



**HARRY GWALA DEVELOPMENT AGENCY (PTY) LTD**  
**2011/001221/07**

Harry Gwala Farmers Market, Erf 2226  
Portion 27 of the Farm Ellerton, IXOPO 3276  
Tel: 039 834 2740 / Fax: 039 844 1618  
Website: [www.hgda.co.za](http://www.hgda.co.za)

**BUDGET AND TREASURY – SUPPLY CHAIN MANAGEMENT**

**READVERTISEMENT**

**SUPPLY, DELIVERY AND INSTALLATION OF BOREHOLE  
(GREATER KOKSTAD MUNICIPALITY)**

**BID No- HGDA 06-22/23**

**CIDB GRADING – 2CE OR 3CE**

**CLOSING DATE:**

---

**CLOSING TIME:**

---

**NAME OF BIDDER:**

---

**POSTAL ADDRESS:**

---

**TELEPHONE NUMBER:**

---

**FAX NUMBER:**

---

**E- MAIL ADDRESS:**

---

**TENDER SUM (ALL INCLUSIVE) in words:**

---

---

**TENDER SUM (ALL INCLUSIVE) (numerical):**

---

The bid documents must be clearly marked:

**SUPPLY, DELIVERY AND INSTALLATION OF BOREHOLE  
(GREATER KOKSTAD MUNICIPALITY)**

---

**BID NUMBER: HGDA 06-22/23**

***Bid documents must be deposited in the tender box marked “SUPPLY, DELIVERY AND INSTALLATION OF BOREHOLE FOR GREATER KOKSTAD MUNICIPALITY” located at the reception area at Harry Gwala Development Agency (HGDA), Farmers Market, Portion 27 of the Farm Ellerton, Erf 2226, Ixopo not later than 03 February 2023 at 12h00. Bidders must attach the following mandatory returnable documents to be considered for this bid and must note the applicable conditions:***

- Price (s) quoted must be firm and must be inclusive of VAT (MBD3.1)
- Copy of CSD (Central Supplier Database) summary report (not older than 3 months)
- Company registration documents (compulsory)
- For Joint Venture Agreements, attach the CK's of each of the joint venture members (if applicable)
- Only Bidders that have the required CIDB Grading listed on the table above will be considered. Joint Ventures are also eligible to submit Bids provided that every member of the Joint Venture is registered with the CIDB and a combined grade of Joint Venture calculated in accordance with the CIDB regulations is equal to or higher than the specified Contractor grading.
- Also eligible to submit Bids provided that every member of the Joint Venture is registered with the CIDB and a combined grade of Joint Venture calculated in accordance with the CIDB regulations is equal to or higher than the specified Contractor grading.
- Certified ID(s) copies of company director(s)
- Certified copy of BBB-EE certificate or Sworn Affidavit
- Copy of current municipal account for all Director/s and Company (not older than 3 months) or copy of lease agreement from the relevant leasing authority. If the business is operated from the residence of one of the Director/s, an original affidavit, certified, must be submitted stating the address of the premises preferably from your local SAPS office.
- Printed copy of tax clearance certificate accompanied by a pin for further verification.
- Completed and signed Bidding Document attached to the tender document.
- *Service providers must meet the minimum threshold percentage for local production and content for the following in accordance with legislative prescripts (Preferential Procurement Policy Regulation 2022 and Local Content – industrialization)*
- *Electrical cables (90%)*
- *Valve Products and Actuators (100%)*
- *Steel Value-Add Products (100%)*
- *Pumps, Medium voltage (MV) – motor and associated accessories (70%)*

- *Casting, fabrication and testing (100%)*

The following conditions will apply:

- Price(s) quoted must be valid for at least ninety (90) days from date of your offer.
- Price(s) quoted must be firm and must be inclusive of VAT and disbursements
- Your valid tax clearance certificate must be attached

**NB: No quotations will be considered from persons in the service of the state or persons who owe rates, services, and taxes to any Municipality for a period longer than 90 days.**

# **TENDER ADVERT**

**SUPPLY, DELIVERY AND INSTALLATION OF BOREHOLE  
(GREATER KOKSTAD MUNICIPALITY)  
HGDA 06-22/23**

The Harry Gwala Development Agency (Pty) Ltd hereby invites proposals from reputable Service Providers for the supply, delivery and installation of Borehole, Exploration and Geotechnical Drilling Services and Equipment at the Greater Kokstad Municipality.

The scope of work and bid requirements is stipulated hereunder.

The evaluation of bids will be done in two stages in the following manner:

- First Stage - Functionality
- Second Stage - Price and Preference

**The Bid documents can be downloaded from the Harry Gwala Development Agency (Pty) Ltd website [www.hgda.co.za](http://www.hgda.co.za) and e-tender portal at no cost.**

Sealed Bids Documents marked “**Bid No. HGDA – (06-22/23) “SUPPLY, DELIVERY AND INSTALLATION OF BOREHOLE AT GREATER KOKSTAD MUNICIPALITY”**”) maybe be couriered with courier services at least 2 days before closing date to avoid late delivery or be hand delivered and must be deposited in the **TENDER BOX** located at the Reception Area, Harry Gwala Development Agency, Farmers Market, Portion 27 of the Farm Ellerton, Erf 2226, Ixopo, not later than **15 March 2023 at 12H00**, bids will be opened in public.

Late, telegraphic or faxed bids will not be considered.

Tenderers that submit tenders by courier retain the responsibility of ensuring that tender documents submitted are placed in the tender box. This is not the responsibility of the Municipal Entity. Tenders are to adhere to the General Conditions of Contract and the SCM Policy of Harry Gwala Development Agency (PTY) Ltd.

Technical Enquiries: Local Economic Development Office Ms Z Mkhulisi on 082 308 6833 or email: [zintle.mkhulisi@hgda.co.za](mailto:zintle.mkhulisi@hgda.co.za)), Supply Chain Management enquiries: CFO: Mr. L.L Makhaye (062 486 7057 or email: [cfo@hgda.co.za](mailto:cfo@hgda.co.za))

***The Harry Gwala Development Agency (Pty) Ltd does not bind itself to accept the lowest or any bid and reserves the right to accept the Bid in whole or part, at the rates quoted***

  
**MS A.C.R. WHYTE**  
**CHIEF EXECUTIVE OFFICER**  
**NOTICE NO: 23-22/2**

## **1. INTRODUCTION**

The Harry Gwala Development Agency (PTY) Ltd is an entity of the Harry Gwala District Municipality established to serve as a special purpose vehicle to augment economic growth of the District, thereby realising the developmental trajectory of the District in the Provincial, National and broader context.

## **2. PURPOSE AND OBJECTIVE**

To appoint a Professional Services Provider to Supply, Deliver and install a Borehole for Greater Kokstad Municipality.

## **3. SCOPE OF WORK**

### **3.1. SPECIFICATION**

3.1.1. The project covers the:

- 3.1.1.1. Borehole Supply and Installation
- 3.1.1.2. Supply, Installation and Connection of Water Storage Tanks to the Borehole system
- 3.1.1.3. Supply and Installation of a Generator (For Energy Supply)
- 3.1.1.4. Water testing, drilling, supervision and sitting / establishing of borehole

### **3.2. SITING OF GROUND WATER BOREHOLE POSITION**

Borehole Siting (feasibility) to be conducted by a Qualified Hydrogeologists which will provide a technical report and a design drawing by conducting Geohydrological desktop study, physical surveys (by using mechanical instruments) and identify suitable area with a high-water yield. A detailed breakdown cost of this professional service to be provided on a separate sheet but the SUM amount still to be reflected on this BOQ. The Geophysical techniques should include but not limited to:

- (a) Magnetic Surveys
- (b) Electrical Resistivity Surveys
- (c) Seismic Refraction Surveys
- (d) Frequency Domain Electromagnetic Surveys
- (e) Gravimetric Survey

The Services of the Hydrogeologist will be required throughout the process and their services will include: Pre-feasibility Study, Hydro census, Borehole Siting, Supervision, Reporting and Commissioning of work. Note: If the feasibility study is not successful or the feasibility report by a Qualified Hydrogeologist suggests lack of or absence of water resources within the 200m depth, all subsequent stages of this borehole development as stated in this bid document will be discontinued and the tender will be terminated.

### **3.3. BOREHOLE DRILLING AND CONSTRUCTION**

Note: Provided that the borehole siting and feasibility study on Bill No. 3 is successful, the following works shall then commence. Drilling of a 165mm diameter of borehole by using a Rotary air Percussion drilling method with all consolidated rock formation and overburden. Development (Air Flush) Drilling contractor to closely work under the direct Supervision of the Hydrogeologist who will verify and document the construction parameters of the borehole and also log the Geological Formations of the Borehole. Complete including all costs

- i. Drilling Depth Range: 0 - 200m m 200
- ii. Installation of mild steel 3 - 4mm thickness casing and screen complete with Sanitary Seal, welded on cap, gravel pack 6mm supplied and delivered to site and installed, drilling foam and Concrete Block around casing.

Note: It is not expected that the borehole will have to be completed with PVC casing and screens. If conditions necessitate this, a decision will be made in the field. The rates for supplying and installing 125 / 144 mm PVC casing and screen must be supplied with the quote.

### **3.4. PUMP TEST AND LABORATORY WATER SAMPLING**

Test pumping results to be interpreted and verified by the Hydrogeologist, Water Level Monitoring to be recorded on all stages. Data Recordings both Soft and Hard Copy must be provided.

- Slug test which should include variable discharge for 4hrs, 24 hr constant discharge, recovery monitoring of 1 hour. Complete
- Borehole Disinfection: application of a Granular Chlorine (HTH or equivalent).
- Borehole capping.
- Borehole Water Sampling and purification system recommendation, if deemed necessary.

### **3.5. EARTHWORKS AND EXCAVATION FOR WATER PIPE WORKS**

Excavate, backfill and compact a 600mm by 300mm X 300 Meters trench to make way or as a preparation for lying of a water supply pipe. Excavated material to be put aside for later use as bedding and for backfilling. Complete installation including all accessories.

Provision for Excavate, backfill, compact a cable trench of 300mm (Depth) x 300mm (Width) x 200m on soft soil base.

### **3.6. PUMP INSTALLATION AND WATER PIPING RETICULATION**

Supply and Install 32mm diameter pressure HDPE class 10 water pipe through the trenching and complete installation including all pipe fittings. Pipe to be SABS approved. Supply and Install 50mm diameter pressure HDPE class 10 water pipe from pump outlet to the borehole sanitary seal complete with all pipe fittings. Pipe to be SABS approved. Supply and Install 15mm diameter pressure HDPE class 10

water pipe from pump outlet to the borehole sanitary seal complete with all pipe fittings. Pipe to be SABS approved. Supply and install a 4mm, 3 - core Electrical cable. Complete installation including all accessories Supply and install a 1,1Kw SVM (Similar/Equivalent or better) Submersible Borehole Pump with a performance flow rate from 30L/min to 400L/min. Head up to 290 meters, Stainless steel motor adaptor and discharge head, Polycarbonate impellers and a Stainless – steel bowls. Complete Installation including dipper tube, Adaptors, rope, connection fittings, electrical glands and all accessories Supply and install a 1.1Kw Motor for Borehole Applications. Complete Installation including all accessories Supply and install a 1.1Kw 220 V single phase Automatic Electrical Control Box with but not limited to

Start-stop manual control switches, Voltage Measurement, Current AMP Measurement, Start Capacitor, Potential Voltage Relay, Overload, Red & amp; Green lights indicators. Complete Installation Supply and install a 450mm x 190mm Pole mount fiberglass Junction Box with a pad lockable opening door, complete with mounting brackets and inside equipment mounting wooden backboard and mounting pole fixed on the ground.

### **3.7. WATER STORAGE**

Supply and installation of a borehole Reverse osmosis water treatment plant with pre-treatment setup. Complete with a 12 months guarantee including replacement filters and cartridges enough for a period of 12 months. Supply and install elevated 2x 10 000L Water Tank. Water storage to be elevated.

### **3.8. TANK OR SIMILAR/BETTER VERTICAL**

Plastic Water Tank suitable for outdoor use. Tank to be SABS approved. Complete Installation and all accessories including bricked tank stand.

## **4. FINANCE**

4.1. Unit prices shall remain fixed, all prices must be in South African currency (rand), including VAT. Prices must be firm and will not be subject to any price adjustment due to fluctuations e.g. currency or interest rate.

4.2. No residual values will be applicable.

4.3. Bid prices must include:

- Discounts offered
- Delivery charges for suppliers outside the region / district (if applicable)

## **5. BILL OF QUANTITIES (BOQ)**

### **CONTENTS:**

1. Preamble
2. Grand Summary
3. Bill of Quantities (BOQ) No. 1-3 Elevated Tanks



## **PREAMBLE TO BILL OF QUANTITIES (BoQs)**

### **1. Objectives:**

The objectives of the Bill of Quantities (BoQs) are:

- (a) To provide sufficient information on quantities of Works to be performed to enable bids to be prepared efficiently and accurately; and
- (b) When a Contract has been entered into, to provide a priced Bill of Quantities (BoQs) for use in the project.

In order to attain these objectives, Works have been itemized in the Bill of Quantities (BoQs) in sufficient detail to distinguish between the different classes of Works, or between Works of the same nature carried out differently or in other circumstances which may give rise to different considerations of cost.

### **2. The Bills of Quantities (BoQs) for the Works comprise the following:**

Preamble to Bill of Quantities

List of principal Quantities

### **Grand Summary**

#### **• Bill of Quantity (BoQ) Nr. 1- 1 Elevated tank**

- 3. The Contractor's unit rates in these bills are to cover supplying of materials, taking delivery, transporting, loading and offloading inspection, storage, stacking, landing, preparation, installation including provision of all labor, requirement false work, temporary support, surface preparation and testing of the works. The rates shall include all applicable taxes and duty. The cost of testing of the materials to be used in the works unless otherwise provided is to be included in the rates of the respective Bill items.
- 4. Measurement for payment shall be for the complete installation and having passed all necessary tests.
- 5. Work shall not be executed on a Day Work Basis unless ordered in writing by the Employer. The rates entered in the Day works Bill of Quantities (BoQs) shall apply to any quantity of Day Work instructed by the Employer. Nominal Quantities have been indicated against each item to permit the extended total to be carried forward to the Grand Summary.
- 6. Rates and prices shall be inserted in the rate and total columns of the Bill of Quantities (BoQs)

7. Bills of Quantities (BoQs) are to be read in conjunction with the Instructions to Bidders, the Conditions of Contract Data, the Specifications and the Drawings if any. The quantities stated against each item in the Bill of Quantities (BoQs), with the exception of those items specifically marked 'SUM', are the estimated quantities of Work to be executed by the Service Provider in fulfillment of his/her obligations under the Contract.
8. The Service Provider is required to check the number of the pages and should any be found to be missing or in duplicate, he must inform the Employer at once and have the same rectified.
9. No liability whatever will be admitted or claim allowed in respect of errors in the Service Provider's tender due to mistakes in the Bill of Quantities (BoQs) which should have been rectified in the manner described above.
10. The Service Provider shall not alter or otherwise qualify the text of these Bill of Quantities (BoQs). Any alteration or qualification made without authority will be ignored and the text of the Bills of Quantities (BoQs) as printed will be adhered to.
11. Each item in the Bills of Quantities (BoQs) is to be priced. If any items are left un-priced it will be assumed that the value of the work described there under is allowed for elsewhere. The prices and rates to be inserted in the Bill of Quantities (BoQs) are to be fully inclusive of all costs and expenses which may be required for the construction of the work described, together with general risks, liabilities and obligations set forth or implied in these documents.
12. In no case will any claim for expenses incurred by the Service Provider in preparation of this Tender be allowed.
13. The Service Provider is solely responsible for the accurate ordering of materials in accordance with the Specifications, Drawings and Employer's Instruction and no claim for any loss or expense will be entertained for orders for materials based on the Bills of Quantities (BoQs).
14. The Quantities given in the Bill of Quantities (BoQs) are estimated and no claim by the Contractor for the final quantities being larger or smaller than the quantities given in the Bill of Quantities (BoQs) will be permitted except in accordance with Clause 38 of the Conditions of Contract.
15. The dimensions given in the Drawings are generally in millimeters unless otherwise indicated. Levels are given in meters.
16. The term 'provide' or 'supply' used for any item shall be deemed to include transport to site, handling, storage and fixing complete, and the Bidder's rate shall include for this.
17. The following abbreviations might have been used in the Bills of Quantities (BoQs) and shall be interpreted as:

Kg	kilogram
T	ton
M	meter
M <sup>2</sup>	Square meter
M <sup>3</sup>	Cubic meter
Mm	millimeter
Nr.	Number
ZAR	South African Rand
uPVC	Un-plasticized poly vinyl chloride
HDPE	High density polyethylene
GMS	Galvanized mild steel
LS	Lump Sum
PS	Provisional Sum

ITEM	DESCRIPTION	UNIT	QUANTITY	RATE	AMOUNT
1	All work to ensure compliance with the provision of the OHS Act 85 of 1993 and Regulation R1010 as published in Government Gazette on 19 July 2003. These items shall include all costs to provide a safety plan including the monitoring thereof, auditing thereof and the reporting thereon to the Employer on a regular basis as the project progresses and at completion.				
2	<b>Site Establishment</b>	Item			
3	<b>PHASE 1 - GEOPHYSICAL/INVESTIGATION PHASE</b>				
3,1	Desktop Investigation	Item	1,00		
3,2	Site Assessment Study	No	1,00		
3,3	Geophysical Investigation	No	1,00		
3,4	Reporting	Item	1,00		

ITEM	DESCRIPTION	UNIT	QUANTITY	RATE	AMOUNT
<b>4</b>	<b>PHASE 2 - BOREHOLE DRILLING, TEST PUMPING AND EQUIPING (IMPLEMENTATION PHASE)</b>				
4,1	Borehole Drilling	Item	1,00		
4,2	Drilling Supervision	Item	1,00		
4.3	Borehole Pump Testing	Item	1,00		
4.4	Testing Pumping Supervision	Item	1,00		
4.5	Water Quality Analysis as per SANS 241:2015	Item	1,00		
4.6	Borehole Numbering/Labelling	No	1,00		
4.7	Equipping of the Borehole	No	1,00		
4.8	Borehole Protection	No	1,00		
4.9	Pressure Booster Pump	No	1,00		
4.10	Galvanised Pump House	No	1,00		
<b>5</b>	<b>ELECTRICAL CONNECTION AND COMMISSIONING CERTIFICATE</b>	Item	1,00		
5.1	Supply and connect a standby generator of right size as per Electrical Engineer design	Item	1.00		
5.2	Commission the borehole to function with Solar Powered grid supply and standby generator				
5.3	Close Out Report with all Operational Manuals				
	<b>SUB-TOTAL A CARRIED TO SUMMARY</b>				

<b>BILLS OF QUANTITIES-CONSTRUCTION OF ELEVATED TANK</b>					
ITEM	DESCRIPTION	UNIT	QUANTITY	RATE	TOTAL
1	GENERAL ITEMS				
1.1	Mobilization of equipment, personal and construction materials, the item is inclusive of site clearing and levelling.		1,00		
1.2	Demobilization		1,00		
	Total Sub-section Sum carried to Summary				
2	<b>Elevated Water Tank Brick Works</b>				
2.1	Provision of materials, equipment, tools and labour for fabrication and installation of elevated work tank complete with concrete foundation and supporting tower as per specification and drawings. The tank is square with a capacity of 10,000litres and the tower height is 10m from GB level.				
2.2.1	Provide material, transport to the site, fabricate and install. Bidder to provide design on submission of bid.		1,00		
	<b>Total Sub-section Sum carried to Summary</b>				
3.	Civil Works and other Sub Works				
3.1	Allow for clearing and final levelling of site for all works, including cutting trees, removing roots, disposal, earth, cutting and filling as specified and directed by the engineer.				
3.2	<b>Excavations</b>				
3.2.1	Excavation for foundation 1.5x1.5m until stable soil not less than 2.5m deep and excavated 20cm in the base as directed by the site engineer				
3.3	<b>Plain concrete grade C20</b>				
3.3.1	Supply and casting plain concrete for foundation base (1.5x1.5m) thickness 10cm with a concrete mixture 1:3:6 concrete strength 25Mpa				
3.4	<b>Reinforced concrete grade C25</b>				
3.4.1	Supplying and apply reinforced concrete for foundation base footing with one mesh mild steel bars 16mm every 10cm (1.5x1.5m) thickness 50cm with a concrete mixture 1:2:4.				
	<b>SUB-TOTAL B CARRIED TO GRAND SUMMARY</b>				
	<b>GRAND SUMMARY</b>		AMOUNT		

1	<b>SUB-TOTAL A BOREHOLE DRILLING &amp; EQUIPPING</b>				
2	<b>SUB-TOTAL B- ELEVATED TANK CONSTRUCTION AND FITTINGS</b>				
3	<b>GRAND SUB-TOTAL (A+B)</b>				
4	<b>ADD 10% CONTIGENCIES</b>				
5	<b>GRAND SUB-TOTAL WITH CONTIGENCIES</b>				
6	<b>ADD 15% VAT</b>				
7	<b>GRAND TOTAL TO FORM OF OFFER</b>				
	<b>GRAND TOTAL</b>				

**BIDDERS MUST SUBMIT THE COMPULSORY DOCUMENTS AS STIPULATED IN THE BID DOCUMENT IN ORDER TO BE CONSIDERED FOR THIS BID, AN OMISSION OF ANY OF THE DOCUMENTS WILL RENDER THAT BIDDER NON-RESPONSIVE.**

**Compulsory Returnable Documentation**

- Proof of registration on CSD (detailed report)
- In case of a bidder owning a property, they must provide a municipal statement confirming status of municipal accounts not older than 3 months (bidders must not be in arears for more than 3 months. (bidder must not be in arears for more than 90 days)

- In case of a bidder leasing the property, they must attach a lease agreement and letter from landlord stating that rent is up to date- letter must not be older than 3 months
- In case of the bidder operating in rural areas and they don't pay for municipal services, they must attach a sworn affidavit stating that rates are not paid in that area- affidavit must not be older than 3 months
- If the bidder is staying with parents, spouse or any family relative in an area where rates are paid (an affidavit from the bidder or signed letter from the property owner stating that the bidder is not responsible for municipal accounts must be attached. Affidavit or the letter must not be older than 3 months
- Proof of company registration documents
- Certified copies of owner's identity document (Not older than three months)
- Detailed price quotation (failure to attach a detailed price quotation will render your tender non-responsive)
- MBD 1: Invitation to Tender (must be completed and signed)
- Tax clearance certificate & verification pin for further verification in the name of the tenderer
- MBD 3.1: Pricing Schedule
- MBD 4: Declaration of Interest
- MBD 6.1: Preferential Points
- MBD 6.2: Local Content
- MBD 8: Declaration of past Supply Chain Management Practice
- MBD 9: Certificate of Independent Bid
- General Conditions of Contract

**VERY IMPORTANT**

**IF ANY OF THE ABOVE-MENTIONED DOCUMENTS ARE NOT SUBMITTED OR COMPLETED IN ENTIRELY, THE BIDDER WILL BE DEEMED TO BE NON-RESPONSIVE AND BE DISQUALIFIED**



## 6. EVALUATION CRITERIA

### STAGE 1 – FUNCTIONALITY (QUALITY)

#### FUNCTIONALITY (100)

With regards to functionality the following criteria will be applicable and the maximum score of each criterion are indicated in brackets.

FUNCTIONAL CRITERIA	POINTS ALLOCATION
PROOF OF EXPERIENCE (50)	Bidders must submit proof of experience were similar services (boreholes installation) were provided. Bidders must submit an appointment letter/order with a signed reference letter for each project to claim points. The reference letters must be signed by project manager or a person at Head of Department level (50) 5 - 3 appointment letter/orders with reference letters = 50 2 appointment letter/orders with reference letters = 30 1 appointment letter/orders with reference letters = 10 No appointment and reference letter = 0 points
Experience of Driller (20)	Bidders must attach Curriculum vitae together with table of projects and specific duration (years and months) – with 3 x traceable references (20) 10 projects (boreholes / irrigation projects) – 20 points 5 projects (boreholes / irrigation projects) – 10 points
FINANCIAL VIABILITY(30)	Bidders must attach a Bank Rating letter from a Financial Institution to a value of R1 000 000, points will be allocated as follows: (30)  Bank Letter with code A rating = 30 points Bank Letter with code B rating= 20 points Bank Letter with code C rating = 10 points

**A bidder that scores less than 60 points out of 100 in respect of “functionality” will be regarded as submitting a non-responsive quote and will be disqualified and will be not evaluated for the price**

**VERY IMPORTANT**

**IF ANY OF THE ABOVE-MENTIONED DOCUMENTS ARE NOT SUBMITTED OR COMPLETED IN ENTIRELY, THE BIDDER WILL BE DEEMED TO BE NON-RESPONSIVE AND BE DISQUALIFIED**

**Stage 2 – Price and Preferential**

The 80/20 preferential point system will be applied where 80 points will be allocated for price and 20 points for preferential goals as follows:

- Preferential Goal 1
- Preferential Goal 2

Each bidder must score the required minimum score for functionality to be considered for the second stage. 80/20 Preferential Point system in terms of the 2022 Preferential system will apply and points will be awarded based on the entity's specific goals that is on ownership and RDP goals.

**7. FEATURES REQUIRING SPECIAL ATTENTION**

All Annexure to these Terms of Reference that require completion by the bidder must be completed in full and returned with the bid. Failure to do so may disqualify the bid.

**8. TERMS AND CONDITIONS OF THE PROPOSAL**

Appointment will be made in terms of the Harry Gwala Development Agency's Procurement Policy.

**9. NON-APPOINTMENT**

The Harry Gwala Development Agency reserves the right not to make an appointment should it find that bidding parties do not meet the specified criteria

**10. COMPLETION**

Projects will not be paid for unless the required services have been correctly delivered. Electrical Compliance certificate will be required.

**11. COURTESY**

In dealings with the municipal entity internal structures, the bidder is required to deal with discussions and disputes with deliberate courtesy and understanding, in close liaison with the Harry Gwala Development Agency.

Prior to the commencement of works, the successful bidder shall arrange through the office of the Chief Executive Officer to be introduced to the appropriate Harry Gwala Development Agency structures and to be briefed upon any sensitivities that need to be observed.

## **12. GENERAL**

Tender offers will only be accepted on condition that:

- a. The tender offer is signed by a person authorized to sign on behalf of the Tenderer
- b. A Tenderer who submitted tenders as joint venture has included an acceptable Joint Venture Agreement with his tender.
- c. The Tenderer or any of its principals, directors or managers is not employed by the state or any municipality and municipal entity.
- d. Quotation/ proposal must be on a company letterhead
- e. Bids submitted are to hold good for a period of 90 (ninety) days and must be inclusive of VAT,
- f. The enclosed forms MBD forms must be scrutinized, completed and submitted together with your Bid.
- g. **NB: No Bid will be considered from persons in the service of the state**
- h. Proof of company registration
- i. A valid tax clearance certificate is included with this tender or tax compliance status with the pin.
- j. In case of a bidder owning a property, they must provide a municipal statement confirming status of municipal accounts not older than 3 months (Bidders must not be in arrears for more than 90 days)
- k. In case of a bidder leasing the property, they must attach a lease agreement & letter from landlord stating that rent is up to date. The letter must not be older than 3 months.
- l. In case of the bidder operating in an area that doesn't pay rates, they must attach a sworn affidavit stating that rates are not paid in that area. The affidavit must not be older than 3 months.
- m. If the bidder is staying with parents, spouse or any family relative in an area where rates are paid (an affidavit from the bidder or signed letter from the property owner

stating that the bidder is not responsible for municipal accounts must be attached). Affidavit or letter must not be older than 3 months

- n. The Tenderer or any of its principles is not listed on the register of Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with public sector.
- o. The tenderer has not abused the Employers' Supply Chain Management System or has failed to perform on any previous contract and has been given a written notice to this effect; and
- p. The Employer is satisfied that the Tenderer or any of his principles has not influenced the tender offer and acceptance by the following criteria:
  - Having offered, or promised or given a bribe or other gift remuneration to any person in connection with the obtaining or execution of this Contract.
  - Having acted in fraudulent or corrupt manner in obtaining or executing of this contract.
  - Having approached an officer or employee of the Employer or the Employers' Agent with the objective of influencing the award of a Contract in the Tenders' favour
  - Having entered into any agreement or arrangement, whether legally binding or not, with any other person, firm or company to refrain from Tendering for this Contract or as to the amount of the Tender to be submitted by either party; and
  - Having disclosed to any other person, firm or company other than the Employer, the exact or approximate amount of his proposed Tender.

In the event of any of the above, the Harry Gwala Development Agency may, in addition to using any other legal remedies, repudiate the Tender offer and acceptance and declare the Contract invalid should it have been concluded already.

- The Harry Gwala Development Agency's Supply Chain Management Policy shall apply;
- The Municipal Entity does not bind itself to accept the lowest or any Bid and reserves the right to accept the Bid as whole or in part, at the rates quoted

**FAILURE TO COMPLY WITH THE ABOVE CONDITIONS IN ALL RESPECTS WILL RESULT IN THE TENDER BEING DEEMED NON-RESPONSIVE. IF THE PRICE OFFERED IS NOT MARKET RELATED, THE HARRY GWALA DEVELOPMENT AGENCY MAY NOT AWARD THE CONTRACT TO THAT TENDERER AND MAY NEGOTIATE FOR MARKET RELATED PRICE WITH THE TENDERER, FAILING WHICH, NEGOTIATE WITH THE NEXT PREFERRED TENDERER OR TENDER MAY BE CANCELLED.**

### 13. DOCUMENTATION

The proposal document submitted must include all the information deemed necessary to evaluate your submission on the bases stipulated in this document. **The additional forms appended to this document must also be included in the submission.**

This document may be detached and re-bound to ensure neatness and to also avoid the risk of accidentally losing of loose sheets. In the process of doing that, please be careful not to lose any of the pages of this document because should that be the case, your proposal may be regarded as incomplete

#### RELEVANT EXPERIENCE

The Bidder shall enter in the spaces provided below a list of relevant recent experience.

Employer (Name, Tel. No. or Fax No.)	Details of Project (Attach ref letters)	Value of Work (fees)	Year

## **CERTIFICATE OF AUTHORITY**

Indicate the status of the Tenderer by ticking the appropriate box hereunder. The Tenderer must complete the certificate set out below for the relevant category.

<b>(I) COMPANY</b>	<b>(II) CLOSE CORPORATI ON</b>	<b>(III) PARTNERSHI P</b>	<b>(IV) JOINT VENTURE</b>	<b>(V) SOLE PROPRIETOR</b>

### **(I) CERTIFICATE FOR COMPANY**

I, \_\_\_\_\_ Chairperson of the  
Board of Directors of \_\_\_\_\_  
hereby confirm that by resolution of the Board (copy attached) taken on \_\_\_\_\_  
\_\_\_\_\_ (insert date) that Mr./Ms \_\_\_\_\_  
acting in the capacity of \_\_\_\_\_ is authorised to sign  
all documents in connection with this tender and any contract resulting from it on behalf of  
the company.

**Chairman:** \_\_\_\_\_

**As Witnesses:** 1 \_\_\_\_\_

2 \_\_\_\_\_

**Date** \_\_\_\_\_

**(II) CERTIFICATE FOR CLOSE CORPORATION**

We, the undersigned, being the key members in the business trading as \_\_\_\_\_

\_\_\_\_\_

hereby authorize Mr./Ms. \_\_\_\_\_

acting in the capacity of \_\_\_\_\_

to sign all documents in connection with the tender for Contract No \_\_\_\_\_

and any contract resulting from it on our behalf.

NAME	ADDRESS	SIGNATURE	DATE

***Note : This certificate is to be completed and signed by all of the key members upon whom rests the direction of the affairs of the Close Corporation as a whole.***

**(III) CERTIFICATE FOR PARTNERSHIP**

We, the undersigned, being the key partners in the business trading as,

---

hereby authorize Mr./Ms \_\_\_\_\_

acting in the capacity of \_\_\_\_\_

to sign all documents in connection with the tender for Contract No \_\_\_\_\_

and any contract resulting from it on our behalf.

NAME	ADDRESS	SIGNATURE	DATE

***Note: This certificate is to be completed and signed by all of the key partners upon whom rests the direction of the affairs of the Partnership as a whole.***

**(IV) CERTIFICATE FOR JOINT VENTURE**

We, the undersigned, are submitting this tender offer in Joint Venture and hereby authorize Mr./Ms

\_\_\_\_\_, authorized signatory of the company,

\_\_\_\_\_acting in the capacity of lead partner, to sign all documents in connection with the tender offer for Contract No .\_\_\_\_\_

\_\_\_\_\_and any contract resulting from it on our behalf.

This authorization is evidenced by the attached power of attorney signed by legally authorized signatories of all the partners to the Joint Venture.



NAME OF FIRM	ADDRESS	AUTHORISING SIGNATURE, NAME AND CAPACITY
Lead partner		

**Note : This certificate is to be completed and signed by all of the key partners upon whom rests the direction of the affairs of the Partnership as a whole.**

**(V) CERTIFICATE FOR SOLE PROPRIETOR**

I, \_\_\_\_\_,  
hereby confirm that I am the sole owner of the business trading as

\_\_\_\_\_

**Signature** of Sole owner: . \_\_\_\_\_

As Witnesses:

1. \_\_\_\_\_

2. \_\_\_\_\_

Date: \_\_\_\_\_

## **COMPULSORY ENTERPRISE QUESTIONNAIRE**

The following particulars must be furnished. In the case of a joint venture, separate enterprise questionnaires in respect of each partner must be completed and submitted.

**Section 1. Name of enterprise:** \_\_\_\_\_

**Section 2. VAT registration number, if any:** \_\_\_\_\_

**Section 3. CIDB registration number, if any:** \_\_\_\_\_

**Section 4. Particulars of sole proprietors and partners in partnerships.**

<b>Name*</b>	<b>Identity number*</b>	<b>Personal income tax number*</b>

*\* Complete only if sole proprietor or partnership and attach separate page if more than three partners.*

**Section 5. Particulars of companies and close corporations**

Company registration number: \_\_\_\_\_

Close corporation number: \_\_\_\_\_

Tax reference number: \_\_\_\_\_

## Section 6. Record in the service of the state

Indicate by marking the relevant boxes with a cross, if any sole proprietor, partner in a partnership or director, manager, principal shareholder or stakeholder in a company or close corporation is currently or has been within the last 12 months in the service of any of the following:

- |                                                                                                 |                                                                                                                                                                                                                     |
|-------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> a member of any municipal council                                      | <input type="checkbox"/> an employee of any provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999) |
| <input type="checkbox"/> a member of any provincial legislature                                 |                                                                                                                                                                                                                     |
| <input type="checkbox"/> a member of the National Assembly or the National Council of Provinces | <input type="checkbox"/> a member of an accounting authority of any national or provincial public entity                                                                                                            |
| <input type="checkbox"/> a member of the board of directors of any municipal entity             | <input type="checkbox"/> an employee of Parliament or a provincial legislature                                                                                                                                      |
| <input type="checkbox"/> an official of any municipality or municipal entity                    |                                                                                                                                                                                                                     |

If any of the above boxes are marked, disclose the following\*:

\* Insert separate page if necessary.

Name of spouse, child or parent	Name of institution, public offices, board or organ of state and position held	Status of service (tick appropriate column)	
		Current	Within last 12 months

## Section 7.

### Record of spouses, children and parents in the service of the state

Indicate by marking the relevant boxes with a cross, if any spouse, child or parent of sole proprietor, partner in a partnership or director, manager, principal shareholder or stakeholder in a company or close corporation is currently or has been within the last 12 months in the service of any of the following:

- |                                                                                                 |                                                                                                                                                                                                                     |
|-------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> a member of any municipal council                                      | <input type="checkbox"/> an employee of any provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999) |
| <input type="checkbox"/> a member of any provincial legislature                                 |                                                                                                                                                                                                                     |
| <input type="checkbox"/> a member of the National Assembly or the National Council of Provinces |                                                                                                                                                                                                                     |
|                                                                                                 | <input type="checkbox"/> a member of an accounting authority of any national or provincial public entity                                                                                                            |
| <input type="checkbox"/> a member of the board of directors of any municipal entity             | <input type="checkbox"/> an employee of Parliament or a provincial legislature                                                                                                                                      |
| <input type="checkbox"/> an official of any municipality or municipal entity                    |                                                                                                                                                                                                                     |

If any of the above boxes are marked, disclose the following\*:

Name of spouse, child or parent	Name of institution, public offices, board or organ of state and position held	Status of service (tick appropriate column)	
		Current	Within last 12 months

\* Insert separate page if necessary.

The undersigned, who warrants that he/she is dully authorised to do so on behalf of the enterprise:

- i. authorises the Employer to obtain a tax clearance certificate from the South African Revenue Services that my/our tax matters are in order;
- ii. confirms that neither the name of the enterprise or the name of any partner, manager, director or other persons, who wholly or partly exercises, or may exercise, control over the enterprise appears on the Register of Tender

Defaulters established in terms of the Prevention and Combating of Corrupt Activities Act of 2004;

- iii. confirms that no partner, member, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise, has within the last five years been convicted of fraud or corruption;
- iv. confirms that I/we am/are not associated, linked or involved with any other tendering entities submitting tender offers and have no other relationship with any of the tenderers or those responsible for compiling the scope of work that could cause or be interpreted as a conflict of interest; and
- v. confirms that the contents of this questionnaire are within my personal knowledge and are to the best of my belief both true and correct.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Position: \_\_\_\_\_

Enterprise name: \_\_\_\_\_

**C: RECORD OF ADDENDUM TO TENDER DOCUMENTS**

I / We confirm that the following communications received from the Employer or his representative before the date of submission of this tender offer, amending the tender documents, have been taken into account in this tender offer.

ADD. No	DATE	TITLE OR DETAILS
1		
2		
3		
4		
5		

SIGNATURE: ..... DATE .....

*(of person authorised to sign on behalf of the Tenderer)*



## PART A

## INVITATION TO BID

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE HARRY GWALA DEVELOPMENT AGENCY</b>					
<b>BID NUMBER:</b>	<b>HGDA 06-22/23</b>	<b>CLOSING DATE:</b>	<b>15 MARCH 2023</b>	<b>CLOSING TIME:</b>	<b>12H00</b>
<b>DESCRIPTION</b>	<b>SUPPLY, DELIVERY AND INSTALLATION OF BOREHOLE (GREATER KOKSTAD MUNICIPALITY)</b>				
<b>THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (MBD7).</b>					

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

HARRY GWALA FARMERS MARKET, ERF 2226  
PORTION 27 OF THE FARM ELLERTON  
IXOPO  
3276

**SUPPLIER INFORMATION**

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

<b>ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <b>[IF YES, ENCLOSE PROOF]</b>	<b>ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <b>[IF YES, ANSWER PART B:3]</b>
<b>TOTAL NUMBER OF ITEMS OFFERED</b>		<b>TOTAL BID PRICE</b>	<b>R</b>
<b>SIGNATURE OF BIDDER</b>	.....	<b>DATE</b>	

<b>CAPACITY UNDER WHICH THIS BID IS SIGNED</b>			
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:</b>	<b>TECHNICAL INFORMATION MAY BE DIRECTED TO:</b>		
<b>DEPARTMENT</b>	<b>Budget and Treasury Office</b>	<b>CONTACT PERSON</b>	<b>Ms Z Mkhulu</b>
<b>CONTACT PERSON</b>	<b>Mr L.L Makhaye</b>	<b>TELEPHONE NUMBER</b>	<b>082 308 6833</b>
<b>TELEPHONE NUMBER</b>	<b>062 486 7057</b>	<b>FACSIMILE NUMBER</b>	<b>039 844 1615</b>
<b>FACSIMILE NUMBER</b>	<b>039 844 1615</b>	<b>E-MAIL ADDRESS</b>	<b><a href="mailto:zintle.mkhulisi@hgda.co.za">zintle.mkhulisi@hgda.co.za</a></b>
<b>E-MAIL ADDRESS</b>	<b><a href="mailto:cfo@hgda.co.za">cfo@hgda.co.za</a></b>		

## PART B

## TERMS AND CONDITIONS FOR BIDDING

<b>1. BID SUBMISSION:</b>
1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION. 1.2. <b>ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR ONLINE</b> 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
<b>2. TAX COMPLIANCE REQUIREMENTS</b>
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 VIEW THE TAXPAYER'S PROFILE AND TAX STATUS. 2.3 APPLICATION FOR THE TAX COMPLIANCE STATUS (TCS) CERTIFICATE OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA. 2.4 FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART B:3. 2.5 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID. 2.6 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED; EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER. 2.7 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
<b>3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>
3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? <input type="checkbox"/> YES <input type="checkbox"/> NO 3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA? <span style="float: right;"><input type="checkbox"/> YES</span> <input type="checkbox"/> NO 3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO 3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO 3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? <input type="checkbox"/> YES <input type="checkbox"/> NO  <b>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 ABOVE.</b>

**NB: FAILURE TO PROVIDE ANY OF THE ABOVE PARTICULARS WILL RENDER THE BID INVALID.**

**NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE.**

SIGNATURE OF BIDDER: .....

CAPACITY UNDER WHICH THIS BID IS SIGNED: .....

DATE: .....

**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**

DESCRIPTION	QUANTITY	AMOUNT
<div style="border: 1px solid black; border-radius: 15px; width: 400px; height: 100px; margin: 0 auto; text-align: center; line-height: 100px;"> COMPANY STAMP </div>		
	<b>SUB-TOTAL</b>	
	<b>VAT (15%)</b>	
	<b>TOTAL</b>	

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.

**CONDITIONS OF TENDER**

- Price(s) quoted must be valid for at least ninety (90) days from date of offer for evaluation purposes.
- Price(s) quoted must be firm and include VAT
- Tenderers original valid tax clearance certificate must be attached.
- Tender original or certified B-BBEE Certificate must be attached to the document
- Tender documents signed by a person who does not have authority to sign will be disqualified.
- Tenderers who did not complete the compulsory questionnaire, who abuse the employer’s supply chain management system will not be conceded
- Non-collusion affidavit to be executed by bidder and submitted with the bid.

## DECLARATION OF INTEREST

1. No bid will be accepted from persons in the service of the state<sup>1</sup>.
2. Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to persons in service of the state, it is required that the bidder or their authorised representative declare their position in relation to the evaluating/adjudicating authority.

3 In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

3.1 Full Name of bidder or his or her representative:.....

3.2 Identity Number: .....

3.3 Position occupied in the Company (director, trustee, hareholder<sup>2</sup>):.....

3.4 Company Registration Number: .....

3.5 Tax Reference Number:.....

3.6 VAT Registration Number: .....

3.7 The names of all directors / trustees / shareholders members, their individual identity numbers and state employee numbers must be indicated in paragraph 4 below.

3.8 Are you presently in the service of the state? **YES / NO**

3.8.1 If yes, furnish particulars. ....

.....

<sup>1</sup>MSCM Regulations: "in the service of the state" means to be –

(a) a member of –

- (i) any municipal council;
- (ii) any provincial legislature; or
- (iii) the national Assembly or the national Council of provinces;

(b) a member of the board of directors of any municipal entity;

(c) an official of any municipality or municipal entity;

(d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);

- (e) a member of the accounting authority of any national or provincial public entity; or
- (f) an employee of Parliament or a provincial legislature.

<sup>2</sup> Shareholder” means a person who owns shares in the company and is actively involved in the management of the company or business and exercises control over the company.

3.9 Have you been in the service of the state for the past twelve months? .....**YES / NO**

3.9.1 If yes, furnish particulars.....

.....

3.10 Do you have any relationship (family, friend, other) with persons in the service of the state and who may be involved with the evaluation and or adjudication of this bid?  
..... **YES / NO**

3.10.1 If yes, furnish particulars.

.....  
.....

3.11 Are you, aware of any relationship (family, friend, other) between any other bidder and any persons in the service of the state who May be involved with the evaluation and or adjudication of this bid? **YES / NO**

3.11.1 If yes, furnish particulars

.....

3.12 Are any of the company’s directors, trustees, managers, Principle shareholders or stakeholders in service of the state? **YES / NO**

3.12.1 If yes, furnish particulars.

.....  
.....

3.13 Are any spouse, child or parent of the company’s directors trustees, managers, principle shareholders or stakeholders in service of the state? **YES / NO**

3.13.1 If yes, furnish particulars.

.....  
.....

3.14 Do you or any of the directors, trustees, managers, principle shareholders, or stakeholders of this company have any interest in any other related companies or business whether or not they are bidding for this contract. **YES / NO**

3.14.1 If yes, furnish particulars:

.....  
 .....  
 4. Full details of directors / trustees / members / shareholders.

Full Name	Identity Number	State Number	Employee

**5. DECLARATION**

I, \_\_\_\_\_ THE \_\_\_\_\_ UNDERSIGNED  
 (NAME).....

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 4 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 23 OF THE GENERAL CONDITIONS OF CONTRACT 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 bids invited. It contains general information and serves as a claim form for specific preference goal points

**NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS AND DEFINITIONS AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022.**

## 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 R 50 000 000 (all applicable taxes included); and
- The 90/10 system for requirements with a Rand value above R 50 000 000 (all applicable taxes included).

1.2 The value of this bid is estimated to **not exceed** R 50 000 000 (all applicable taxes included) and therefore the...80/20...system shall be applicable.

1.3 Preference points for this bid shall be awarded for:

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

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

	POINTS
1.3.1.1 PRICE	.....80.....
1.3.1.2 PREFERENCE SPECIFIC GOALS	.....20.....
<b>Total points for Price and Preference Goals</b>	<b>100</b>

1.4 Failure on the part of a bidder to fill in and/or to sign this form and submit documents listed for preference specific goals will be interpreted to mean that preference points for specific goals are not claimed.

1.5 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

- 2.1 **“all applicable taxes”** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- 2.2 **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- 2.3 **“B-BBEE status level of contributor”** means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- 2.4 **“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 services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
- 2.5 **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- 2.6 **“comparative price”** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;
- 2.7 **“consortium or joint venture”** 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;
- 2.8 **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;
- 2.9 **“EME”** means any enterprise with an annual total revenue of R5 million or less .
- 2.10 **“Firm price”** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- 2.11 **“functionality”** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;

- 2.12 **“non-firm prices”** means all prices other than “firm” prices;
- 2.13 **“person”** includes a juristic person;
- 2.14 **“rand value”** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;
- 2.15 **“sub-contract”** means the primary contractor’s assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;
- 2.16 **“total revenue”** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the *Government Gazette* on 9 February 2007;
- 2.17 **“trust”** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
- 2.18 **“trustee”** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.
- 2.19 **“Specific goals”** means specific goals as contemplated in section 2(1)(d) of the PPPFA which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction
- 2.20 **“Qualifying Small Enterprise”** must mean any enterprise with annual total revenue of between R10 million and R50 million.

### 3. **ADJUDICATION USING A POINT SYSTEM**

- 3.1 The bidder obtaining the highest number of total points will be awarded the contract.
- 3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts;
- 3.3 Points scored must be rounded off to the nearest 2 decimal places.
- 3.4 In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference specific goals.
- 3.5 However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal preference points for specific goals, the successful bid must be the one scoring the highest score for functionality.
- 3.6 Should two or more bids be equal in all respects; the award shall be decided by the drawing of lots.

## 4. POINTS AWARDED FOR PRICE

### 4.1 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 comparative price of bid under consideration

$P_t$  = Comparative price of bid under consideration

$P_{\min}$  = Comparative price of lowest acceptable bid

## 5. Points awarded for Preference Specific Goals.

5.1 In terms of Regulation of the Preferential Procurement Regulations 2022, preference points must be awarded to a bidder on preference specific goal in accordance with the table below:

PREFERENCE GOAL	80/20	90/10	Documents required for verification
<b>GOAL 1 - Ownership – Maximum points</b>	<b>10</b>	<b>5</b>	
Business owned more than 50% by black person	3	2	ID copy of Director/Owner and CSD /BBB-EE Certificate
Business owned less than 50 by black person	1	1	
Business owned more than 50% by black women	3	1.5	ID copy of Director/Owner and CSD
Business owned less than 50% by black women	1	1	
Business owned more than 50% by black youth	2	1	ID copy of Director/Owner and CSD
Business owned less than 50% by black youth	1	0.5	
Business owned more than 50% by disabled person/ military veterans	2	0.5	ID copy of Director/Owner and CSD
<b>GOAL 2 – RDP – Maximum points</b>	<b>10</b>	<b>5</b>	
Business falls under the SMME category – EME	3	1.5	Confirmation / Letter from a registered Accountant / Accounting Officer
Promotion of business located within KZN province	3	2	CSD and affidavit
Promotion of business located in South Africa	1	1	

outside KZN Province			
Promotion of business located within Harry Gwala District	4	1.5	CSD and affidavit

## 6. BID DECLARATION

6.1 B-BBEE certificates forms part of the specific goal points, bidders are encouraged to submit them for preference points consideration as indicated above.

## 7. PREFERENCE SPECIFIC GOAL TOTAL POINTS

7.1 Preference Specific Goals: ..... = ..... (maximum of 20 points)

## 8 SUB-CONTRACTING

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

8.1.1 If yes, indicate:

- (i) what percentage of the contract will be subcontracted? .....%
- (ii) the name of the sub-contractor? .....
- (iii) whether the sub-contractor is an EME? YES / NO (delete which is not applicable)

## 9 DECLARATION WITH REGARD TO COMPANY/FIRM

9.1 Name of firm : .....

VAT registration number : .....

9.3 Company registration number : .....

### 9.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

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

9.6 COMPANY CLASSIFICATION

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

9.7 MUNICIPAL INFORMATION

Municipality where business is situated .....  
Registered Account Number .....  
StandNumber .....

9.8 TOTAL NUMBER OF YEARS THE COMPANY/FIRM HAS BEEN IN BUSINESS? .....

**WITNESSES:**

1. ....

2. ....

..... SIGNATURE(S) OF BIDDER(S)
------------------------------------

DATE:.....

ADDRESS:.....

.....  
.....

.....

## DECLARATION CERTIFICATE FOR LOCAL PRODUCTION AND CONTENT

This Municipal Bidding Document (MBD) 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, 2011 and the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:201x.

### 1. General Conditions

- 1.1. Preferential Procurement Regulations, 2011 (Regulation 9.(1) and 9.(3) make provision for the promotion of local production and content.
- 1.2. Regulation 9.(1) prescribes that in the case of designated sectors, where in the award of bids local production and content is of critical importance, such bids must be advertised with the specific bidding condition that only locally produced goods, services or works or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered.
- 1.3. Regulation 9.(3) prescribes that where there is no designated sector, a specific bidding condition may be included, that only locally produced services, works or goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered.
- 1.4. Where necessary, for bids referred to in paragraphs 1.2 and 1.3 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 Preference Specific Goals.
- 1.5. 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.
- 1.6. The local content (LC) as a percentage of the bid price must be calculated in accordance with the SABS approved technical specification number SATS 1286: 201x as follows:

$$LC = 1 - \left[ \frac{x}{y} \right] \times 100$$

Where

x imported content

y bid price 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 the South African Reserve Bank (SARB) at 12:00 on the date, one week (7 calendar days) prior to the closing date of the bid as required in paragraph 4.1 below.

1.7. A bid will be disqualified if:

- the bidder fails to achieve the stipulated minimum threshold for local production and content indicated in paragraph 3 below; and.
- this declaration certificate is not submitted as part of the bid documentation.

## 2. Definitions

2.1. **“bid”** includes advertised competitive bids, written price quotations or proposals;

2.2. **“bid price”** price offered by the bidder, excluding value added tax (VAT);

2.3. **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;

2.4. **“designated sector”** means a sector, sub-sector or industry that has been designated by the Department of Trade and Industry in line with national development and industrial policies for local production, where only locally produced services, works or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content;

2.5. **“duly sign”** means a Declaration Certificate for Local Content that has been signed by the 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).

2.6. **“imported content”** means that portion of the bid price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs, such as landing costs, dock duties, import duty, sales duty or other similar tax or duty at the South African port of entry;

2.7. **“local content”** means that portion of the bid price which is not included in the imported content, provided that local manufacture does take place;

2.8. **“stipulated minimum threshold”** means that portion of local production and content as determined by the Department of Trade and Industry; and

2.9. **“sub-contract”** means the primary contractor’s assigning, leasing, making out work to, or employing another person to support such primary contractor in the execution of part of a project in terms of the contract.

3. The stipulated minimum threshold(s) for local production and content, for this bid is/are as follows:

<u>Description of services, works or goods.</u>	<u>Stipulated minimum threshold.</u>
<i>Electrical cables</i>	90%
<i>Valve Products and Actuators</i>	100%
<i>Steel Value-Add Products</i>	100%
<i>Pumps, Medium Voltage (MV) – motor and associated accessories</i>	70%
<i>Casting fabrication and testing</i>	100%

4. Does any portion of the services, works or goods offered have any imported content?

**YES / NO**

- 4.1 If yes, the rate(s) of exchange to be used in this bid to calculate the local content as prescribed in paragraph 1.6 of the general conditions must be the rate(s) published by the SARB for the specific currency at 12:00 on the date, one week (7 calendar days) prior to the closing date of the bid.

The relevant rates of exchange information is accessible on [www.reservebank.co.za](http://www.reservebank.co.za).

Indicate the rate(s) of exchange against the appropriate currency in the table below:

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

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



**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 Municipality / Municipal Entity):  
.....

NB 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.

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 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.

(c) The local content has been calculated using the formula given in clause 3 of SATS 1286, the rates of exchange indicated in paragraph 4.1 above and the following figures:

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

If the bid is for more than one product, a schedule of the local content by product shall be attached.

(d) I accept that the Procurement Authority / Municipality /Municipal Entity has the right to request that the local content be verified in terms of the requirements of SATS 1286.

(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, may result in the Procurement Authority / Municipal / Municipal Entity imposing any or all of the remedies as provided for in Regulation 13 of the Preferential Procurement Regulations, 2011 promulgated under the Policy Framework Act (PPPFA), 2000 (Act No. 5 of 2000).

**SIGNATURE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**WITNESS No. 1** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**WITNESS No. 2** \_\_\_\_\_

**DATE:** \_\_\_\_\_

## Annex C

## 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 %

**Note:** VAT to be excluded from all calculations

Pula

EU

GBP

Calculation of local content							
Tender item no's	List of items	Tender price - each (excl 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)

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

Signature of tenderer from Annex B

Date: \_\_\_\_\_

(C20) Total tender value R

(C21) Total Exempt imported content R

(C22) Total Tender value net of exempt imported content R

(C23) Total Imported content R

(C24) Total local content R

(C25) Average local content % of tender

## Annex D

## Imported Content Declaration - Supporting Schedule to Annex C

(D1) Tender No.

(D2) Tender description:

(D3) Designated Products:

(D4) Tender Authority:

(D5) Tendering Entity name:

(D6) Tender Exchange Rate:  Pula

Note: VAT to be excluded  
from all calculations

EU  R 9.00GBP  R 12.00

## A. Exempted imported content

Calculation of imported content										Summary	
Tender item no's	Description of imported content	Local supplier	Overseas Supplier	Foreign currency value as per Commercial Invoice	Tender Exchange Rate	Local value of imports	Freight costs to port of entry	All locally incurred landing costs & duties	Total landed cost excl VAT	Tender Qty	Exempted imported value
(D7)	(D8)	(D9)	(D10)	(D11)	(D12)	(D13)	(D14)	(D15)	(D16)	(D17)	(D18)

(D19) Total exempt imported value R 

This total must correspond with  
Annex C - C 21

## B. Imported directly by the Tenderer

Calculation of imported content										Summary	
Tender item no's	Description of imported content	Unit of measure	Overseas Supplier	Foreign currency value as per Commercial Invoice	Tender Rate of Exchange	Local value of imports	Freight costs to port of entry	All locally incurred landing costs & duties	Total landed cost excl VAT	Tender Qty	Total imported value
(D20)	(D21)	(D22)	(D23)	(D24)	(D25)	(D26)	(D27)	(D28)	(D29)	(D30)	(D31)

(D32) Total imported value by tenderer R 

## C. Imported by a 3rd party and supplied to the Tenderer

Calculation of imported content										Summary	
Description of imported content	Unit of measure	Local supplier	Overseas Supplier	Foreign currency value as per Commercial Invoice	Tender Rate of Exchange	Local value of imports	Freight costs to port of entry	All locally incurred landing costs & duties	Total landed cost excl VAT	Quantity imported	Total imported value
(D33)	(D34)	(D35)	(D36)	(D37)	(D38)	(D39)	(D40)	(D41)	(D42)	(D43)	(D44)

(D45) Total imported value by 3rd party R 

## D. Other foreign currency payments

Calculation of foreign currency payments					Summary of payments	
Type of payment	Local supplier making the payment	Overseas beneficiary	Foreign currency value paid	Tender Rate of Exchange	Local value of payments	
(D46)	(D47)	(D48)	(D49)	(D50)	(D51)	

(D52) Total of foreign currency payments declared by tenderer and/or 3rd party R (D53) Total of imported content & foreign currency payments - (D32), (D45) & (D52) above R 

This total must correspond with  
Annex C - C 23

Signature of tenderer from Annex B

Date:

## Annex E

## Local Content Declaration - Supporting Schedule to Annex C

(E1)	Tender No.	
(E2)	Tender description:	
(E3)	Designated products:	
(E4)	Tender Authority:	
(E5)	Tendering Entity name:	

**Note:** VAT to be excluded from all calculations

Local Products (Goods, Services and Works)	Description of items purchased	Local suppliers	Value
	(E6)	(E7)	(E8)
(E9) Total local products (Goods, Services and Works)			R

(E10) **Manpower costs** (Tenderer's manpower cost) R

(E11) **Factory overheads** (Rental, depreciation & amortisation, utility costs, consumables etc.) R

(E12) **Administration overheads and mark-up** (Marketing, insurance, financing, interest etc.) R

(E13) Total local content R

**This total must correspond with Annex C - C24**

Signature of tenderer from Annex B

Date: \_\_\_\_\_

## DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

- 1 This Municipal Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by municipalities and municipal entities in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
- 3 The bid of any bidder may be rejected if that bidder, or any of its directors have:
  - a. abused the municipality's / municipal entity's supply chain management system or committed any improper conduct in relation to such system;
  - b. been convicted for fraud or corruption during the past five years;
  - c. willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
  - d. been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- 4 **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

Item	Question	Yes	No
4.1	Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector? (Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied). <b>The Database of Restricted Suppliers now resides on the National Treasury's website(<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) and can be accessed by clicking on its link at the bottom of the home page.</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		

4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? <b>The Register for Tender Defaulters can be accessed on the National Treasury's website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) by clicking on its link at the bottom of the home page.</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
<b>Item</b>	<b>Question</b>	<b>Yes</b>	<b>No</b>
4.4	Does the bidder or any of its directors owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		
4.5	Was any contract between the bidder and the municipality / municipal entity or any other organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.7.1	If so, furnish particulars:		

**CERTIFICATION**

**I, THE UNDERSIGNED (FULL NAME) ..... CERTIFY  
THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM TRUE AND CORRECT.**

**I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION MAY BE TAKEN  
AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.**

.....  
**Signature**

.....  
**Date**

.....  
**Position**

.....  
**Name of Bidder**



## CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Municipal Bidding Document (MBD) must form part of all bids<sup>1</sup> invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).<sup>2</sup> Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 Municipal Supply Regulation 38 (1) prescribes that a supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer, among others, to:
  - a. take all reasonable steps to prevent such abuse;
  - b. reject the bid of any bidder if that bidder or any of its directors has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system; and
  - c. cancel a contract awarded to a person if the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.
- 4 This MBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (MBD 9) must be completed and submitted with the bid:

<sup>1</sup> Includes price quotations, advertised competitive bids, limited bids and proposals.

<sup>2</sup> Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

## CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

---

(Bid Number and Description)

in response to the invitation for the bid made by:

---

(Name of Municipality / Municipal Entity)

do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of:

---

that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign, the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
  - (a) has been requested to submit a bid in response to this bid invitation;
  - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
  - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder
6. 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.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
  - (a) prices;
  - (b) geographical area where product or service will be rendered (market allocation)
  - (c) methods, factors or formulas used to calculate prices;
  - (d) the intention or decision to submit or not to submit, a bid;
  - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
  - (f) bidding with the intention not to win the bid.

8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. 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.

**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.**

10. 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.

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

**THE NATIONAL TREASURY**  
**Republic of South Africa**



---

**GOVERNMENT PROCUREMENT:  
GENERAL CONDITIONS OF CONTRACT**

July 2010

## TABLE OF CLAUSES

1.       **Definitions**
2.       Application
3.       General
4.       Standards
5.       Use of contract documents and information inspection
6.       Patent Rights
7.       Performance security
8.       Inspections, tests and analyses
9.       Packing
10.      Delivery and documents
11.      Insurance
12.      Transportation
13.      Incidental Services
14.      Spare parts
15.      Warranty
16.      Payment
17.      Prices
18.      Variation orders
19.      Assignment
20.      Subcontracts
21.      Delays in the supplier's performance
22.      Penalties
23.      Termination for default
24.      Anti-dumping and countervailing duties and rights
25.      Force Majeure
26.      Termination for insolvency
27.      Settlement of Disputes
28.      Limitation of Liability
29.      Governing language
30.      Applicable law
31.      Notices
32.      Taxes and duties
33.      Transfer of contracts
34.      Amendments of contracts
35.      Prohibition of restrictive practices

## General Conditions of Contract

### Definitions indicated:

1. The following terms shall be interpreted as
  - 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

- o market its goods on own initiative in the  
b RSA at lower prices than that of the country  
t of origin and which have the potential to  
a harm the local industries in the RSA.
- 1.12 "Force majeure" means an event beyond the  
i control of the supplier and not involving the  
n supplier's fault or negligence and not  
e foreseeable. Such events may include, but  
d is not restricted to, acts of the purchaser in  
. its sovereign capacity, wars or revolutions,  
1.11 " fires, floods, epidemics, quarantine  
D restrictions and freight embargoes.
- u 1.13 "Fraudulent practice" means a  
m misrepresentation of facts in order to  
p influence a procurement process or the  
i execution of a contract to the detriment of  
n any bidder, and includes collusive practice  
g 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.
- o 1.14 "GCC" means the General Conditions of  
c Contract.
- c 1.15 "Goods" means all of the equipment,  
u machinery, and/or other materials that the  
r supplier is required to supply to the  
s purchaser under the contract.
- w 1.16 "Imported content" means that portion of the  
h bidding price represented by the cost of  
e components, parts or materials which have  
n been or are still to be imported (whether by  
the supplier or his subcontractors) and  
a which costs are inclusive of the costs  
abroad, plus freight and other direct  
p importation costs such as landing costs,  
r dock dues, import duty, sales duty or other  
i similar tax or duty at the South African place  
v of entry as well as transportation and  
a handling charges to the factory in the  
t Republic where the goods covered by the bid  
e will be manufactured.
- e 1.17 "Local content" means that portion of the  
n bidding price, which is not included in the  
t imported content provided that local  
e manufacture does take place.
- r 1.18 "Manufacture" means the production of  
p products in a factory using labour,  
r materials, components and machinery and  
i includes other related value-adding activities.
- s 1.19 "Order" means an official written order  
e issued for the supply of goods or works or  
the rendering of a service.
- a 1.20 "Project site," where applicable, means  
b the place indicated in bidding documents.
- r 1.21 "Purchaser" means the organization  
o purchasing the goods.
- a 1.22 "Republic" means the Republic of South  
d

- vices” 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.
- 1.23 “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 handwritten in ink or any form of electronic or mechanical writing.
- 2. Application**
- 2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services (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.
- 1.24 “Supplier”



- 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

Be extended only so far as may be necessary for the purpose of 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 the purposes of performing the contract.

- 5.3 Any documents 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 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.

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

- 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 Incident al Services**

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

- 13.1.1. performance or supervision of on-site assembly and/or commissioning of the supplied goods;
- 13.1.2. furnishing of tools required for assembly and/or maintenance of the supplied goods;
- 13.1.3. furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
- 13.1.4. 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
- 13.1.5. 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.

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

21.4 goods 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 22.2 without the application of penalties.

21.6 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.
- 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.

## **28 Governing language**

28.1. 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.

## **29 Applicable law**

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

## **30 Notices**

30.1 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.

30.2 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.

**31      *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.

32     ***Transfer  
of  
contracts***

32.1 The contractor shall not abandon, transfer, cede assign or sublet a contract or part thereof without the written permission of the purchaser

33     ***Amendmen  
t of contracts***

33.1 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.

**34 Prohibition of** 35.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of

restrictive practices

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.