



**JOHANNES PHUMANI PHUNGULA LOCAL  
MUNICIPALITY**

**INVITATION TO BID  
BID REFERENCE NO: JPP-B-06/08/25**

**PANEL OF CONSTRUCTION TRUCKS & PLANT HIRE  
FOR A PERIOD OF 36 MONTHS**

**TENDER DOCUMENT**

Name of Tenderer \_\_\_\_\_

Telephone Number \_\_\_\_\_

Fax Number \_\_\_\_\_

Address \_\_\_\_\_

Email Address \_\_\_\_\_

Tender Sum \_\_\_\_\_

CSD Reg. No. \_\_\_\_\_

**CLOSING DATE OF THE BID: 12 September 2025 AT 12:00**  
**AT THE PEACE INITIATIVE HALL,**  
**, IXOPO**

**NO LATE SUBMISSIONS WILL BE CONSIDERED**

**JOHANNES PHUMANI PHUNGULA MUNICIPALTY**  
**P.O. BOX 132, IXOPO, 3276**

**TEL: (039) 834 7700**  
**FAX: (039) 834 1168**

# PANEL OF CONSTRUCTION TRUCKS & PLANT HIRE FOR A PERIOD OF 36 MONTHS

The Closing Date and Time for Submission of Offers is 12 September 2025 at 12:00

The offers will remain valid for 90 days from the closing date for submission of proposals.

## Closing Date and Submission of Documentation

Bidders should ensure that bids are delivered timeously to the correct address. Bids which are late, incomplete, unsigned or submitted by facsimile or electronically will not be accepted. Documents must be submitted in a clearly marked sealed envelope and placed in the tender box of the Municipality, which can be found at:-  
The Front Entrance



# TENDER ADVERT

29 Margaret Street  
 Ixopo  
 3276  
 Tel: 039 8347700  
 Email:  
 mm@ubuhlebezwe.gov.za



Po Box 132  
 Ixopo  
 3276  
 Fax: 039 8341168  
 Webpage: www.ubuhlebezwe.gov.za

**INVITATION TO BID**

Johannes Phumani Phungula Municipality invites suitable, qualified, and experienced service providers to provide services to the municipality.

PROJECT NAME	BID NUMBER	COMPULSORY BRIEFING SESSION AND SITE INSPECTION	CIDB GRADING	MINIMUM FUNCTIONALITY SCORE	AVAILABILITY OF TENDER DOCUMENTS	NON-REFUNDABLE PRICE	CLOSING DATE
Construction of Mnyanyabuzi Multi-Purpose Centre in Ward 5	JPP-B-01/08/25	19 August 2025 @ 10h30 Venue: Highflats Hall	5GB or Higher	70%	Documents will be available on 13 August 2025 at 11h00	R 1800.00 per doc, Cashier's Office, 29 Margaret Street	12 September 2025 at 12h00
Upgrading of Fairview Access Road to Asphalt in Ward	JPP-B-02/08/25	20 August 2025 @ 10h30 Venue: Peace Initiative Hall	6CE or Higher				
Construction of Phuthini Pedestrian Bridge in Ward 12	JPP-B-03/08/25	21 August 2025 @ 10h30 Venue: Peace Initiative Hall	3CE or Higher				
Supply & Installation of Security Fencing for Light Industrial Site	JPP-B-04/08/25	22 August 2025 @ 10h30 Venue: Peace Initiative Hall	2SQ PE or 3SQ only				
Supply & Installation of Security Fencing (Thusong Centre, Heck & Highflats Hall)	JPP-B-05/08/25						
Panel of Construction Trucks and Plant Hire for a period of 36 months	JPP-B-06/08/25	N/A	N/A				
Panel of Service Providers to provide Various Training for a period of 36 months	JPP-B-07/08/25						
Erection of Street Advertising Boards within Ixopo Town for a period of 60 months	JPP-B-08/08/25						
Lease of Municipal Property ERF 174 (previously known as the Railway Café)	JPP-B-09/08/25	19 August 2025 @ 10h30 Venue: Peace Initiative Hall					

The completed tender documents complying with the conditions of tender must be sealed and endorsed with 'BID DESCRIPTION AND BID NUMBER' must be deposited in the tender box at the entrance of Peace Initiative Hall where bids will be opened in public. The name and address of the bidder must be clearly written on the sealed envelope containing the bid. Tender documents will also be available free of charge on [www.etenders.gov.za](http://www.etenders.gov.za) and [www.ubuhlebezwe.gov.za](http://www.ubuhlebezwe.gov.za).

Enquiries regarding this notice may be directed as follows: For technical related matters - Attention: Mr PM Gwala ([pmgwala@ubuhlebezwe.gov.za](mailto:pmgwala@ubuhlebezwe.gov.za)) for Security Fencing, Mnyanyabuzi, Phuthini & Fairview, Ms SR Adams ([sradams@ubuhlebezwe.gov.za](mailto:sradams@ubuhlebezwe.gov.za)) for Training, Lease of Municipal Property, Billboards and Ms S Sityata ([ssityata@ubuhlebezwe.gov.za](mailto:ssityata@ubuhlebezwe.gov.za)) for SCM related matters: Tel: 039 - 834 7700 Fax: 039 - 834 1168.

The tenders will be adjudicated via two stages of which the first stage will be functionality, and the second stage will be 80:20 Preference Point systems where 80 is for the price and 20 is for the preference goals. Each bidder must score a minimum score for functionality to be considered for the second stage of evaluation.

Johannes Phumani Phungula Municipality will be using the following preferential goals to allocate points.

PREFERENCE GOAL		80/20	Documents required for verification
<b>GOAL 1 - Ownership - Maximum points</b>		<b>10</b>	
Business owned	More than 50% by black person	5	ID copy of Director/Owner and CSD
	Less than 50% by black person	2	ID copy of Director/Owner and CSD
	More than 50% by black women	5	ID copy of Director/Owner and CSD
	More than 50% by black youth	5	ID copy of Director/Owner and CSD
	More than 50% by disabled person/military veterans	2	Certificate from a doctor/ Certificate of being a military veteran
<b>GOAL 2 - RDP - Maximum points</b>		<b>10</b>	
Promotion of Business	Falls under the SMME category - QSE/EME	2	B-BBEE Certificate / Sworn Affidavit
	Located within KZN province	2	CSD and Proof of municipal accounts/ affidavit
	Located in South Africa outside KZN Province	1	CSD and Proof of municipal accounts/ affidavit
	Located within Harry Gwala District	2	CSD, Proof of municipal accounts/ affidavit and proof of residence signed by a councilor/ Inkosi/ Induna not older than 3 months
	Located within Johannes Phumani Phungula Municipality	8	CSD, Proof of municipal accounts/ affidavit and recommendation letter signed by ward councilor (not older than 3 months)

Late bids or bids received by way of post, facsimile or e-mail will, under no circumstances, be considered.

The Johannes Phumani Phungula Municipality subscribes to the Preferential Procurement Framework Act, Act 5 of 2000. Bids shall be valid for a period of 90 days. The Johannes Phumani Phungula Local Municipality does not bind itself to accepting the lowest, or any bid, either wholly or in part or give any reason for such action. If the price offered by tenderer is not market-related the municipality may not award the contract to that tenderer and may negotiate for market related price with the tenderer, failing which negotiate with the next highest scoring tenderer or the tender may be cancelled.

  
M.E Mkhize  
Municipal Manager

**PART A  
INVITATION TO BID**

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF JOHANNES PHUMANI PHUNGULA MUNICIPALTY</b>					
<b>BID NUMBER:</b>	JPP-B-06/08/25	<b>CLOSING DATE:</b>	12 September 2025	<b>CLOSING TIME:</b>	12H00
<b>DESCRIPTION</b>	PANEL OF CONSTRUCTION TRUCKS & PLANT HIRE FOR A PERIOD OF 36 MONTHS				
<b>THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM.</b>					

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

<b>PEACE INITIATIVE HALL</b>					
<b>IXOPO</b>					
<b>SUPPLIER INFORMATION</b>					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
TAX COMPLIANCE STATUS	TCS PIN:		<b>OR</b>	CSD No:	
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
	[IF YES ENCLOSE PROOF]			[IF YES, ANSWER PART B:3 ]	
TOTAL NUMBER OF ITEMS OFFERED			TOTAL BID PRICE	R	
SIGNATURE OF BIDDER	.....		DATE		
CAPACITY UNDER WHICH THIS BID IS SIGNED					
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:</b>			<b>TECHNICAL INFORMATION MAY BE DIRECTED TO:</b>		
DEPARTMENT	BTO		CONTACT PERSON	MR PM Gwala	
CONTACT PERSON	SY SITYATA		TELEPHONE NUMBER	039 834 7700	
TELEPHONE NUMBER	039 834 7700		FACSIMILE NUMBER	039 834 7700	
FACSIMILE NUMBER	039 201 0443		E-MAIL ADDRESS	pmgwala@ubuhlebezwe.gov.za	
E-MAIL ADDRESS	ssityata@ubuhlebezwe.gov.za				

## PART B TERMS AND CONDITIONS FOR BIDDING

<b>1. BID SUBMISSION:</b>
<p>1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.</p> <p>1.2. <b>ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED (NOT TO BE RE-TYPED) OR ONLINE</b></p> <p>1.3. THIS BID IS SUBJECT TO PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022, GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.</p>
<b>2. TAX COMPLIANCE REQUIREMENTS</b>
<p>2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.</p> <p>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.</p> <p>2.3 APPLICATION FOR THE TAX COMPLIANCE STATUS (TCS) CERTIFICATE OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.</p> <p>2.4 FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART B:3.</p> <p>2.5 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.</p> <p>2.6 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED; EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.</p> <p>2.7 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.</p>
<b>3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>
<p>3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?      <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA?      <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?      <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?      <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?      <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p><b>IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE.</b></p>

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

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

SIGNATURE OF BIDDER: .....

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

DATE: .....



**JOHANNES PHUMANI PHUNGULA LOCAL MUNICIPALITY**

**TERMS OF REFERENCE**

**PANEL OF CONSTRUCTION TRUCKS & PLANT HIRE FOR A PERIOD OF 36 MONTHS**

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## 1. BACKGROUND

The purpose of this TOR (Terms of Reference) document is for a Service provider to Construct and maintain the municipal roads.

## 2. SCOPE OF WORK

### 2.1 GENERAL DESCRIPTION OF WORKS

JOHANNES PHUMANI PHUNGULA LOCAL MUNICIPALITY invites bids from suitably qualified and experienced Contractors for the Panel of Trucks & Plant hire of **JOHANNES PHUMANI PHUNGULA LOCAL MUNICIPALITY in Harry Gwala District Municipality, KwaZulu Natal - Eastern Region.**

## SCOPE

The Municipal Roads Maintenance plan, the priority list is established for roads maintenance and roads refurbishment that include the following:

2.2 Upgrading of vehicular tracks to Roads. The appointed Contractor will be required to provide the list of the following trucks & plant mentioned below to the Municipality for a period 36 months. The Contactor will also be required to provide full time supervision to all plant and equipment to ensure that the maintenance of the gravel roads is carried out in accordance with the instructions of the Municipality and required roads standards

ITEM NUMBER	DESCRIPTION
1	Graders (minimum acceptable; Mass 12 500 – 16 000 kg, minimum power 90 kW)
2	Vibrator Roller (minimum acceptable - 15 ton)
3	Tracked Excavators (minimum acceptable – minimum Mass 19 001 kg, minimum 95 kW and 0.75 m <sup>3</sup> bucket)
4	Tractor Loader Backhoes – TLB (4 x 2) or (4x4) (minimum acceptable – 50 kW)
5	Bulldozer
6	Pad foot or Grid roller
7	Water Tanker (minimum acceptable – 10 000l)
8	Tipper Truck (10m <sup>3</sup> - minimum acceptable)
9	Refuse Removal Compactor Truck (minimum acceptable 10m <sup>3</sup> )
10	Jet Cleaning Machine
11	Lowbed or Tow truck
12	Skipper Truck

### **3. PROOF OF OWNERSHIP**

Service Provider must attach the following documents:

- a) Logbook or ownership certificate issued by DOT
- b) Recent License Disk

If service provider has more than one truck, you can attach logbooks for them

All the self-propelled items which may travel on public roads and which are offered for hire must meet the following conditions:

- The items must be registered in the bidder's name or in a shareholder's name;
- The items must be registered and licensed by the Motor Licensing Bureau in accordance with the Road Traffic Act;
- The license must be valid at the time of submission of the bid;
- The item must have a current Certificate of Fitness and or license disk (where necessary).

***The registration and licensing of the items may be verified with the Motor Licensing Bureau during the adjudication process. Any item found not to comply will be summarily rejected.***

License disks may be checked on the vehicle when the item is delivered to site. Any item found to be unlicensed will not be permitted to work and no payment for delivery will be claimable.

**NB: Failure to do so will disqualify the bidder**

### **4. PERIOD/ DURATION OF THE PROJECT**

The appointed service provider expected to enter into a Service Level Agreement for a period of 36 (thirty-six) months.

The successful bidder shall ensure to deliver the services up to the required standard, failing which, the reasons for failing to deliver will be evaluated and the outcome of the evaluation may lead to either of the following decisions by the Municipality:

- Adjustment on Price, or
- Termination of Contract

The contract between JOHANNES PHUMANI PHUNGULA LOCAL MUNICIPALITY and the successful bidder shall officially commence from the date of signing the Service Level Agreement relating to the appointment of Service Providers which will be signed between the service provider and the Municipality.

### **5. CONSTRUCTION PERIOD & COMMENCEMENT DATE**

The project is a 36 months contract, the Contractor is to start on site not more than 7 working days after receiving the order in writing from JOHANNES PHUMANI PHUNGULA LOCAL MUNICIPALITY.

### **6. DESCRIPTION OF SITE AND ACCESS**

The projects is in JOHANNES PHUMANI PHUNGULA LOCAL MUNICIPALITY located in all wards of the Municipality and access to the site will vary.

## **6.1 NATURE OF GROUND AND SUBSOIL CONDITIONS**

All material is expected to be pic-kable. No trial holes have been excavated, and each Tenderer must satisfy himself as to the nature of the material to be excavated under this contract. No responsibility will be accepted for any conclusions regarding the nature of the material to be excavated drawn from information supplied by JOHANNES PHUMANI PHUNGULA LOCAL MUNICIPALITY. The Tenderer in consultation with the community may excavate trial holes provided that these holes are excavated and backfilled at the Tenderer's expense.

## **6.2 ORDER AND EXECUTION OF THE WORKS**

As per the accepted program of works

## **6.3 SITE FACILITIES AVAILABLE**

### **6.3.1 CONTRACTOR'S CAMP**

An area within the site of works will be allocated to the successful Tenderer. No facilities are required by the JOHANNES PHUMANI PHUNGULA LOCAL MUNICIPALITY.

### **6.3.2 WATER**

The successful Tenderer will be required to make his/her own arrangements for the supply of drinking water.

### **6.3.4 ELECTRICITY**

The contractor must make provision for his own electricity requirements at his own cost.

### **6.3.5 TESTING**

The cost of testing that has been requested by the client will be borne by the contractor, unless such test can prove the workmanship or quality of materials to be defective.

### **6.3.6 SITE FACILITIES REQUIRED**

No facilities are required by the JOHANNES PHUMANI PHUNGULA LOCAL MUNICIPALITY.

### **6.3.7 EXTRA RESPONSIBILITIES WHILE ON SITE**

Access to the community of the area must be always maintained.

### **6.3.8 FINISHING & TIDYING AND SITE MAINTENANCE**

The site camp is to be kept in a neat and tidy state throughout the duration of the contract. The completion certificate will not be issued until JOHANNES PHUMANI PHUNGULA LOCAL MUNICIPALITY is satisfied that the contractor has left each portion of the works in a suitable state.

### **6.3.9 SPOIL MATERIAL**

Before spoiling any material, the Contractor is to obtain a written instruction by the JOHANNES PHUMANI PHUNGULA LOCAL MUNICIPALITY, giving authorization for the spoiling as well as an authorized location.

## 7. APPLICABLE STANDARDIZED SPECIFICATIONS

As per the latest addition of the S A N S 1200 (Standardized Specifications) plus all variations and amendments.

## 8. CONSTRUCTION

Bidders must take care to ensure that the correct Bid Form is used for each item offered. The Employer reserves the right to add additional items during the Contract period.

ITEM NUMBER	DESCRIPTION	WET RATE (per hour)		
		Year 1	Year 2	Year 3
1	Graders (minimum acceptable; Mass 12 500 – 16 000 kg, minimum power 90 kW)			
2	Vibrator Roller (minimum acceptable - 15 ton)			
3	Tracked Excavators (minimum acceptable – minimum Mass 19 001 kg, minimum 95 kW and 0.75 m <sup>3</sup> bucket)			
4	Tractor Loader Backhoes – TLB (4 x 2) or (4x4) (minimum acceptable – 50 kW)			
5	Bulldozer			
6	Pad foot or Grid roller			
7	Water Tanker (minimum acceptable – 10 000l)			
8	Tipper Truck (10m <sup>3</sup> - minimum acceptable)			
9	Refuse Removal Compactor Truck (minimum acceptable 10m <sup>3</sup> )			
10	Jet Cleaning Machine			
11	Lowbed or Tow truck			
12	Skipper Truck			
13	Establishment of Site			
14	De-establishment of Site			

### 9.1 HIRE RATES

9.2 Each item that is hired by the Employer will be paid for at the tendered hourly rate, as specified in this tender document.

## **The rates include:**

- a) Provision for the use of the specified machine;
- b) An operator, where applicable, whose wages shall be payable by and whose accommodation shall be provided and paid for by the Contractor.
- c) Every driver and operator of a vehicle or an item of plant shall be in possession of a valid permit in respect of the class of vehicle or item of plant he / she is driving or operating.
- d) Every driver and operator of the vehicle shall be in possession of all statutory requirements in terms of health, safety, licensing, etc.
- e) The provision of all lubricants, spare parts (including tyres), servicing and repairs necessary for the satisfactory operation of the machine.
- f) The vehicle or machine offered must always have the necessary licensing, road worthiness and safety features required by legislation.
- g) Depreciation and all insurances in compliance with this document and any other that the Contractor may consider necessary.

9.4 The tendered hire rates as set out in this document include for the supply of fuel by the Contractor. These rates are termed "Wet Dry" rates.

9.5 There will normally be 8 working hours per day, unless agreed otherwise by the Employer's representative.

## **10. STANDING TIME**

10.1 Where a machine is mechanically available to do work but is prevented from doing so by circumstances outside of the control of the owner of the equipment or his operator, it will be paid for at 40% of the approved hire rate. This is known as Standing Time.

## **11. NON OPERATIONAL TIME**

There will be no payment whilst the hired items are non-operational due to one or more of the following reasons:

- a) Servicing of the machine;
- b) Mechanical breakdown, including the period while awaiting the arrival of spares;
- c) No operator or driver (where applicable);
- d) Refueling or awaiting fuel or lubricants;
- e) Inability of the machine to be worked due, in the opinion of the Employer's Representative, to the unavailability for any reason of an inter-dependent item of equipment hired from the same contractor.
- f) Whilst in transit to or from the site.
- g) Disruption of work because of a state of emergency being declared; riots, commotion, politically motivated sabotage, acts of terrorism or disorder.
- h) Strike or Service Delivery Action

## **12. INCLEMENT WEATHER**

If inclement weather has resulted in unworkable ground conditions rendering hired items non-operational for one or more complete days, then the following charges may be claimed per day :

- Hourly rated items: 2 hours at the standing rate;

### **13. OVERTIME**

#### **13.1 Weekdays, Saturdays, Sundays and Public Holidays**

All items will be paid at the normal contract rates.

### **14. CONDITION OF PLANT AND EQUIPMENT**

It is a requirement that all items of plant or equipment offered, be in a good condition.

The condition and year of manufacture, or year of first registration of the plant or equipment will be taken into account when considering tenders.

The Employer reserves the right to call for the history sheets and repair records of any item which is more than 6 years old.

The Employer reserves the right to inspect any item of plant or equipment offered.

Plant that is in a poor state of repair and could be subject to frequent breakdowns will not be considered.

Plant which has been accepted on the contract in good faith and which proves to be in a poor condition and subject to frequent break downs, will be cancelled from the Contract and not considered for further hire. The Employer will not pay any costs arising from transporting such an item to or from site.

### **15. OFFER OF NEW PLANT SUBSEQUENT TO TENDER CLOSE**

A Contractor whose plant has been accepted, may make application during the contract period for a newly acquired machine to be included on the contract in the place of, or in addition to, those already accepted.

### **16. REPAIRS**

The cost of any labour and spare parts necessary for the maintenance, servicing or repair of the plant and equipment as well as any transport/delivery charges shall be borne by the Contractor.

### **17. COMPETENCY OF OPERATORS**

It is a strict requirement of this contract that all operators or drivers provided with items hired on this contract are to be fully competent in the operation of their particular item, have the required licence in accordance with the Road Traffic legislation (including Professional Driver's Permit, where necessary) and be sufficiently literate to complete daily log sheets which may be required by the Employer's Representative. Where required by legislation, operators must be in possession of a valid certificate of competency for the type of equipment being operated.

Operators must have Annual Medicals as required in the OSH Act and be compliant with any other legislative requirements.

### **18. PROVISION OF FUEL**

The hire rates include for the supply of fuel by the Contractor, known as wet rate.

## **19. PROVISION OF LUBRICANTS**

Lubricants are to be supplied by the contractor for all items.

## **20. WORK AND SUPERVISION**

The plant and equipment hired under this Contract are to work under the direction of the Employer's Representative. The Employer's Representative may delegate to any one or more of his deputies any of his powers under the Contract. The Contractor shall recognize and obey any persons so delegated to perform any powers or functions of the Employer's Representative.

## **21. OFFICIAL ORDER AND APPOINTMENTS**

All eligible tenders will be adjudicated and scored accordingly, these Service Providers will be placed on JOHANNES PHUMANI PHUNGULA LOCAL MUNICIPALITY's database. Contracts will be thereafter awarded on a rotational basis with a view to giving the contractor an opportunity.

No items should be delivered to site, or commence work, unless the Contractor is in possession of an official order from the Employer specifying the type(s) and number(s) of machine(s) to be provided and the period of hire.

## **22. PERIOD OF HIRE**

The approximate period for which the plant will be hired shall be mutually agreed upon between the Contractor and Employer at the time of request.

## **23. TERMINATION OF HIRE**

The plant and equipment will be hired by the Contractor to the Employer for the period specified, but either party may terminate the hire by giving a minimum of 48 hours' notice to the other.

## **24. MAINTENANCE**

The daily maintenance and refueling of the plant and equipment shall not be carried out during normal working hours without the express authority of the Employer's Representative. If authority is granted the item will be regarded as being under repair during the maintenance and refueling period.

## **25. DAMAGE**

The Employer shall not be liable for any damage whatsoever caused to the plant and equipment whilst on the site, being operated or otherwise, or being transported to or from such site, unless such damage is as a direct result of any negligence on the part of the Employer or his representative acting within the scope of his employment. In such instances, the Employer's liability will be limited to the value of the insurance excess amount. Should the Contractor not be insured, then the Employer will not be liable for any costs.

In the event of any death or injury to any of the Contractor's employees or damage to his plant and equipment arising from the contract hereby constituted, a representative of the Employer shall cause an investigation to be instituted forthwith, and in any case, within 24 hours. The findings of such an investigation shall be communicated to the head office of the Employer and to the Contractor.

## **26. INSURANCE**

### **a) Public Liability Insurance**

The contractor must obtain a Public Liability Insurance policy for the use of any vehicle or plant in terms of this contract

### **b) Insurance of Items on Hire**

If the item of plant on hire is being used with other items of Plant which are under the care of the Department, responsibility will only be accepted if there is negligence on the part of the Department.

## **27. OUTPUT AND BREAKDOWNS**

If any item of equipment, hired under this Contract, proves to be incapable of producing a satisfactory output, or is subject to frequent breakdown, or is broken down for an extended period, or has an average availability of less than 70% over the duration of the hire period, the Employer's Representative may consider such an item as being "unsatisfactory".

In the event of such an occurrence, the Contractor will be advised in writing as to the reason for the reduction. If no improvement in performance is evident the Contractor may be requested to remove the item from site within a reasonable period.

## **28. MISCONDUCT OF CONTRACTOR'S PERSONNEL**

If, in the opinion of the Employer's Representative, any person employed by the Contractor on the site misconducts himself, or is incompetent or negligent in the performance of his duties, such Representative may report such misconduct, incompetence or negligence to the Contractor and require him to remove such person from the site. The Contractor shall comply with such request immediately but may undertake an investigation into the allegations against such employee, and if such allegations are confirmed such employee shall not be permitted to enter upon the site thereafter. If the said allegations should prove to be unfounded or frivolous, the Contractor shall have the right, to bring the evidence before the Employer's Representative who may then agree to allow the person back on site. The Contractor will not receive any compensation for any costs incurred by him for this investigation.

## **29. CAMPS**

The Contractor shall be responsible for the security of his equipment on site, and for the provision of accommodation and ablution facilities for his staff.

The Contractor shall place any camps that may be required for himself and his employees only on sites approved by the Employer's Representative. No trees or bushes shall be cut by the Contractor or by any of his employees without the written consent of the Employer's Representative and then only where he may direct. No shooting, trapping or hunting of game of any description either by the Contractor or any of his representatives shall be permitted in the vicinity of the camps.

On vacating a camp site, the Contractor shall ensure that the site is left in a clean and tidy condition. All abandoned equipment or parts of equipment, old tyres, drums, spare parts and all materials and stores brought to the campsite shall be removed by the Contractor. All earth contaminated by oil spills must be removed to suitably registered waste facilities.

Camps that have been established by the Employer are for the exclusive use of the Employer's staff. The Contractor will not be permitted to utilize these facilities.

### **30. COMPLIANCE WITH ROAD TRAFFIC ACT**

The items offered must comply in all respects with the requirements of the Road Traffic Act (Act 93 of 1996) as amended and display a Road Transportation Quality System disc (RTQS) as required.

If in terms of the Road Traffic Act and/or safety regulations require vehicles/machines to have amber flashing lights or reverse beepers the Contractor must supply and fit such a lights and beepers at no additional cost to the Employer. If instructed by the Engineer or Departmental representative that construction vehicle signs need to be fixed to them the contractor must do so at no additional cost to the Department.

### **31. SETTLEMENT OF DISPUTES - MEDIATION**

If any dispute or difference of any kind whatsoever shall arise between the Employer's Representative and the Contractor, arising out of the Contract, it shall be referred to and settled by the Employer's Representative who shall state his decision in writing and give notice of the same to the Employer and the Contractor. If the Employer's Representative shall fail to give such decision for a period of one calendar month after being requested to do so in writing or if either the Employer or the Contractor be dissatisfied with any such decision of the Employer's Representative then and in any such case either the Employer or the Contractor may within one calendar month after receiving such notice or decision in writing require that the matter in dispute be referred to a mediator by the parties, without legal representation, at a place and time determined by the mediator. The mediator shall, by agreement between the parties, be chosen from a panel of mediators nominated from time to time by the President of the South African Institution of Civil Engineers, in consultation with the President of the South African Federation of Civil Engineering Contractors. The opinion of the mediator shall be final and binding on the Employer and the Contractor and shall not be subject to appeal.

### **32. ASSIGNMENT OR CHANGE OF OWNERSHIP**

The Contractor shall not assign the contract or any part thereof or any interest therein without the written consent of the Employer. If the company is sold or the shareholding of the company changes in any way, the Employer is to be advised in writing immediately.

### **33. SUBMISSION OF ACCOUNTS**

At the end of each month the Contractor shall agree the hours worked with the Employer before submitting accounts for plant and equipment hired and/or for any transportation charges incurred during that month. The invoices **must** be supported by signed off timesheets

### **34. HIRE OF TWO OR MORE ITEMS FOR THE SAME PROJECT**

Where a number of items are to be hired for a particular project or site, the items will be selected on a rotational basis

### **35. TRANSPORTATION**

The return rate for delivering the equipment to site is given for each type of equipment. No payment is to be made for transportation of equipment that is taken off site during the hire period due to breakdowns repairs or lack of performance.

### **36. COMPLIANCE WITH THE ROAD TRAFFIC ACT**

When a service necessitates vehicles or plant travelling or working on a public road, the following shall apply:

- The vehicles and plant shall be licensed in terms of the National Road Traffic Act 1996 (Act No. 93 of 1996) as amended.
- Every driver and operator of a vehicle or an item of plant shall be in possession of a valid permit in respect of the class of vehicle or item of plant he / she is driving or operating.

The Contractor by accepting this contract shall be deemed to have indemnified the Employer and the Engineer against any claims, damages and / or costs that may arise in this regard.

### **37. ANNUAL PRICE ADJUSTMENTS**

Quoted rate as per pricing schedule will be adjusted annual based on the consumer price inflation rate (CPI) as reported by the South African Reserve Bank on the 01 July of every applicable financial year starting from 01 July 2025.

### **38. COMPETITIVE BIDDING AMONGST SERVICE PROVIDER LISTED ON DATABASE**

The municipality servers a right to call upon a minimum of three services providers listed on the database to submit a written quotation for a specific services as it may be in its interest to do so in line with its SCM policy.

### **39. LOCAL WORK ALLOCATION**

In a cases where an individual plant is needed to do the work, services provider will be sourced from local plant hire who are listed on the databases that met the minimum requirements for inclusion on the database.

### **40. FEATURES REQUIRING SPECIAL ATTENTION**

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

### **41. TERMS AND CONDITIONS OF THE PROPOSAL**

Appointment will be made in terms of the Ubuhlebezwe Council's Supply Chain Management Policy.

### **42. NON-APPOINTMENT**

The Ubuhlebezwe Locality Municipality reserves the right not to make an appointment should it find that bidding parties do not meet the specified criteria.

### **43. COMPLETION**

Projects will not be paid for unless the required services have been correctly rendered.

### **44. COURTESY**

In dealings with the municipal internal structures, the bidder is required to deal with discussions and disputes with deliberate courtesy and understanding, in close liaison with the Municipality.

Prior to the commencement of works, the successful bidder shall arrange through the office of the JOHANNES PHUMANI PHUNGULA MUNICIPALITY and/or the appointed Project/Programme Manager to be introduced to the appropriate Municipal structures and to be briefed upon any sensitivities that need to be observed.

#### 45. GENERAL

Tender offers will only be accepted on condition that:

- a) The Bidder must be in good standing to do business with the public sector in terms of Regulation 38 of the Supply Chain Management Regulations (Government Gazette 27636 of 30 May 2005).
- b) The tender offer is signed by a person authorized to sign on behalf of the Tenderer.
- c) A Tenderer who submitted tenders as joint venture has included an acceptable Joint Venture Agreement with his tender.
- d) Proof of Ownership
- e) Valid BBBEE certificate or a sworn affidavit
- f) The Tenderer or any of its principals, directors or managers is not employed by the state or any municipality.
- g) Quotation/ proposal must be on a company letterhead.
- h) Bids submitted are to hold good for a period of 90 (ninety) days and must be inclusive of VAT,
- i) The enclosed forms MBD 4, MBD 6.1, MBD 8 & MBD 9 must be scrutinized, completed and submitted together with your Bid.
- j) **NB: No Bid will be considered from persons in the service of the state.**
- k) Proof of company registration
- l) A valid tax clearance certificate is included with this tender or tax compliance status with the pin.
- m) In case of a bidder owning a property, they must provide a municipal statement confirming status of municipal accounts not older than 3 months (Bidders must not be in arrears for more than 90 days)
- n) In case of a bidder leasing the property, they must attach a lease agreement & letter from landlord stating that rent is up to date. The letter must not be older than 3 months.
- o) In case of the bidder operating in an area that doesn't pay rates, they must attach a sworn affidavit stating that rates are not paid in that area. The affidavit must not be older than 3 months.
- p) If the bidder is staying with parents, spouse or any family relative in an area where rates are paid (an affidavit from the bidder or signed letter from the property owner stating that the bidder is not responsible for municipal accounts must be attached). Affidavit or letter must not be older than 3 months.
- q) The Tenderer or any of its principles is not listed on the register of Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with public sector.
- r) The tenderer has not abused the Employers' Supply Chain Management System or has failed to perform on any previous contract and has been given a written notice to this effect; and

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

- r) The Ubuhlebezwe Municipal Supply Chain Management Policy shall apply;
- s) The council does not bind itself to accept the lowest or any Bid and reserves the right to accept the

Bid as whole or in part, at the rates quoted

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

#### **46. DOCUMENTATION**

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

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

#### **PROCEDURES TO BE FOLLOWED FOR FINAL AWARD TO ALLOCATE PROJECTS.**

uBuhlebezwe municipality will utilize appointed panel/list in the manner determined through process of invitation of service providers to either quote or bid, depending on the threshold of the estimate cost for the requisite goods or services, in line with respective delegations of authority.

In addition, received quotes will be evaluated based on price and preference points and award is made to the service provider scoring highest points.

Selection of service providers will be on rotational basis, provided that all service providers be given an opportunity to quote and are rotated fairly by applying principle of top to bottom approach as per their listing CSD numbers in an ascending order.

**FORM A**

**CERTIFICATE OF AUTHORITY FOR SIGNATURE**

**1. CONTRACTOR**

1.1 A “Certificate of Authority” to sign all documents in connection with this TENDER and any contract or agreement which may arise therefrom, duly signed and dated, shall be provided by the Board of Directors of the firm and shall be attached to this page. An example is given below.

**2. JOINT VENTURE**

2.1 The document of formation of the Joint Venture shall be attached to this page.

2.2 A “Certificate of Authority” to sign all documents in connection with this Bid and any contract or agreement which may arise therefrom, duly signed and dated, shall be provided by the Boards of Directors of each member of the Joint Venture and shall be attached to this page.

**EXAMPLE OF A CERTIFICATE OF AUTHORITY FOR SIGNATORY**

“By resolution of the board of directors passed at a meeting held on .....

Mr/Ms....., whose signature appears below, has been duly authorised

to sign all documents in connection with this Request for TENDERS and any contract which may arise there from on behalf of

(Name of company or JV - block capitals).....

SIGNED ON BEHALF OF THE COMPANY: .....

IN HIS/HER CAPACITY AS: .....

DATE: .....

SIGNATURE OF SIGNATORY: .....

WITNESSES: 1. ....

2. ....

**FORM B:**

**RELEVANT EXPERIENCE**

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

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

## CERTIFICATE OF AUTHORITY

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

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

**(I) CERTIFICATE FOR COMPANY**

I, ....., chairperson of the Board of Directors of  
 ....., hereby confirm that by resolution of the Board (copy attached)  
 taken on ..... 20.....,

Mr./Ms ....., acting in the capacity of  
 ....., was authorised to sign all documents in connection with this  
 tender and any contract resulting from it on behalf of the company.

**Chairman:** .....

**As Witnesses:** 1.....  
 2.....

**Date:** .....

**(II) CERTIFICATE FOR CLOSE CORPORATION**

We, the undersigned, being the key members in the business trading as .....  
 ..... hereby authorise Mr./Ms .....  
 acting in the capacity of ....., to sign all  
 documents in connection with the tender for Contract No ..... and  
 any contract resulting from it on our behalf.

NAME	ADDRESS	SIGNATURE	DATE

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

**(III) CERTIFICATE FOR PARTNERSHIP**

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

.....

hereby authorise Mr./Ms .....

acting in the capacity of ....., to sign all documents in connection with the tender for Contract No ..... and any contract resulting from it on our behalf.

NAME	ADDRESS	SIGNATURE	DATE

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

**(IV) CERTIFICATE FOR JOINT VENTURE**

We, the undersigned, are submitting this tender offer in Joint Venture and hereby authorize Mr./Ms ..... , authorized signatory of the company, ..... acting in the capacity of lead partner, to sign all documents in connection with the tender offer for Contract No .....and any contract resulting from it on our behalf.

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

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

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

**(V) CERTIFICATE FOR SOLE PROPRIETOR**

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

.....

**Signature** of Sole owner: .....

As Witnesses:

1.....

2. ....

Date: .....

**COMPULSORY ENTERPRISE QUESTIONNAIRE**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

\* Insert separate page if necessary.

**Section 7. Record of spouses, children and parents in the service of the state**

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

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

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



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

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

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

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

**RECORD OF ADDENDUM TO TENDER DOCUMENTS**

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

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

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

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

**FORM C:**

**KEY  
PERSONNEL**

CONTRACTORS shall enter in the table below information in respect of the key personnel who will be engaged on the project. Abbreviated Curricula Vitae which specifically address the questions posed in the Point Scoring Check for Functionality, including the relevant certificates, to support the stated information must be included in the TENDER together with this form.

<b>Designation</b>	<b>Name</b>	<b>Qualification</b>	<b>Relevant Experienc</b>	<b>Profession al Registratio</b>

**SIGNED ON BEHALF OF THE CONTRACTOR**

.....

**FORM D:**

**BANK DETAILS**

The CONTRACTOR shall provide details of banking details which shall be applicable to this contract. In the case of a joint venture, a collective joint venture account shall be provided and details provided below shall be of the joint venture account.

Bank Details -            Bank Name: .....

                                  Address: .....

                                  Account Number: .....

                                  Contact Person: .....

                                  Tel No.: .....

                                  Fax No.: .....

Auditor Details -        Firm Name: .....

                                  Address: .....

                                  Account Number: .....

                                  Contact Person: .....

                                  Tel No.: .....

                                  Fax No.: .....

**SIGNED ON BEHALF OF THE CONTRACTOR: .....**

**FORM E: FORM OF OFFER AND ACCEPTANCE**

***Offer***

The employer, identified in the acceptance signature block, has solicited offers to enter into a contract for the procurement of: **PANEL OF CONSTRUCTION TRUCKS & PLANT HIRE FOR A PERIOD OF 36 MONTHS**

The tenderer, identified in the offer signature block, has examined the documents listed in the tender data and addenda thereto as listed in the tender schedules, and by submitting this offer has accepted the conditions of tender.

By the representative of the tenderer, deemed to be duly authorised, signing this part of this form of offer and acceptance, the tenderer offers to perform all of the obligations and liabilities of the contractor under the contract including compliance with all its terms and conditions according to their true intent and meaning for an amount to be determined in accordance with the conditions of contract identified in the contract data.

**THE OFFERED TOTAL OF THE PRICES INCLUSIVE OF VALUE ADDED TAX IS**

.....  
.....

.....  
.....Rand (in words);

R..... (In figures)

This offer may be accepted by the employer by signing the acceptance part of this form of offer and acceptance and returning one copy of this document to the tenderer before the end of the period of validity stated in the tender data, whereupon the tenderer becomes the party named as the contractor in the conditions of contract identified in the contract data.

Signature \_\_\_\_\_

Name \_\_\_\_\_

Capacity \_\_\_\_\_

For the  
Tenderer \_\_\_\_\_

(Name and address of organization)

Name and  
Signature of  
Witness \_\_\_\_\_

Date \_\_\_\_\_

**Acceptance**

By signing this part of this form of offer and acceptance, the employer identified below accepts the tenderer’s offer. In consideration thereof, the employer shall pay the contractor the amount due in accordance with the conditions of contract identified in the contract data. Acceptance of the tenderer’s offer shall form an agreement between the employer and the tenderer upon the terms and conditions contained in this agreement and in the contract that is the subject of this agreement.

The terms of the contract, are contained in:

Deviations from and amendments to the documents listed in the tender data and any addenda thereto as listed in the tender schedules as well as any changes to the terms of the offer agreed by the tenderer and the employer during this process of offer and acceptance, are contained in the schedule of deviations attached to and forming part of this agreement. No amendments to or deviations from said documents are valid unless contained in this schedule, which must be signed by the authorised representative(s) of both parties.

The tenderer shall within two weeks after receiving a completed copy of this agreement, including the schedule of deviations (if any), contact the employer’s agent (whose details are given in the contract data) to arrange the delivery of any bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the conditions of contract identified in the contract data at, or just after, the date this agreement comes into effect. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this agreement.

Notwithstanding anything contained herein, this agreement comes into effect on the date when the tenderer receives one fully completed original copy of this document, including the schedule of deviations (if any). Unless the tenderer (now contractor) within five days of the date of such receipt notifies the employer in writing of any reason why he cannot accept the contents of this agreement, this agreement shall constitute a binding contract between the parties. The Employer may elect to Accept the offer in correspondence from the office of the Municipal Manager.

Signature(s)

Name(s) \_\_\_\_\_

Capacity \_\_\_\_\_

for the  
Employer \_\_\_\_\_

\_\_\_\_\_  
(Name and address of organization)

Name and  
Signature of  
Witness \_\_\_\_\_

Date \_\_\_\_\_

## Schedule of Deviations

### Notes:

1. The extent of deviations from the tender documents issues by the employer before the tender closing date is limited to those permitted in terms of the conditions of tender.
2. A tenderer's covering letter shall not be included in the final contract document. Should any matter in such letter, which constitutes a deviation as aforesaid, become the subject of agreements reached during the process of offer and acceptance, the outcome of such agreement shall be recorded here.
3. Any other matter arises from the process of offer and acceptance either as a confirmation, clarification or change to the tender documents and which it is agreed by the Parties becomes an obligation of the contract shall also be recorded here.
4. Any change or addition to the tender documents arising from the above agreements and recorded here shall also be incorporated into the final draft of the Contract.

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

Details

\_\_\_\_\_

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

Details

\_\_\_\_\_

3. Subject \_\_\_\_\_

Details

\_\_\_\_\_

4. Subject \_\_\_\_\_

Details

\_\_\_\_\_

By the duly authorised representatives signing this schedule of deviations, the employer and the tenderer agree to and accept the foregoing schedule of deviations as the only deviations from and amendments to the documents listed in the tender data and addenda thereto as listed in the tender schedules, as well as any confirmation, clarification or changes to the terms of the offer agreed by the tenderer and the employer during this process of offer and acceptance.

It is expressly agreed that no other matter whether in writing, oral communication or implied during the period between the issue of the tender documents and the receipt by the tenderer of a completed signed copy of this Agreement shall have any meaning or effect in the contract between the parties arising from this agreement.

**For the tenderer:**

Signature(s)

Name(s) \_\_\_\_\_

Capacity \_\_\_\_\_

\_\_\_\_\_  
(Name and address of organization)

Name and Signature of Date  
Witness \_\_\_\_\_

**For the Employer**

Signature(s)

Name(s) \_\_\_\_\_

Capacity \_\_\_\_\_

\_\_\_\_\_  
(Name and address of organization)

Name and Signature of Date  
Witness \_\_\_\_\_

**FORM F:**

**RETURNABLE DOCUMENTS**

# DETAILED CSD REPORT

- **IN CASE OF A BIDDER OWNING A PROPERTY, THEY MUST PROVIDE A MUNICIPAL STATEMENT IN CASE OF A BIDDER OWNING A PROPERTY, THEY MUST PROVIDE A MUNICIPAL STATEMENT CONFIRMING STATUS OF MUNICIPAL ACCOUNTS NOT OLDER THAN 3 MONTHS (BIDDERS MUST NOT BE IN AREAS FOR MORE THAN 3 MONTHS. (BIDDER MUST NOT BE IN AREAS FOR MORE THAN 90 DAYS)**
  
- **IN CASE OF A BIDDER LEASING THE PROPERTY, THEY MUST ATTACH A LEASE AGREEMENT AND LETTER FROM LANDLORD STATING THAT RENT IS UP TO DATE- LETTER MUST NOT BE OLDER THAN 3 MONTHS**
  
- **IN CASE OF THE BIDDER OPERATING IN RURAL AREAS AND THEY DON'T PAY FOR MUNICIPAL SERVICES, THEY MUST ATTACH A SWORN AFFIDAVIT STATING THAT RATES ARE NOT PAID IN THAT AREA- AFFIDAVIT MUST NOT BE OLDER THAN 3 MONTHS**
  
- **IF THE BIDDER IS STAYING WITH PARENTS, SPOUSE OR ANY FAMILY RELATIVE IN AN AREA WHERE RATES ARE PAID (AN AFFIDAVIT FROM THE BIDDER OR SIGNED LETTER FROM THE PROPERTY OWNER STATING THAT THE BIDDER IS NOT RESPONSIBLE FOR MUNICIPAL ACCOUNTS MUST BE ATTACHED. AFFIDAVIT OR THE LETTER MUST NOT BE OLDER THAN 3 MONTHS**

## **PROOF OF COMPANY REGISTRATION DOCUMENTS**

# **TAX CLEARANCE CERTIFICATE & VERIFICATION PIN**

**BBEE/ SWORN AFFIDAVIT**

# **PLANT & TRUCKS LOGBOOKS**

**DETAILED PRICE QUOTATION  
(FAILURE TO ATTACH A DETAILED PRICE QUOTATION WILL  
RENDER YOUR TENDER NON-RESPONSIVE)**

**FORM G**

**MBD FORMS**

**MBD 4**

**DECLARATION OF INTEREST**

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

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

3.1 Full Name of bidder or his or her representative:..... 3.2

Identity Number: .....

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

3.4 Company Registration Number: .....

3.5 Tax Reference Number:.....

3.6 VAT Registration Number: .....

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

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

3.8.1 If yes, furnish particulars.....

.....

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

(a) a member of –

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

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

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

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

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

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

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

3.9.1 If yes furnish particulars

.....  
 .....

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

3.10.1 If yes, furnish particulars.

.....  
 .....

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

3.11.1 If yes, furnish particulars

.....  
 .....

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

3.12.1 If yes, furnish particulars.

.....  
 .....

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

3.13.1 If yes, furnish particulars.

.....  
 .....

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

3.14.1 If yes, furnish particulars:

.....  
 .....



## MBD 6.1

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

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

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

---

#### 1. GENERAL CONDITIONS

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

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

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

*(delete whichever is not applicable for this tender).*

- a) The applicable preference point system for this tender is the ~~90/10~~ preference point system.
- b) The applicable preference point system for this tender is the ~~80/20~~ preference point system.
- c) Either the ~~90/10 or 80/20 preference point system~~ will be applicable in this tender. The lowest/ highest acceptable tender will be used to determine the accurate system once tenders are received.

1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:

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

1.4 **To be completed by the organ of state:**

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	80
SPECIFIC GOALS	20
<b>Total points for Price and SPECIFIC GOALS</b>	<b>100</b>

1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference

points for specific goals are not claimed.

- 1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

## 2. DEFINITIONS

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

## 3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

### 3.1. POINTS AWARDED FOR PRICE

#### 3.1.1 THE 80/20 PREFERENCE POINT SYSTEMS

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

**80/20**

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

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

#### 3.2.1. POINTS AWARDED FOR PRICE

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

The specific goals allocated points in terms of this tender	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (To be completed by the tenderer)	Documents required for verification
<b>GOAL 1 - Ownership – Maximum points</b>	<b>10</b>		
Business owned more than 50% by black person	5		ID copy of Director/Owner and CSD
Business owned less than 50% by black person	2		ID copy of Director/Owner and CSD
Business owned more than 50% by black women	5		ID copy of Director/Owner and CSD
Business owned more than 50% by black youth	5		ID copy of Director/Owner and CSD
Business owned more than 50% by disabled person/military veteran	2		Certificate from doctor/ Certificate of being a military veteran
<b>GOAL 2 – RDP – Maximum points</b>	<b>10</b>		
Promotion of Business falls under the SMME category – QSE/EME	2		B-BBEE Certificate / Sworn Affidavit
Promotion of business located within KZN province	2		CSD and Proof of municipal accounts/ affidavit
Promotion of business located in South Africa outside KZN Province	1		CSD and Proof of municipal accounts/ affidavit
Promotion of business located within Harry Gwala District	2		CSD, Proof of municipal accounts/ affidavit and proof of residence signed by a councilor/ Inkosi/ Induna not older than 3 months
Promotion of business located within JOHANNES PHUMANI PHUNGULA MUNICIPALITY	8		CSD, Proof of municipal accounts/ affidavit and recommendation letter signed by ward councilor (not older than 3 months)

80/20

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

Where

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

**4. POINTS AWARDED FOR SPECIFIC GOALS**

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

then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

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

*(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.*

*Note to tenderers: The tenderer must indicate how they claim points for each preference point system.)*

**DECLARATION WITH REGARD TO COMPANY/FIRM**

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

4.4. Company registration number: .....

4.5. TYPE OF COMPANY/ FIRM

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

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

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
  - (a) disqualify the person from the tendering process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
  - (e) forward the matter for criminal prosecution, if deemed necessary.

..... <b>SIGNATURE(S) OF TENDERER(S)</b>	
<b>SURNAME AND NAME:</b>	.....
<b>DATE:</b>	.....
<b>ADDRESS:</b>	..... ..... ..... .....

**DECLARATION OF BIDDER’S PAST SUPPLY CHAIN MANAGEMENT PRACTICES**

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

Item	Question	Yes	1
4.1	<p>Is the bidder or any of its directors listed on the National Treasury’s Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?</p> <p>(Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</p> <p><b>The Database of Restricted Suppliers now resides on the National Treasury’s website(<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) and can be accessed by clicking on its link at the bottom of the home page.</b></p>	<p>Yes</p> <input type="checkbox"/>	1
4.1.1	If so, furnish particulars:		

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

**CERTIFICATION**

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

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

.....  
**Signature**

.....  
**Date**

.....  
**Position**

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

**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

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

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

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

**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

I, the undersigned, in submitting the accompanying bid:

\_\_\_\_\_  
(Bid Number and Description)

in response to the invitation for the bid made by:

\_\_\_\_\_  
(Name of Municipality / Municipal Entity)

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

I certify, on behalf of: \_\_\_\_\_ that:  
(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign, the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
  - (a) has been requested to submit a bid in response to this bid invitation;
  - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
  - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder

6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium<sup>3</sup> will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
  - (a) prices;
  - (b) geographical area where product or service will be rendered (market allocation)
  - (c) methods, factors or formulas used to calculate prices;
  - (d) the intention or decision to submit or not to submit, a bid;
  - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
  - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

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

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

.....  
**Signature**

.....  
**Date**

.....  
**Position**

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

**FORM H:**

**GENERAL CONDITIONS OF**  
**CONTRACT**

**THE NATIONAL TREASURY**

**Republic of South Africa**



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**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.

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## General Conditions of Contract

### 1. Definitions

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

**4. Standards**

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

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

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

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

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

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  
e  
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  
n 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. Governin  
g 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. Applicabl  
e law**

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

**31. Notices**

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

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

**32. Taxes  
and duties**

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

32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.

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

**33. Nation  
al 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**

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).

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.

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.