

MANDELA BAY THEATRE COMPLEX



SUPPLY CHAIN MANAGEMENT

Cnr John Kani Road and Winston Ntshona Street, Gqeberha, 6000

MBTC-SCM /22/2025

PREPARATION OF ANNUAL FINANCIAL STATEMENTS AND AUDIT SUPPORT MANDELA BAY THEATRE COMPLEX

Bidder's Name:																											
Postal Address																											
Tel. No.													Cell. No.														
Contact Person																											
E-Mail Address																											
CSD MAAA NUMBER																						B-BBEE STATUS LEVEL					

Potential bidders must submit their proposals via email scm@mandelabaytheatre.co.za quoting **MBTC-SCM /22/2025 on the subject line or** must be placed in the Tender Box located at 68 Cape Road, Mill Park, Port Elizabeth or can be couriered not later than **11h00 on 29 April 2025**.

MANDELA BAY THEATRE COMPLEX

PREPARATION OF ANNUAL FINANCIAL STATEMENTS AND AUDIT SUPPORT FOR MANDELA BAY THEATRE COMPLEX

1.	CONTENTS	2
2.	TENDER SUBMISSION CHECKLIST	3
3.	TENDER NOTICE	5
4.	STANDARD CONDITIONS OF TENDER	7
5.	LEGISLATION.....	13
6.	DEFINITIONS	15
7.	SPECIFICATION	16
8.	PRICING SCHEDULE.....	22

9. DATA SHEETS 1 - 7

9.1	INVITATION TO BID DOCUMENT	25
9.2	AUTHORITY TO SIGN DOCUMENT	28
9.3	STATEMENT OF PREVIOUS EXPERIENCE	29
9.4	SCHEDULE OF RESOURCES	30
9.5	DECLARATION OF INTEREST	31
9.6	PREFERENCE POINT CLAIM FORM.....	34
9.7	DECLARATION FOR PROCUREMENT ABOVE R1 MILLION	39
9.8	TENDER BRIEFING MEETING CERTIFICATE.....	41

10. TENDER FORM AND ANNEXURES

10.1	TENDER FORM	42
10.2	ANNEXURE "A" – TAX CLEARANCE CERTIFICATE	44
10.3	ANNEXURE "B" – CIPC REGISTRATION CERTIFICATE	45
10.4	ANNEXURE "C" – CSD REGISTRATION REPORT	46
10.5	ANNEXURE "E" – GENERAL CONDITIONS OF CONTRACT.....	48

11. BIDDERS PLEASE NOTE:

- 11.1 Bidders are advised to check the number of pages and should any be missing or duplicated, or the reproduction thereof indistinct, or any descriptions ambiguous, or if this document contains any obvious errors they shall inform the Supply Chain Management and have same rectified. No liability whatsoever will be incurred by the Council in respect of errors in any tender due to the Bidder's failure to observe this requirement.
- 11.2 The RFQ appeared on e-tender portal on **Friday, 11 April 2025**. The tender closes at **11h00 on 29 April 2025**.

THE MANDELA BAY THEATRE COMPLEX

BID SUBMISSION CHECKLIST

The Checklist below is attached hereto to assist bidders with the completion of the RFQ document. Bidders are required to **TICK** the relevant boxes for verification purposes. Where information is not applicable to the potential bidders, the symbols **N/A** must be inserted in the space provided.

It must be noted that the Council shall not be held liable for any loss or damage incurred to the potential suppliers should the bidder fail to fulfil the requirements of the RFQ.

MANDATORY REQUIREMENTS

Item	Document Reference	Description	Action to be taken	Checked, Verified & submitted
1.	SBD 1	Invitation to bidder	To be completed in full	
2.	SBD 2	Tax clearance requirements	Submission of a valid original tax clearance certificate Provide SARS Status PIN in order for MBTC to Verify	
3.	SBD 3.1	Pricing schedule – Firm prices	To be completed in full	
4.	SBD 4	Declaration of Interest	To be completed in full	
5.	SBD 6.1	Preference point claim form	To be completed in full - You may submit a Sworn affidavit.	
6.	TOR	Terms of reference	To be read and applied	
7.		Company Profile and CK documents	To be submitted	
8.		Registered on the National Treasury Central Suppliers Database (CSD)	Provide the CSD Supplier Number (MAAA)	
9.	GCC	General conditions of Contract	Initial each page	
10.		B-BBEE status level verification certificate	Submit a valid or a certified copy of a B-BBEE rating issued	

			by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS	
11.		<u>Required Documents to be submitted with the Tender Document, failure to submit these documents will lead to disqualification of the Tender Document</u> - Certification of Professional Membership to one or more of the following Professional Bodies etc: SAICA – South African Institute of Chartered Accountants CA (SA) – Chartered Accountant SA CaseWare Champion Certificate/Proof - Curriculum Vitae of all proposed key personnel who will be available for the duration of the contract		

Additional Notes:

1. Broad Based Black Economic Empowerment (B-BBEE) rating 3 or better to be submitted.
 - a) A trust, consortium or joint venture must submit a consolidated B-BBEE Status Level Verification Certificate for every separate bid.
 - b) Public entities and tertiary institutions must also submit B-BBEE Status Level Verification Certificates together with their bids.
2. Check list to be completed and attached to the proposal.
3. Incomplete documents will be regarded as non-responsive.
4. All forms to be completed in black ink.
5. No correction fluid to be used in the document, changes should be made by drawing a line through the incorrect information, and initialling the change.
6. No late quotations / bids will be accepted.
7. MBTC reserves the right to award or withdraw the bid.

Failure to comply with these Sections will prejudice the bidders.

Name of Bidder : _____

Signature : _____

Date : _____

MANDELA BAY THEATRE COMPLEX

PREPARATION OF ANNUAL FINANCIAL STATEMENTS AND AUDIT SUPPORT FOR MANDELA BAY THEATRE COMPLEX

TENDER NOTICE

Tenders are hereby invited from suitably qualified and experienced service providers for the PREPARATION OF ANNUAL FINANCIAL STATEMENTS AND AUDIT SUPPORT FOR MANDELA BAY THEATRE COMPLEX

RFQ documents can be downloaded and printed at the bidder's cost from the National Treasury e-Tender Publication Portal on www.etenders.gov.za.

For any procurement related enquiries, please contact Ms T.Liwani (Supply Chain Management Unit) on e-mail address scm@mandelabaytheatre.co.za.

For any technical related enquiries, please contact Ms A Dyonase (Finance Unit) on e-mail address ntsika@mandelabaytheatre.co.za. ***The last date for enquiries will be the 22 April 2025.***

There will be no compulsory Tender Briefing.

RFQ Validity Period: Three (90) months commencing from the closing date of RFQ.

RFQ Adjudication/Evaluation Criteria: Bidders meeting the Mandatory Requirements of the RFQ shall be evaluated on a Three Stage Evaluation System – Stage One: Mandatory Requirements. Stage Two: Functionality and Stage Three: 80/20 Point System in accordance with the Mandela Bay Theatre Complex Supply Chain Management Policy (incorporating Preferential Procurement) as prescribed in terms of the Preferential Procurement Regulations 2022, pertaining to the Preferential Procurement Policy Framework Act, Act No. 5 of 2000.

STANDARD CONDITIONS OF BID

1. DOCUMENTS

This document comprises of the Standard Conditions of RFQ, Standard Conditions of Contract, Special Conditions of Contract (if any), Legislation, Definitions, Specifications, Pricing Schedule, RFQ Form, and Annexures thereto.

2. SUBMISSION OF TENDERS

Tenders must be made out on the RFQ Form annexed hereto. Bidders are advised that this document must be completed in ink and submitted in its entirety. Failure to comply with this condition shall result in the tender being disqualified.

Only original handwritten priced RFQ documents will be considered. RFQs submitted by electronic mail, telex or facsimile shall not be considered. ***The use of correction fluid is strictly prohibited.*** All corrections are to be countersigned.

Bidders using Courier Companies or any other mode of transport to deliver their RFQ documents must ensure that the RFQ documents are delivered to the Mandela Bay Theatre Complex building, Cnr John Kani Road and Winston Ntshona Street, Gqeberha, 6000, and placed in the Tender Box situated in the Ground Floor by the close of RFQs. The Council shall not be held liable for any RFQ document which is not timeously delivered, mislaid or incorrectly delivered due to the negligence of the Courier Company or any other party involved in the delivery of the RFQ documents, including any employee of the Council.

Sealed RFQs endorsed with the appropriate RFQ number, must reach the MBTC building, Gqeberha not later than the closing date and time stated in the public advertisement inviting RFQs, where they will be opened in public. Under no circumstances will any extension of time be allowed for the submission of RFQs. RFQs shall remain valid for four (4) calendar months from the date of opening.

3. COMMUNICATION WITH MEMBERS OF THE COUNCIL OR COUNCIL EMPLOYEES

Without detracting from any prevailing law, no Bidder shall offer, promise or give any person or persons connected with the adjudication, or awarding of the RFQ, any gratuity, bonus, discount or consideration of any kind in connection with the obtaining of a contract. Nor shall any Bidder communicate with any member of the Council or a Council employee on a question affecting the awarding of a contract which is the subject of a RFQ, during the period between the closing date of RFQs and the date of notification of the successful Bidder; provided always that the Supply Chain Management Unit may, in exceptional circumstances, obtain additional information from a Bidder to enable her to formulate her recommendation to Council.

Any attempt to contravene this condition, which is brought to the notice of the Supply Chain Management Unit shall result in the disqualification of the Bidder.

5. REGISTRATION WITH THE CENTRAL SUPPLIER DATABASE (CSD)

The National Treasury's Central Supplier Database (CSD) has been open for registration from 01 September 2015. The CSD serves as one single source of supplier information to all spheres of government.

Within this system, suppliers are required to register once when they do business with the state. This will significantly reduce the administrative burden for businesses, especially small and medium sized enterprises. The database interfaces with the South African Revenue Service (SARS), the Companies and Intellectual Property Commission (CIPC) and the payroll system. It will electronically verify a supplier's tax and B-BBEE status and enable public sector officials doing business with the state to be identified.

All prospective suppliers can register any time on the CSD website www.csd.gov.za

Negotiations for the RFQ award will only be concluded with the qualify bidder(s) who is/are registered on the CSD on or after 01 April 2016.

In order for MBTC to verify your Company's registration with CSD, please provide the following information for verification purposes:

CSD Supplier Number	
Unique Registration Reference Number	

Failure to provide the above information shall render the RFQ to be disqualified.

6. TAX CLEARANCE CERTIFICATE REQUIREMENTS

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

Bidders shall be required to submit, together with the RFQ document, a **valid original** Tax Clearance Certificate or a Tax Compliance Status Verification Pin issued by SARS. Failure to submit a valid original Tax Clearance Certificate or a Tax Compliance Status Verification Pin will result in the invalidation and disqualification of the tender. **Certified copies of the Tax Clearance Certificate will not be acceptable.**

Further to the above, Bidders are to note that the Tax Clearance Certificate must be valid for the full duration of the RFQ validity period i.e. three (3) months commencing from the closing date of the RFQ.

Should the validity of the Tax Clearance Certificate expire prior to the final award of the contract being made, the Council reserves the right to request the Bidder to submit a further valid Tax Clearance Certificate. In this instance, the Bidder shall be given seven (7) working days written notice in which to comply. Should the Bidder fail to comply with this request, the Council further reserves the right to make no award to the Bidder and the Council shall not be held liable for any loss or damages sustained by the Bidder.

If a bidder has already submitted an original Tax Clearance Certificate when registering on the Central Supplier Database (CSD), then there is no need to submit a hardcopy of another Tax Clearance Certificate provided that the Tax Clearance Certificate is still valid for the full duration of the validity period for this RFQ. In this instance, the Bidder will be required to indicate below the CSD Supplier Number and Unique Registration Reference Number for verification purposes:-

CSD Supplier Number	
Unique Registration Reference Number	

7. RATES

The prices, rates or percentages quoted in the proposal shall be deemed to include all costs, including but not limited to equipment, labour, insurance, delivery, etc, unless the Service Provider states otherwise in the proposal.

8. INCOMPLETE TENDERING

Tenders may be rejected if they show any additional, conditional or incomplete offers or irregularities of any kind in either the Tender Form or the Pricing Schedule, or if the prices tendered in the Schedule are not market related i.e. the tendered rates does not conform to current day prices.

Partial awards **may** be made where this is perceived by Supply Chain Management Unit to be in the best interests of the Council. Council reserves the right to take into account the principle of the distribution of services in order to empower SMME's and BEE's.

Should there be any difference or discrepancy between the prices and particulars contained in the RFQ Form and those contained in any covering letter submitted by the Bidder, the prices and particulars contained in the RFQ Form shall prevail.

9. ACCEPTANCE OF ANY RFQ

The Council does not bind itself to accept the lowest or any RFQ and reserves the right to accept the whole or any part of a RFQ.

Where less than three (3) tenders are received, the Supply Chain Management Unit reserves the right to purchase such services on the open market notwithstanding the acceptance of an offer.

The procedure which will be followed with the acceptance of a RFQ is as follows:

No formal agreement will be signed.

A letter of acceptance stipulating which rate/s has been accepted will be sent by the Supply Chain Management Unit to the Bidder. The RFQ documents, together with the

letter of acceptance, shall constitute a binding agreement between the Bidder and the Council.

Unless otherwise stipulated in the covering letter submitted with the RFQ, the Bidder shall have waived, renounced and abandoned any conditions printed or written upon any stationery used for the purpose of, or in connection with, the submission of the RFQ which are in conflict with the Council's Conditions of RFQ and the Standard Conditions of Contract. The Bidder is warned that any material divergence from the official conditions or specification may render the RFQ liable to disqualification.

10. DOMICILIUM CITANDI ET EXECUTANDI

For the purpose of the service of all documents and the giving of notice as may be required in terms of this contract, or as a result of any action arising in conjunction with it, the Council chooses MBTC building, Corner John Kani Road and Winston Ntshona Street, Gqeberha as its *domicilium citandi et executandi*.

The Bidder's *domicilium citandi et executandi* shall be whatever street address is given in the RFQ Form attached hereto.

Either party may, at any time, give one (1) month notice, in writing, of a change of its *domicilium citandi et executandi* provided that such address shall be within the Republic of South Africa.

11. DATA SHEETS

Bidders shall be required to complete all Data Sheets and the RFQ Form attached hereto in their entirety for adjudication purposes. Where Data Sheets and/or any other documentation as contained herein are required to be commissioned, such Data Sheets and/or documentation must be stamped and signed by a Commissioner of Oaths (where applicable). ***Failure to comply with these provisions will render the offer unresponsive (invalid).***

12. PROHIBITION ON AWARDS TO PERSONS IN THE SERVICE OF THE STATE

The Supply Chain Management Regulations states that the Council may not make any award to a person:

- (a) Who is in the service of the state;
- (b) If that person is not a natural person, of which and director, manager, principal shareholder or stakeholder is a person in the service of the state;

13. APPEALS AND/OR OBJECTIONS

Any Bidder aggrieved by decisions or actions taken by the Entity may lodge within fourteen (14) calendar days of the date of the decision or action, a written objection or complaint to the Accounting Officer / Supply Chain Management Unit.

14. PREFERENCE POINTS CLAIMED IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

Bidders claiming preference points shall be required complete Datasheet 6 hereto in its entirety and to fully comply with the General Conditions, Definitions and Directives stated therein. Failure to do so shall result in no preference points being awarded to the bidder and the Council shall not be held liable for any loss or damages in this regard.

In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, 2022, Preference points must be awarded for specific goals stated in the RFQ.

Bidders are required to submit, together with the RFQ document, proof or documentation required in terms of this RFQ to claim points for specific goals with the bid, will be interpreted to mean that preference points for specific goals are not claimed.

15. JOINT VENTURE AGREEMENTS AND CONSORTIUMS

Bidders intending to tender in the form of Joint Ventures/Consortiums **must submit** the following documentation together with the tender:

- 1) Original valid Tax Clearance Certificates or a Tax Compliance Status Verification Pins issued by SARS of all parties of the Joint Venture/Consortium;
- 2) All parties of the Joint Venture/Consortium must submit signed copies of:
 - a) The Declaration of Interest Form and
 - b) The Preferential Procurement Claim form.
- 3) An undertaking duly signed by all parties of the Joint Venture/Consortium indicating their intention to enter into an agreement for the purposes of this contract, and,

Further to the above, the name of the Joint Venture/Consortium must appear on the relevant pages of the document. Failure to comply with these requirements shall lead to disqualification.

16. ADJUDICATION CRITERIA

The tender shall be evaluated on a Two Stage Evaluation System – Stage One: Functionality and Stage Two: 80/20 Preference Point System in accordance with the Preferential Procurement Regulations 2022, issued in terms of section 5 of the Preferential Procurement Policy Framework Act, Act No. 5 of 2000.

17. COMBATIVE TENDERING

The Supply Chain Management Regulations states that Combative tendering practices are unethical and illegal. These include but are not limited to:

- (i) Suggestions to fictitious lower quotations;
- (ii) Reference to non-existent competition;

- (iii) Exploiting errors in tenders;
- (iv) Soliciting tenders from Bidders whose names appear on the list of restricted bidders/suppliers/persons, and,
- (v) Submission of two tenders by a Bidder.

Any attempt by a Bidder to contravene this condition which is brought to the notice of the Accounting Officer or the Supply Chain Management Unit shall result in the disqualification of the tender. The Council further reserves the right to take any other action as it may deem necessary.

18. CESSION AGREEMENTS

No Cession Agreements will be entered into between the successful Bidder, the Supplier and the Council in respect of ceding payment to any third parties for goods or services rendered by the third party/ies to the Bidder.

By signing the Tender Form herein, it shall be deemed that the Bidder has the necessary personnel, skills, resources, capital, and equipment, etc. to undertake the whole of the said works in conformity with the Specifications, Conditions of Contract, Tender and Legislation for the duration of the contract period.

Should it be deemed during the contract period that the successful Bidder does not have the necessary personnel, skills, resources, capital, and equipment, etc. to undertake the works, the Council reserves the right to cancel the contract by issuing the Bidder with thirty (30) days written notification of its intent to cancel the contract and the Council shall not be held liable for any loss or damages sustained by the Bidder in this regard.

The Council further reserves the right to purchase the goods and services elsewhere and any difference in costs shall be deducted from any monies due or which shall become due to the Supplier.

THE MANDELA BAY THEATRE COMPLEX

LEGISLATION

1.0 GENERAL

- 1.1 Bidders will be deemed by virtue of submitting a tender to have undertaken to be aware of and comply fully for all purposes under this contract with all current legislation and related regulations. The following Acts, as amended from time to time, are listed for the attention of the bidder, without prejudice and without in any way relieving the bidder of the obligation to continuously comply with all the laws of South Africa for the entire duration of this contract, the cost of so doing being expressly included in the contract sum. It is the sole duty of the bidder to ensure that it acquaints itself and complies with all applicable legislation. **The Council shall not be liable in any way whatsoever for any errors or omissions in the legislation listed herein.**

2.0 THE COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES ACT (ACT 130 of 1993) (COID ACT)

- 2.1 Bidders are required to register as employers in terms of the COID Act.
- 2.2 Bidders must pay the assessments due in terms of the COID Act relative to their employee records including all sub-Bidders and community based labour.
- 2.3 In this specific contract the Bidder further acknowledges that the Employer shall have the right, without prejudice, to deduct any shortfall in compensation due to any employee of the Bidder (or sub-Bidder) from monies due or which may become due to the Bidder, and so effect settlement of the matter.

3.0 THE LABOUR RELATIONS ACT (ACT 66 of 1995) (LR ACT)

- 3.1 Bidders are required to register as employers in terms of the LR Act.
- 3.2 Bidders are required to pay all employee and employer contributions to the Unemployment Benefits Fund, other than in respect of casual employees defined as persons who work for less than eight hours in any one week, or in respect of persons who by virtue of lawful reasons are exempt therefrom.

4.0 THE BASIC CONDITIONS OF EMPLOYMENT ACT (ACT 3 of 1983) (BCE ACT)

- 4.1 Bidders in their capacity as employers are required to comply with the provisions of the BCE Act with special reference to their employees' terms and conditions of employment.

5.0 THE INCOME TAX ACT (ACT 58 of 1962)

- 5.1 Bidders in their capacity both as business enterprises and employers are obliged to register and comply with the requirements of the Receiver of Revenue.

6.0 THE VALUE ADDED TAX ACT (ACT 89 of 1991)

- 6.1 Bidders in their capacity as business enterprises are required, if their annual turnover exceeds or is expected to exceed R1million by the end of February each year, to

register as VAT vendors with the Receiver of Revenue for the purpose of paying, recovering, charging and returning VAT to the State via the Receiver of Revenue.

- 6.2 It is recorded that the Employer in this contract is registered as a VAT vendor.

7.0 NON-COMPLIANCE

- 7.1 The Employer in this contract will not under any circumstances be, or become party to, any act or omission by the Bidder and/or the Bidder's Sub-Bidders and/or employees, which contravenes South African law.
- 7.2 Notwithstanding anything to the contrary in this tender document, and in addition to any other remedies the Council may have, if at any time during this contract, the Council discovers any contravention of the laws expressly mentioned herein or any other applicable law, then the Council shall have the right to cancel this contract forthwith. In such event, the Council shall not be liable for any loss or damages caused by such cancellation.

THE MANDELA BAY THEATRE COMPLEX

DEFINITIONS

The following definitions apply: -

"Council" means The Mandela Bay Theatre Complex.

"Supply Chain Management Unit" means the unit dealing with Supply Chain Management activities of the day of the Mandela Bay Theatre Complex.

"Manager" means the Manager: Stage and Tech Services of the Mandela Bay Theatre Complex.

"Service Provider/Bidder" means the person, firm, Service Provider or company whose tender has been accepted by the Mandela Bay Theatre Complex and includes the Service Provider's heirs, executors, administrators, trustees, judicial managers or liquidators, as the case may be, but not, except with the written consent of the Council, any assignee of the Service Provider.

"Special Conditions" means any addition to or departure from or amendment of these Standard Conditions as set out in Annexure "A" hereof.

"Contract Document" means the Conditions of Tender, Scope of Contract, Terms of Reference, these Definitions, Special Conditions (if any), Equipment Specifications, Rates, Percentages and Prices, Tender Form and Annexures thereto. Any amendments to the contract document agreed to by the Council and the Service Provider, Provisional Letter of Acceptance and the final Letter of Final Acceptance.

"Goods" means the equipment, vehicles, service, labour or materials to be supplied in accordance with the Contract.

"The Tender" means the written offer made by the Service Provider to the Council.

"Preferential Procurement Policy" means the Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000).

"SARS" means the South African Revenue Services.

THE MANDELA BAY THEATRE COMPLEX

PREPARATION OF ANNUAL FINANCIAL STATEMENTS AND AUDIT SUPPORT FOR MANDELA BAY THEATRE COMPLEX

SPECIFICATION

We are requesting procurement for consulting services to prepare the Annual Financial Statements (AFS) and audit support during the 2024/25 AGSA audit. The service provider is also required to compile a GRAP compliant Fixed Asset Register (FAR). This will entail the review of the current FAR and 100% moveable assets verification using the Durcharme system that is in use at MBTC.

The service provider will be required to provide vat inclusive prices and separate the costing of the asset verification.

The cost must be all inclusive including travelling and accommodation.

SPECIFICATION

1. Purpose

Mandela Bay Theatre Complex (MBTC) hereby invites suitably qualified and experienced Service Providers to provide the service of the preparation of Annual Financial Statements (AFS) and audit support during the 2024/25 AGSA audit. The service provider is also required to compile a GRAP compliant Fixed Asset Register (FAR). This will entail the review of the current FAR and 100% moveable assets verification using the Durcharme system that is in use at MBTC.

2. Background

MBTC is a performing arts institution which falls in the Schedule 3A(PFMA) operating under the auspices of the Department of Sports and Arts and Culture in terms of the Cultural Institutions Act 119 of 1998.

MBTC identified certain areas which urgently require drastic improvement that will result in leaping from the current level of performance to the next, including but not limited to achieving an improved audit outcome.

One possible approach that can assist in achieving the desired outcomes is to shift from business as usual and focus on performance driven through how activities are planned, managed and ultimately accounted for in all sections. Unfortunately, there is still a need to adequately improve on the internal capacity to achieve such improvement; hence this request for proposal to source the services of a service provider that will assist on various sections particularly in finance-related units.

3. Scope of Service

The main areas that require attention can be described as falling within the following categories:

a. Assist with the preparation of the GRAP Compliant Annual Financial Statements:

MBTC doesn't have CaseWare system for the purpose of preparing the Annual Financial Statements and the service provider is expected to deliver the:

- audit file
- schedules to accompany the AFS

- GRAP compliant annual financial statements
- Audit support and attending to Audit issues including but not limited to Audit Steering Committee preparations, attendance and resolving of Audit Findings etc.
- technical review of financial statements

b. Compilation of a GRAP Compliant Fixed Asset Register:

Some of the services to be provided include, but not limited to:

- Provision of a GRAP compliant fixed asset register
- Physical verification and tagging of assets
- Valuations of assets
- Maintenance of information and conditional assessments
- Efficient use assessment of assets and recommendations of alternate utilisation

FUNCTIONALITY

<u>TECHNICAL/FUNCTIONAL EVALUATION CRITERION</u>			<u>WEIGHT</u>	<u>SCORE</u>
1.1	Strategic Approach & Methodology in execution of the Project [20%]	• Detailed methodology Criteria I. Methodology clear and addressing terms of reference 10%; II. Methodology not addressing terms of reference 0%.	10%	
		• Detailed Approach & Action plan Criteria I. Approach detailed, workable, addressing terms of reference with clear action plans 10%; II. Approach not detailed 0%.	10%	
1.2	Staff Allocation [20%]	• Resourcing Profile of available team (s) - Experience • Curriculum Vitae of the staff who will be available for the duration of the contract. Min of 2 CA (SA)'s with PFMA Experience to be available for the duration of the engagement Criteria	20%	

		I. Detailed CV's with two CA (SA) with 3 - 5 years PFMA experience part of the team and available on managerial role for duration of the contract 20%; II. Detailed CV's with two CA (SA) with 1 - 2 years PFMA experience part of the team and available on managerial role for duration of the contract 10%; III. No CA (SA)'s on team, team information not detailed 0%;		
1.3	Staff Experience with the Performing Arts Sector or Public Sector(PFMA) providing similar services [50%]	• The Experience of the Team Leader in the PROJECT Criteria I. Project team leader CA (SA) with > 10 years' experience 15%. II. Project team leader CA (SA) with 5-9 years' experience - 10%. III. Project team leader CA (SA) with 1-4 years' experience - 5%.	15%	
		• The Experience of the Partner/Director Managing the Project Criteria I. Project partner/director CA (SA) with > 10 years' experience 10%. II. Project partner/director CA with 5-9 years' experience - 5%. III. Project partner/director CA (SA) 1-4 years' experience - 2,5%.	10%	
		• Case Ware Champion, with relevant Accounting Degree, as part of the Project Team Criteria I. Certified CaseWare Champion, relevant accounting degree with 5-9 years' experience - 15%. II. Certified CaseWare Champion, relevant accounting degree with 1-4 years' experience - 10%. III. No CaseWare Champion on team - 0%.	15%	

		• Experience in physical verification and updating of moveable asset register in terms of GRAP, 5 or more similar projects -10% • Experience in physical verification and updating of moveable asset register in terms of GRAP,1-4 similar projects -5% • No experiences -0%	10%	
1.4	Plan on skills Transfer [10%]	• Detail and timeline of skills transfer plan over the duration of the engagement. Criteria - Detailed skills transfer plan showing type of training, method and timeframes - 10%: - Skills transfer plan included but not detailed - 5%. - No skills transfer plan - 0%	10%	
TOTAL			100	

Only applicants who meet a minimum of 70% on functionality will proceed to the next stage.

4.0 SITE / BRIEFING MEETINGS

There will be no Site Briefing.

5.0 PLACE OF DELIVERY AND DELIVERY PERIOD

5.1 Not Applicable.

6.0 ESCALATION

6.1 Not Applicable.

7.0 INSURANCES REQUIRED

7.1 Not Applicable.

8.0 COMPLIANCE WITH RESPECTIVE LEGISLATION, BYLAWS, ETC.

- 8.1 The Labour Relations Act (Act 66 of 1995)
- 8.2 Basic Conditions of Employment Act (75 of 1997)
- 8.3 The Income Tax Act (Act 58 of 1962)
- 8.4 MBTC Supply Chain Management Policy

- 8.5 South African National Standards (SANS 10400)
- 8.6 The Compensation of Occupational Injuries and Diseases Act (Act 130 of 1993)
- 8.7 Public Finance Management Act (1 of 1999)
- 8.8 General conditions of contract of 2015 (GCC 2015)

NB: that the entity reserve the right to verify supporting documents submitted by the bidder

9.0 SERVICE LEVEL AGREEMENT

- 9.1 The successful Service Provider will be required to enter into a Service Level Agreement with the Mandela Bay Theatre Complex before the commencement of any works or services.

10.0 MANDATORY REQUIREMENTS

- 10.1 Not Applicable.

11.0 SECRECY OF INFORMATION

- 1.1 Subject to the provisions of the Promotion of Access to Information Act, the information revealed in this tender document is to be classified as confidential. Accordingly, the SCM unit reserves the right to request references and generally examine bona fides and available facilities of any Company of Firm wanting to participate in this contract.

12.0 COUNCIL'S LIABILITY AND INDEMNITY

- 12.1 The Service Providers hereby indemnifies the Council and its employees and agents against all losses and claims for injuries or damages to any person or property whatsoever which may arise out of the execution of this contract.
- 12.2 The Council shall not be held liable to the Service Providers for any direct or indirect damages or losses and the Council shall be indemnified and held free against claims arising out of:
 - any negligent or innocent misrepresentations made by the Council, its employees or agents in respect of any data, information and statistics supplied to the Service Providers prior to or during the contract; provided that this condition shall not deprive the Bidder of any payments lawfully due to the Service Providers in terms of the contract, and a change in a legislative provision applicable to the contract

13.0 ASSIGNMENT AND SUBLETTING

- 13.1 Neither the Service Providers nor the Council shall assign or cede the contract or any part thereof or any benefit or interest therein or thereunder without the written consent of the other. The Service Providers shall not sub-let the whole or any part of this contract without the written consent of the Accounting Officer and such consent, if given, shall not relieve the Service Providers from any liability or obligation under the contract.

14.0 LAW TO APPLY

14.1 The contract shall in all respects be construed in accordance with the law of the Republic of South Africa, and any difference that may arise between the Council and the Service Providers in regard to the contract shall be settled in the Republic of South Africa.

15.0 PATENT RIGHTS

15.1 The Service Providers shall pay all royalties and expenses and be liable for all claims in respect of the use of patent rights, trade marks or other protected rights, and shall hold the Council indemnified and harmless against any claims for loss or damage to (including legal expenses) arising therefrom.

16.0 SEQUESTRATION OR SURRENDER OF BIDDER'S ESTATE

16.1 In the event of an order being made for sequestration of the Service Provider's estate, whether provisional or final, or in the event of an application being made for such order, or in the event of the Service Providers making application for the surrender of the Service Provider's estate, or if the Service Providers shall enter into, make or execute any deed of assignment or other composition or arrangement with, or assignment for the benefit of the Service Provider's creditors, or purport to do so, or if the Service Providers, being a Company, shall pass a resolution, or if the Court shall make an order for the liquidation of such company, the Council shall have the right, summarily and without recourse to law, to terminate the contract without payment of any compensation to the Service Providers, and without prejudice to the right of the Council to sue the Service Providers for any damages sustained by it in consequence of one or the other of the afore-mentioned events.

17.0 CONTRACT TO BE IN CONFORMITY WITH BY-LAWS AND ANY OTHER APPLICABLE LAWS

17.1 The contract shall be carried out subject to and in conformity with any law, regulation or By-law which is of application thereto and shall be conditional upon any necessary consent required by law being obtained.

THE MANDELA BAY THEATRE COMPLEX
PREPARATION OF ANNUAL FINANCIAL STATEMENTS AND AUDIT SUPPORT FOR MANDELA BAY THEATRE COMPLEX

DATA SHEET 1: INVITATION TO BID DOCUMENT

PART A

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE MANDELA BAY THEATRE COMPLEX					
BID NUMBER:	TENDER NO MBTC SCM 22/2025	CLOSING DATE:	29 April 2025	CLOSING TIME:	11:00
DESCRIPTION	PREPARATION OF ANNUAL FINANCIAL STATEMENTS AND AUDIT SUPPORT FOR MANDELA BAY THEATRE COMPLEX				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
Mandela Bay Theatre Complex – Ground Floor (in the Tender box)					
68 Cape Road					
Gqeberha					
6000					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	Ms B Matu		CONTACT PERSON	Ms N Dyonase	
TELEPHONE NUMBER	067 130 4807		TELEPHONE NUMBER		
FACSIMILE NUMBER	N/A		FACSIMILE NUMBER	N/A	
E-MAIL ADDRESS	scm@mandelabaytheatre.co.za		E-MAIL ADDRESS	ntsika@mandelabaytheatre.co.za	
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] ☐ Yes ☐ No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX] ☐ Yes ☐ No
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]					

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	☐ Yes ☐ No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	☐ Yes ☐ No [IF YES, ANSWER PART B:3]
---	--	--	---

QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

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

PART B

1. BID SUBMISSION:
1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION. 1.2. ALL BIDS MUST BE SUBMITTED IN THE MANNER PRESCRIBED IN THE BID DOCUMENT. 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT. 1.4. THE SUCCESSFUL BIDDER WILL BE ENGAGED WITH NEGOTIATIONS BY THE MBTC THAT MIGHT RESULT IN THE ISSUING OF A PURCHASE ORDER.
2. TAX COMPLIANCE REQUIREMENTS
2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS. 2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE MBTC TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS. 2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA. 2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID. 2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER. 2.6 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED. 2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE

NB: FAILURE TO PROVIDE 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:

.....

**PREPARATION OF ANNUAL FINANCIAL STATEMENTS AND AUDIT SUPPORT FOR
MANDELA BAY THEATRE COMPLEX**

.....

.....

Date:

* **Delete whichever is inapplicable or complete as indicated if none are applicable.**

MANDELA BAY THEATRE COMPLEX

**PREPARATION OF ANNUAL FINANCIAL STATEMENTS AND AUDIT SUPPORT FOR
MANDELA BAY THEATRE COMPLEX**

DATA SHEET 3: STATEMENT OF PREVIOUS EXPERIENCE

The nomination of works or services, preferably of a similar nature to the works/services in this contract and which the Bidder has successfully completed, is invited for adjudication purposes.

Bidders are hereby required to complete the schedule below in its entirety.

Alternatively, Bidders without experience may submit reference letters as to their abilities and standing in support of their tender, for adjudication purposes.

Failure to comply with either of these requirements shall lead to disqualification.

Name of Company	Contact Person	Contact No.	Nature of Works/Services	Value of Works/Services and Duration

SIGNATURE.....

DATE.....

**PREPARATION OF ANNUAL FINANCIAL STATEMENTS AND AUDIT SUPPORT FOR
MANDELA BAY THEATRE COMPLEX**

Bidders are required to submit details of their management, office and supervisory resources, office facilities, full-time work-force and equipment.

[illegible]

DATE.....

MANDELA BAY THEATRE COMPLEX

PREPARATION OF ANNUAL FINANCIAL STATEMENTS AND AUDIT SUPPORT FOR MANDELA BAY THEATRE COMPLEX

DATA SHEET 5: DECLARATION OF INTEREST

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

Any person (natural or juristic) may make an offer or offers in terms of this invitation to bid. In line with the principles of transparency, accountability, impartiality, and ethics as enshrined in the Constitution of the Republic of South Africa and further expressed in various pieces of legislation, it is required for the bidder to make this declaration in respect of the details required hereunder.

Where a person/s are listed in the Register for Tender Defaulters and / or the List of Restricted Suppliers, that person will automatically be disqualified from the bid process.

2. Bidder's declaration

- 2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest¹ in the enterprise, employed by the state? **YES/NO**

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

Full Name	Identity Number	Name of State institution

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

2.2 Do you, or any person connected with the bidder, have a relationship with any person who is employed by the procuring institution? **YES/NO**

2.2.1 If so, furnish particulars:

.....
.....

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

2.3.1 If so, furnish particulars:

.....
.....

3 DECLARATION

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

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium² will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the

² Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

drafting of the specifications or terms of reference for this bid.

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

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

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

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

THE MANDELA BAY THEATRE COMPLEX

PREPARATION OF ANNUAL FINANCIAL STATEMENTS AND AUDIT SUPPORT FOR MANDELA BAY THEATRE COMPLEX

DATA SHEET 6: PREFERENCE POINT CLAIM FORM

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, BIDDERS 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
Total points for Price and SPECIFIC GOALS	100

- 1.5 Failure on the part of a bidder 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 bidder, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

2. DEFINITIONS

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

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

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

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

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

Where

- Ps = Points scored for price of tender under consideration
- Pt = Price of tender under consideration
- Pmin = Price of lowest acceptable tender

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

3.2.1. POINTS AWARDED FOR PRICE

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

$$\begin{array}{ccc} 80/20 & \text{or} & 90/10 \\ Ps = 80 \left(1 + \frac{Pt - P_{max}}{P_{max}} \right) & \text{or} & Ps = 90 \left(1 + \frac{Pt - P_{max}}{P_{max}} \right) \end{array}$$

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 bidder 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 bidders: The bidder must indicate how they claim points for each preference point system.)

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)
Youth (100% ownership)	4	
Youth (61 - 99% ownership)	3	
Youth (31 - 60% ownership)	2	
Youth (1 - 30% ownership)	1	
Youth ownership 0%	0	
Women (100% ownership)	4	
Women (61 - 99% ownership)	3	
Women (31 - 60% ownership)	2	
Women (1 - 30% ownership)	1	
Women ownership 0%	0	
Black 100% ownership)	4	
Black (61 - 99% ownership)	3	
Black (31 - 60% ownership)	2	
Black (1 - 30% ownership)	1	
Black ownership 0%	0	
People living with disabilities	4	

Locality		
Based in Nelson Mandela Bay Metro	4	
Based in Eastern Cape		
Based in neighbouring provinces	3	
	2	
Based in other provinces	1	
Outside RSA	0	

The CSD report shall be used to verify claim of such points.

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 bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
- (e) forward the matter for criminal prosecution, if deemed necessary.

..... SIGNATURE(S) OF BIDDER(S)	
SURNAME AND NAME:	
DATE:	
ADDRESS:	
	
	
	

PREPARATION OF ANNUAL FINANCIAL STATEMENTS AND AUDIT SUPPORT FOR MANDELA BAY THEATRE COMPLEX

DATA SHEET 7: DECLARATION FOR PROCUREMENT ABOVE R1 MILLION (ALL APPLICABLE TAXES INCLUDED)

For all procurement expected to exceed R1 million (all applicable taxes included), bidders must complete the following questionnaire:

* Delete if not applicable

1. Are you by law required to prepare annual financial statements for auditing?

***YES / NO**

- 1.1 If yes, submit audited annual financial statements for the past three years or since the date of establishment if established during the past three years.

.....
.....

2. Do you have any outstanding undisputed commitments for services towards any organ of state for more than three months or any other service provider in respect of which payment is overdue for more than 30 days?

***YES / NO**

- 2.1 If no, this serves to certify that the bidder has no undisputed commitments for services towards any organ of state for more than three months or other service provider in respect of which payment is overdue for more than 30 days.
- 2.2 If yes, provide particulars.

.....
.....

3. Has any contract been awarded to you by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract?

***YES / NO**

- 3.1 If yes, furnish particulars

.....

.....

CERTIFICATION

I, THE UNDERSIGNED, (NAME)

CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS CORRECT.

I ACCEPT THAT THE STATE MAY ACT AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

TENDER FORM

The Accounting Officer

Corner John Kani Road &
Winston Ntshona Street
Gqeberha
6000

Dear Sir,

Having examined the Specifications, Conditions of Contract, Tender and Legislation of the above contract, I/we offer to supply and deliver the whole of the said Services in conformity with the Specifications, Conditions of Contract, Tender and Legislation for the rates as set out in the price schedule for the period commencing from date of award.

R _____

In Words _____

I/We are registered VAT vendors and the prices indicated therein **INCLUDES VAT.**

In the event of there being any errors of extension or addition in the Pricing Schedule, I/we agree to the totals being corrected, the rates being taken as correct.

I/We undertake to deliver the goods comprised in the contract within the time frames stated in this contract document.

I/We certify that I/we have satisfied myself/ourselves that the particulars inserted on all required Affidavits are complete and correct.

I/We confirm that I am/we are fully acquainted with the current South African laws and regulations applicable to this contract including inter alia those laws to which my/our attention has been drawn in the Legislation section of this document.

I/We are registered VAT vendors and my/our VAT vendor registration number is:

I/We are fully paid up members in good standing of the following organisation(s):

(Enter Nil if no affiliations)

I/We bank at the _____

Branch of _____

Where I/we have a _____ account.

It is agreed and understood that should there be any changes on the banking details provided for the entity, a duly signed resolution by all its directors and minutes whereby a resolution for changing the banking details was passed will be submitted to MBTC including the original letter from the bank confirming the details.

It is agreed and understood that this tender is valid for four (4) months from the date hereof and that it, together with your final letter of acceptance, shall constitute a binding Contract between us.

I/We the undersigned, warrants that I am/we are duly authorised to do so on behalf of the enterprise, certifies that the enterprise complies with all statutory and entity requirements and that the information supplied in terms of this documents with additional information is correct and accurate and acknowledges that if the information supplied is found to be incorrect then the Mandela Bay Theatre Complex in addition to any remedies, it may have: may

- i Recover from the Enterprise all costs, losses or damages incurred or sustained by the entity as result of the award of the contract, and /or
- ii Cancel the contract and claim any damages which the entity may suffer by having to make less favourable arrangements after such cancellations, and/or
- iii Impose a penalty on the Enterprise as provided in the Tender Document, and/or
- iv Take any other action as may be deemed necessary.

I/we further undertake to submit documentary proof regarding any tendering issue to the Council when so required.

Full Name of Signatory.....

Capacity of Signatory.....

Identity Number.....

Duly authorised to sign on behalf of.....

Physical Address.....

.....

SIGNATURE.....

DATE.....

TAX CLEARANCE CERTIFICATE

Please attach hereto an Original Valid Tax Clearance Certificate and Tax Compliance Status Verification Pin issued by SARS as required in terms of Regulation 16 of the Preferential Procurement Regulations, 2001

CIPC REGISTRATION CERTIFICATE

Please attach hereto proof of registration with the
Companies and Intellectual Property Commission
(CIPC)

CENTRAL SUPPLIER DATABASE (CSD) REGISTRATION REPORT

Please attach hereto proof of registration with the
Central Supplier Database (CSD)

GENERAL CONDITIONS OF CONTRACT

Please attach hereto signed and initialled General
Conditions of Contract

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 anything of value to influence the action of a public official in the procurement process or in contract execution.
 - 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
 - 1.6 “Country of origin” means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
 - 1.7 “Day” means calendar day.
 - 1.8 “Delivery” means delivery in compliance of the conditions of the contract or order.
 - 1.9 “Delivery ex stock” means immediate delivery directly from stock actually on hand.
 - 1.10 “Delivery into consignees store or to his site” means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
 - 1.11 "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the

RSA.

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

obligations of the supplier covered under the contract.

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

2. Application

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

3. General

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

4. Standards

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

5. Use of contract documents and information; inspection.

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

6. Patent rights

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

7. Performance security

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

8. Inspections, tests and analyses

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

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

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

9. Packing

- 9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.
- 9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in SCC, and in any subsequent instructions ordered by the purchaser.

10. Delivery and documents

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

11. Insurance

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

12. Transportation

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

13. Incidental services

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

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

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

14. Spare parts

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

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

15. Warranty

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

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

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

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

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

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

16. Payment

- 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 Majeure

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

26. Termination for insolvency

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

27. Settlement of Disputes

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

28. Limitation of liability

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

	(b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.
29. Governing language	29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.
30. Applicable law	30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.
31. Notices	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. National Industrial Participation Programme (NIP)	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

