



**TENDER NO: ARC/10/09/2022.....**

**ROOF REPAIRS FOR THE ANALYTICAL SERVICES BUILDING AT ARC-ISCW.**

Name of Tendering Entity			
Name of Tendering Entity Representative			
Physical Address of Tendering Entity			
Postal Address of Tendering Entity			
Contact Details of Tendering Entity	Tel: ..... Fax: ..... Cell: ..... Email: .....		
Tender Amount carried from Form of Offer (incl VAT)	R ..... (incl VAT)		
CIDB Grading		CRN No:	
Tax Compliance Status & PIN	Tax Number		PIN
CSD Registration No.			

### 1. BACKGROUND

The Agricultural Research Council was established by the Agricultural Research Act, 1990 (Act no 86 of 1990, as amended) and is the principal agricultural research institution in South Africa. It is a schedule 3A public entity in terms of the Public Finance Management Act, (Act no 1 of 1999, as amended). In terms of the Act the objectives of the Agricultural Research Council are to conduct research, technology development and technology transfer (dissemination) in order to:

- Promote agriculture and the industry;
- Contribute to a better quality of life; and
- Facilitate / ensure natural resource conservation.

The organisation performs its functions through several research campuses, commonly known as research institutes that are predominantly commodity based and are strategically distributed throughout the country. These research campuses can be clustered into five business divisions, namely, Animal Health, Animal Production, Grain Crops, Horticulture Crops and Natural Resources and Engineering. Further, research at these facilities is complemented by on field experimental sites distributed throughout every province of South Africa. In addition, selected farm fields are utilised to study the performance of ARC research technologies under actual farm production environments.

The ARC is a Research Science and Technology Institution of excellence in South Africa, which operates within the National System of Innovation. The ARC has a mandate for innovative and creative agricultural research, technology development and transfer aimed at the advancement of South African agriculture. Its operations are overseen by the ARC Council which is appointed by and accountable to the Minister of Agriculture, Rural Development and Land Reform

ARC--NRE requires a suitable qualified and experienced service provider for the supply and delivery of Roof Repairs for the Analytical Services Building.

### 2. BID SUBMISSION

TENDERS ARE HEREBY INVITED FROM EXEMPTED MICRO ENTERPRISES (EME) OR QUALIFYING SMALL ENTERPRISES (QSE) WITH A STIPULATED MINIMUM B-BBEE STATUS LEVEL OF 3, 2 OR 1 AND THE CIDB GRADING OF 3GB/ 3SN OR HIGHER FOR THE ROOF REPAIRS FOR THE ANALYTICAL SERVICES BUILDING AT ARC-ISCW.

**Compulsory Briefing Session will be held on Friday 30 September 2022 at 10:00am** at Agriculture Research Council Institute for Soil, Climate and Water outside Analytical Services Building, Coordinates 25°44'18.60"S; 28°12'27.30"E.

Address for Briefing: SCW Campus of the ARC, 600 Belvedere Street Arcadia, 0083. City of Tshwane.

Downloadable Document: Bid Document can be downloaded from e- tender website [www.etender.gov.za](http://www.etender.gov.za)

## ROOF REPAIRS FOR THE ANALYTICAL SERVICES BUILDING AT ARC-ISCW.

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Technical Enquiries: Mr Ayanda Krwece: 083 881 9127 Email: KrweceA@arc.agric.za  
Mr Poonyana Morule: 071 209 0798: MoruleP@arc.agric.za

Tender Documents:

Mr Nthato Botlhole SCM Representative Tel: 012 310 2618 Email: [BotlholeN@arc.agric.za](mailto:BotlholeN@arc.agric.za)  
or Ms Lebogang Thobakgale 012 529 9840; Email: manoL@arc.agric.za

**Documents available: As from Friday 27 September 2022**\_via e-tender or from [botlholen@arc.agric.za](mailto:botlholen@arc.agric.za)

**Closing date: Wednesday 26 October 2022 @ Time: 11:00 am**

Tender Box

Venue: Reception desk of the Agriculture Research Council Institute for Soil, Climate and Water  
600 Belvedere Street, Arcadia, PRETORIA, 0083

***No submissions made by e-mail or facsimile will be accepted.***

Bidders are required to submit sets of four (4) documents including both functionality and price schedule (One original and three copies) to:

**The Agricultural Research Council –NRE– ATTENTION: The Supply Chain Accountant, 600 Belvedere Street Arcadia, 0083 Pretoria** by no later than **11:00 am** (eleven o'clock) on **26 October 2022**.

Bidders must ensure that the complete bid document is submitted with all additional required information and any other documents that the bidder wishes to supply to substantiate or clarify specific aspects in the proposal. Bidders must initial each page and sign on the applicable areas. Failure to submit the bid document and / or any required documentation may result in disqualification.

### 3. SPECIFICATIONS FOR THE TENDER

#### SCOPE OF WORK

This Contract comprises inter alia of the roof and basement remedial works to Analytical Services Building (Block D) at the Soil, Climate and Water, Arcadia Campus.

The total duration of the project is **2 months**, of which the main work items to be undertaken in terms of the refurbishment of the existing roof include the following:

- Removal and replacement of the existing roof tiles.
- Replacement of damaged timber truss members and provision of permanent bracing.
- Installation of insulation
- Refurbish flattened top of the roof by installing a new layer of GRP (Glass Reinforced Plastic) layer in accordance with the manufacturer's specification
- Replacement of ceiling.

## ROOF REPAIRS FOR THE ANALYTICAL SERVICES BUILDING AT ARC-ISCW.

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- Replacement of gutters and downpipes.
- Scrap loose paint and prepare for new painting
- Paintwork.
- Inspection and refurbishment of the plumbing work in the roof
- Inspection and repair of electrical works, including the review and issuing of the certificate of compliance.
- Refurbishment and waterproofing of the basement, including air conditioning and ventilation.

The scope of work is comprised of the following sections, i.e.:

- a) Standard Specifications
- b) Project Specifications

A compulsory clarification meeting with the Tenders are to be evaluated on the basis of the 80/20 system, 80 points for price and 20 points for attaining the Broad Based Black Economic Empowerment (BBBEE) status level of contribution. The below mentioned criteria for functionality is required for responsiveness and therefore eligibility for the next stage of evaluation. This is done to determine the ability of each bidder to successfully execute the contract according to the given “scope of work”. Failure to score a **minimum of 70 points out of 100 points** will lead to non-compliance and bidders will be rejected after this phase and will not continue for price scoring. The criteria for evaluation of the technical aspects / functionality of the submitted tender and the scoring for functionality will be according to the table below. For this project, the tenderers should have a CIDB contractor grading of 3 GB/3 SN or higher.

## ROOF REPAIRS FOR THE ANALYTICAL SERVICES BUILDING AT ARC-ISCW.

TENDERER							WEIGHT
<b><u>Schedule A: Key Personnel / Project Team</u></b>  The personnel as listed will be the site team and may not be changed at the time of implementation <b><u>without</u></b> prior notice to the Employer (ARC-ISCW). Any replacement personnel will have similar or better qualifications. A detailed CV <b><u>must</u></b> be submitted for each team member, clearly showing the years of experience, Qualification and details of experience. Qualification and trade certificates to be attached to claim points. Post qualification experience will be determined from the date of qualification supported by a certified certificate. A tenderer who fails to submit a certificate will forfeit the points on experience. An incomplete team will lead to automatic disqualification. <b>NOTE:</b> CVs of all key personnel should be completed as per Schedule A, clearly stating their relevant experience to date.							50
Job Description	Relevant Post Qualification Experience		Required Qualifications		Project Experience		Max Points
Site Agent	Number of years	Points scored	Qualification	Points Scored	Number of Projects	Points Scored	10
	5+ years	4	National Diploma Civil Engineering / Building or relevant B-degree	3	Completed 3 or more similar projects	3	
	3-4 years	3	No Relevant Qualification Submitted	0	Completed 2 similar projects	2	
General Foreman	Number of years	Points scored	Qualification	Points Scored	Number of Projects	Points Scored	10
	5+ years	4	Trade Qualification	3	Completed 3 or more similar projects	3	

## ROOF REPAIRS FOR THE ANALYTICAL SERVICES BUILDING AT ARC-ISCW.

	3-4 years	3	No Relevant Qualification Submitted	0	Completed 2 similar projects	2			
Job Description	Relevant Post Qualification Experience		Required Qualifications		Project Experience		Max Points		
Safety Agent	Number of years	Points scored	Qualification	Points Scored	Number of Projects	Points Scored	10		
	5+ years	4	Relevant Safety Qualification	3	Completed 3 or more similar projects	3			
	3-4 years	3	No Relevant Qualification Submitted	0	Completed 2 similar projects	2			
Carpenter	Number of years	Points scored	Qualification	Points Scored	Number of Projects	Points Scored	10		
	5+ years	4	Relevant Trade Qualification in carpentry <b>(Mandatory)</b>	3	Completed 3 or more similar projects	3			
	3-4 years	3	No Relevant Qualification Submitted	0	Completed 2 similar projects	2			
Electrician <b>(Wire Man's License is mandatory)</b>	Number of years	Points scored	Qualification	Points Scored	Number of Projects	Points Scored	10		
	5+ years	4	Relevant Trade Qualification in Electrical Engineering <b>(Mandatory)</b>	3	Completed 3 or more similar projects	3			
	3-4 years	3	No Relevant Qualification Submitted	0	Completed 2 similar projects	2			

TENDERER	WEIGHT														
<p><b><u>Schedule B: Previous experience</u></b></p> <p>Similar project experience as the work tendered for i.e. refurbishment of buildings, roof refurbishment or basement repairs (waterproofing) in the past 8 years. Successful Completion Certificates to be attached or signed reference letters of successful completion by Client on their letterhead.</p> <table border="1" data-bbox="153 528 1279 770"> <tr> <th></th><th>Total</th></tr> <tr> <td>One Similar project completed successfully</td><td>5</td></tr> <tr> <td>Two Similar projects completed successfully</td><td>10</td></tr> <tr> <td>Three Similar projects completed successfully</td><td>15</td></tr> <tr> <td>Four Similar projects completed successfully</td><td>20</td></tr> <tr> <td>Five Similar projects completed successfully</td><td>25</td></tr> </table> <p><b>NB: Please note that no appointment letters or Purchase Orders will be accepted as proof of successful completion.</b></p>		Total	One Similar project completed successfully	5	Two Similar projects completed successfully	10	Three Similar projects completed successfully	15	Four Similar projects completed successfully	20	Five Similar projects completed successfully	25	25		
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Three Similar projects completed successfully	15														
Four Similar projects completed successfully	20														
Five Similar projects completed successfully	25														
<p><b><u>Schedule C: Project Plan</u></b></p> <p>Bidder to provide an elaborate project plan with evidence of capability that addresses the following:</p> <table border="1" data-bbox="134 1021 1275 1986"> <tr> <th>Project Plan requirements</th><th>Points scored</th></tr> <tr> <td>❖ Capacity to execute the works. List the available plant and the list should include the following but not limited to: <ul style="list-style-type: none"> <li>○ 1 LDV Bakkie/ or suitable (a must)</li> <li>○ 10m long, 7m high scaffolding.</li> <li>○ 5m<sup>3</sup> skip</li> <li>○ 4.5 kVA Power Generator</li> </ul> </td><td style="text-align: center;">3</td></tr> <tr> <td>❖ Technical Approach and Methodology. The approach should outline the following but not limited to: <ul style="list-style-type: none"> <li>○ Project execution plan</li> <li>○ Clear understanding of project scope</li> <li>○ Construction Methodology</li> <li>○ Materials quality control method</li> </ul> </td><td style="text-align: center;">4</td></tr> <tr> <td>❖ Work Plan in form of a Gantt chart showing tasks, project duration and resources.</td><td style="text-align: center;">3</td></tr> <tr> <td>❖ Risk management defining problems predicted and planned solutions.</td><td style="text-align: center;">2</td></tr> <tr> <td>❖ Quality management showing traceable quality inspection / checklist during construction and commissioning.</td><td style="text-align: center;">2</td></tr> <tr> <td>❖ Value-added service that the bidder can add to this project. (Any additional information not addressed above that adds value to the project)</td><td style="text-align: center;">1</td></tr> </table>	Project Plan requirements	Points scored	❖ Capacity to execute the works. List the available plant and the list should include the following but not limited to: <ul style="list-style-type: none"> <li>○ 1 LDV Bakkie/ or suitable (a must)</li> <li>○ 10m long, 7m high scaffolding.</li> <li>○ 5m<sup>3</sup> skip</li> <li>○ 4.5 kVA Power Generator</li> </ul>	3	❖ Technical Approach and Methodology. The approach should outline the following but not limited to: <ul style="list-style-type: none"> <li>○ Project execution plan</li> <li>○ Clear understanding of project scope</li> <li>○ Construction Methodology</li> <li>○ Materials quality control method</li> </ul>	4	❖ Work Plan in form of a Gantt chart showing tasks, project duration and resources.	3	❖ Risk management defining problems predicted and planned solutions.	2	❖ Quality management showing traceable quality inspection / checklist during construction and commissioning.	2	❖ Value-added service that the bidder can add to this project. (Any additional information not addressed above that adds value to the project)	1	15
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<b>Schedule D: Safety Plan</b> Bidder to provide an elaborate safety plan with evidence of capability that addresses the following:		<b>10</b>	
<b>Safety plan requirements</b>	<b>Points scored</b>		
❖ Administrative procedures the contractor envisages to use in implementing and maintaining the Safety Plan for the construction site.	2		
❖ How continuous assessment of the safety plan will be assessed and implemented for the construction site.	2		
❖ Control systems the contractor envisages implementing on site to support his safety program.	2		
❖ How the contractor will ensure that he adheres to the construction regulations regarding competent persons for appointments.	2		
❖ What external resources the contractor envisages on using to ensure successful implementation and sustainability of the safety plan.	2		
<b>WEIGHT PER SCHEDULE</b>		<b>MIN</b>	<b>MAX</b>
<b>Schedule A: Key Personnel / Project Team</b>		<b>30</b>	<b>50</b>
<b>Schedule B: Previous experience</b>		<b>15</b>	<b>25</b>
<b>Schedule C: Project Plan</b>		<b>10</b>	<b>15</b>
<b>Schedule D: Safety Plan</b>		<b>5</b>	<b>10</b>
<b>TOTAL</b>		<b>70</b>	<b>100</b>

**NOTE:**

- A tenderer who has scored **less than 70 points out of 100** points on the functionality section will not be considered any further. A tenderer should also meet the indicated minimum score per category to proceed to the next stage of evaluation.
- Should it be discovered that false information has been provided the tender (offer) shall be invalidated.

**Tenderers should have a CIDB contractor grading of 3 GB/ 3 SN or higher.**

**The following Returnable Schedules will be required for tender evaluation purposes:**

- Certificate of Attendance at a compulsory tender site meeting or signature on attendance register.
- Schedule of key personnel including Curriculum vitae, and certified copies of qualifications
- Schedule of tender's experience (attach appointment letters and completion certificates)



- d) Proposed amendments, qualifications and alternatives
- e) Schedule of subcontractors for special work
- f) Form of intent to offer a performance guarantee
- g) Certified B-BBEE Certificate issued by SANAS/Sworn Affidavit signed by EME representative/B-BBEE issued by Department of Trade and Industry (DTI)
- h) Annual financial statements for preceding 3 years
- i) Letter of good standing (bank ratings)
- j) Proposed execution programme
- k) Contractor's health and safety plan
- l) Contractors environmental management plan
- m) Attach a valid tax clearance pin certificate issued by SARS

**1. Compulsory Returnable Schedules are certified copies / originals of the following documents**

Failure to submit any of the documents listed below will automatically disqualify the Bid.

- a) Contractor must be tax compliant on central supplier database
- b) Certificate of Authority of Joint Ventures / Close Corporations / Partnership / Company / Sole Proprietor (Certified Copies of the Identity Documents in the Case of Sole Proprietor)
- c) Compulsory Enterprise Questionnaire
- d) Company registration documents (CK)
- e) Certified copies of Identity documents/ share certificates
- f) Schedule Registration Certificates of Entities - Joint Ventures / Close Corporations / Partnership / Company / Sole Proprietor
- g) Copy of Workmen's Compensation Registration Certificate (or proof of payment of contributions in terms of the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993) – a Letter of Good Standing from Department of Labour
- h) Signed Form of Offer
- i) Legal Joint Venture Agreement (in case of a JV)
- j) Fully completed Standard Bidding Documents according to Standard for Uniformity in Engineering and Construction Works Contracts (SBD 4, SBD 6.1, SBD, 6.2 SBD 8 and SBD 9)
- k) Fully completed original tender document

#### 4. TENDER EVALUATION CRITERIA

The 80/20 principle will apply in terms of the Preferential Procurement Policy Framework Act 5 of 2000.

80 Points will be allocated to price and 20 points will be allocated to the BBBEE as per level of contribution. The ARC shall evaluate bids that comply with the specifications as stipulated in this bid and reserves the right to exclude any proposal that do not meet the requirements

BBBEE points in terms of the Preferential Procurement Policy Framework Act Regulations will be allocated as follows:

<b>B-BBEE Status Level of Contribution</b>	<b>Number of points (80 / 20 system)</b>
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

#### 5 BID REQUIREMENTS

Bids are invited for a panel of service provider to supply and delivery of ROOF REPAIRS FOR THE ANALYTICAL SERVICES BUILDING. The bid specifications are a guide to prospective bidders that shall comply with the regulations and specifications stipulated in this document.

Bidders must be strictly in accordance with the Bid documents submitted, that is without reservations or amendments. Any problems or queries and / or doubts have to be resolved during the bid period.

#### 6 PURPOSE OF THE REQUEST FOR PROPOSAL

The Agricultural Research Council is a premier science institution that conducts fundamental and applied research with partners to generate knowledge, develop human capital and foster innovation in agriculture through technology development and dissemination, and competitive commercialisation of research results in support of developing a prosperous agriculture sector.

These activities are part of ARC's on-going risk management program and are focused on mitigating the risk to the national agricultural sector so that an appropriate set of responses to those threats can be developed.

The ARC is seeking to identify and select a service provider to supply and deliver the ROOF REPAIRS FOR THE ANALYTICAL SERVICES BUILDING .The remainder of this document provides additional information that will allow a bidder to understand the scope of the effort and develop a proposal in the format desired by ARC.

## **7 DUE DATES**

All proposals are due by 11:00 am (GMT +2) on 26 October 2022 Any proposal received at the designated area after the required time and date specified for receipt shall be considered late and non-responsive. Any late proposals will be returned unopened.

## **GUIDELINES FOR PROPOSAL PREPARATION**

### **8 PROPOSAL SUBMISSION**

Bidders are required to submit sets of four (4) documents (One original and three copies)

Award of the contract resulting from this RFP will be based upon the most responsive Bidder whose offer will be most advantageous to ARC in terms of cost and other factors as specified elsewhere in this RFP.

ARC reserves the right to:

- Reject any or all offers and discontinue this RFP process without obligation or liability to any potential Bidder,
- Accept other than the lowest priced offer,
- Award a contract on the basis of initial offers received, without discussions or requests for best and final offers, and
- Award more than one contract

In order to address the needs of this procurement, ARC encourages Bidders to work co-operatively in presenting integrated solutions. Bidder team arrangements may be desirable to enable the companies involved to complement each other's unique capabilities, while offering the best combination of performance, cost and delivery for the project being provided under this RFP. The ARC will recognise the integrity and validity of Bidder team arrangements provided that:

- The arrangements are identified and relationships are fully disclosed, and
- A prime Bidder is designated that will be fully responsible for all contract performance

## **10. CONTENTS OF PROPOSALS**

Proposals shall include all relevant information about the Bidder, which is thought appropriate to assist the ARC to assess its capabilities, capacity, outputs, value adding abilities, competitive advantage, etc.

The proposals presented are to be comprehensive and should describe the methodology to be used in executing the required services. Bidders should also indicate value added services expected to be provided to ARC.

Bidders shall adhere to the conditions stipulated in the General Conditions of Contract as prescribed by the National Treasury.

Bidders must ensure that the complete bid document is submitted with all additional required information and any other documents that the Bidder wishes to supply to substantiate or clarify aspects in the proposal.

Failure to submit the bid document and / or any required documentation may result in disqualification.

## **11. BROAD BASED BLACK ECONOMIC EMPOWERMENT (BBBEE)**

In terms of the Preferential Procurement Policy Framework Act (PPPFA), Act 5 of 2000, the 80/20 principle shall be applicable to this bid and points shall be allocated as indicated under functionality. Sound evidence for points claimed must be attached so that points can be allocated.

**(Attach original or certified BBBEE certificate or sworn affidavit for BBBEE points to be allocated)**

## **12 PRICE AND PRICING STRUCTURE**

Bidders shall indicate the basis on which the services will be charged. In this regard the following information shall be provided **(Inclusive of VAT)**:

- <sup>1</sup>Where a Bidder lacks in-house expertise and may have to outsource certain services, the detail and basis of charges of any such service that may be required must be outlined.
- The Bidder shall reflect service discounts that they will offer throughout the contract duration.
- Bidders' submission must reflect the detailed breakdown of the bid price as follows:
  - Prices must be for the entire period of the tender including price escalation.
  - Prices must include VAT, if it is applicable and all other costs related to the execution of the required services.
  - All prices quoted are to be in SA Rand. Exception is given to international suppliers, and the following will apply- the foreign exchange rate at Standard Bank South Africa on the DATE of advertisement of this tender at 12:00 noon. The prices indicated must be valid for 90 days from date of the tender closure.

## **13. ORAL PRESENTATIONS**

Bidders may be required to make oral presentations regarding their proposals to a panel of evaluators. If oral presentations are required, at least one key member of the execution team is to be present.

## **14. COMPLIANCE WITH GENERAL CONDITIONS OF CONTRACT**

No alteration, variation or amendment of the Contract (of which this Bid represents the offer) shall be permitted unless otherwise agreed to in writing. Should the prospective provider, in

the case of non-compliance, wish to make any amendments to the conditions stipulated by the ARC in this Bid, then such proposed amendments shall be clearly stipulated by the prospective Bidder and where possible stating the increase or decrease in the cost involved by such proposal. The ARC reserves the right to reject such submissions.

Misrepresentation of facts will result in disqualification and cancellation of the Contract.

**15. ACCEPTANCE OF SUBMISSIONS**

No submission shall be deemed to have been accepted, unless and until a formal contract is prepared and executed. Submissions shall remain open for acceptance by the ARC for a period of 90 (ninety) days from the date on which they are returnable in terms of this Bid.

**16. ARC LIABILITY**

The ARC does not bind itself to accept the lowest or any Bid proposal, nor to assign any reason for the rejection of a Bid proposal, nor shall it be responsible for or pay any expenses or losses that may be incurred by the prospective Bidders in the preparation and delivery of its submission.

**17. PRICING**

No change in the prices submitted shall be considered after receipt of response to the Bid submission.

**18. AMPLIFICATION OF SUBMISSIONS**

The ARC may, after the opening of submissions, call on the prospective Bidder to amplify in writing any matter which is not clear in the prospective Bidder's submission and such amplification shall form part of the original submission. In the event of the prospective Bidder failing to supply such information, the submission will be liable to rejection.

**19. COST OF PROPOSAL**

Bidders shall bear all costs associated with the preparation and submission of their proposals, the ARC will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the Bid.

**20. BID DOCUMENTS**

This document in its entirety serves as the complete Bid document. Proposals must offer services to the ARC-NRE. Proposals offering only part of the requirements will be rejected. The Bidder is expected to examine all corresponding instructions, forms, terms and specifications contained in this document. Failure to comply with these documents will be at the Bidder's risk and may affect the evaluation of their proposal.

**21. DOCUMENTS COMPRISING THE PROPOSAL**

In preparing the technical and price components of the submissions all references to descriptive material and brochures should be included in the appropriate response paragraph, although material documents themselves may be provided as annexes to the proposal / response. Bidders are requested to focus on the provision of relevant information and to limit the amount of marketing and "boilerplate" material. The successful Bidder's proposal may be incorporated in whole or in part in the final contract. Any information that the Bidder considers proprietary should be marked as such.

**22. INFORMATION**

Information that the Bidder considers proprietary, if any, should be clearly marked “proprietary” next to the relevant part of the text and it will be treated as such accordingly.

## **23. PERIOD OF VALIDITY**

Proposals shall remain valid for ninety (90) days after the date of proposal submission. A proposal valid for a shorter period may be rejected by the ARC on the grounds that it is non-responsive.

In exceptional circumstances, the ARC may solicit the Bidder’s consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. A Bidder granting the request will not be required nor permitted to modify their proposal.

## **24. FORMAT AND SIGNING OF PROPOSALS**

The Bidder shall prepare four copies of the proposal, clearly marking each “Original Proposal” and “Copy of Proposal” as appropriate. In the event of any discrepancies between them, the original shall govern. The four proposals shall be signed by the Bidder or a person or persons duly authorised to bind the Bidder to the contract.

## **25. INTERLINEATIONS**

A proposal shall contain no interlineations, erasures, or overwriting except, as necessary to correct errors made by the Bidder, in which case such corrections shall be initiated by the person or persons signing the proposal.

## **26. RETURNABLE DOCUMENTS**

32.1 Completed bid document, initialled on each page by the person or persons signing the proposal.

a. Original valid, current Tax Clearance Certificate issued by SARS or TCS document

32.3. Certified copy or original BBBEE certificate, if applicable

32.4. Entity ownership registration documents, where applicable, with Power for Attorney of signing authority

32.5. Certified copy of identity documentation of shareholders/directors/members

32.6. Completed and signed SBD forms as included in this bid document.

32.7. Company profile and CV’s of key personnel

32.8. Any other documentation required for compliance to specifications

## **27. DUE DILIGENCE EXERCISE**

The ARC reserves the right to perform due diligence exercise for the purpose of appointing a credible tenderer.

## PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)					
BID NUMBER:	<b>ARC/ 08/09/2021</b>	Closing Date:	<b>08/11/2021</b>	CLOSING TIME:	<b>11:00AM</b>
DESCRIPTION	<b>THE SUPPLY AND DELIVERY OF ROOF REPAIRS FOR THE ANALYTICAL SERVICES BUILDING</b>				
<b>THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).</b>					

BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)

<b>Agricultural Research Council-Natural Resources and Engineering</b>					
<b>600 Belvedere</b>					
<b>Arcadia</b>					
<b>Pretoria 0083</b>					
<b>SUPPLIER INFORMATION</b>					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
	TCS PIN:		<b>OR</b>	CSD No:	
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]	<input type="checkbox"/> Yes  <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
IF YES, WHO WAS THE CERTIFICATE ISSUED BY?					
AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA) AND NAME THE APPLICABLE IN THE TICK BOX	<input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>	AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA) A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS) A REGISTERED AUDITOR NAME:			
<b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/SWORN AFFIDAVIT(FOR EMEs&amp; QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]</b>					

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ANSWER PART B:3 BELOW ]
SIGNATURE OF BIDDER	.....	DATE	
CAPACITY UNDER WHICH THIS BID IS SIGNED (Attach proof of authority to sign this bid; e.g. resolution of directors, etc.)			
TOTAL NUMBER OF ITEMS OFFERED		TOTAL BID PRICE (ALL INCLUSIVE)	
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:</b>		<b>TECHNICAL INFORMATION MAY BE DIRECTED TO:</b>	
DEPARTMENT/ PUBLIC ENTITY	ARC-NRE	DEPARTMENT/ PUBLIC ENTITY	ARC-NRE
CONTACT PERSON	Mr. Nthato Botlhole	CONTACT PERSON	Mr Poonyana Morule
TELEPHONE NUMBER	012 310 2618	TELEPHONE NUMBER	0712090798
FACSIMILE NUMBER		FACSIMILE NUMBER	
E-MAIL ADDRESS	<a href="mailto:BotlholeN@arc.agric.za">BotlholeN@arc.agric.za</a>	E-MAIL ADDRESS : MoruleP@arc.agric.za	



### TAX CLEARANCE CERTIFICATE REQUIREMENTS

**It is a condition of bid that the taxes of the successful bidder must be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the bidder's tax obligations.**

1. In order to meet these requirement bidders are required to complete in full the attached form TCC 001 "Application for a Tax Clearance Certificate" and submit it to any SARS branch office nationally. The Tax Clearance Certificate Requirements are also applicable to foreign bidders / individuals who wish to submit bids.
2. SARS will then furnish the bidder with a Tax Clearance Certificate that will be valid for a period of 1 (one) year from the date of approval.
3. The original Tax Clearance Certificate must be submitted together with the bid. Failure to submit the original and valid Tax Clearance Certificate will result in the invalidation of the bid. Certified copies of the Tax Clearance Certificate will not be acceptable.
4. In bids where Consortia / Joint Ventures / Sub-contractors are involved, each party must submit a separate Tax Clearance Certificate.
5. Copies of the TCC 001 "Application for a Tax Clearance Certificate" form are available from any SARS branch office nationally or on the website [www.sars.gov.za](http://www.sars.gov.za).
6. Applications for the Tax Clearance Certificates may also be made via eFiling. In order to use this provision, taxpayers will need to register with SARS as eFilers through the website [www.sars.gov.za](http://www.sars.gov.za).

**PRICING SCHEDULE – FIRM PRICES  
(PURCHASES)**

**NOTE: ONLY FIRM PRICES WILL BE ACCEPTED. NON-FIRM PRICES (INCLUDING PRICES SUBJECT TO RATES OF EXCHANGE VARIATIONS) WILL NOT BE CONSIDERED**  
**IN CASES WHERE DIFFERENT DELIVERY POINTS INFLUENCE THE PRICING, A SEPARATE PRICING SCHEDULE MUST BE SUBMITTED FOR EACH DELIVERY POINT**

Name of bidder.....	Bid number: <b>ARC/10/09/2022</b>
Closing Time 11:00	Closing date: 26 October 2022

OFFER TO BE VALID FOR 90 DAYS FROM THE CLOSING DATE OF BID.

ITEM NO.	QUANTITY	DESCRIPTION	BID PRICE IN RSA CURRENCY **(ALL APPLICABLE TAXES INCLUDED)
-	Required by:		ARC-NRE
-	At:		600 Belvedere
			Arcadia, Pretoria 0083
-	Brand and model		.....
-	Country of origin		.....
-	Does the offer comply with the specification(s)?		<b>*YES/NO</b>
-	If not to specification, indicate deviation(s)		.....
-	Period required for delivery		.....
	*Delivery: Firm/not firm		
-	Delivery basis		.....

**Note:** All delivery costs must be included in the bid price, for delivery at the prescribed destination.

**\*\* “all applicable taxes” includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies.**

\*Delete if not 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 interest<sup>2</sup> in the enterprise, employed by the state? **YES/NO**

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

Full Name	Identity Number	Name of State institution

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

.....

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<sup>2</sup> the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.

### 3 DECLARATION

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

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium<sup>3</sup> will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring 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

---

<sup>3</sup> Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

This document must be signed and submitted together with your bid

## **THE NATIONAL INDUSTRIAL PARTICIPATION PROGRAMME**

### **INTRODUCTION**

The National Industrial Participation (NIP) Programme, which is applicable to all government procurement contracts that have an imported content, became effective on the 1 September 1996. The NIP policy and guidelines were fully endorsed by Cabinet on 30 April 1997. In terms of the Cabinet decision, all state and parastatal purchased / lease contracts (for goods, works and services) entered into after this date, are subject to the NIP requirements. NIP is obligatory and therefore must be complied with. The Industrial Participation Secretariat (IPS) of the Department of Trade and Industry (DTI) is charged with the responsibility of administering the programme.

### **1. PILLARS OF THE PROGRAMME**

- 1.1 The NIP obligation is benchmarked on the imported content of the contract. Any contract having an imported content equal to or exceeding US\$ 10 million or other currency equivalent to US\$ 10 million will have a NIP obligation. This threshold of US\$ million can be reached as follows:
  - (a) Any single contract with imported content exceeding US\$ 10 million.  
or
  - (b) Multiple contracts for the same goods, works or services each with imported content exceeding US\$ 3 million awarded to one seller over a 2 year period which in total exceeds US\$ 10 million.  
or
  - (c) A contract with a renewable option clause, where should the option be exercised the total value of the imported content will exceed US\$ 10 million.  
or
  - (d) Multiple suppliers of the same goods, works or services under the same contract, where the value of the imported content of each allocation is equal to or exceeds US\$ 3 million worth of goods, works or services to the same government institution, which in total over a two (2) year period exceeds US\$ 10 million.
- 1.2 The NIP obligation to suppliers in respect of sub-paragraphs 1.1 (a) to 1.1 (c) above will amount to 30% of the imported content whilst suppliers in respect of paragraph 1.1 (d) shall incur 30% of the total NIP obligation on a *pro-rata* basis.
- 1.3 To satisfy the NIP obligation, the DTI would negotiate and conclude agreements such as investments, joint ventures, sub-contracting, licensee production, export promotion, sourcing arrangements and research and development (R&D) with partners or suppliers.
- 1.4 A period of seven years has been identified as the time frame within which to discharge the obligation.

### **2. REQUIREMENTS OF THE DEPARTMENT OF TRADE AND INDUSTRY<sup>4</sup>**

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2.1 In order to ensure effective implementation of the programme, successful bidders (contractors) are required to, immediately after the award of a contract that is in excess of R 10 million (ten million Rands), submit details of such a contract to the DTI for reporting purposes.

2.2 The purpose for reporting details of contracts in excess of the amount of R 10 million (ten million Rands) is to cater for multiple contract for the same goods, works or services; renewal contracts and multiple suppliers for the same goods, works and services under the same contract as provided for in paragraphs 1.1 (b) to 1.1 (d) above.

### **3. BID SUBMISSION AND CONTRACT REPORTING REQUIREMENTS OF BIDDERS AND SUCCESSFUL BIDDERS (CONTRACTORS)**

3.1 Bidders are required to sign and submit this Standard Bidding Document (SBD 5) together with the bid on the closing date and time.

3.2 In order to accommodate multiple contracts for the same goods, works or services; renewal contracts and multiple suppliers for the same goods, works or services under the same contract as indicated in sub-paragraphs 1.1 (b) to 1.1 (d) above and to enable the DTI in determining the NIP obligation, successful bidders (contractors) are required, immediately after being officially notified about any successful bid with a value in excess of R 10 million (ten million Rands), to contact and furnish the DTI with the following information:

- Bid / contract number
- Description of the goods, works or services
- Date on which the contract was accepted
- Name, address and contact details of the government institution
- Value of the contract
- Imported content of the contract, if possible.

3.3 The information required in paragraph 3.2 above must be sent to the Department of Trade and Industry, Private Bag X84, Pretoria, 0001 for the attention of Mr. Elias Malapane within five (5) working days after award of the contract. Mr. Malapane may be contacted on telephone (012) 394-1401, facsimile (012) 394-2401 or e-mail at [Elias@thetdi.gov.za](mailto:Elias@thetdi.gov.za) for further details about the programme.

### **4. PROCESS TO SATISFY THE NIP OBLIGATION**

4.1 Once the successful bidder (contractor) has made contact with and furnished the DTI with the information required, the following steps will be followed:

- a. The contractor and the DTI will determine the NIP obligation;
- b. The contractor and the DTI will sign the NIP obligation agreement;
- c. The contractor will submit a performance guarantee to the DTI;
- d. The contractor will submit a business concept for consideration and approval by the DTI;

- e. Upon approval of the business concept by the DTI, the contractor will submit detailed business plans outlining the business concepts;
  - f. The contractor will implement the business plans; and
  - g. The contractor will submit bi-annual progress reports on approved plans to the DTI.
- 4.2 The NIP obligation agreement is between the DTI and the successful bidder (contractor) and, therefore, does not involve the purchasing institution.

Bid Number: ..... Closing Date: .....

Name of Bidder: .....

Postal address: .....

.....

Signature: ..... Name (In print): .....

Date: .....

## PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017

This preference form must form part of all bids invited. It contains general information and serves as a claim form for preference points for Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution

**NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.**

### 1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to all bids:

- 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

- a) The value of this bid is estimated to not to exceed R50 000 000 (all applicable taxes included) and therefore the .....80/20..... Preference point system shall be applicable; or
- b) Either the 80/20 or 90/10 preference point system will be applicable to this tender (*delete whichever is not applicable for this tender*).

1.3 Points for this bid shall be awarded for:

- (a) Price; and
- (b) B-BBEE Status Level of Contributor.

1.4 The maximum points for this bid are allocated as follows:

	POINTS
<b>PRICE</b>	80
<b>B-BBEE STATUS LEVEL OF CONTRIBUTOR</b>	20
<b>Total points for Price and B-BBEE must not exceed</b>	<b>100</b>

1.5 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.



## 2. DEFINITIONS

- (a) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (b) **“B-BBEE status level of contributor”** means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (c) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services, through price quotations, advertised competitive bidding processes or proposals;
- (d) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (e) **“EME”** means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (f) **“functionality”** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.
- (g) **“prices”** includes all applicable taxes less all unconditional discounts;
- (h) **“proof of B-BBEE status level of contributor”** means:
  - 1) B-BBEE Status level certificate issued by an authorized body or person;
  - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
  - 3) Any other requirement prescribed in terms of the B-BBEE Act;
- (i) **“QSE”** means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (j) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

## 3. POINTS AWARDED FOR PRICE

### 3.1 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**

**or**

**90/10**

$$P_s = 80 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right) \quad \text{or} \quad P_s = 90 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

$P_s$  = Points scored for price of bid under consideration

$P_t$  = Price of bid under consideration

$P_{\min}$  = Price of lowest acceptable bid

## 4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

- 4.1 In terms of Regulation 6 (2) and 7 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

## 5. BID DECLARATION

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

## 6. B-BBEE STATUS LEVEL OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1

- 6.1 B-BBEE Status Level of Contributor: . = .....(maximum of 10 or 20 points)  
(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

## 7. SUB-CONTRACTING

- 7.1 Will any portion of the contract be sub-contracted?

(*Tick applicable box*)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

- 7.1.1 If yes, indicate:

- What percentage of the contract will be subcontracted.....%
- The name of the sub-contractor.....
- The B-BBEE status level of the sub-contractor.....
- Whether the sub-contractor is an EME or QSE

(*Tick applicable box*)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

- v) Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations,2017:

Designated Group: An EME or QSE which is at last 51% owned by:	EME √	QSE √
Black people	<input type="checkbox"/>	<input type="checkbox"/>
Black people who are youth	<input type="checkbox"/>	<input type="checkbox"/>
Black people who are women	<input type="checkbox"/>	<input type="checkbox"/>
Black people with disabilities	<input type="checkbox"/>	<input type="checkbox"/>

Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		
Black people who are military veterans		
<b>OR</b>		
Any EME		
Any QSE		

**8. DECLARATION WITH REGARD TO COMPANY/FIRM**

8.1 Name of company/firm:.....

8.2 VAT registration number:.....

8.3 Company registration number:.....

**8.4 TYPE OF COMPANY/ FIRM**

- ☐ Partnership/Joint Venture / Consortium
- ☐ One person business/sole propriety
- ☐ Close corporation
- ☐ Company
- ☐ (Pty) Limited

[TICK APPLICABLE BOX]

**8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES**

.....

.....

.....

.....

**8.6 COMPANY CLASSIFICATION**

- ☐ Manufacturer
- ☐ Supplier
- ☐ Professional service provider
- ☐ Other service providers, e.g. transporter, etc.

[TICK APPLICABLE BOX]

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

8.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –

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

WITNESSES

- 1. ....
- 2. ....

.....  
SIGNATURE(S) OF BIDDERS(S)

DATE: .....

ADDRESS .....

.....

.....

## 7.1 CONTRACT FORM - PURCHASE OF GOODS/WORKS

**THIS FORM MUST BE FILLED IN DUPLICATE BY BOTH THE SUCCESSFUL BIDDER (PART 1) AND THE PURCHASER (PART 2). BOTH FORMS MUST BE SIGNED IN THE ORIGINAL SO THAT THE SUCCESSFUL BIDDER AND THE PURCHASER WOULD BE IN POSSESSION OF ORIGINALLY SIGNED CONTRACTS FOR THEIR RESPECTIVE RECORDS.**

### **PART 1 (TO BE FILLED IN BY THE BIDDER)**

1. I hereby undertake to supply all or any of the goods and/or works described in the attached bidding documents to (name of institution)..... in accordance with the requirements and specifications stipulated in bid number..... at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the purchaser during the validity period indicated and calculated from the closing time of bid.
2. The following documents shall be deemed to form and be read and construed as part of this agreement:
  - (i) Bidding documents, viz
    - Invitation to bid
    - Tax clearance certificate
    - Pricing schedule(s)
    - Technical Specification(s)
    - Preference Certificates in terms of the Preferential Procurement Regulations 2001
    - Declaration of interest
    - Special Conditions of Contract;
  - (ii) General Conditions of Contract; and
  - (iii) Other (specify)
3. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the goods and/or works specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfilment of this contract.
5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
6. I confirm that I am duly authorised to sign this contract.

NAME (PRINT) .....

CAPACITY .....

SIGNATURE .....

NAME OF FIRM .....

DATE .....

#### **WITNESSES**

1 .....

2. ....

DATE: .....

## CONTRACT FORM - PURCHASE OF GOODS/WORKS

### PART 2 (TO BE FILLED IN BY THE PURCHASER)

1. I..... in my capacity as..... accept your bid under reference number .....dated.....for the supply of goods/works indicated hereunder and/or further specified in the annexure(s).
2. An official order indicating delivery instructions is forthcoming.
3. I undertake to make payment for the goods/works delivered in accordance with the terms and conditions of the contract, within 30 (thirty) days after receipt of an invoice accompanied by the delivery note.

ITEM NO.	PRICE (VAT INCL)	BRAND	DELIVERY PERIOD	POINTS CLAIMED FOR HDI'S	POINTS CLAIMED FOR RDP GOALS

4. I confirm that I am duly authorised to sign this contract.

SIGNED AT .....ON.....

NAME (PRINT) .....

# **THE NATIONAL TREASURY**

**Republic of South Africa**



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

**July 2010**

## GENERAL CONDITIONS OF CONTRACT

### 1. Definitions

The following items 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 anything 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 subsidised by its government and encourage 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 recognised 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 specific 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 market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.
- 1.12 "Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events may include, by 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 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 sub-contractors) 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 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 organisation purchasing the goods.
- 1.22 “Republic” means the Republic of South Africa
- 1.23 “SCC” means the Special Conditions of Contract
- 1.24 “Services” means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.
- 1.25 “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 of 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 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria, 0111, or accessed electronically from [www.treasury.gov.za](http://www.treasury.gov.za)

### **4. Standards**

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

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

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

### **6. Patent rights**

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

### **7. Performance Security**

- 7.1 Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in the SCC.
- 7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.
- 7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:

- a) A bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country, or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or
- b) A cashier's or certified cheque.

7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified in SCC.

## **8. Inspections, tests and analysis**

8.1 All pre-bidding testing will be for the account of the bidder.

8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organisation acting on behalf of the Department.

8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.

8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analysis shall be defrayed by the purchaser.

8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.

8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.

8.7 Any contract supplies may on or after delivery be inspected, tested or analysed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.

8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of GCC.

## **9. Packing**

9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the

remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

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

## **10. Delivery and documents**

- 10.1 Delivery of the goods shall be made by the supplier in accordance with the terms specified in the contract. The details of shipping and / or other documents to be furnished by the supplier are specified in SCC.
- 10.2 Documents to be submitted by the supplier are specified in SCC.

## **11. Insurance**

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

## **12. Transportation**

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

## **13. Incidental services**

- 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:
- a) Performance or supervision of on-site assembly and / or commissioning of the supplied goods;
  - b) Furnishing of tools required for assembly and / or maintenance of the supplied goods;
  - c) Furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
  - d) Performance or supervision or maintenance and / or repair to the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
  - e) Training of the purchaser's personnel, at the supplier's plant and / or on-site, in assembly, start-up, operation, maintenance, and / or repair of the supplied goods.
- 13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.

## **14. Spare parts**

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

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

## **15. Warranty**

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

## **16. Payment**

- 16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in the SCC.
- 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfilment of other obligations stipulated in the contract.
- 16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.
- 16.4 Payment will be made in Rand unless otherwise stipulated in SCC.

## **17. Prices**

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

## **18. Variation orders**

- 18.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.

## **19. Assignment**

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

## **20. Subcontracts**

- 20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under the contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relive 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 sub-contractor(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 by the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.
- 21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or service from a national department, provincial department or a local authority.
- 21.4 The right is reserves to procure outside of the contract small quantities or to have minor essential services executed is an emergency arises, the supplier's point of supply is situated at or near the place where the supplies are required, or the supplier's services are not readily available.
- 21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.
- 21.6 Upon any delay beyond the delivery period in the case of a supplier contract, the purchaser shall, without cancelling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitles 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 purchase 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 purchase may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.
- 23.4 If a purchase intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the intended penalty as not objected against and may impose it on the supplier.
- 23.5 Any restriction imposed on any person by the Accounting Officer / Authority will, at the discretion of the Accounting Officer / Authority, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Accounting Officer / Authority actively associated.
- 23.6 Is 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.

- 23.7 If a court of law convicts a person of an offense as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, 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 in 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 subsidised import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference shall on demand be paid forthwith by the contractor to the State or the State may deduct such amounts from moneys (if any) which may otherwise be due to the contractor in regard to supplies or services which he delivered or rendered, or is to deliver or render in terms of the contract or any other contract or any other amount which may be due to him.

#### **25. Force Majeure**

- 25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default in 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 reasonable practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

#### **26. Termination for Insolvency**

- 26.1 The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the purchaser.

#### **27. Settlement of disputes**

- 27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.
- 27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African Court of Law.



27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.

27.5 Notwithstanding any reference to mediation and / or court proceedings herein

a) The parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and

b) The purchaser shall pay the supplier any monies due to the supplier.

## **28. Limitation of Liability**

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

a) The supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and / or damages to the purchaser; and

b) The aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

## **29. Governing language**

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

## **30. Applicable law**

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

## **31. Notices**

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

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

## **32. Taxes and duties**

32.1 A foreigner 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, licence fees, etc. incurred until delivery of the contracted goods to the purchaser.

32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance

certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.

32.4 Transfer of contracts

32.5 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation

**33. Amendments of contracts**

- 33.1 In terms of section 4 (1) (b) (iii) of the Competition Act no. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder(s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).
- 33.2 Of a bidder(s) or contractor(s), based in reasonable grounds or evidence obtained by the purchase, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No 89 of 1998.
- 34.3 Is 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

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