



YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE DEPARTMENT OF LOCAL GOVERNMENT

| | | |
|---|--|--|
| BID DOCUMENTS OBTAINABLE FROM Ms. C. Johnson (lg.finance@westerncape.gov.za) | ADMINISTRATIVE ENQUIRIES Mr. A Seale (lg.finance@westerncape.gov.za) | SPECIFICATION ENQUIRIES Ms. J Winder (lg.finance@westerncape.gov.za) |
| ADVERTISEMENT DATE 06 June 2025 | CLOSING DATE AND TIME 11 July 2025 | VALIDITY PERIOD 60 days |

Bid Number: LG-01 2025-2026

TERMS OF REFERENCE

**APPOINTMENT OF A PROFESSIONAL SERVICE PROVIDER TO DEVELOP A FLOOD HAZARD
MODEL FOR THE WESTERN CAPE PROVINCE.**

Bid documents must be deposited on or before the closing time: The bid box is open 24 hours a day, 7 days a week. The onus is on the Bidder to ensure that the bid is deposited in the correct tender box on or before the closing date and time. The blue tender box clearly marked "Local Government" is situated in the foyer / passage of 80, St Georges Mall, Waldorf Building, Cape Town 8000.

Physical Address
Department of Local Government
Ground Floor, 80 St Georges Mall
Waldorf Building
Cape Town, 8000

Bidders should ensure that bids are delivered timeously to the correct address. If the bid is late, it will not be accepted for consideration. No Telegraphic, telex, facsimile or e-mailed bids will be accepted.

ALL BIDS MUST BE SUBMITTED IN A CLEARLY MARKED ENVELOPE WITH THE BIDDERS ADDRESS DETAILS ON THE BACK. ALL BIDS MUST BE ON THE OFFICIAL FORMS (NOT TO BE RE-TYPED) OR SEPARATED. FAILURE TO ADHERE TO THESE INSTRUCTIONS MAY RESULT IN THE BID BEING DISQUALIFIED.

THIS BID IS SUBJECT TO THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT. THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (WCBD 7.1) AND / SERVICE LEVEL AGREEMENT IF APPLICABLE.


CHAIRPERSON: BID SPECIFICATION COMMITTEE

DATE: 3/6/2025


HEAD: SUPPLY CHAIN MANAGEMENT

DATE: 6.6.2025

PART A INVITATION TO BID

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

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

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

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

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

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

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)

| | | | | | |
|-------------|-----------------|---------------|--------------|---------------|----------|
| BID NUMBER: | LG-01 2025-2026 | CLOSING DATE: | 11 JULY 2025 | CLOSING TIME: | 11:00 AM |
|-------------|-----------------|---------------|--------------|---------------|----------|

| | |
|-------------|--|
| DESCRIPTION | APPOINTMENT OF A PROFESSIONAL SERVICE PROVIDER TO DEVELOP A FLOOD HAZARD MODEL FOR THE WESTERN CAPE PROVINCE.. |
|-------------|--|

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

DEPARTMENT OF LOCAL GOVERNMENT

BLUE TENDER BOX CLEARLY MARKED "LOCAL GOVERNMENT"

SITUATED IN THE FOYER / PASSAGE, GROUND FLOOR, 80 ST GEORGES MALL, WALDORF BUILDING, CAPE TOWN

8000

BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO

| | |
|------------------|-------------------------------|
| CONTACT PERSONS | MR A SEALE/ MS C JOHNSON |
| TELEPHONE NUMBER | N/A |
| FACSIMILE NUMBER | N/A |
| E-MAIL ADDRESS | LG.FINANCE@WESTERNCAPE.GOV.ZA |

TECHNICAL ENQUIRIES MAY BE DIRECTED TO:

| | |
|------------------|-------------------------------|
| CONTACT PERSONS | MS J WINDER |
| TELEPHONE NUMBER | N/A |
| FACSIMILE NUMBER | N/A |
| E-MAIL ADDRESS | LG.FINANCE@WESTERNCAPE.GOV.ZA |

SUPPLIER INFORMATION

| | | | | |
|--|---|--|-------------------------------------|---|
| NAME OF BIDDER | | | | |
| POSTAL ADDRESS | | | | |
| STREET ADDRESS | | | | |
| TELEPHONE NUMBER | CODE | | NUMBER | |
| CELLPHONE NUMBER | | | | |
| FACSIMILE NUMBER | CODE | | NUMBER | |
| E-MAIL ADDRESS | | | | |
| VAT REGISTRATION NUMBER | | | | |
| SUPPLIER COMPLIANCE STATUS | TAX COMPLIANCE SYSTEM PIN: | | AND | CENTRAL SUPPLIER DATABASE No: |
| | | | | MAAA |
| B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE | [TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No | | B-BBEE STATUS LEVEL SWORN AFFIDAVIT | [TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No |
| IF YES, WAS THE CERTIFICATE ISSUED BY A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN NATIONAL ACREDITATION SYSTEM (SANAS) | [TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No | | | |

[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/SWORN AFFIDAVIT (FOR EMEs & QSEs) MUST BE SUBMITTED TOGETHER WITH A COMPLETED 6.1 IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]

| | | | |
|---|--|--|--|
| ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS/ SERVICES/ WORKS OFFERED? | <input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF] | ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED? | <input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW] |
|---|--|--|--|

QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

| | |
|--|--|
| IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| DOES THE ENTITY HAVE A BRANCH IN THE RSA? | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW. | |

**PART B
TERMS AND CONDITIONS FOR BIDDING**

1. BID SUBMISSION:

- 1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
- 1.2. **ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED – (NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.**
- 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
- 1.4. **THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (WCBD7).**

2. TAX COMPLIANCE REQUIREMENTS

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

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

SIGNATURE OF BIDDER:

.....

CAPACITY UNDER WHICH THIS BID IS SIGNED:

(Proof of authority must be submitted e.g. company resolution)

.....

DATE:

.....



PROVINCIAL GOVERNMENT OF WESTERN CAPE

DEPARTMENT OF LOCAL GOVERNMENT

BID NUMBER: LG-01 2025-2026

TERMS OF REFERENCE

APPOINTMENT OF A PROFESSIONAL SERVICE PROVIDER TO DEVELOP A FLOOD HAZARD MODEL FOR THE WESTERN CAPE PROVINCE.

| ANNEXURE REFERENCE | TENDER DOCUMENT NAME | RETURNABLE DOCUMENT (INDICATE PAGE NUMBER) |
|--|---|--|
| A | FORM OF OFFER AND ACCEPTANCE (WCBD 1) | |
| B | PRICING SCHEDULE (WCBD 3.1) | |
| C | CONSOLIDATED DECLARATION OF INTEREST, BIDDER'S PAST SUPPLY CHAIN PRACTICES AND INDEPENDENT BID DETERMINATION (WCBD 4) | |
| D | PREFERENCE POINTS CLAIM FORM (WCBD 6.1) | |
| E | TERMS OF REFERENCE | |
| F | GENERAL CONDITIONS OF CONTRACT (GCC) | |
| G | B-BBEE CERTIFICATE | |
| H | PROVIDE THE MAAA CENTRAL SUPPLIER DATABASE (CSD) REPORT AND OR MAAA NUMBER | |
| PLEASE ENSURE THAT ALL OTHER RELEVANT SUPPORTING DOCUMENTS AS PER THE TERMS OF REFERENCE AND PRICING SCHEDULE (WCBD 3.1) ARE CLEARLY LABELLED AND INCLUDED IN YOUR PROPOSAL. | | |

NB: ALL BID DOCUMENTS (PROPOSALS) MUST BE ANNEXED AS INDICATED ABOVE.



TERMS OF REFERENCE: APPOINTMENT OF A PROFESSIONAL SERVICE PROVIDER TO DEVELOP A FLOOD HAZARD MODEL FOR THE WESTERN CAPE PROVINCE.

1. INTRODUCTION

The Department of Local Government (the Department) invites suitable service providers to submit a proposal for the development of a Flood Hazard Model for the Western Cape Province over a period of two years. The Flood Hazard Model will consist of a flood modelling tool; aimed at enhancing decision making to achieve near real-time disaster risk reduction in the province.

2. BACKGROUND

- 2.1 Disasters have become a frequent occurrence in the Western Cape's climate and landscape. This is illustrated by the recent drought, flooding incidents; pest infestations, numerous structural fires, and wildfires; which have had significant impacts on communities, the economy, infrastructure, and the environment.
- 2.2 The Western Cape Government's Provincial Disaster Management Centre (WC: PDMC) has shown commitment to reforming its approach to disaster management. In 2019, the first Western Cape Provincial Indicative Risk Profile was completed, and it was agreed that the future direction for Disaster Risk Reduction (DRR) should be based on achieving community and organisational resilience. Furthermore, a Disaster Management Decision Support Tool was developed to enhance the capabilities of local government in tracking and monitoring disaster risks and to enable improved decision-making during disaster operations.
- 2.3 The Flood Hazard Model's focus will be to enhance the capabilities of government in identifying and mitigating disaster risks through the utilisation of integrated and interactive spatial hazard models that will focus on mitigating floods.

3. GLOSSARY OF TERMS

- (a) Digital Elevation Model (DEM):** The representation of continuous elevation values over a topographic surface by a regular array of z-values, referenced to a common vertical datum. DEMs are typically used to represent the bare-earth terrain, void of vegetation and manmade features.
- (b) Geographic Information System (GIS):** An integrated collection of computer software and data used to view and manage information about geographic places, analyse spatial relationships, and model spatial processes. A GIS provides a framework for gathering and organizing spatial data and related information so that it can be displayed and analysed.
- (c) Hazard:** A dangerous phenomenon, substance, human activity or condition that may cause loss of life, injury or other health impacts, property damage, loss of livelihoods and services, social and economic disruption, or environmental damage.
- (d) Model:** An abstraction of reality used to represent objects, processes, or events.
- **Modelling:** A set of rules and procedures for representing a phenomenon or predicting an outcome.
 - **Data Model:** A data representation of reality, such as the vector data model.
 - **Model:** In geoprocessing in ArcGIS, one process or a sequence of processes connected together, that is created in ModelBuilder.
- (e) Parameter:** A variable that determines the outcome of a function or operation.
- (f) Prototype:** An early sample, model, or release of a product built to test a concept or process.
- (g) Risk:** The level of exposure to a particular hazard that can cause harm, damage or loss.
- (h) Spatial Modelling:** A methodology or set of analytical procedures used to derive information about spatial relationships between geographic phenomena.

4. COMPULSORY BRIEFING SESSION

- 4.1 A virtual compulsory information session will be held on the Microsoft Teams online platform on **19 June 2025**. The session will be open at the afore-mentioned stated time. Attendees will be allowed access to the meeting from **10h30** with the Chairperson closing access at **11h00** whereafter the session will commence.

- 4.2 Prospective service providers must indicate their intention of attending the compulsory virtual briefing session by sending an email to lg.finance@westerncape.gov.za with the reference number: **LG-01 2025-2026** stated in the subject line of such emails **before or on 17 June 2025 by 14h00 latest**. No requests will be considered after this cut-off date and time. The said email should clearly state the prospective service provider's representatives full name, official email address, and contact number.
- 4.3 Only representatives of service providers received as per point 4.2 on or before the before-mentioned due date will be invited and allowed access to the compulsory virtual briefing session. The meeting link will be sent on or before the close of business on **18 June 2025**. If the said representative/s cannot attend, a separate email should be sent with the details of the replacement on or before the due date listed above. The meeting links should not be shared with non-representative/s.
- 4.4 The Chairperson will further use this information to prepare a pre-populated register to monitor and control access to the session. Access to the session will therefore be restricted to this pre-populated register. Upon closing access to the briefing session, the chairperson will allow for a formal introduction of representatives and confirm such attendance against the pre-populated register.
- 4.5 An automatic attendance register will be generated from MS Teams and compared against the verbal confirmations and will be considered as the official attendance register of the virtual compulsory briefing session.
- 4.6 The details disclosed at the compulsory briefing session shall be deemed to form part of these Terms of Reference once they have been disclosed to all prospective service providers in attendance at the virtual compulsory briefing session.
- 4.7 No proposals will be accepted from prospective service providers who did not attend the virtual compulsory briefing session.
- 4.8 Questions of clarity regarding this Scope of Work will only be responded to until **27 June 2025** via the email: LG.Finance@westerncape.gov.za

5. BID CONDITIONS

5.1 Contractual aspects

5.1.1 This bid is subject

- (a) General Conditions of Contract (GCC), issued in accordance with Chapter 16A of the Treasury Regulations;
- (b) The Special Conditions of Contract (SCC), which in terms of clause 5.1.2 below, are the contents of this document.
- (c) Section 12 of this document, being Adjudication of proposals.
- (d) the application of the 80:20 Preferential Procurement Points System; and
- (e) the provisions outlined in section 5.

5.1.2 The content of this document shall be deemed to constitute the Special Conditions of Contract (SCC) applicable to this bid and shall be read together with the GCC. Where, however, the SCC conflict with the GCC, the SCC shall prevail.

5.1.3 The bid document, together with the specifications contained in this document, shall constitute part of the Contract.

5.1.4 Bidders shall not perform any work or render any services in terms of the Contract unless in receipt of a written instruction to this effect by the Department.

5.1.5 The successful Bidder may not assign his/her obligations.

5.1.6 The successful Bidder must advise the Department immediately when unforeseeable circumstances will adversely affect the execution of the contract. Full particulars of such circumstances as well as the period of delay must be furnished.

5.2 Disclaimer

5.2.1 Bidders must make and rely on their own investigations and satisfy themselves as to the correctness of all aspects of the bid. The Department will not be liable for any incorrect or potentially misleading information in relation to any part of this document and any accompanying bid documents.

5.2.2 The Department reserves the right not to appoint (current and post appointment) any particular contracted partner who does not comply with the conditions of this bid or if information is obtained by the Department about a bidder that could put the Department at risk.

5.2.3 The Department reserves the right to cancel this BID at the time of award to cover the full quote of this BID or if the need does not exist anymore or the specification has changed.

5.3 Indemnity

5.3.1 The bidders will indemnify, protect, defend, and hold harmless the Department from and against all claims, demands, actions and proceedings whatsoever including all fees, costs and expenses incurred in respect thereof arising out of:

- a) Any claim of any taxes payable by the bidder.
- b) Any claim for Workmen's Compensation Insurance or for any loss for which the bidder is liable.
- c) Any claim by a third party including any employees of Department or of the bidder for any loss resulting from any bodily injury and or damages to property by any act or omission of the bidder or any of its employees, Sub-Consultants or Service Providers.

5.4 Confidentiality

5.4.1 The successful Bidder/s shall regard all information in, or in support of the project, as confidential and may not use any information for personal or 3rd party gain. All communication with the media regarding this project (if any) will be conducted via the communication component of the Department (unless agreed upon otherwise).

5.5 Conflict of Interest, Corruption and Fraud

5.5.1 The Department reserves its right to disqualify any bidder who either itself or any of whose members (save for such members who hold a minority interest in the bidder through shares listed on any recognised stock exchange), indirect members (being any person or entity who indirectly holds at least a 15% interest in the bidder other than in the context of shares listed on a recognised stock exchange), directors or members of senior management, whether in

respect of DLG or any other government organ or entity and whether from the Republic of South Africa or otherwise ("Government Entity"):

- a) engages in any collusive tendering, anti-competitive conduct, or any other similar conduct, including but not limited to any collusion with any other bidder in respect of the subject matter of this bid;
- b) seeks any assistance, other than assistance officially provided by a Government Entity, from any employee, advisor or other representative of a Government Entity in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to a Government Entity;
- c) makes or offers any gift, gratuity, anything of value or other inducement, whether lawful or unlawful, to any of the Department's directors, employees, advisors or other representatives;
- d) makes or offers any gift, gratuity, anything of any value or other inducement, to any Government Entity's officers, directors, employees, advisors or other representatives in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to the Department;
- e) accepts anything of value or an inducement that would or may provide financial gain, advantage or benefit in relation to procurement or services provided or to be provided to the Department;
- f) pays or agrees to pay to any person any fee, commission, percentage, brokerage fee, gift or any other consideration, that is contingent upon or results from, the award of any tender, contract, right or entitlement which is in any way related to procurement or the rendering of any services to the Department;
- g) has in the past engaged in any matter referred to above; or
- h) has been found guilty in a court of law on charges of fraud and/or forgery, regardless of whether or not a prison term was imposed and despite such bidder, member or director's name not specifically appearing on the List of Tender Defaulters kept at National Treasury.

5.6 Misrepresentation during the lifecycle of the contract

- 5.6.1 The bidder should note that the terms of its bid will be incorporated in the proposed contract by reference and that the Department relies upon the bidder's bid as a material representation in making an award to a successful bidder and in concluding an agreement with the bidder.
- 5.6.2 It follows therefore that misrepresentations in a Bid may give rise to service termination and a claim by the Department against the bidder notwithstanding the conclusion of the Service Level Agreement between the Department and the bidder for the provision of the Service in question. In the event of a conflict between the bidder's proposal and the Service Level Agreement concluded between the parties, the Service Level Agreement will prevail.

5.7 Absence of Obligation

- 5.7.1 No legal or other obligation shall arise between Bidders and the Department unless and until the formal appointment documentation has been signed. The Department is not obliged to proceed with any proposals of any Bidder. The Department also reserves the right to request changes to any proposed consortia.

5.8 Intellectual Property

- 5.8.1 The successful Bidder must note that all drafts, including the final draft of the document and any digital information derived in undertaking the project will be the sole property of the Department of Local Government. Any studies, reports, or other material, graphic, data, software or otherwise prepared by the appointee for this project under this contract shall belong to and remain the property of Department of Local Government. No presentations of the reports may be made without prior written permission of Western Cape Government (WCG) and all information contained in these reports is considered confidential unless agreed otherwise in writing.
- 5.8.2 All materials emanating from services rendered with a branding implication must be consulted with the Department of Local Government's Communication Services unit prior to the design or production thereof. Materials may include, but are not limited to, specialist reports; advertising; promotional materials and/or any other communication product produced for public or internal consumption.

5.9 Preparation Cost

- 5.9.1 The Bidder will bear all its costs in preparing, submitting, and presenting any response or Tender to this bid and all other costs incurred by it throughout the bid process. Furthermore, no statement in this bid will be construed as placing the Department, its employees, or agents under any obligation whatsoever, including in respect of costs, expenses or losses incurred by the bidder(s) in the preparation of their response to this bid.

Please ensure that the WCBD 6.1 Bid Document is completed accurately to ensure that your offer is acceptable / considered for further evaluation.

6. SCOPE OF PROJECT

- 6.1 The Flood Hazard Model is aimed at enhancing the decision-making process through the utilisation of an integrated and interactive spatial flood hazard model to achieve near real-time disaster risk reduction within the province. The project is in direct response to the province's recovery priority on Safe and Cohesive Communities and the Department's strategic focus on risk reduction. All similar spatial models utilised by other entities on local, provincial, and national level should also be considered into the development of the Flood Hazard Model.
- 6.2 End-user requirements: Flood Hazard Model will be integrated into the existing Disaster Management Decision Support Tool which has been developed in the ESRI environment. The development of the Flood Hazard Model must incorporate the following:
- 6.2.1 Flood Modelling Tool (riverine and urban flooding):
- A Digital Elevation Model of at least 2m resolution to be utilised.
 - Interactive flood inundation scenarios to include but not limited to the following parameters:
 - Rainfall in mm i.e. 20mm, 50mm, 100mm, 150mm and 200mm.
 - Rainfall duration;
 - Level of rivers;
 - Dam levels;
 - Release of water from the flowing major dams namely, Wemmershoek, Berg River, Clanwilliam, Theewaterskloof, Wolwedans, Gamakas and Floris Kraal Dams
 - River flow (speed);
 - Historical flood data;

- Existing flood line data;
- Urban flooding parameters;

6.3 Skills transfer during the development and rollout of the Hazard Model must include the capacitation of the WC: PDMC on the following aspects:

- Training on the updating of the components of the Flood Hazard Model.
- Knowledge on data accuracy and gaps that will also be reported during project implementation.
- Metadata to be provided on the Western Cape Government standard metadata format with defined attributes (**refer to annexure A for the Western Cape Spatial Information and GIS Location Services Standard Operating Procedure (SOP)**).
- Detailed methodology to be provided and formally explained.

7. ROLE OF THE SUCCESSFUL SERVICE PROVIDER / PRIMARY CONSULTANT WILL BE TO DEVELOP:

7.1 Year One: Research and Development of a Flood Hazard Model:

- Research best practices for flood hazard modelling,
- Develop flood hazard model for approval.
- Collect/generate data for the development Flood Risk Model taking into consideration variables that may contribute to flood risk.

7.2 Year Two: Product Development

- Integrated the Flood Hazard Model into the Disaster Management Decision Support Tool. All developed products need to be compatible with the Western Cape Government ESRI platform.

8. PROJECT DELIVERABLES

The successful service provider will be required to achieve the following deliverables over a two-year period:

| 2025/26 Deliverables | 2026/27 Deliverables |
|---|--|
| <ul style="list-style-type: none"> • Research on best practice for Flood Hazard Model. • Development of a Flood Hazard Prototype. • Project Status Reports. • Collect/generate data for the development of the Flood Risk Model taking into consideration variables that may contribute to flood risk. • Completed Flood Hazard Model. | <ul style="list-style-type: none"> • Flood Hazard Model integration into the Disaster Management Decision Support Tool. • Skills transfer through training; and • Development of User Guides. |

9. PAYMENT BREAKDOWN

- 9.1 80% of the total of the project fee will be paid for the first year of the Priority Hazard Model upon delivery and approval of the priority hazard prototype.
- 9.2 20% of the total of the project fee will be paid on delivery and sign-off of the Final Flood Hazard Model and all other deliverables on the second year.

These amounts will be paid within delivery and sign-off of the deliverables for the first year of the Flood Hazard Model and after receipt of a detailed tax invoice; after completion of the second year's deliverables of the Flood Hazard, the final payment shall be made upon completion of the second year's deliverables of the Flood Hazard Model provided that the services to which the tax invoice relates have been completed to the satisfaction of the Department.

10. PROJECT TIMEFRAME

- 10.1 The service for the development of a Flood Hazard Model should commence immediately after the award/notification to the successful service provider.
- 10.2 The timeframes for the project are as follows:
- 10.2.1 The service provider must ensure that the deliverables as stated in the table under Point 8. Project Deliverables 2025-2026 are completed by 1 March 2026.

10.2.2 The service provider must ensure that the deliverables as stated in the table under Point 8. Project Deliverables 2026-2027 are completed by 1 March 2027.

11. BID PROPOSAL

11.1 Bidders will be required to submit at their own cost, the Bid Proposal in which they demonstrate their understanding of the work to be undertaken as described under the Scope of the Project and demonstrate their ability to execute the project described in the terms of reference.

11.2 The Bid Proposal must comprise of the below compulsory sections, clearly referenced in the table of contents in the below order. If a bidder opts to submit a bid with sub-consultants, all respective institutions or companies' information must be included under each of the below sections.

11.2.1 **Company Profile (please mark as Annexure A)**

Concise but full information should be provided on the company(s).

11.2.2 **Proposed Approach and Methodology (Please mark as Annexure B)**

The prospective bidder must demonstrate a thorough understanding of the project. This should include the following:

- The prospective bidder must clearly indicate the approach and methodology that they intend to follow to achieve the required deliverables;
- This approach and methodology must illustrate that the bidder:
 - Understands the nature of the work (demonstrate technical and theoretical knowledge for the Flood Hazard Model and its various components);
 - How data will be collected and /or generated throughout the project scope;
 - Has good insight as to what actions or activities are required to complete the required deliverables (demonstrate practical experience).

The proposed approach and methodology narrative to be included representing the combined knowledge and experience of all consultants (in the case of sub-consultants).

11.2.3 **Experience Record (Please mark as Annexure C)**

The successful service provider will be required to develop the Flood Hazard Model. It is therefore expected that potential service providers have extensive experience in the field related to Geographic Information Systems (GIS).

The prospective bidder shall therefore provide documentation of institution or company experience including:

- (i) Experience in the development of GIS models / products;
- (ii) General GIS experience indicating the number of years' experience in the relevant aspects pertaining to the project scope as well as the extent of said services.

The bidder shall only list relevant GIS projects worked on. For each of the projects listed, the following information should be provided (provide a consolidated list in the case of sub-consultants):

- Brief description of the GIS product / project;
- Exact services performed on the project;
- Value of the contract of services performed;
- Client or institution's name, contact person details, address, telephone number and email address.

In cases where the services listed above were performed as sub-consultations, this should be clearly stated, with an indication of the proportions of services provided by each participant.

11.2.4 **Project Team Organogram and Curricula Vitae (Please mark as Annexure D)**

The bidder shall provide a description of the project team proposed to develop the Flood Hazard Model. This must be supported by an organogram and the curriculum vitae (CV) for each of the project team. For the team leader and each team member the following information must be provided:

- Name, age, nationality and position in the organisation;
- Educational qualifications – relevant certificate/s to be submitted;
- Record of overall experience;
- Role in the project;

- Number of years of project specific relevant experience in terms of their role in the project;
- Minimum of two contactable references for the team leader.

Relevant experience shall be defined as expertise and activities within the field related to Geographic Information Systems in relation to the work described in the Scope of Work/Deliverables. The CVs of the project team leader and members submitted as part of the bid will be scrutinised and evaluated to determine the years claimed as **relevant experience**.

11.2.5 **Compulsory Returnable Bid Documents (Please mark as Annexure 1-5)**

All the returnable Bid documents listed in section 12.1 must be included in the Bidders's Bid submission.

12. AJUDICATION OF PROPOSALS

The evaluation and adjudication of the tenders will be executed as set out below. The evaluation process will be carried out in three (3) stages as follows:

- **Stage 1:** Compliance to submission of compulsory returnable bid documents;
- **Stage 2:** Evaluation in terms of Compulsory Conditions of the Bid;
- **Stage 3:** Evaluation according to the Preferential Procurement Regulations 2022 and in terms of the Western Cape Governments interim strategy as it relates to preference points.

12.1 **STAGE 1: COMPULSORY RETURNABLE BID DOCUMENTS**

The following documents are compulsory and must be submitted according to the table below. Failure to submit documents listed under Table 1 below may result in disqualification.

TABLE 1

| Compulsory Returnable Bid Documents | |
|--|--|
| 1 Annexure 1 | Submission of duly completed offer signed by authorized signatory (Invitation to Bid -WCBD 1). |
| 2 Annexure 2 | Pricing Schedule (WCBD 3.1). Must be duly completed to be considered. |

| | |
|---|--|
| 3 Annexure 3 | Submission of duly completed WCBD 4 (Declaration of Interest, Declaration of Bidders Past SCM Practice, Certificate of Independent Bid Determination). |
| 4 Annexure 4 | Preference Points Claim Form completed and signed (WCBD 6.1). B-BBEE Certificate / sworn affidavit as supporting evidence to be provided by bidders to claim preference points in respect of 20 points (80/20) and 10 points (90/10). Should a bidder fail to submit an accredited B-BBEE certificate or sworn affidavit, the bidder may only score points for price in terms of the 80/90 points. No points will be allocated for preference. |
| 5 Annexure 5 Annexure A Annexure B Annexure C Annexure D | <p>Bidders' proposal and supporting documentation (As per section 11 above. Bidders to ensure that each annexure precisely addresses the points under each category):</p> <ul style="list-style-type: none"> • Company profile. • Proposed methodology and approach. • Company Experience record. • Project team organogram including Curricula Vitae. |

Bids that are non-compliant to any of these requirements may be disqualified. Only bids that are compliant will further be evaluated according to Stage 2 – Compulsory Conditions of Bid.

12.2 STAGE 2: EVALUATION IN TERMS OF COMPULSORY CONDITIONS OF BID

The total score that bidders can obtain for the compulsory conditions of the bid will be **100** points. The minimum threshold for these conditions will be **70 points**. Only those bidders that meet or exceed the minimum threshold will be evaluated at the third stage.

| Criteria: | Weight | Scoring | Reference to proposal |
|--|-----------|---|-------------------------------|
| Methodology and approach | 30 | | 10.2.2. Annexure B |
| Quality of the proposed methodology and approach for Scope of Works: | | <ul style="list-style-type: none"> • Poor demonstration of GIS knowledge with only repeat of TOR | |

| Criteria: | Weight | Scoring | Reference to proposal |
|--|-----------|---|-------------------------------|
| <ul style="list-style-type: none"> Understanding of all scope of works required. Demonstrate GIS knowledge. Insight as to what actions or activities are required. Demonstrate practical experience. | | <p>and little to no actions / activities indicated to demonstrate experience = 5 points.</p> <ul style="list-style-type: none"> Fair demonstration of GIS knowledge with some detail given and only basic general actions/ activities indicated to demonstrate practical experience = 15 points. Good demonstration of GIS knowledge with detailed description of scope and detailed specific actions/ activities indicated to demonstrate practical experience = 25 points. Excellent demonstration of GIS knowledge with detailed description of scope and specific actions / activities as well as a demonstration of success of approach from previous examples indicated = 30 points. | |
| Company Experience | 20 | | 10.2.3 Annexure C |
| <p>Total company experience:</p> <ul style="list-style-type: none"> Demonstrate general GIS product / model development experience. | | <p>Verified 1 - 4 years of experience = 5 points.</p> <p>Verified 5 - 9 years of experience = 10 points.</p> <p>Verified 10 - 14 years of experience = 15 points.</p> <p>Verified +15 years of experience = 20 points.</p> | |
| Relevant Experience of Project Team | 50 | | 10.2.4. Annexure D |

| Criteria: | Weight | Scoring | Reference to proposal |
|--|--------|---|-----------------------|
| Length of relevant experience of Consulting team leader in GIS modelling projects, accompanied with verifiable references. | 30 | <ul style="list-style-type: none"> 1- 2 years = 5 points. 3 - 4 years = 10 points. 5 - 7 years = 20 points. 8 years plus = 30 points. | |
| Length of relevant experience of team members in the development of flood risk models , accompanied with verifiable references. | 20 | <ul style="list-style-type: none"> 1- 2 years = 5 points. 3 - 4 years = 10 points. 5 - 7 years = 15 points. 8 years plus = 20 points. | |

Bidders that have met or exceeded the minimum threshold of 70 points for the compulsory conditions of bid will be evaluated and scored in terms the preferential procurement policy framework act (PPPFA) as indicated below. Any proposal therefore not meeting a minimum score of at least 70 points will not proceed to the subsequent stage.

12.3 STAGE 3: EVALUATION ACCORDING TO THE PREFERENTIAL PROCUREMENT REGULATIONS 2022 AND IN TERMS OF THE WESTERN CAPE GOVERNMENTS INTERIM STRATEGY AS IT RELATES TO PREFERENCE POINTS

All proposals that comply with the Compulsory requirements as specified at Stage 1 and meet or better the minimum score of 70 points for the compulsory conditions of bid will be evaluated further on the 80/20 preference point system for price and B-BBEE credentials according to the Preferential Procurement Policy Framework Act (PPPFA) and the regulations thereto, where 80 refers to price and 20 to B-BBEE status.

13. COST

Prospective Service Providers must submit a detailed all-inclusive cost breakdown schedule with their proposal.

13.1 The financial portion of the Bid Project Proposal must be based on the scope of the project / deliverables highlighted at point 8. The lump-sum prices stated must be fully inclusive for the work described in the scope of works broken down per deliverable – see WCBD 3.1 Pricing Schedule.

- 13.2 The "Guideline on Fees for Audits done on behalf of the Auditor-General of South Africa (AGSA)"¹, as issued by the South African Institute of Chartered Accountants (SAICA).
- 13.3 The "Guide on Hourly Fee Rates for Consultants", as issued by the Department of Public Service and Administration (DPSA) - copies of the latest version (July 2020) of these rates are attached hereto as **Annexure i**; and/or
- 13.4 Remuneration guidelines issued by professional service organisations or regulatory bodies, as may be relevant.
- 13.5 The Service Level Agreement (SLA) to be entered into by the service provider and the client will highlight the payment options.
- 13.6 **For evaluation purposes, service providers must ensure that the WCBD 3.1 Pricing Schedule document is completed fully, accurately and should include all applicable rates / pricing information in the columns provided.**

14. SUBMISSION OF BID PROPOSALS

Proposals must be placed in a sealed envelope with the request for proposals number on the front and the prospective service provider's name and address at the back. Proposals must be deposited in the blue tender / proposal box clearly marked "LOCAL GOVERNMENT" situated in the foyer / passage on the Ground Floor, No. 80 St Georges Mall, Cape Town, Waldorf Building **by 11h00 on or before 11 July 2025**. Failure to comply with the above requirement will render your bid as non-responsive. Please ensure that the proposal is clearly marked with the reference number **LG-01 2025-2026**.

15. BID DEADLINE

The onus is on the service provider to ensure that the proposals are deposited in the correct bid box. Please ensure that the proposal is clearly marked with the reference number **LG-01 2025-2026**.

16. SERVICE LEVEL AGREEMENT

The successful service provider may be required to enter into a Service Level Agreement with the Department for all goods/services required.

17. COMPULSORY REGISTRATION

Bidders must be duly registered on the Western Cape Supplier Evidence Bank (WCSEB) in order to do business with departments in the Western Cape Government. Service providers will be responsible to ensure that they are registered on the WCSEB as well as on the Central Supplier Database (CSD).

Enquiries regarding the registration process may be referred to the Western Cape Supplier Helpdesk. Should service providers not be registered on the WCSEB, they should email wcseb@westerncape.gov.za

Prospective bidders who are currently registered on the Western Cape Supplier Database are also invited to update their status.

All prospective bidders who are not registered on the Central Supplier Database are requested to self-register on www.csd.gov.za

Failure to be actively registered on both databases (WCSEB and CSD) by the time of award may result in the disqualification of the bid.

Registration on databases and compliance of tax status will be verified at the time of the award. Bidders must have a compliant tax status to be awarded a contract.

18. DECLARATION OF INTEREST

The reviewer and/or selection panel will regard all information presented in, or in support of the application, as confidential and may not use any information for personal or 3rd party gain.

19. DECLARATION OF INTEREST, INTELLECTUAL PROPERTY

The reviewer and/or selection panel will regard all information presented in, or in support of the application, as confidential and may not use any information for personal or 3rd party gain.

All data, information, analyses, reports and other project related documents and deliverables will become the property of the Department and will be transferred by the service provider to the Department of Local Government on completion of the project. The

use of the information by the service provider will only be permitted by obtaining written confirmation from the Department of Local Government.

20. ENQUIRIES

Any enquiries regarding these terms of reference should be directed to the Supply Chain Management unit within the Department via email at lg.finance@westerncape.gov.za. The reference number: **LG-01 2025-2026** must be stated in the subject line of such e-mails.

ANNEXURE I



Hourly Fee Rates For Consultants - With effect from 1 July 2020

In view of fiscal constraints, and after consultation with the Office of the Chief Procurement Officer, the Director-General: Public Service and Administration approved that the 2019 rates will apply in 2020

| Salary Band | Average Total Package | Model A Short Term | | | | Model B Long Term | | | |
|-------------|-----------------------|-----------------------------|---------------------|---------------------------------|---------------------|-----------------------------|---------------------|---------------------------------|---------------------|
| | | Option A 1 All Overheads | | Option A 2 Partial Overheads | | Option B 1 All Overheads | | Option B 2 Partial Overheads | |
| | | A 1.1 Mark-up | A 1.2 No Mark-up | A 2.1 Mark-up | A 2.2 No Mark-up | B 1.1 Mark-up | B 1.2 No Mark-up | B 2.1 Mark-up | B 2.2 No Mark-up |
| 16 | 1 997 628 | 3 995 | 3 076 | 3 436 | 2 637 | None | None | None | None |
| 15 / 16 | 1 766 953 | 3 534 | 2 721 | 3 039 | 2 332 | 2 915 | 2 244 | 2 509 | 1 926 |
| 15 | 1 536 278 | 3 073 | 2 366 | 2 642 | 2 028 | 2 535 | 1 951 | 2 182 | 1 675 |
| 14 / 15 | 1 398 142 | 2 796 | 2 153 | 2 405 | 1 846 | 2 307 | 1 776 | 1 985 | 1 524 |
| 14 | 1 302 509 | 2 605 | 2 006 | 2 240 | 1 719 | 2 149 | 1 654 | 1 850 | 1 420 |
| 13 / 14 | 1 201 602 | 2 403 | 1 850 | 2 067 | 1 586 | 1 983 | 1 526 | 1 706 | 1 310 |
| 13 | 1 092 286 | 2 185 | 1 682 | 1 879 | 1 442 | 1 802 | 1 387 | 1 551 | 1 191 |
| 12 / 13 | 995 007 | 1 642 | 1 264 | 1 413 | 1 085 | 1 473 | 1 134 | 1 264 | 965 |
| 12 | 897 728 | 1 481 | 1 140 | 1 275 | 979 | 1 329 | 1 023 | 1 140 | 871 |
| 11 / 12 | 827 611 | 1 366 | 1 051 | 1 175 | 902 | 1 225 | 943 | 1 051 | 803 |
| 11 | 757 494 | 1 250 | 962 | 1 076 | 826 | 1 121 | 864 | 962 | 735 |
| 10 / 11 | 707 501 | 1 167 | 899 | 1 005 | 771 | 1 047 | 807 | 899 | 686 |
| 10 | 657 508 | 973 | 750 | 835 | 638 | 921 | 710 | 789 | 611 |
| 9 / 10 | 598 985 | 886 | 683 | 761 | 581 | 839 | 647 | 719 | 557 |
| 6 to 8 | 395 779 | 586 | 451 | 503 | 384 | 554 | 427 | 475 | 368 |

How to determine the appropriate fee rate

1. Determine the consultancy option/model by applying the following criteria:

"Short Term" means less than 60 consulting days

"Long Term" means more than 60 consulting days

"All Overheads" means consultant provides all overheads e.g., office, parking, telephone

"Partial Overheads" means department provides some overheads e.g. office, parking, telephone

"Mark-up" provides for company profit margin - service normally provided by consulting company

"No Mark-up" service normally provided by individuals or NGOs

2. Determine the appropriate salary band based on the level of work that is required e.g., use job evaluation to determine the level of work - Salary band 13 represents the level of a Director in the public service, 14 a Chief Director, 15 a DDG and 16 a DG.

3. The hourly fee rate should be read where the consultancy option/model intersects with the salary band.

4. Fee rates exclude operational/project expenditure e.g., travelling, hotel accommodation, parking, travel and subsistence allowance.

5. Value Added Tax is excluded from calculating hourly fee rates.

Note - The Guide on Hourly Fee Rates for Consultants and the latest Fee Rates are available at the following link
http://www.dpsa.gov.za/dpsa2g/consultant_fees.asp

PRICING SCHEDULE
(Professional Services)

NAME OF BIDDER: REF NO: **LG-01 2025-2026**

CLOSING TIME **11:00AM**

CLOSING DATE: 11 July 2025

OFFER TO BE VALID FOR 60 DAYS FROM THE CLOSING DATE OF BID.

R.....

| | | |
|------|-------------|------------------------------------|
| ITEM | DESCRIPTION | BID PRICE IN RSA CURRENCY |
| NO | | ** (ALL APPLICABLE TAXES INCLUDED) |

Project Name: APPOINTMENT OF A PROFESSIONAL SERVICE PROVIDER TO DEVELOP A FLOOD HAZARD MODEL FOR THE WESTERN CAPE PROVINCE FOR A TWO (2) YEAR PERIOD.

PRICING FOR DEVELOPMENT OF A FLOOD HAZARD MODEL FOR THE WESTERN CAPE PROVINCE AND OTHER REALTED COSTS: For evaluation purposes, service providers must ensure that this document is completed fully, accurately and must include all applicable rates / price information in the columns provided. All RAND value fields are compulsory.

A: DEVELOPMENT OF A FLOOD HAZARD MODEL PROTOTYPE

| Number | Description of content | Cost |
|--------|---|--------|
| 1 | Year One: Development of a Flood Hazard Model Prototype: <ul style="list-style-type: none"> Research on best practice for Flood Hazard Model. Development of a Flood Hazard Prototype. Project Status Reports. Collect/generate data for the development of the Flood Risk Model taking into inconsideration variables that may contribute to flood risk. Completed Flood Hazard Model. | R..... |

TOTAL A:

TOTAL COST FOR THE DEVELOPMENT OF A FLOOD HAZARD MODEL FOR THE WESTERN CAPE. PROTOTYPE. THIS SHOULD BE 80% OF THE OVERALL PROJECT COST.

R.....

B: FLOOD HAZARD MODEL INTEGRATION AND SKILLS TRANSFER

| Number | Description of content | Cost |
|--------|---|--------|
| 1 | Year Two: Development of a Flood Hazard Model <ul style="list-style-type: none">• Flood Hazard Model integration into the Disaster Management Decision Support Tool.• Skills transfer through training; and• Development of User Guides. | R..... |

TOTAL B:

TOTAL COST FLOOD HAZARD MODEL INTEGRATION AND SKILLS TRANSFER. THIS SHOULD BE 20% OF THE OVERALL PROJECT COST.

R.....

TOTAL BID PRICE MUST BE CALCULATED AS FOLLOWS: SUM OF TOTAL (A) + TOTAL (B)

TOTAL BID COST:

R

- Rates offered must be fixed for the duration of the contract.
- The unit rates indicated in the WCBD 3.1 will be regarded as the official and final rates offered. The actual work to be performed by successful bidders once given an instruction, will be paid at these tendered rates.

Please provide details of duly designated or authorised person submitting the price schedule on behalf of the bidder:

Print Name(s) and Surname: _____

Designation: _____

Signature: _____



PROVINCIAL GOVERNMENT WESTERN CAPE

DECLARATION OF INTERESTS, BIDDERS PAST SCM PRACTICES AND INDEPENDENT BID DETERMINATION

1. To give effect to the requirements of the Western Cape Provincial Treasury Instructions, 2019: Supply Chain Management (Goods and Services), Public Finance Management Act (PFMA) Supply Chain Management (SCM) Instruction No. 3 of 2021/2022 - SBD 4 Declaration of Interest, Section 4 (1)(b)(iii) of the Competition Act No. 89 of 1998 as amended together with its associated regulations, the Prevention and Combating of Corrupt Activities Act No 12 of 2004 and regulations pertaining to the tender defaulters register, Paragraph 16A9 of the National Treasury Regulations and/or any other applicable legislation.
2. Any person (natural or juristic) may make an offer or offers in terms of this invitation to bid. In line with the principles of transparency, accountability, impartiality, and ethics as enshrined in the Constitution of the Republic of South Africa and further expressed in various pieces of legislation, it is required for the bidder to make this declaration in respect of the details required hereunder.
3. All prospective bidders intending to do business with the Institution must be registered on the Central Supplier Database (CSD) and the Western Cape Supplier Evidence Bank (WCSEB) if they wish to do business with the Western Cape Government (WCG) via the electronic Procurement Solution (ePS).
4. The status of enterprises and persons listed on the National Treasury's Register for Tender Defaulters will be housed on the ePS. Institutions may not under any circumstances procure from enterprises and persons listed on the Database of Tender Defaulters.
5. The status of suppliers listed on the National Treasury's Database of Restricted Suppliers will be housed on the ePS; however, it remains incumbent on institutions to check the National Treasury Database of Restricted Suppliers before the conclusion of any procurement process. For suppliers listed as restricted, institutions must apply due diligence and risk assessment before deciding to proceed with procurement from any such supplier.

6. **Definitions**

"bid" means a bidder's response to an institution's invitation to participate in a procurement process which may include a bid, price quotation or proposal;

"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;

If you know of any corrupt, fraudulent or collusive actions in the Institution, please report it by calling the National Hotline 0800 701 701

This form must be completed annually. Should the information herein declared change in the course of the year or before the next renewal or in relation to any bid, quotation or contract, it is the entity's responsibility to advise the Institution in writing of the change in such details.

“business interest” means -

- (a) a right or entitlement to share in profits, revenue or assets of an entity;
- (b) a real or personal right in property;
- (c) a right to remuneration or any other private gain or benefit, or
- (d) includes any interest contemplated in paragraphs (a), (b) or (c) acquired through an intermediary and any potential interest in terms of any of those paragraphs;

“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;

“Controlling interest” means, the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise;

“Corruption”- General offences of corruption are defined in the Combating of Corrupt Activities Act, 2004 (Act No 12 of 2004) as:

Any person who directly or indirectly -

- (a) accepts or agrees or offers to accept an! gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person; or
- (b) gives or agrees or offers to give to any other person any gratification, whether for the benefit of that other person or for the benefit of another person., in order to act personally or by influencing another person so to act, in a manner—
 - (i) that amounts to the-
 - (aa) illegal. dishonest. unauthorised. incomplete. or biased: or
 - (bb) misuse or selling of information or material acquired in the course of the exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation:
 - (ii) that amounts to-
 - (aa) the abuse of a position of authority;
 - (bb) a breach of trust; or
 - (cc) the violation of a legal duty or a set of rules;
 - (iii) designed to achieve an unjustified result; or
 - (iv) that amounts to any other unauthorised or improper inducement to do or 45 not to do anything. of the, is guilty of the offence of corruption.

“CSD” means the Central Supplier Database maintained by National Treasury;

If you know of any corrupt, fraudulent or collusive actions in the Institution, please report it by calling the National Hotline 0800 701 701

This form must be completed annually. Should the information herein declared change in the course of the year or before the next renewal or in relation to any bid, quotation or contract, it is the entity's responsibility to advise the Institution in writing of the change in such details.

"employee", in relation to –

- (a) a department, means a person contemplated in section 8 of the Public Service Act, 1994 but excludes a person appointed in terms of section 12A of that Act; and
- (b) a public entity, means a person employed by the public entity;

"entity" means any –

- (a) association of persons, whether or not incorporated or registered in terms of any law, including a company, corporation, trust, partnership, close corporation, joint venture or consortium; or
- (b) sole proprietorship;

"entity conducting business with the Institution" means an entity that contracts or applies or tenders for the sale, lease or supply of goods or services to the Province;

"Family member" means a person's –

- (a) spouse; or
- (b) child, parent, brother, sister, whether such a relationship results from birth, marriage or adoption or some other legal arrangement (as the case may be);

"intermediary" means a person through whom an interest is acquired, and includes a representative or agent or any other person who has been granted authority to act on behalf of another person;

"Institution" means –

a provincial department or provincial public entity listed in Schedule 3C of the Act;

"Provincial Government Western Cape (PGWC)" means

- (a) the Institution of the Western Cape, and
- (b) a provincial public entity;

"RWOEE" means –

Remunerative Work Outside of the Employee's Employment

"spouse" means a person's –

- (a) partner in marriage or civil union according to legislation;
- (b) partner in a customary union according to indigenous law; or
- (c) partner with whom he or she cohabits and who is publicly acknowledged by the person as his or her life partner or permanent companion.

If you know of any corrupt, fraudulent or collusive actions in the Institution, please report it by calling the National Hotline 0800 701 701

This form must be completed annually. Should the information herein declared change in the course of the year or before the next renewal or in relation to any bid, quotation or contract, it is the entity's responsibility to advise the Institution in writing of the change in such details.

7. Regulation 13(c) of the Public Service Regulations (PSR) 2016, effective 1 February 2017, prohibits any employee from conducting business with an organ of state, or holding a directorship in a public or private company doing business with an organ of state unless the employee is a director (in an official capacity) of a company listed in schedules 2 and 3 of the Public Finance Management Act.
 - a) Therefore, by 31 January 2017 all employees who are conducting business with an organ of state should either have:
 - (i) resigned as an employee of the government institution or;
 - (ii) cease conducting business with an organ of state or;
 - (iii) resign as a director/shareholder/owner/member of an entity that conducts business with an organ of state.
8. Any legal person, or their family members, may make an offer or offers in terms of this invitation to bid. In view of potential conflict of interest, in the event that the resulting bid, or part thereof, be awarded to family members of persons employed by an organ of state, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where the bidder is employed by the Institution.
9. The bid of any bidder may be disregarded if that bidder or any of its directors abused the institution's supply chain management system; committed fraud or any other improper conduct in relation to such system; disclosure is found not to be true and complete; or failed to perform on any previous contract.
10. 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). Collusive bidding is a per se prohibition meaning that it cannot be justified under any grounds.
11. Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorises accounting officers and accounting authorities to:
 - a) disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
 - b) cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
12. Communication between partners in a joint venture or consortium will not be construed as collusive bidding.

If you know of any corrupt, fraudulent or collusive actions in the Institution, please report it by calling the National Hotline 0800 701 701

This form must be completed annually. Should the information herein declared change in the course of the year or before the next renewal or in relation to any bid, quotation or contract, it is the entity's responsibility to advise the Institution in writing of the change in such details.

13. 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.

| SECTION A DETAILS OF THE ENTITY | | |
|---------------------------------|---|------|
| | CSD Registration Number | MAAA |
| | Name of the Entity | |
| | Entity registration Number (where applicable) | |
| | Entity Type | |
| | Tax Reference Number | |

Full details of directors, shareholder, member, partner, trustee, sole proprietor or any persons having a controlling interest with a right or entitlement to share in profits, revenue or assets of the entity should be disclosed in the Table A below.

TABLE A

| FULL NAME | DESIGNATION (Where a director is a shareholder, both should be confirmed) | IDENTITY NUMBER | PERSONAL TAX REFERENCE NO. | PERCENTAGE INTEREST IN THE ENTITY |
|-----------|--|-----------------|----------------------------|-----------------------------------|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

If you know of any corrupt, fraudulent or collusive actions in the Institution, please report it by calling the National Hotline 0800 701 701

This form must be completed annually. Should the information herein declared change in the course of the year or before the next renewal or in relation to any bid, quotation or contract, it is the entity's responsibility to advise the Institution in writing of the change in such details.

SECTION B: DECLARATION OF THE BIDDER'S INTEREST

The supply chain management system of an institution must, irrespective of the procurement process followed, prohibit any award to an employee of the state, who either individually or as a director of a public or private company or a member of a close corporation, seek to conduct business with the WCG, unless such employee is in an official capacity a director of a company listed in Schedule 2 or 3 of the PFMA as prescribed by the Public Service Regulation 13(c).

Furthermore, an employee employed by an organ of state conducting remunerative work outside of the employee's employment should first obtain the necessary approval by the delegated authority (RWOEE), failure to submit proof of such authority, where applicable, may result in disciplinary action.

| | | | |
|------------|--|----|-----|
| B1. | Are any persons listed in Table A identified on the CSD as employees of an organ of state? (If yes, refer to Public Service Circular EIM 1/2016 to exercise the listed actions) | NO | YES |
| B2. | Are any employees of the entity also employees of an organ of state? (If yes complete Table B and attach their approved "RWOEE") | NO | YES |
| B3. | Are any family members of the persons listed in Table A employees of an organ of state? (If yes complete Table B) | NO | YES |

TABLE B

Details of persons (family members) connected to or employees of an organ of state should be disclosed in Table B below.

| FULL NAME OF EMPLOYEE | IDENTITY NUMBER | DEPARTMENT/ ENTITY OF EMPLOYMENT | DESIGNATION/ RELATIONSHIP TO BIDDER** | INSTITUTION EMPLOYEE NO./ PERSAL NO. (Indicate if not known) |
|-----------------------|-----------------|--|---|--|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

If you know of any corrupt, fraudulent or collusive actions in the Institution, please report it by calling the National Hotline 0800 701 701

This form must be completed annually. Should the information herein declared change in the course of the year or before the next renewal or in relation to any bid, quotation or contract, it is the entity's responsibility to advise the Institution in writing of the change in such details.

SECTION C: PERFORMANCE MANAGEMENT AND BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

To enable the prospective bidder to provide evidence of past and current performance.

| | | | |
|------------|--|----|-----|
| C1. | Did the entity conduct business with an organ of state in the last twelve months? (If yes complete Table C) | NO | YES |
|------------|--|----|-----|

C2. TABLE C

Complete the below table to the maximum of the last 5 contracts.

| NAME OF CONTRACTOR | PROVINCIAL DEPARTMENT OR PROVINCIAL ENTITY | TYPE OF SERVICES OR COMMODITY | CONTRACT/ ORDER NUMBER | PERIOD OF CONTRACT | VALUE OF CONTRACT |
|---|--|----------------------------------|---------------------------|-----------------------|----------------------|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| C3. Is the entity or its principals listed on the National Database as companies or persons prohibited from doing business with the public sector? | | | | | NO YES |
| C4. Is the entity or its principals listed on the National Treasury Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No. 12 of 2004)? | | | | | NO YES |
| (To access this Register enter the National Treasury's website, www.treasury.gov.za , click on the icon "Register for Tender Defaulters" or submit your written request for a hard copy of the Register to facsimile number (012) 326 5445.) | | | | | |
| C5. If yes to C3 or C4, were you informed in writing about the listing on the database of restricted suppliers or Register for Tender Defaulters by National Treasury? | | | | NO | YES N/A |
| C6. Was the entity or persons listed in Table A convicted for fraud or corruption during the past five years in a court of law (including a court outside the Republic of South Africa)? | | | | | NO YES |
| C7. Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract? | | | | | NO YES |

If you know of any corrupt, fraudulent or collusive actions in the Institution, please report it by calling the National Hotline 0800 701 701

This form must be completed annually. Should the information herein declared change in the course of the year or before the next renewal or in relation to any bid, quotation or contract, it is the entity's responsibility to advise the Institution in writing of the change in such details.

SECTION D: DULY AUTHORISED REPRESENTATIVE TO DEPOSE TO AFFIDAVIT

This form must be signed by a duly authorised representative of the entity in the presence of a commissioner of oaths.

- I, hereby swear/affirm;
- i. that the information disclosed above is true and accurate;
 - ii. that I have read understand the content of the document;
 - iii. that I have arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor.
 - iv. that the entity undertakes to independently arrive at any offer at any time to the Institution without any consultation, communication, agreement or arrangement with any competitor. In addition, that there will be no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specification, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates;
 - v. that the entity or its representative are aware of and undertakes not to disclose the terms of any bid, formal or informal, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract; and
 - vi. that there have been no consultations, communications, agreements or arrangements made with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and that my entity was not involved in the drafting of the specifications or terms of reference for this bid.

DULY AUTHORISED REPRESENTATIVE'S SIGNATURE

I certify that before administering the oath/affirmation I asked the deponent the following questions and wrote down his/her answers in his/her presence:

- 1.1 Do you know and understand the contents of the declaration? ANSWER:
- 1.2 Do you have any objection to taking the prescribed oath? ANSWER:
- 1.3 Do you consider the prescribed oath to be binding on your conscience? ANSWER:
- 1.4 Do you want to make an affirmation? ANSWER:
2. I certify that the deponent has acknowledged that he/she knows and understands the contents of this declaration, which was sworn to/affirmed and the deponent's signature/thumbprint/mark was place thereon in my presence.

.....
SIGNATURE FULL NAMES Commissioner of Oaths

Designation (rank) ex officio: Republic of South Africa

Date:..... Place

Business Address:

If you know of any corrupt, fraudulent or collusive actions in the Institution, please report it by calling the National Hotline 0800 701 701

This form must be completed annually. Should the information herein declared change in the course of the year or before the next renewal or in relation to any bid, quotation or contract, it is the entity's responsibility to advise the Institution in writing of the change in such details.

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022 AND IN TERMS OF THE WESTERN CAPE GOVERNMENTS INTERIM STRATEGY AS IT RELATES TO PREFERENCE POINTS

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

NB: BEFORE COMPLETING THIS FORM, BIDDERS (TENDERERS) MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER, PREFERENTIAL PROCUREMENT REGULATIONS, 2022 AND THE BROAD BASED BLACK ECONOMIC EMPOWERMENT ACT AND THE CODES OF GOOD PRACTICE

1. DEFINITIONS

- 1.1 **"acceptable tender"** means any tender which, in all respects, complies with the specifications and conditions of tender as set out in the tender document.
- 1.2 **"affidavit"** is a type of verified statement or showing, or in other words, it contains a verification, meaning it is under oath or penalty of perjury, and this serves as evidence to its veracity and is required for court proceedings.
- 1.3 **"all applicable taxes"** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- 1.4 **"B-BBEE"** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- 1.5 **"B-BBEE status level of contributor"** means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- 1.6 **"bid"** means a written offer on the official bid documents or invitation of price quotations and **"tender"** is the act of bidding /tendering;
- 1.7 **"Code of Good Practice"** means the generic codes or the sector codes as the case may be;
- 1.8 **"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;
- 1.9 **"contract"** means the agreement that results from the acceptance of a bid by an organ of state;

- 1.10 **"EME"** is an Exempted Micro Enterprise with an annual total revenue of R10 million or less.
- 1.11 **"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;
- 1.12 **"Large Enterprise"** is any enterprise with an annual total revenue above R50 million;
- 1.13 **"non-firm prices"** means all prices other than "firm" prices;
- 1.14 **"person"** includes a juristic person;
- 1.15 **"price" means an amount of money tendered for goods or services, and** includes all applicable taxes less all unconditional discounts;
- 1.16 **"proof of B-BBEE status level contributor"** means-
- (a) The B-BBEE status level certificate issued by an authorized body or person;
 - (b) A sworn affidavit as prescribed in terms of the B-BBEE Codes of Good Practice; or
 - (c) Any other requirement prescribed in terms of the Broad- Based Black Economic Empowerment Act.
- 1.17 **QSE** is a Qualifying Small Enterprise with an annual total revenue between R10 million and R50 million;
- 1.18 **"rand value"** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- 1.19 **"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.
- 1.20 **"tender"** means a written offer in the form determined by an organ of state in response to an invitation to provide or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- 1.21 **"tender for income-generating contracts"** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions;
- 1.22 **"the Act"** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
- 1.23 **"the Regulations"** means the Preferential Procurement Regulations, 2022;

- 1.24 **"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 11 October 2013;
- 1.25 **"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
- 1.26 **"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. GENERAL CONDITIONS

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

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

2.2 Preference point system for this bid:

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

2.3 Preference points for this bid (even in the case of a tender for income-generating contracts) shall be awarded for:

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

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

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

2.5 Failure on the part of a bidder to fill in, sign this form and submit in the circumstances prescribed in the Codes of Good Practice either a B-BBEE Verification Certificate issued by a Verification Agency accredited by the South African Accreditation System (SANAS) or an affidavit confirming annual total revenue and level of black ownership together with the bid or an affidavit issued by Companies Intellectual Property Commission, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

- 2.6 The organ of state 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 organ of state.

3. ADJUDICATION USING A POINT SYSTEM

- 3.1 Subject to Section 2 (1) (f) of the Preferential Procurement Policy Framework Act, 2000, the **bidder obtaining the highest number of total points** will be awarded the contract.
- 3.2 A tenderer must submit proof of its B-BBEE status level of contributor in order to claim points for B-BBEE.
- 3.3 A tenderer failing to submit proof of B-BBEE status level of contributor or is a non-compliant contributor to B-BBEE will not be disqualified but will only score:
- (a) points out of 80 for price; and
 - (b) 0 points out of 20 for B-BBEE
- 3.4 Points scored must be rounded off to the nearest 2 decimal places.
- 3.5 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 points for B-BBEE.
- 3.6 As per section 2 (1) (f) of the Preferential Procurement Policy Framework Act, 2000, the contract may be awarded to a bidder other than the one scoring the highest number of total points based on objective criteria in addition to those contemplated in paragraph (d) and (e) of the Act that justifies the award to another tenderer provided that it has been stipulated upfront in the tendering conditions.
- 3.7 Should two or more bids be equal in all respects; the award shall be decided by the drawing of lots.

4. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

4.1 POINTS AWARDED FOR PRICE

4.1.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEM

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

| 80/20 | or | 90/10 |
|---|----|---|
| $P_s = 80 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$ | or | $P_s = 90 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$ |

Where

P_s = Points scored for price of bid under consideration

P_t = Price of tender under consideration

P_{\min} = Price of lowest acceptable tender

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

5.1 POINTS AWARDED FOR PRICE

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

80/20

or

90/10

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

or

Where

P_s = Points scored for price of tender under consideration

P_t = Price of tender under consideration

P_{max} = Price of highest acceptable tender

6. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTION

- 6.1 In terms of WCG interim strategy, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

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

- 6.2 An **EME** must submit a valid, originally certified affidavit confirming annual turnover and level of black ownership or an affidavit issued by Companies Intellectual Property Commission
- 6.3 A **QSE that is less than 51 per cent (50% or less) black owned** must be verified in terms of the QSE scorecard issued via Government Gazette and submit a valid, original or a legible certified copy of a B-BBEE Verification Certificate issued by SANAS.
- 6.4 A **QSE that is at least 51 per cent black owned (51% or higher)** must submit a valid, originally certified affidavit confirming turnover and level of black ownership as well as declare its empowering status or an affidavit issued by Companies Intellectual Property Commission.

- 6.5 A **large enterprise** must submit a valid, original or originally certified copy of a B-BBEE Verification Certificate issued by a verification agency accredited by SANAS.
- 6.6 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- 6.7 A trust, consortium or joint venture (including unincorporated consortia and joint ventures) must submit a consolidated B-BBEE status level verification certificate for every separate tender.
- 6.8 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.

7. BID DECLARATION

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

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

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

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

9. SUB-CONTRACTING

- 9.1 Will any portion of the contract be sub-contracted? **YES/NO** *(delete which is not applicable)*
- 9.1.1 If yes, indicate:
- (i) what percentage of the contract will be subcontracted?%
- (ii) the name of the sub-contractor?
- (iii) the B-BBEE status level of the sub-contractor?
- (iv) whether the sub-contractor is an EME or QSE? **YES/NO** *(delete which is not applicable)*
- 9.1.2 Sub-contracting relates to a **particular** contract and if sub-contracting is applicable, the bidder to state in their response to a particular RFQ that a portion of that contract will be sub-contracted.

10. DECLARATION WITH REGARD TO COMPANY/FIRM

10.1 Name of company/ entity:

10.2 VAT registration number:

10.3 Company Registration number:

10.4 TYPE OF COMPANY/ FIRM

- ☐ Partnership/ Joint Venture/ Consortium
- ☐ One-person business/ sole propriety
- ☐ Close corporation
- ☐ Public Company
- ☐ Personal Liability Company
- ☐ (Pty) Limited
- ☐ Non-Profit Company
- ☐ State Owned Company

[SELECT APPLICABLE ONE]

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

- (a) The Western Cape Government reserves the right to audit the B-BBEE status claim submitted by the bidder.
- (b) As set out in Section 13O of the B-BBEE Act as amended, any misrepresentation constitutes a criminal offence. A person commits an offence if that person knowingly:
 - (i) misrepresents or attempts to misrepresent the B-BBEE status of an enterprise;
 - (ii) provides false information or misrepresents information to a B-BBEE Verification Professional in order to secure a particular B-BBEE status or any benefit associated with compliance to the B-BBEE Act;
 - (iii) provides false information or misrepresents information relevant to assessing the B-BBEE status of an enterprise to any organ of state or public entity; or
 - (iv) engages in a fronting practice.
- (c) If a B-BBEE verification professional or any procurement officer or other official of an organ of state or public entity becomes aware of the commission of, or any attempt to commit any offence referred to in paragraph 10.5 (a) above will be reported to an appropriate law enforcement agency for investigation.

- (d) Any person convicted of an offence by a court is liable in the case of contravention of 10.5 (b) to a fine or to imprisonment for a period not exceeding 10 years or to both a fine and such imprisonment or, if the convicted person is not a natural person to a fine not exceeding 10 per cent of its annual turnover.
- (e) The purchaser may, if it becomes aware that a bidder may have obtained its B-BBEE status level of contribution on a fraudulent basis, investigate the matter. Should the investigation warrant a restriction be imposed, this will be referred to the National Treasury for investigation, processing and imposing the restriction on the National Treasury's List of Restricted Suppliers. The bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, may be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the audi alteram partem (hear the other side) rule has been applied.
- (f) The purchaser may, in addition to any other remedy it may have –
 - (i) disqualify the person from the bidding process;
 - (ii) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (iii) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation; and
 - (iv) forward the matter for criminal prosecution.
- (g) The information furnished is true and correct.
- (h) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 2 of this form.

SIGNATURE(S) OF THE BIDDER(S):

DATE:

ADDRESS:

.....

WITNESSES:

1.

2.

THE NATIONAL TREASURY

Republic of South Africa



GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT

July 2010

GOVERNMENT PROCUREMENT
GENERAL CONDITIONS OF CONTRACT
July 2010

NOTES

The purpose of this document is to:

- (i) Draw special attention to certain general conditions applicable to government bids, contracts and orders; and
- (ii) To ensure that clients be familiar with regard to the rights and obligations of all parties involved in doing business with government.

In this document words in the singular also mean in the plural and vice versa and words in the masculine also mean in the feminine and neuter.

- The General Conditions of Contract will form part of all bid documents and may not be amended.
- Special Conditions of Contract (SCC) relevant to a specific bid, should be compiled separately for every bid (if applicable) and will supplement the General Conditions of Contract. Whenever there is a conflict, the provisions in the SCC shall prevail.

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 analysis
9. Packing
10. Delivery and documents
11. Insurance
12. Transportation
13. Incidental services
14. Spare parts
15. Warranty
16. Payment
17. Prices
18. Contract amendments
19. Assignment
20. Subcontracts
21. Delays in the supplier's performance
22. Penalties
23. Termination for default
24. Dumping and countervailing duties
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. National Industrial Participation Programme (NIPP)
34. Prohibition of restrictive practices

General Conditions of Contract

1. Definitions

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

RSA.

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

obligations of the supplier covered under the contract.

- 1.25 “Written” or “in writing” means handwritten in ink or any form of electronic or mechanical writing.

2. Application

- 2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
- 2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.
- 2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

3. General

- 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.
- 3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from www.treasury.gov.za

4. Standards

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

5. Use of contract documents and information; inspection.

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

6. Patent rights

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

7. Performance security

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

8. Inspections, tests and analyses

- 8.1 All pre-bidding testing will be for the account of the bidder.
- 8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department.
- 8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
- 8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.
- 8.7 Any contract supplies may on or after delivery be inspected, tested or

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

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

9. Packing

- 9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

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

10. Delivery and documents

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

- 10.2 Documents to be submitted by the supplier are specified in SCC.

11. Insurance

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

12. Transportation

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

13. Incidental services

- 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:
- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
 - (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
 - (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;

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

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

14. Spare parts

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

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

15. Warranty

15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.

15.2 This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in SCC.

15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.

15.4 Upon receipt of such notice, the supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.

15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take

such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

- | | |
|---|---|
| 16. Payment | <p>16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.</p> <p>16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.</p> <p>16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.</p> <p>16.4 Payment will be made in Rand unless otherwise stipulated in SCC.</p> |
| 17. Prices | <p>17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized in SCC or in the purchaser's request for bid validity extension, as the case may be.</p> |
| 18. Contract amendments | <p>18.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.</p> |
| 19. Assignment | <p>19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.</p> |
| 20. Subcontracts | <p>20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.</p> |
| 21. Delays in the supplier's performance | <p>21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.</p> <p>21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.</p> <p>21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.</p> <p>21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the</p> |

supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.

21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.

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

22. Penalties

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

23. Termination for default

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

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

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

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

23.4 If a purchaser intends imposing a restriction on a supplier or any

person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the intended penalty as not objected against and may impose it on the supplier.

23.5 Any restriction imposed on any person by the Accounting Officer / Authority will, at the discretion of the Accounting Officer / Authority, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Accounting Officer / Authority actively associated.

23.6 If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:

- (i) the name and address of the supplier and / or person restricted by the purchaser;
- (ii) the date of commencement of the restriction
- (iii) the period of restriction; and
- (iv) the reasons for the restriction.

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

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

24. Anti-dumping and countervailing duties and rights

24.1 When, after the date of bid, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference shall on demand be paid forthwith by the contractor to the State or the State may deduct such amounts from moneys (if any) which may otherwise be due to the contractor in regard to supplies or services which he delivered or rendered, or is to deliver or render in terms of the contract or any other contract or any other amount which

may be due to him

25. Force Majeure

- 25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.
- 25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

26. Termination for insolvency

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

27. Settlement of Disputes

- 27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.
- 27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.
- 27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.
- 27.5 Notwithstanding any reference to mediation and/or court proceedings herein,
- (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
 - (b) the purchaser shall pay the supplier any monies due the supplier.

28. Limitation of liability

- 28.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6;
- (a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and

| | |
|--|--|
| | (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment. |
| 29. Governing language | 29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English. |
| 30. Applicable law | 30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC. |
| 31. Notices | <p>31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice</p> <p>31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.</p> |
| 32. Taxes and duties | <p>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.</p> <p>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.</p> <p>32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.</p> |
| 33. National Industrial Participation (NIP) Programme | 33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation. |
| 34 Prohibition of Restrictive practices | <p>34.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).</p> <p>34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.</p> |

- 34.3 If a bidder(s) or contractor(s), has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.