATION
(REFER TO ANNEX B OF SATS 1286:2011)

**LOCAL CONTENT DECLARATION BY CHIEF FINANCIAL OFFICER OR OTHER
LEGALLY RESPONSIBLE PERSON NOMINATED IN WRITING BY THE CHIEF
EXECUTIVE OR SENIOR MEMBER/PERSON WITH MANAGEMENT RESPONSIBILITY
(CLOSE CORPORATION, PARTNERSHIP OR INDIVIDUAL)**

IN RESPECT OF BID NO.

ISSUED BY: (Procurement Authority / Name of Institution):
.....

NB

- 1 The obligation to complete, duly sign and submit this declaration cannot be transferred to an external authorized representative, auditor or any other third party acting on behalf of the bidder.
- 2 Guidance on the Calculation of Local Content together with Local Content Declaration Templates (Annex C, D and E) is accessible on <http://www.thdti.gov.za/industrialdevelopment/ip.jsp>. Bidders should first complete Declaration D. After completing Declaration D, bidders should complete Declaration E and then consolidate the information on Declaration C. **Declaration C should be submitted with the bid documentation at the closing date and time of the bid in order to substantiate the declaration made in paragraph (c) below.** Declarations D and E should be kept by the bidders for verification purposes for a period of at least 5 years. The successful bidder is required to continuously update Declarations C, D and E with the actual values for the duration of the contract.

I, the undersigned, (full names),
do hereby declare, in my capacity as
of (name of bidder
entity), the following:

- (a) The facts contained herein are within my own personal knowledge.
- (b) I have satisfied myself that:
 - (i) the goods/services/works to be delivered in terms of the above-specified bid comply with the minimum local content requirements as specified in the bid, and as measured in terms of SATS 1286:2011; and
- (c) The local content percentage (%) indicated below has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E which has been consolidated in Declaration C:

Bid price, excluding VAT (y)	R
Imported content (x), as calculated in terms of SATS 1286:2011	R
Stipulated minimum threshold for local content (paragraph 3 above)	
Local content %, as calculated in terms of SATS 1286:2011	

If the bid is for more than one product, the local content percentages for each product contained in Declaration C shall be used instead of the table above.

The local content percentages for each product has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E.

- (d) I accept that the Procurement Authority / Institution has the right to request that the local content be verified in terms of the requirements of SATS 1286:2011.
- (e) I understand that the awarding of the bid is dependent on the accuracy of the information furnished in this application. I also understand that the submission of incorrect data, or data that are not verifiable as described in SATS 1286:2011, may result in the Procurement Authority / Institution imposing any or all of the remedies as provided for in Regulation 14 of the Preferential Procurement Regulations, 2017 promulgated under the Preferential Policy Framework Act (PPFA), 2000 (Act No. 5

NB

- 1 The obligation to complete, duly sign and submit this declaration cannot be transferred to an external authorized representative, auditor or any other third party acting on behalf of the bidder.
- 2 Guidance on the Calculation of Local Content together with Local Content Declaration Templates (Annex C, D and E) is accessible on <http://www.thdti.gov.za/industrialdevelopment/ip.jsp>. Bidders should first complete Declaration D. After completing Declaration D, bidders should complete Declaration E and then consolidate the information on Declaration C. **Declaration C should be submitted with the bid documentation at the closing date and time of the bid in order to substantiate the declaration made in paragraph (c) below.** Declarations D and E should be kept by the bidders for verification purposes for a period of at least 5 years. The successful bidder is required to continuously update Declarations C, D and E with the actual values for the duration of the contract.

I, the undersigned,(full names),
do hereby declare, in my capacity as
of(name of bidder
entity), the following:

- (a) The facts contained herein are within my own personal knowledge.
- (b) I have satisfied myself that:
 - (i) the goods/services/works to be delivered in terms of the above-specified bid comply with the minimum local content requirements as specified in the bid, and as measured in terms of SATS 1286:2011; and
- (c) The local content percentage (%) indicated below has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E which has been consolidated in Declaration C:

Bid price, excluding VAT (y)	R
Imported content (x), as calculated in terms of SATS 1286:2011	R
Stipulated minimum threshold for local content (paragraph 3 above)	
Local content %, as calculated in terms of SATS 1286:2011	

If the bid is for more than one product, the local content percentages for each product contained in Declaration C shall be used instead of the table above.

The local content percentages for each product has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E.

- (d) I accept that the Procurement Authority / Institution has the right to request that the local content be verified in terms of the requirements of SATS 1286:2011.
- (e) I understand that the awarding of the bid is dependent on the accuracy of the information furnished in this application. I also understand that the submission of incorrect data, or data that are not verifiable as described in SATS 1286:2011, may result in the Procurement Authority / Institution imposing any or all of the remedies as provided for in Regulation 14 of the Preferential Procurement Regulations, 2017 promulgated under the Preferential Policy Framework Act (PPPFA), 2000 (Act No. 5

of 2000).

SIGNATURE: _____

DATE: _____

WITNESS No. 1 _____

DATE: _____

WITNESS No. 2 _____

DATE: _____

Annex C

SATS 1286, 2011

Local Content Declaration - Summary Schedule

(C1) Tender No.
(C2) Tender description:
(C3) Designated product(s)
(C4) Tender Authority:
(C5) Tendering Entity name:
(C6) Tender Exchange Rate:
(C7) Specified local content %

STEEL PRODUCTS PLASTIC PIPES AND FITTINGS 100%
DEPARTMENT OF HUMAN SETTLEMENTS

Pula

EU

GBP

Note: VAT to be excluded from all calculations

Tender item no's	List of items	Tender price - each (incl VAT)	Exempted imported value	Tender value net of exempted imported content	Imported value	Local value	Local content % (per item)
(C8)	(C9)	(C10)	(C11)	(C12)	(C13)	(C14)	(C15)
1	Reinforcing bars						
2	Steel joisting/ Connecting components						
3	Door and window frames						
4	Roof Trusses						
5	Plastic Pipes and Fittings						

Calculation of local content

Tender Qty	Total tender value	Total exempted imported content	Total imported content
(C16)	(C17)	(C18)	(C19)

(C20) Total tender value

R 0

(C21) Total Exempted imported content

R 0

(C22) Total Tender value net of exempted imported content

R 0

(C23) Total imported content

R 0

(C24) Total local content

R 0

(C25) Average local content % of tender

R 0

Signature of tenderer from Annex B

Date:

THE NATIONAL TREASURY

Republic of South Africa



GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT

July 2010

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8. Inspections, tests and analyses
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General Conditions of Contract

1. Definitions

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

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

GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT

supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.

1.25 "Supplier" means the successful bidder who is awarded the contract to maintain and administer the required and specified service(s) to the State.

1.26 "Tort" means in breach of contract.

1.27 "Turnkey" means a procurement process where one service provider assumes total responsibility for all aspects of the project and delivers the full end product / service required by the contract.

1.28 "Written" or "in writing" means hand-written in ink or any form of electronic or mechanical writing.

2. Application

2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services (excluding professional services related to the building and construction industry), sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.

2.2 Where applicable, special conditions of contract are also laid down to cover specific goods, services or works.

2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

3. General

3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.

3.2 Invitations to bid are usually published in locally distributed news media and on the municipality/municipal entity website.

4. Standards

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

5. Use of contract documents and information inspection

5.1 The supplier shall not, without the purchaser's prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall

extend only so far as may be necessary for purposes of such performance.

- 5.2 The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.
- 5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

6. Patent Rights

- 6.1 The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof by the purchaser.
- 6.2 When a supplier developed documentation / projects for the municipality / municipal entity, the intellectual, copy and patent rights or ownership of such documents or projects will vest in the municipality / municipal entity.

7. Performance security

- 7.1 Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.
- 7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.
- 7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:
 - (a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or
 - (b) a cashier's or certified cheque.
- 7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified.

8. Inspections, tests and analyses

- 8.1 All pre-bidding testing will be for the account of the bidder.
- 8.2 If it is a bid condition that goods to be produced or services to be rendered should at any stage be subject to inspections, tests and analyses, the bidder or contractor's premises shall be open, at all reasonable hours, for inspection by a representative of the purchaser or organization acting on behalf of the purchaser.
- 8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the goods to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
- 8.5 Where the goods or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such goods or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Goods and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.
- 8.7 Any contract goods may on or after delivery be inspected, tested or analysed and may be rejected if found not to comply with the requirements of the contract. Such rejected goods shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with goods, which do comply with the requirements of the contract. Failing such removal the rejected goods shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute goods forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected goods, purchase such goods as may be necessary at the expense of the supplier.
- 8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 22 of GCC.

9. Packing

- 9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size

weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

- 9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, and in any subsequent instructions ordered by the purchaser.

10. Delivery and documents

- 10.1 Delivery of the goods and arrangements for shipping and clearance obligations, shall be made by the supplier in accordance with the terms specified in the contract.

11. Insurance

- 11.1 The goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified.

12. Transportation

- 12.1 Should a price other than an all-inclusive delivered price be required, this shall be specified.

13. Incidental Services

- 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any:

- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
- (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
- (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
- (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
- (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.

- 13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.

14. Spare parts

- 14.1 As specified, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:

- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and;
- (b) in the event of termination of production of the spare parts:
 - (i) advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
 - (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

15. Warranty

- 15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.
- 15.2 This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise.
- 15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.
- 15.4 Upon receipt of such notice, the supplier shall, within the period specified and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.
- 15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

16. Payment

- 16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified.
- 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.

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16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.

16.4 Payment will be made in Rand unless otherwise stipulated.

17. Prices

17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized or in the purchaser's request for bid validity extension, as the case may be.

18. Variation orders

18.1 In cases where the estimated value of the envisaged changes in purchase does not vary more than 15% of the total value of the original contract, the contractor may be instructed to deliver the goods or render the services as such. In cases of measurable quantities, the contractor may be approached to reduce the unit price, and such offers may be accepted provided that there is no escalation in price.

19. Assignment

19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.

20. Subcontracts

20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.

21. Delays in the supplier's performance

21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.

21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.

21.3 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the goods are required, or the supplier's services are not readily available.

21.4 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 22.2 without the application of penalties.

21.5 Upon any delay beyond the delivery period in the case of a goods contract, the purchaser shall, without cancelling the contract, be entitled to purchase goods of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.

22. Penalties

22.1 Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.

23. Termination for default

23.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:

- (a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
- (b) if the supplier fails to perform any other obligation(s) under the contract; or
- (c) if the supplier, in the judgement of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner, as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.

23.3 Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.

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- 23.4 If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the supplier as having no objection and proceed with the restriction.
- 23.5 . Any restriction imposed on any person by the purchaser will, at the discretion of the purchaser, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the purchaser actively associated.
- 23.6 If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:
- (i) the name and address of the supplier and / or person restricted by the purchaser;
 - (ii) the date of commencement of the restriction
 - (iii) the period of restriction; and
 - (iv) the reasons for the restriction.

These details will be loaded in the National Treasury's central database of suppliers or persons prohibited from doing business with the public sector.

- 23.7 . If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website

- 24. Anti-dumping and countervailing duties and rights**
- 24.1 When, after the date of bid, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference shall on demand be paid forthwith by the supplier to the purchaser or the purchaser may deduct such amounts from moneys (if any) which may otherwise be due to the supplier in regard to goods or services which he delivered or rendered, or is to deliver or render in terms of the contract or any other contract or any other amount which may be due to him.
- 25. Force Majeure**
- 25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.
- 25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.
- 26. Termination for insolvency**
- 26.1 The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy, which has accrued or will accrue thereafter to the purchaser.
- 27. Settlement of Disputes**
- 27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.

27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.

27.4 Notwithstanding any reference to mediation and/or court proceedings herein,

- (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
- (b) the purchaser shall pay the supplier any monies due the supplier for goods delivered and / or services rendered according to the prescripts of the contract.

28. Limitation of Liability

28.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6;

- (a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and
- (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

29. Governing language

29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.

30. Applicable law

30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified.

31. Notices

31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice.

31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

32. Taxes and duties

32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.

- 32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- 32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid SARS must have certified that the tax matters of the preferred bidder are in order.
- 32.4 No contract shall be concluded with any bidder whose municipal rates and taxes and municipal services charges are in arrears.
- 33. Transfer of contracts**
- 33.1 The contractor shall not abandon, transfer, cede assign or sublet a contract or part thereof without the written permission of the purchaser
- 34. Amendment of contracts**
- 34.1 No agreement to amend or vary a contract or order or the conditions, stipulations or provisions thereof shall be valid and of any force unless such agreement to amend or vary is entered into in writing and signed by the contracting parties. Any waiver of the requirement that the agreement to amend or vary shall be in writing, shall also be in writing.
- 35. Prohibition of restrictive practices**
- 35.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder(s) is / are or a contractor(s) was / were involved in collusive bidding.
- 35.2 If a bidder(s) or contractor(s) based on reasonable grounds or evidence obtained by the purchaser has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in section 59 of the Competition Act No 89 Of 1998.
- 35.3 If a bidder(s) or contractor(s) has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.