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Council for Geoscience

TENDER RULES AND CHECKLIST

1. All the documents accompanying this invitation to bid must be completed in detail, be **sealed in an envelope**, and deposited in the tender box before the closing date and time. The tender box is situated at the reception of the Council for Geoscience, 280 Pretoria Street, Silverton, Pretoria. Tenders must only be submitted on the tender documentation issued. The retyping of the tender document is not permitted.

2. Duly completed and signed original bid document should be sealed in an envelope marked:

APPOINTMENT OF A SERVICE PROVIDER TO SUPPLY AND DELIVER, ELECTRIC PALLET JACKS AND A 5 TON CAPACITY 4 WHEEL ELECTRIC FORKLIFT WHICH INCLUDES A 3 YEAR MAINTENANCE CONTRACT ON BOTH ITEMS FOR THE NATIONAL BOREHOLE CORE DEPOSITORY, COUNCIL FOR GEOSCIENCE

Tender No: CGS-2023-010NY

Closing date: 29 August 2023

Closing time: 11:00 am

4. CGS POPI ACT COMPLIANCE POLICY STATEMENT

The Council for Geoscience is committed to securing the integrity and confidentiality of your Personal Information that is in our possession and will guard against unlawful access and use. The processing of your personal information by the Council for Geoscience will be done in accordance with the POPI Act 4 of 2013 as well as our processing notice that can be accessed from our website www.geoscience.org.za.

5. CHECK LIST

ALL THE RELEVANT FORMS ATTACHED TO THIS BID DOCUMENTS MUST BE COMPLETED AND SIGNED BACK IN BLACK INK WHERE APPLICABLE BY A DULY AUTHORISED OFFICIAL. FAILURE TO PROVIDE ANY OF THE BELOW-MENTIONED DOCUMENTS MAY LEAD TO DISQUALIFICATION.

RETURNABLE DOCUMENTS THE FOLLOWING IS INCLUDED IN THE TENDER DOCUMENT	YES	NO
SBD 1. Invitation to Bid		
Bidders must provide proof of Tax Compliance Status pin from SARS. The Council for Geoscience will verify your tax compliance proof in terms of practice note 9 of 2017/2018		
Tender specification		
SBD 4. Declaration of interest		
Central Supplier Database		
Government procurement General conditions of contract		
Certified copies of identity documents of the directors, trustees, main shareholders, and members of the company		
Latest Original Certified copies of all share certificates (i.e. copy with original stamp), in case of a company		
Shareholding breakdown per race, gender, and percentage shareholding with shareholders of the bidding company who are not individuals.		
An originally certified BBBEE rating certificate (A copy of the certified BBBEE certificate will not be considered). A		

valid SANAS accredited certificate, DTI Certificate or Sworn affidavit will be accepted. Certificates issued by IRBA and Accounting Officers have been discontinued.		
CGS will only award points for specific goal/s to bidders that submitted the required supporting documents mentioned in SBD 6.1		
List of references of past and present clients (Company name, department, branch, contact person with office telephone number		
The Council's document must be kept as supplied and submitted with all Schedules/Forms fully completed.		
Any other documents, certificates, etc. must be attached as an annexure to the official Council document		
Where the Council's official document is taken apart and not submitted as supplied, the bid will be rejected		
No bid forwarded by telegram, telex, facsimile, or similar apparatus will be considered.		
Company registration documents		
In the case of Joint venture, trust or consortiums please submit a joint venture agreement.		

6. BID CONDITIONS

6.1 Bidders shall provide full and accurate answers to all (including mandatory) The question posed in this document, and, are required to explicitly state either "Accept" or "Not Accept" (with a ✓) regarding compliance with the requirements. Where necessary, the bidder shall substantiate their response to a specific question.

6.2 A "✓" under **"Accept"** will be interpreted as full compliance/acceptance to the applicable paragraph. A "✓" under **"Accept"** will be interpreted that the Bidder/s has/have read and understood the paragraph, A "✓" under **"Not Accept"** will be interpreted that the bidder does **not accept** the content of the applicable paragraph.

6.3 The following bid, conditions will govern the contract between the Council

for Geoscience and the successful bidder:

Requirement	ACCEPT	NOT ACCEPT
Bidders are invited to offer the Services in accordance with the attached Specifications and the conditions within this document.		
The Bidder/s shall accept CGS's interpretation of any specific requirement in the Bid documents or Specifications should there be a difference of interpretation between the Bidder/s and CGS.		
Should any dispute arise as a result of this of this Bid and/or the subsequent contract, which cannot be settled to the mutual satisfaction of the Bidder/s and CGS's, it shall be dealt with in terms of paragraph 23 of the general conditions of contract?		
Should there be any discrepancies between the Bid conditions and any other documentation that forms part of this RFB, the Bid conditions shall take preference.		

Documentation	ACCEPT	NOT ACCEPT
Fully comprehensive service documentation shall be supplied in English by each Bidder, which shall explicitly and detail, describe the service/s offered. This documentation shall include sufficient detail to clearly give the reader a precise and unambiguous description of the service/s offered. Incomplete or incomprehensive service documentation will result in rejection of the offer.		

Selection	ACCEPT	NOT ACCEPT
CGS reserves the right to make a selection solely on the information received in the Bids or to negotiate further with one or more Bidder/s.		
Should CGS consider it necessary, the Bidder/s shall agree to an inspection of the resources and works of the Bidder, if so required?		
To contact any Bidder during the evaluation period, to clarify information only, without informing any other Bidder.		

Copyright	ACCEPT	NOT ACCEPT
The specifications are the intellectual property of		

Council for Geoscience.		
The contents of any specifications are the property of CGS and are confidential. It shall not in any manner be reproduced, destroyed, lent or given away without the permission.		
Submission of Bid	ACCEPT	NOT ACCEPT
CGS may also reject an offer if the Bidder/s fail to complete the standard bidding documents in this tender document.		
Service approval	ACCEPT	NOT ACCEPT
The Procuring of the Services shall not take place until CGS has given final approval of all procedures.		
Upfront/Deposit Payments	ACCEPT	NOT ACCEPT
CGS will not make any upfront payment or deposit payments to the successful bidder/s for goods or services. CGS will pay 30 days after delivery of goods or service and receipt of an invoice.		

7. RESPONSE FORMAT

Bidders must respond using the following response format:

Schedule	Description
Schedule 1	Executive Summary
Schedule 2	SBD 1
Schedule 3	Certified BBBEE Certificate (For consortium or joint venture a consolidated BBBEE Certificate must be submitted)
Schedule 4	Functional response
Schedule 5	Price Breakdown (Quotation)
Schedule 6	SBD 3.3
Schedule 7	SBD 4
Schedule 8	SBD 6.1
Schedule 9	Central Supplier Database Summary Report
Schedule 10	General Conditions of Contract 2010

NB: The response must have an index and the document must be neatly divided Using the above-mentioned format in sequence.

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE COUNCIL FOR GEOSCIENCE										
BID NUMBER:		CGS-2023-010NY		CLOSING DATE: 29 AUGUST 2023			CLOSING TIME:		11:AM	
DESCRIPTION		Appointment of a service provider to supply and deliver, electric pallet jacks and a 5 ton capacity 4 wheel electric forklift which includes a 3 year maintenance contract on both items for the National Borehole Core Depository, Council for Geoscience.								
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)										
280 Pretoria Street										
Silverton										
Pretoria										
0001										
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO					TECHNICAL ENQUIRIES MAY BE DIRECTED TO:					
CONTACT PERSON		Ncumisa Yonke			CONTACT PERSON		Ncumisa Yonke			
TELEPHONE NUMBER		012 841 1509			TELEPHONE NUMBER		012 841 1509			
FACSIMILE NUMBER		N/A			FACSIMILE NUMBER		N/A			
E-MAIL ADDRESS		nyonke@geoscience.org.za			E-MAIL ADDRESS		nyonke@geoscience.org.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			
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES OFFERED?		☐ Yes ☐ No [IF YES ENCLOSE PROOF]			ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES OFFERED?			☐ Yes ☐ No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]		
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

TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:

- 1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
- 1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED (NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.
- 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
- 1.4. THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).

2. TAX COMPLIANCE REQUIREMENTS

- 2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
- 2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO 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 PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
- 2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

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

SIGNATURE OF BIDDER:

.....

CAPACITY UNDER WHICH THIS BID IS SIGNED:

.....

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

DATE:

.....

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Council for Geoscience

APPOINTMENT OF A SERVICE PROVIDER TO SUPPLY AND DELIVER, ELECTRIC PALLET JACKS AND A 5 TON CAPACITY 4 WHEEL ELECTRIC FORKLIFT WHICH INCLUDES A 3 YEAR MAINTENANCE CONTRACT ON BOTH ITEMS FOR THE NATIONAL BOREHOLE CORE DEPOSITORY, COUNCIL FOR GEOSCIENCE.

CGS- 2023-010NY

Date issued 28 July 2023

Closing date and time: 29 August 2023 @ 11H00

Compulsory briefing: 10 August 2023 (280 Pretoria Street Silverton, Head Office)

Bid validity period: 120 calendar days

TENDER BOX ADDRESS

280 Pretoria Street
Silverton
Pretoria
0001

1. INTRODUCTION

The Council for Geoscience (CGS) is a schedule 3A public entity organisation, as defined by the Public Finance Management Act (Act 1 of 1999). The CGS derives its mandate from the Geoscience Act (no. 100 of 1993). The objectives of the CGS under the Act are to produce world-class geoscience knowledge products and to render geoscience-related services to the South African public and industry. The strategic position of the CGS is to ensure that its activities contribute to national imperatives, namely to free the potential of individuals by improving the quality of life of all citizens, to assist in the growth and wealth of the country and to eradicate poverty, especially in the rural areas of South Africa. It carries out these functions through the mandate of the Geoscience Act, which includes the following:

- 1.1 To systematically document and compile the geology of the earth's surface and the continental crust, including offshore areas within the territorial boundaries of South Africa.
- 1.2 To compile geoscience data, especially geological, geophysical, metallogenic and engineering geological information in the form of maps and accompanying explanations and to make this information available to the public.
- 1.3 To do basic geoscience research into the nature and origin of rocks, ores, minerals and the history and evolution of life and to understand the geological evolution of the earth. These findings are published in peer-reviewed geoscience publications nationally and internationally.
- 1.4 To collect and curate all geoscience knowledge for the country into the National Geoscience Repository and to make such information available to the public as far as possible.
- 1.5 To render geoscience knowledge services and advice to the State to enable informed and scientifically based decisions on the use of the earth's surface and its resources within the territory of South Africa.
- 1.6 To manage several national geoscience facilities on behalf of the country, such as the National Seismograph Network, the National Borehole Core Repository, the National Geoscience Heritage Collections (Geoscience Museum) and the National Geoscience Library.
- 1.7 To render commercial geoscience services and products to national and international clients.

2. PURPOSE OF THIS REQUEST FOR PROPOSALS

The purpose of this Tender is to appoint a service provider to supply and deliver, electric pallet jacks and a 5 ton capacity 4 wheel electric forklift which includes a 3 year maintenance contract on both items for the National Borehole Core Depository of the Council for Geoscience.

3. LEGISLATIVE FRAMEWORK OF THE BID

3.1. Tax legislation

Bidders must be compliant when submitting a proposal to the CGS and remain compliant with all applicable tax legislation, including, but not limited to, the Income Tax Act, 1962 (no. 58 of 1962) and the Value Added Tax Act, 1991 (no. 89 of 1991) for the entire term of the contract. It is a condition of this bid that the tax matters of the successful Bidder be in order, or that the Bidder has made satisfactory arrangements with the South African Revenue Service (SARS) to meet the his/her tax obligations

3.1.1. The Bidder's tax compliance status requirements also apply to foreign bidders/individuals who wish to submit bids.

3.1.2. It is a requirement that Bidders grant written confirmation when submitting this bid that SARS may, on an on-going basis during the term of the contract, disclose the Bidder's tax compliance status and, by submitting this bid, such confirmation is deemed to have been granted.

3.1.3. Bidders are required to be registered on the Central Supplier Database and National Treasury will verify the Bidder's tax compliance status through the Central Supplier Database.

3.1.4. Where Consortiums/Joint Ventures/Subcontractors are involved, each individual party must be registered on the Central Supplier Database and their tax compliance status will be verified through the Central Supplier Database.

3.2. Procurement legislation

The CGS applies a detailed evaluation methodology, premised on Treasury Regulation 16A3, promulgated under Section 76 of the Public Finance Management Act, 1999 (no. 1 of 1999). The Preferential Procurement Policy Framework Act 2000, (no. 5 of 2000) PPR 2022 and the Broad-Based Black Economic Empowerment Act 2003 (no. 53 of 2003), Practice Note 09 of 2017/18.

3.3. Technical legislation and/or standards

Bidders should be cognizant of the legislation and/or standards specifically applicable to the services which are the focus of the bid.

4. TIMELINE OF THE BID PROCESS

The period of validity of the tender and the withdrawal of offers after the closing date and time is 120 calendar days. The project timeframes of this bid are set out below:

Activity	Due date
Advertisement of bid on CGS website	28 July 2023
Compulsory Briefing Session	10 August 2023 (280 Pretoria Street Silverton, Head Office)
Closing date of questions relating to bid	18 August 2023
Bid closing date	29 August 2023 @11H00
Notice to Bidders	The CGS will endeavour to inform Bidders of progress up to the conclusion of the tender.

All dates and times in this bid are given in South African standard times.

Any time or date in this bid is subject to change at the CGS's discretion. The establishment of a time or date in this bid does not create an obligation on the part of the CGS to take any action or create any right in any way for any Bidder to demand that any action be taken on the date established. The Bidder accepts that, if the CGS extends the deadline for bid submissions (the closing date) for any reason, the requirements of this bid will otherwise apply equally to the extended deadline.

5. CONTACT AND COMMUNICATION

- 5.1.** Bidders can nominate an official to make enquiries in writing on their behalf to the specified person, Ncumisa Yonke, via email nyonke@geoscience.org.za and/or by telephone at +27 12 841 1509. When making telephone enquiries, bidders must also send these enquiries in writing to the above email address.
- 5.2.** The designated office of the CGS may communicate with Bidders when something in the bid proposal needs clarification.
- 5.3.** Any communication to an official or a person acting in an advisory capacity for the CGS in respect of the bid between the closing date and the award of the bid by the Bidders is discouraged.
- 5.4.** All communication between the Bidders and the CGS must be done in writing.
- 5.5.** While all due care has been taken in connection with the preparation of this bid, the CGS makes no representations or warranties that the content of the bid or any information communicated or provided to Bidders during the bidding process is, or will be, accurate, current or complete. The CGS and its employees and advisors will not be liable with respect to any information communicated which may be inaccurate, not outdated or incomplete.
- 5.6.** If a Bidder finds or reasonably believes his/she has found any discrepancy, ambiguity, error or inconsistency in this bid or any other information provided by the CGS (other than minor clerical matters), he/she must promptly notify the CGS in writing of such discrepancy, ambiguity, error or inconsistency in order to afford the CGS an opportunity to consider what corrective action needs to be taken (if applicable).
- 5.7.** Any actual discrepancy, ambiguity, error or inconsistency in the bid or any other information provided by the CGS will, if possible and necessary, be corrected and provided to all Bidders without disclosing to the Bidders who provided the written notice.
- 5.8.** All persons (including Bidders) obtaining or receiving the bid and any other information in connection with the Bid or the Tender process must keep the contents of the bid and other such information confidential, and not disclose or use the information except as required for the purpose of developing a proposal in response to this Bid

6. LATE BIDS

Bids received after the closing date and time, at the address indicated in the bid documents, will not be accepted for consideration and, where practicable, will be returned unopened to the Bidder(s).

7. COUNTER CONDITIONS

Bidders' attention is drawn to the fact that amendments to any of the Bid Conditions or setting of counter conditions by Bidders or qualifying any Bid Conditions will summarily invalidate such bids.

8. FRONTING

8.1. Government supports the spirit of broad-based black economic empowerment (BBBEE) and recognises that real empowerment can only be achieved through individuals and businesses conducting themselves in accordance with the Constitution and in an honest, fair, equitable, transparent and legally compliant manner. Against this background, the Government condemns any form of fronting.

8.2. The Government, in ensuring that Bidders conduct themselves in an honest manner will, as part of the bid evaluation processes, conduct or initiate the necessary enquiries/investigations to determine the accuracy of the representation made in bid documents. Should any of the fronting indicators, as contained in the Guidelines on Complex Structures and Transactions and Fronting, issued by the Department of Trade and Industry, be established during such enquiry/investigation, the onus will be on the Bidder/Contractor to prove that fronting does not exist. Failure to do so within a period of fourteen (14) days from the date of notification may invalidate the bid/contract and may also result in the restriction of the Bidder/Contractor to conduct business with the public sector for a period not exceeding ten (10) years, in addition to any other remedies the CGS may have against the Bidder/Contractor concerned.

9. SUPPLIER DUE DILIGENCE

The CGS reserves the right to conduct supplier due diligence prior to the final award or at any time during the contract period. This may include site visits and requests for additional information. Bidders whose information cannot be confirmed or authenticated and who have

been found to have misrepresented information during the bidding process will be disqualified and restricted from doing work funded by National Treasury.

10. SCOPE OF WORK

The CGS manages several national geoscience facilities on behalf of the country including the National Borehole Core Depository (NBCD). The facility is a reference archive of curated borehole core, cuttings and geochemical samples representative of the South African geology and lithostratigraphy.

The day-to-day running of the National Borehole Core Depository is dependent on a number of activities for which operational equipment is required. Core trays and containers are handled and transported by means of pallets loaded on a forklift and then transferred to pallet jacks once they are retrieved from the shelves. With logging tables standing at a height of approximately 90cm, it becomes too labor intensive and unsafe to lift the core trays onto the tables.

The Council for Geoscience seek to procure electric pallet jacks and a 5-ton electric forklift for the National Borehole Core Depository (NBCD) to improve the service workload at the facility.

The equipment must be delivered to Plot 80 Rhenosterfontein and Mooiplaats Road, Donkerhoek, 0127.



Overview of the National Borehole Core Depository facility

11. TECHNICAL SPECIFICATION

ITEM NO.	TYPE	DESCRIPTION	QUANTITY
1.	Electric Forklift 	<i>4-wheel electric forklift</i> <i>Capacity: 5000 kg's</i> <i>Free Lift: 1085 mm</i> <i>Load Centre: 500 mm</i> <i>Fork Length: 1050 mm</i> <i>Lift Height: 4700 mm</i> <i>Collapsed Height: 2285 mm</i> <i>Solid tyres</i> <i>Indoor and outdoor use</i> <i>Battery 80 Volts 930 AH</i> <i>Charger 3 Phase 8 Hour</i> Maintenance Options • Equipment must include warranty from OEM Full Maintenance Contract for three (3) years.	1 (One)

ITEM NO.	TYPE	DESCRIPTION	QUANTITY
2.	Electric Pallet Jack 	<i>Capacity: 2000kg</i> <i>Load Centre: 600mm</i> <i>Overall Fork Width: 550/685mm</i> <i>Fork Length: 1150/1220mm</i> <i>Overall Length: 1552/1622mm</i> <i>Lowered Height of Forks: 82mm</i> <i>Max Lifting Height: 200mm</i> <i>Overall Height (With Tiller): 1276mm</i> <i>Rear Body Width: 550/685mm</i> <i>Minimum Turning Radius: 1353/1426mm</i> <i>Max Travel Speed (Laden): 4km/h</i> <i>Max Travel Speed (Unladen): 5km/h</i> <i>Gradeability (Laden): 6%</i> <i>Gradeability (Unladen): 20%</i> <i>Travelling DC: 1.0kw Brushless</i> <i>Lifting DC: 0.8kw</i> <i>Charger -Charging Time: 3 hours</i> <i>Battery 48V 10Ah Lithium-ion</i> Maintenance Options • Equipment must include warranty from OEM • Full Maintenance Contract for three (3) years.	2 (Two)

12. PRESENTATION/DEMONSTRATION

The CGS reserves the right to request presentations/demonstrations from the short-listed Bidders as part of the bid evaluation process.

13. EVALUATION APPROACH

All tender applications will be evaluated according to the following process:

1. Administrative evaluation (to determine whether the documentation has been completed correctly).
2. Mandatory evaluation
3. Price and specific goals

The CCGS retains the right not to award the tender to the lowest Bidder.

14. EVALUATION AND SELECTION CRITERIA

The CGS has set minimum standards (Gates) that a Bidder needs to meet in order to be evaluated and selected as a successful Bidder. The minimum standards consist of the following:

Administrative evaluation criteria (Gate 1)	Mandatory Evaluation Criteria (Gate 2)	Price and specific goals evaluation criteria (Gate 3)
Only bidders who have fully complied with the administrative requirements and who have submitted all the required documents will proceed to Gate 2.	Only bidders who complied 100% with all the requirements will be evaluated further on gate 3	Price and specific goals.

Table 1. Administrative documents that must be submitted.

Document that must be submitted	Non-submission may result in disqualification?	
Invitation to bid – standard bidding document (SBD) 1	YES	Complete and sign the supplied SBD 1 form.

Document that must be submitted	Non-submission may result in disqualification?	
Tax status	YES	i. Written confirmation that SARS may, on an on-going basis during the term of the contract, disclose the Bidder's tax compliance status. ii. Proof of registration on the Central Supplier Database.
SBD 3.1 Pricing schedule	YES	Complete and sign the supplied SBD 3.1 form.
Declaration of interest – SBD 4	YES	Complete and sign the supplied SBD 4 form.
Preference point claim form – SBD 6.1	YES	Complete and sign the supplied SBD 6.1 form.
Registration on the Central Supplier Database (CSD)	YES	The companies must be registered as a service provider on the CSD. If the Bidder is not registered, he/she must proceed to complete the registration of his/her company prior to submitting your proposal. The Bidder must https://secure.csd.gov.za/ to obtain his/her vendor number. Submit proof of registration.
Price breakdown (Quotation)	YES	Submit full details of the pricing proposal.

15. MANDATORY SPECIFICATION EVALUATION CRITERIA

NO	DESCRIPTION	MINIMUM SPECIFICATION	COMPLY	NOT COMPLY
1.	Electric Forklift	• 4-wheel electric forklift • Capacity: 5000 kg's • Fork Length: 1050 mm • Lift Height: 4700 mm • Collapsed Height: 2285 mm • Solid tyres • Indoor and outdoor use • Battery 80 Volts 930 AH • Charger 3 Phase 8 Hour Maintenance Options • Equipment must include warranty from OEM • Full Maintenance Contract for three (3) years.		
2.	Electric Pallet Jack	Capacity: 2000kg Load Centre: 600mm Fork Length: 1150/1220mm Max Lifting Height: 200mm Charger -Charging Time: 3 hours Battery 48V 10Ah Lithium-ion Maintenance Options • Equipment must include warranty from OEM • Full Maintenance Contract		
3.	Distributor Letter	Bidder must submit a letter confirming that they are authorised to distribute and maintain the electric forklift		

Only bidders who complied 100% with all the requirements above will be evaluated further for pricing and specific goals.

16. Pricing Schedule

Bidders are requested to use the information provided to develop and propose a model solution for the CGS and provide a breakdown of the pricing as follows:

Ref	Item Description	Quantity	Unit Cost (ZAR)	Price (ZAR)	Comments
1	Electric Forklift	1	R	R	
2	Electric Pallet Jack	2			
TOTAL Price					
Maintenance			Year one	Year two	Year three
Electric Forklift					
Electric Pallet Jack					

17. EVALUATION ON PRICE AND SPECIFIC GOALS

Stage 1 – Price evaluation (80 points)

The following formula will be used to calculate the points for price:

Criterion	Points
Price evaluation $P_s = 80 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$	80

Where:

- P_s = Points scored for comparative price of the bid under consideration.
 P_t = Comparative price of bid under consideration.
 $P_{\min}$ = Comparative price of lowest acceptable bid.

Stage 2 – Specific goals evaluation (20 points)**17.1. Specific goals points allocation**

A maximum of 20 points will be allocated to a Bidder for attaining the specific goal status level of the contributor in accordance with the table below:

Specific goals	Number of points
1. ≥51% black ownership	10
2. Woman ownership ≥30%	5
3. Youth	5

Specific goals points may be allocated to Bidders upon submission of the following documentation or evidence:

- A duly completed preference point claim form: standard bidding document (SBD 6.1); and
- Valid originally certified accredited SANAS BBBEE certificate, DTIC certificate or sworn affidavit.

Stage 3

(80 + 20 = 100 points)

The price and specific goals points will be consolidated.

18. DISQUALIFICATION OF BIDDERS

Bidders who do not meet the full mandatory requirements will be disqualified from the bidding process.

19. CANCELLATION AND MODIFICATION OF TENDER

The CGS reserves the right to cancel or modify this tender. Any decision to modify the tender document will be communicated to all prospective Bidders. Failure by Bidders to adhere to modifications or addendums will constitute a disqualification.

20. PAYMENTS

The CGS will only pay for products that meet the minimum quality standards as specified in this specifications document. The CGS pays 30 days after receipt of a correct tax invoice/statement.

21. TENDER COMMUNICATION

Technical and tender questions can be directed to Ms Ncumisa Yonke at nyonke@geoscience.org.za.

22. SUBMISSION OF PROPOSALS

Bid documents may either be couriered to 280 Pretoria Street, Silverton, Pretoria, 0001, OR placed in the tender box before the closing date and time.

Bid documents will only be considered if received by the CGS before the closing date and time, regardless of the method used to send or deliver such documents to the CGS.

Bidders are required to submit three (3) copies of each file, one (1) original and two (2) copies.

22.1. Joint ventures, consortiums and trusts

A trust, consortium or joint venture will qualify for points on specific goals as a legal entity, provided that the entity submits its consolidated BBBEE certificate.

Bidders must submit concrete proof of the existence of joint ventures and/or consortium arrangements. The CGS will accept signed agreements as acceptable proof of the existence of a joint venture and/or consortium arrangement.

The joint venture and/or consortium agreements must clearly set out the roles and responsibilities of the Lead Partner and the joint venture and/or consortium party. The agreement must also clearly identify the Lead Partner, who will be given the power of attorney to bind the other party/parties in respect of matters pertaining to the joint venture and/or consortium arrangement.

23. GENERAL CONDITIONS OF CONTRACT

Any award made to a Bidder/Bidders under this bid is conditional, amongst others, upon –

- a. The Bidder(s) accepting the terms and conditions contained in the General Conditions of Contract as the minimum terms and conditions upon which the CGS is prepared to enter into a contract with the successful Bidder(s).

- b. The Bidder(s) will submit the General Conditions of Contract to the CGS together with the bid, duly signed by an authorised representative of the Bidder.

24. CONTRACT PRICE ADJUSTMENT

Contract price adjustments will be done annually on the anniversary of the contract start date. The price adjustment will be based on Consumer Price Index Headline Inflation.

STATS SA P0141 (CPI), Table E	Table E – All Items
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25. SERVICE LEVEL AGREEMENT

- a. Upon award, the CGS and the successful Bidder will conclude a Service Level Agreement regulating the specific terms and conditions applicable to the services being procured by the CGS more or less in the format of the draft Service Level Indicators included in this tender pack.
- b. The CGS reserves the right to vary the proposed draft Service Level Indicators during negotiations with a Bidder by amending or adding thereto.
- c. Bidders are requested to:
- Comment on the draft Service Level Indicators and, where necessary, to make proposals in regard to indicators;
 - Explain each comment and/or amendment; and
 - Use an easily identifiable colour font or “track changes” for all changes and/or amendments to the Service Level Indicators for ease of reference.
- d. The CGS reserves the right to accept or reject any or all amendments or additions proposed by a Bidder/Bidders if such amendments or additions are unacceptable to the CGS or pose a risk to the organisation.

26. SPECIAL CONDITIONS OF THIS BID

The CGS reserves the right:

- a. To award this tender to a Bidder who has not scored the highest total number of points, only in accordance with section 2(1) (f) of the Preferential Procurement Policy Framework Act (no. 5 of 2000).
- b. To negotiate with one or more preferred Bidders identified in the evaluation process, regarding any terms and conditions, including price, without offering the same opportunity to any other Bidders who have not been awarded the status of the preferred Bidders.
- c. To accept part of a tender rather than the whole tender.
- d. To carry out site inspections, undertake product evaluations or hold explanatory meetings to verify the nature and quality of the services offered by the Bidders, whether before or after adjudication of the Bid.
- e. To correct any mistakes at any stage of the tender that may have been in the bid documents or that occurred at any stage of the tender process.
- f. To cancel and/or terminate the tender process at any stage, including after the closing date and/or after presentations have been made, and/or after tenders have been evaluated and/or after the preferred Bidders have been notified of the success or otherwise of the bid.
- g. Award the tender to multiple Bidders based either on size or geographic considerations.

27. COUNCIL FOR GEOSCIENCE REQUIRES BIDDERS TO DECLARE

In the Bidders' technical response, they are required to declare the following:

Confirm that the Bidders are to –

- a. Act honestly, fairly and with due skill, care and diligence in the interests of the CGS;
- b. Have and employ effectively the resources, procedures and appropriate technological systems for the proper performance of the services;
- c. Act with circumspection and treat the CGS fairly in a situation of conflicting interests;

- d. Comply with all applicable statutory or common law requirements pertaining to the conduct of business;
- e. Make adequate disclosures of relevant material information including disclosures of actual or potential own interests in relation to dealings with the CGS;
- f. Avoid fraudulent and misleading advertising, canvassing and marketing;
- g. Conduct their business activities with transparency and consistently uphold the interests and needs of the CGS as a client before any other consideration; and
- h. Ensure that any information acquired by the Bidders from the CGS will not be used or disclosed, unless the written consent of the client has been obtained to do so.

28. CONFLICT OF INTEREST, CORRUPTION AND FRAUD

The CGS reserves its right to disqualify any Bidder who either him/herself or any of whose members (with the exception of such members who hold a minority interest in the Bidder through shares listed on any recognised stock exchange), indirect members (being any person or entity who indirectly holds at least a 15% interest in the Bidder, other than in the context of shares listed on a recognised stock exchange), directors or members of senior management, whether in respect of [Institution name] or any other government organ or entity and whether from the Republic of South Africa or otherwise ("Government Entity")

- a. Engages in any collusive tendering, anti-competitive conduct or any other similar conduct including, but not limited to, any collusion with any other Bidder in respect of the subject matter of this bid;
- b. Seeks any assistance, other than assistance officially provided by a Government entity, from any employee, advisor or other representative of a Government entity in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to a Government entity;
- c. Makes or offers any gift, gratuity, anything of value or other inducement, whether lawful or unlawful, to any of CGS officers, directors, employees, advisors or other representatives;
- d. Makes or offers any gift, gratuity, anything of any value or other inducement, to any Government entity's officers, directors, employees, advisors or other

representatives in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to a Government Entity;

- e. Accepts anything of value or an inducement that would or may provide financial gain, advantage or benefit in relation to procurement or services provided or to be provided to a Government entity;
- f. Pays or agrees to pay to any person any fee, commission, percentage, brokerage fee, gift or any other consideration that is contingent upon or results from the award of any tender, contract, right or entitlement which is in any way related to the procurement or the rendering of any services to a Government entity;
- g. Has in the past engaged in any matter referred to above; or
- h. Has been found guilty in a court of law on charges of fraud and/or forgery, regardless of whether a prison term was imposed or whether such Bidder, member or director's name specifically appears on the List of Tender Defaulters kept at National Treasury.

29. MISREPRESENTATION DURING THE LIFE CYCLE OF THE CONTRACT

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

30. PREPARATION COSTS

The Bidder will bear all its costs associated with preparing, submitting and presenting any response or tender to this bid and all other costs incurred throughout the bid process. Furthermore, no statement in this bid will be construed as placing the CGS, its employees or

agents under any obligation whatsoever, including in respect of costs, expenses or losses incurred by the Bidders in the preparation of their response to this bid.

31. INDEMNITY

If a Bidder breaches the conditions of this bid and, as a result of that breach, the CGS incurs costs or damages (including, but without limitation to, the cost of any investigations, procedural impairment, repetition of all or part of the bid process and/or enforcement of intellectual property rights or confidentiality obligations), then the Bidder indemnifies and holds the CGS harmless from any and all such costs which the CGS may incur and for any damages or losses the CGS may suffer.

32. PRECEDENCE

This document will prevail over any information provided during any briefing session whether oral or written, unless the written information provided expressly amends this document by reference.

33. LIMITATION OF LIABILITY

A Bidder participates in this bid process entirely at its own risk and cost. The CGS will not be liable to compensate a Bidder on any grounds whatsoever for any costs incurred or any damages suffered as a result of the Bidder's participation in this bid process.

34. TAX COMPLIANCE

No tender will be awarded to a Bidder who is not tax compliant. The CGS reserves the right to withdraw an award made or to cancel a contract concluded with a successful Bidder in the event that it is established that such Bidder was not, in fact, tax compliant at the time of the award, or that he/she submitted a fraudulent information to the CGS or whose verification against the Central Supplier Database (CSD) proves non-compliant. CGS further reserves the right to cancel a contract with a successful Bidder in the event that such Bidder does not remain tax compliant for the full term of the contract.

35. TENDER DEFAULTERS AND RESTRICTED SUPPLIERS

No tender will be awarded to a Bidder whose name (or of any of its members, directors, partners or trustees) appears on the Register of Tender Defaulters kept by National Treasury, or who has been placed on National Treasury's List of Restricted Suppliers. The CGS reserves

the right to withdraw an award or cancel a contract concluded with a Bidder should it be established, at any time, that the Bidder has been blacklisted with National Treasury by another government institutions

36. GOVERNING LAW

South African law governs this bid and the bid response process. The Bidder agrees to submit to the exclusive jurisdiction of the South African courts in any dispute of any kind that may arise out of, or in connection with, the subject matter of this bid, the bid itself and all processes associated with the bid.

37. RESPONSIBILITY FOR SUBCONTRACTORS AND BIDDER'S PERSONNEL

A Bidder is responsible for ensuring that its staff (including agents, officers, directors, employees, advisors and other representatives), its subcontractors (if any) and staff of its subcontractors comply with all terms and conditions of this bid. In the event that the CGS allows a Bidder to make use of subcontractors, such subcontractors will at all times remain the responsibility of the Bidder and the CGS will not under any circumstances be liable for any losses or damages incurred by or caused by such subcontractors.

38. CONFIDENTIALITY

Except as may be required by operation of law, by a court or by a regulatory authority having the appropriate jurisdiction, no information contained in or relating to this bid or a Bidder's tender(s) will be disclosed by any Bidder or other person not officially involved with the CGS's examination and evaluation of a tender.

No part of the bid may be distributed, reproduced, stored or transmitted, in any form or by any means, electronic, photocopying, recording or otherwise, in whole or in part, except for the purpose of preparing a tender. This bid and any other documents supplied by the CGS remain proprietary to the CGS and must be promptly returned to the CGS upon request together with all copies, electronic versions, excerpts or summaries thereof or work derived there from.

Throughout this bid process and thereafter, Bidders must secure the CGS's written approval prior to the release of any information that pertains to (i) the potential work or activities to which this bid relates; or (ii) the process which follows this bid. Failure to adhere to this requirement may result in disqualification from the bid process and civil action.

39. COUNCIL FOR GEOSCIENCE PROPRIETARY INFORMATION

Bidders will in their bid cover letter make a declaration that they did not have access to any CGS proprietary information or any other matter that may have unfairly placed that Bidder in a preferential position in relation to any of the other Bidders.

40. AVAILABILITY OF FUNDS

Should funds no longer be available to pay for the execution of the responsibilities of this bid request for proposals, the CGS may terminate the Agreement at its own discretion or temporarily suspend all or part of the services by notice to the successful Bidder who will immediately make arrangements to stop the performance of the services and minimise further expenditure, provided that the successful Bidder will thereupon be entitled to payment in full for the services delivered up to the date of cancellation or suspension.

PRICING SCHEDULE – FIRM PRICES (PURCHASES)

NOTE: ONLY FIRM PRICES WILL BE ACCEPTED. NON-FIRM PRICES (INCLUDING PRICES SUBJECT TO RATES OF EXCHANGE VARIATIONS) WILL NOT BE CONSIDERED

IN CASES WHERE DIFFERENT DELIVERY POINTS INFLUENCE THE PRICING, A SEPARATE PRICING SCHEDULE MUST BE SUBMITTED FOR EACH DELIVERY POINT

Name of bidder.....	Bid number.....
Closing Time 11:00	Closing date.....

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

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

- | | | |
|---|--|--------------------------|
| - | Required by: | |
| - | At: | |
| | | |
| - | Brand and model | |
| - | Country of origin | |
| - | Does the offer comply with the specification(s)? | *YES/NO |
| - | If not to specification, indicate deviation(s) | |
| - | Period required for delivery | |
| | | *Delivery: Firm/not firm |
| - | Delivery basis | |

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

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

*Delete if not applicable

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

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

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

2. Bidder's declaration

- 2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling 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

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

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.

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

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.

institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.

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

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

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

.....
Signature

.....
Date

.....
Position

.....
Name of bidder

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

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

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

1. GENERAL CONDITIONS

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

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

1.2 Preference point system

The applicable preference point system for this tender is the **80/20** preference point system.

- a) The 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 Allocated preference points

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

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

2. DEFINITIONS

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

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

3.1.1 THE 80/20 PREFERENCE POINT SYSTEMS

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

80/20

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

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

- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
- (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system.

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

Note to tenderers: The tenderer 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)
1. 51% or more black Ownership. (Submit a valid certified Accredited SANAS or DTI B-BBEE certificate or sworn affidavit as supporting document)	10	
2. 30% or more black women ownership (Submit a valid certified Accredited SANAS or DTI B-BBEE certificate or sworn affidavit as supporting document)	5	
3. Youth (Submit a valid certified identity document)	5	

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

Non-Profit Company
State Owned Company
[TICK APPLICABLE BOX]

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

.....
SIGNATURE(S) OF TENDERER(S)

SURNAME AND NAME:

DATE:

ADDRESS:

.....

.....

.....

THE NATIONAL TREASURY

Republic of South Africa



GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT

July 2010

GOVERNMENT PROCUREMENT
GENERAL CONDITIONS OF CONTRACT
July 2010

NOTES

The purpose of this document is to:

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

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

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

TABLE OF CLAUSES

1. Definitions
2. Application
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5. Use of contract documents and information; inspection
6. Patent rights
7. Performance security
8. Inspections, tests and analysis
9. Packing
10. Delivery and documents
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14. Spare parts
15. Warranty
16. Payment
17. Prices
18. Contract amendments
19. Assignment
20. Subcontracts
21. Delays in the supplier's performance
22. Penalties
23. Termination for default
24. Dumping and countervailing duties
25. Force Majeure
26. Termination for insolvency
27. Settlement of disputes
28. Limitation of liability
29. Governing language
30. Applicable law
31. Notices
32. Taxes and duties
33. National Industrial Participation Programme (NIPP)
34. Prohibition of restrictive practices

General Conditions of Contract

1. Definitions

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

RSA.

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

obligations of the supplier covered under the contract.

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

2. Application

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

3. General

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

4. Standards

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

5. Use of contract documents and information; inspection.

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

6. Patent rights

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

7. Performance security

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

8. Inspections, tests and analyses

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

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

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

9. Packing

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

10. Delivery and documents

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

11. Insurance

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

12. Transportation

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

13. Incidental services

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

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

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

14. Spare parts

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

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

15. Warranty

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

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

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

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

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

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

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

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

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

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

22. Penalties

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

23. Termination for default

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

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

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

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

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

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

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

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

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

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

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

24. Anti-dumping and countervailing duties and rights

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

may be due to him

**25. Force
Majeure**

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

**26. Termination
for insolvency**

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

**27. Settlement of
Disputes**

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

**28. Limitation of
liability**

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

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

Js General Conditions of Contract (revised July 2010)