the dr&pw
Department:
Roads And Public Works
NORTHERN CAPE PROVINCE
REPUBLIC OF SOUTH AFRICA

NORTHERN CAPE PROVINCE

DEPARTMENT OF ROADS & PUBLIC WORKS

PROCUREMENT DOCUMENTS FOR

APPOINTMENT OF A PANEL OF LEGAL SERVICES PROVIDERS FOR A PERIOD OF FIVE YEARS(05) AS AND WHEN REQUIRED

AT

BID NO: DRPW 007/2023

Project Manager DRPW: Mr V Sidumo

SUBMISSION IS FOR THE FOLLOWING PANEL/S

PLEASE TICK THE APPROPRIATE BOX BELOW, YOU MAY SUBMIT FOR ALL PANELS

PANEL OF CIVIL LITIGATORS	PANEL OF CONVEYANCERS	PANEL OF DRAFTING OF AL CONTRACTS	PANEL OF LABOUR AND EMPLOYMENT LAW
	SERVICES PROVIDER NAME: ______________________________ SIGNATURE: ____		

Document can be downloaded at this website:

https://www.etenders.gov.za

http://ncrpw.ncpg.gov.za

It is bidder's responsibility to download and submit complete bid document

TABLE OF CONTENDS

the dr&pw
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REPUBLIC OF SOUTH AFRICA

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (*NAME OF DEPARTMENT/ PUBLIC ENTITY*)					
BID NUMBER:	DRPW007/2023	CLOSING DATE:	08/09/2023	CLOSING TIME:	11h00AM
DESCRIPTION	NORTHERN CAPE REQUEST FOR PROPOSAL FOR APPOINTMENT OF PANEL OF LEGAL SERVICES PROVIDERS FOR A PERIOD OF FIVE YEARS				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT ***(STREET ADDRESS)***					
DEPARTMENT OF ROADS AND PUBLIC WORKS, 9/11 STOKROOS STREET, TEBOGO LEON TUME COMPLEX					
SQUAREHILL PARK					
KIMBERLEY,8301					

BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO		**TECHNICAL ENQUIRIES MAY BE DIRECTED TO:**	
CONTACT PERSON	MR V SIDUMO	CONTACT PERSON	MR V SIDUMO
TELEPHONE NUMBER	0538392628	TELEPHONE NUMBER	0538392628
FACSIMILE NUMBER		FACSIMILE NUMBER	
E-MAIL ADDRESS	**vsidumo@ncpg.gov.za**	E-MAIL ADDRESS	**vsidumo@ncpg.gov.za**

SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		**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: ……………………..……………………………

IMPORTANT NOTICE: DOCUMENT AVAILABILITY

PLEASE NOTE THAT THIS BID CLOSES AT TEBOGO LEON TUME COMPLEX AT 9 -11 STOCKROSS STREET, SQUAREHILL, KIMBERLEY, 8301

TAKE NOTE - BIDDERS WHO WISH TO MAKE USE OF SPEED SERVICES MUST MARK DELIVERY "TO COUNTER" AND NOT "TO PRIVATE BAG/BOX" ON THE STICKER. BIDDERS MUST ALSO CONTACT THE OFFICE, STATING THEIR TRACKING NUMBER OF THE BID DOCUMENT.

BID DOCUMENTS DEPOSITED ANYWHERE ELSE WILL BE REGARDED AND TREATED AS LATE BID

THE BID DOCUMENT IS AVAILABLE ON THE FOLLOWING WEBSITES

https://www.etenders.gov.za or http://ncrpw.ncpg.gov.za

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1. ASSESSMENT AND EVALUATION PROCESS

The tender will be a two envelop system which is **FUNCTIONALITY AND PRICE**. For price bidders are required to **submit pricing schedule for the various disciplines in the pricing envelop.** Each Proposal will undergo an intensive assessment and evaluation process by the Department namely:

1.1 Administrative Compliance Assessment

The Administrative Compliance stage of assessment includes, or requires that:

1.1.1 Administrative Compliance Check that assesses whether all the submitted proposals have observed all the rules and protocols set out in this TENDER.

1.1.2 Has the respondent submitted all documents as outlined in the requirements of the TENDER.

1.1.3 Eligibility Compliance Check which assesses whether the respondent have passed the minimum requirements as out in section 4 of this tender.

1.1.4 It is compulsory that the Respondent meet the following minimum requirements. If a respondent does not meet these following minimum requirements, they will automatically be disqualified:

Should the Respondent not meet the minimum requirements reviewed as part of the Administrative Checks, then such Respondent shall be disqualified from the Tender process and no further evaluation shall take place. Respondents that meet the minimum requirements for Stage 1 shall proceed to be evaluated in accordance with Stage 2 criteria - Technical Compliance Assessment.

2. Technical Compliance Assessment

The Technical Compliance Assessment stage of the evaluation process includes or requires that:

2.1 The Respondent will be assessed for technical compliance.

2.2 Technical compliance will be assessed based on functionality assessment criteria below the document. Respondents scoring below 70 of the points will be disqualified and will not be eligible for further evaluation or consideration.

- Failure to comply with above requirements will result in automatic disqualification of the bidder.
- DRPW reserves the right to withdraw any invitation to tender and/or re-advertise or to reject any tender or to accept a part of it. DRPW does not bind itself to accepting any tender.

3. TERMS AND CONDITIONS

This Invitation to Tender has been compiled by the DRPW. It is being made available, on the same basis, to all Tenders. Tenderers submitting a Tender in response to this invitation will be deemed to do so on the basis that they acknowledge and accept the terms set out below:

3.1 The Tenderer’s attention is specifically drawn to the fact that appointment to the panel of attorneys will not necessarily result in the Tenderer receiving instructions from the DRPW. The DRPW shall endeavor to instruct the firms on its panel of attorneys on a rotational basis and or based on technical experience required in the field of service.

3.2 DRPW reserves the right to subject Tenderers and their facilities to assessment as part of the evaluation process or as a condition to be appointed to the panel of attorneys.

3.3 The DRPW reserves the right to amend, modify or withdraw this Invitation to Tender or amend, modify or terminate any of the procedures or requirements set out herein at any time and from time to time, without prior notice and without liability to compensate or reimburse any person.

3.4 Neither the DRPW nor any of their respective directors, officers, employees, agents, representatives or advisors will assume any obligation for any costs or expenses incurred by any party in or associated with preparing or submitting a Tender in response to the Invitation to Tender.

3.5 Any material change in the control and/or composition of any Tenderer or any core member of a Tenderer after submission of a Tender, shall require the prior written approval of the DRPW, and any failure to seek such approval from the DRPW shall result in the DRPW being entitled, in its sole discretion, to exclude the relevant Tenderer from any further participation in the Tender process. The DRPW shall be the sole arbiter as to what constitutes a “material change in the control and/or composition of any Tenderer’, and as to what constitutes a “core member of a Tenderer’ for purposes of such approval. Any request for such approval shall be made to the DRPW in writing and shall provide sufficient reasons and information to allow the DRPW to make a decision. The DRPW reserves the right to accept or reject any such request for approval in its sole discretion.

3.6 Any requirement set out in this Tender that stipulates the form and/or content of any aspect of a Tender, is stipulated for the sole benefit of the DRPW, and save as expressly stated to the contrary, may be waived by the DRPW in its sole discretion at any stage in the Tender process.

3.7 The DRPW and its advisors may rely on a Tender as being accurate and comprehensive in relation to the information and proposals provided therein by the Tenderers.

3.8 All Tenders submitted to the DRPW will become the property of the DRPW and will as such not be returned to the Tenderer. Proprietary information should be identified as such in each proposal.

3.9 If the DRPW amends this Tender, the amendment will be sent to each Tenderer in writing. No oral amendments by any person will be considered or acknowledged.

3.10 This document is released for the sole purpose of responding to this Tender and must be considered confidential. In addition, the use, reproduction or disclosure of the requirements, specifications or other material in this Tender is strictly prohibited.

3.11 Only legal practices established and registered in accordance with the provisions of the Attorneys Act, 1979 (Act No. 53 of 1979 as amended) will be considered for this Tender.

3.12 The requirements of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) and Preferential Procurement Regulation 2022 will be applicable to the selection process in respect of this Tender.

4. **The following conditions in the Tender Data below shall apply to this tender:**

4.1 Tender Data

4.1.1 Communication and Employer's Agent

Attention is drawn to the fact that verbal information, given by the Employer's Agent during site visits / clarification meetings or at any other time prior to the award of the Contract, will not be regarded as binding on the Employer. Only information issued formally by the Employer's Agent in writing to Tenderers will be regarded as amending

the Tender Document.

The Employer's Agent is: Name: Mr V Sidumo
9/11 Stokroos Street
Squarehill Park
KIMBERLEY, 8300
Tel.: (053) 8392268
E-mail: vsidumo@ncpg.gov.za

4.1.2 Tenderer's Obligations

4.1.2.1 Eligibility

Only those tenderers who satisfy the following eligibility criteria are eligible to submit tenders:

- The firm must provide a confirmation letter of good standing from Legal Practice Council (LPC) of South Africa for the firm, issued within two months of the closure of the tender date;
- The firm must submit valid certified copies of Fidelity fund certificates for all Directorship/Partnership.
- The firm must provide the certificates of admission to practice as a legal practitioner for all professional legal practitioners.
- The firm must submit fully completed and signed SBD 1 and 4.
- All proposed professional legal key personnel (as per organogram) must be registered with the relevant statutory/professional body and must submit proof of registration e.g. Legal Practice Council (LPC) etc.

- The bidder is required to submit a proof of business address e.g. utility bill or lease agreement or proof of ownership, equivalent proof of address etc.

Note:

- The bidder/s who's listed on National Treasury list of restricted suppliers will be disqualified.
- If any of its Directors are Listed on the Register of Defaulters will be disqualified.

Any bidder/s who failed to meet the above requirements will be disqualified.

4.1.3 Clarification Meeting

No clarification meeting or compulsory briefing session.

4.1.4 Tax Clearance Certificate

- Tenderers shall be registered and in good standing with the South African Revenue Service (SARS) on CSD, if non-compliant, the tenderer must submit evidence from SARS informing the Department of why it is non-compliant and when is the estimated resolution.
- The bidder is required to submit a Tax Compliant Pin Letter issued by the South African Revenue Services (SARS).
- The BBBEE certificate will only be used for your identifying your level of BBBEE but will not be used for scoring on the 80:20, specific goals will be used for scoring.

4.1.5 Opening of Tender Submissions

Tenders will not be opened immediately after the closing time for receipt of tenders.

4.1.65 The Tender Validity period is 120 days from the closing date

4.1.7 Evaluation of Tender Offers

Functionality will be scored and a minimum of 70 out of the possible 100 is required to be evaluated any further.

In terms of DRPW Specific Goals, preference points must be awarded to a bidder in accordance with the table below:

4.1.8 Risk Analysis

The employer will perform a risk analysis in respect of the following:

a) the Tenderer's ability to fulfil its obligations in terms of the tender document, that is, that the Tenderer can demonstrate that he/she possesses the necessary professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience, reputation, personnel to perform the contract, etc.

No Tenderer will be recommended for an award unless the Tenderer has demonstrated that he/she has the resources and skills required.

4.1.9 Acceptance of panel

The Employer does not bind itself to accepting any tender, Tender offers will only be accepted if:

(a) the Tenderer is registered and in good standing with the South African Revenue Service (SARS) and has submitted evidence in the form of an original valid Tax Clearance Certificate (for tender) issued by SARS or poof hat he or she has made arrangements with SARS to meet his or her outstanding tax obligations; (CSD) will be used to validate tax matters at appointment stage)

(b) the Tenderer or any of its Directors is not listed on the Register of Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector;

(c) the Tenderer has not:

- (i) abused the Employer's Supply Chain Management System; or
- (ii) failed to pay municipal rates and taxes or service charges as applicable at the Tenderer's Head Office Municipality and such rates, taxes and charges are in arrears for more than three months.

4.1.10 Notice to unsuccessful Tenderers

The Employer will publish the award of the advertised competitive bid on the e-Tender Publication Portal.

4.1.11 Invalid tenders

Tenders shall be considered invalid and shall be endorsed and recorded as such in the tender opening record, by the responsible official who opened the tender, in the following circumstances:

(a) If the tender is not completed in non-erasable black ink;

(b) The name of the Tenderer is not stated or is indecipherable.

4.1.12 Combating abuse of the Supply Chain Management Policy

In terms of the Supply Chain Management Policy, the Employer may reject the tender of any Tenderer if that Tenderer or any of its directors has:

a) failed to pay municipal rates and taxes or municipal service charges and such rates, taxes and charges are in arrears for more than three months:

b) failed, during the last five years, to perform satisfactorily on a previous contract with the Employer or any other organ of state after written notice was given to that Tenderer that performance was unsatisfactory.

c) abused the supply chain management system of the Employer or has committed any improper conduct in relation to this system.

d) been convicted of fraud or corruption during the past five years.

e) willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or been listed with the Register of Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004) or has been listed on National Treasury's database as a person or juristic entity prohibited from doing business with the public sector.

In this regard, Tenderers shall complete Schedules 3 as well as 5, Part T2.2: Returnable Schedules: Certificate of Independent Tender Determination and Declaration in terms of the Municipal Finance Management Act. Failure to complete these schedules may result in the tender not being considered.

4.1.13 Cost of tendering

Accept that, unless otherwise stated in the Tender Data, the Employer will not compensate the Tenderer for any costs incurred in the preparation and submission of a tender offer, including the costs of any testing necessary to demonstrate that aspects of the offer complies with requirements.

5. LIST OF RETURNABLE DOCUMENTS

Returnable Documents marked with an X in the Yes column must be completed and submitted with the bid, failure to comply with the requirements may invalided your bid

No	Returnable Document	Yes	No
	RETURNABLES DOCUMENTS FOR EVALUATION PURPOSE		
	MANDATORY RETURNABLE DOCUMENTS		
1	Authority to Sign the Bid	X	
2	Confirmation of Receipt of Addenda to Tender Documents (If applicable)	X	
3	Certified Copy of Company/Registration Documents	X	
4	Individual CVs with valid certified copies of Certificates of admission and Qualifications for lead attorneys which must include the following expertise in General litigation/Labour experience and General legal advisory services	X	
5	List of all Shareholders/Directors and Key staff with ID copies	X	
6	Reference letter from previous clients where general litigation and advisory services were provided in the last five years.	X	
7	Reference letter/s from previous clients where legal services were provided in the last five years.	X	
8	Provide proof of Offices business address (utility bill or lease agreement or proof of ownership)	X	
9	If two or more *tenderers* form a joint venture, consortium or other unincorporated grouping of two or more persons (“joint venture”), a copy of the joint venture agreement entered into between the partners	X	
11	Company profile with an Organogram, which includes at least the following levels, Directors/ Partners, Senior Associates, Professional Assistants and Admin Support	X	
12	Fully completed and signed SBD 1 – Invitation to Bid	X	
13	Fully completed and signed - Bidder’s Disclosure (SBD 4)	X	
14	The firm must provide a confirmation letter of good standing from Legal Practice Council (LPC) of South Africa for the firm, issued within two months of the closure of the tender date;	X	
15	Key Personnel certified copies of qualifications	X	
	The firm must submit valid certified copies of Fidelity Fund Certificates for all Directorship/Partnership	X	
16	The firm must provide the certificates of admission to practice as a legal practitioner for all professional legal practitioners	X	
17	Proposed professional legal key personnel (as per organogram) must be registered with the relevant statutory/professional body e.g. Legal Practice Council (LPC) etc.	X	

RESOLUTION OF BOARD OF DIRECTORS (ignore if Certificate of Authority is attached)

RESOLUTION of a meeting of the Board of *Directors / Members / Partners of:

____

____

(legally correct full name and registration number, if applicable, of the Enterprise)

Held at ____ *(place)*

On ____ *(date)*

RESOLVED that:

1. The Enterprise submits a Bid / Tender to the DEPARTMENT OF ROADS & PUBLIC WORKS in respect of the following project:

DRPW 007/2023: APPOINTMENT OF A PANEL OF ATTORNEYS FOR FIVE (5) YEARS TO PROVIDE LEGAL SERVICES

Bid / Tender Number: DRPW 007/2023 *(Bid / Tender Number as per Bid / Tender Document)*

2. *Mr/Mrs/Ms:

____

in *his/her Capacity as: : ____(*Position in the Enterprise)*

and who will sign as follows: ____
be, and is hereby, authorised to sign the Bid / Tender, and any and all other documents and/or correspondence in connection with and relating to the Bid / Tender, as well as to sign any Contract, and any and all documentation, resulting from the award of the Bid / Tender to the Enterprise mentioned above.

	Name	Capacity	Signature
1			
2			
3			
4			

Note:

1. ** Delete which is not applicable*
2. ***NB**. This resolution must be signed by all the Directors / Members / Partners of the Bidding Enterprise*
3. *Should the number of Directors / Members/Partners exceed the space available above, additional names and signatures must be supplied on a separate page*

ENTERPRISE STAMP

RESOLUTION OF BOARD OF DIRECTORS TO ENTER INTO CONSORTIA OR JOINT VENTURES

RESOLUTION of a meeting of the Board of *Directors / Members / Partners of:

____

____

(*Legally correct full name and registration number, if applicable, of the Enterprise)*

Held at ____ (*place)*

On ____ (*date)*

RESOLVED that:

3. The Enterprise submits a Bid /Tender, in consortium/Joint Venture with the following Enterprises:

   ____

   ____

   (List all the legally correct full names and registration numbers, if applicable, of the Enterprises forming the Consortium/Joint Venture)

   to the DEPARTMENT OF ROADS & PUBLIC WORKS in respect of the following project:

   DRPW 007/202023: APPOINTMENT OF A PANEL OF ATTORNEYS FOR FIVE (5) YEARS TO PROVIDE LEGAL SERVICES

   (*Project description as per Bid /Tender Document)*

   Bid / Tender Number: DRPW 007/2023 (*Bid / Tender Number as per Bid /Tender Document)*

4. *Mr/Mrs/Ms:
   ____

   in *his/her Capacity as: ____*(Position in the Enterprise)*

   and who will sign as follows: ____

   be, and is hereby, authorised to sign a consortium/joint venture agreement with the parties listed under item 1 above, and any and all other documents and/or correspondence in connection with and relating to the consortium/joint venture, in respect of the project described under item 1 above.

5. The Enterprise accepts joint and several liability with the parties listed under item 1 above for the due fulfilment of the obligations of the joint venture deriving from, and in any way connected with, the Contract to be entered into with the Department in respect of the project described under item 1 above.
6. The Enterprise chooses as its *domicilium citandi et executandi* for all purposes arising from this joint venture agreement and the Contract with the Department in respect of the project under item 1 above:

   Physical address: ________________________________

   ____

   ____

the dr&pw
Department:
Roads And Public Works
NORTHERN CAPE PROVINCE
REPUBLIC OF SOUTH AFRICA

__________________________ (code)

Postal Address: ________________________________

____

____

__________________________ (code)

Telephone number: __________________________ (code)

Fax number: _______________________________ (code)

	Name	**Capacity**	**Signature**
1			
2			
3			
4			
5			

Note:

1. * *Delete which is not applicable*
2. ***NB**. This resolution must be signed by all the Directors / Members / Partners of the Bidding Enterprise*
3. *Should the number of Directors / Members/Partners exceed the space available above, additional names and signatures must be supplied on a separate page*

ENTERPRISE STAMP

SPECIAL RESOLUTION OF CONSORTIA OR JOINT VENTURES

RESOLUTION of a meeting of the duly authorised representatives of the following legal entities who have entered into a consortium/joint venture to jointly bid for the project mentioned below: (*legally correct full names and registration numbers, if applicable, of the Enterprises forming a Consortium/Joint Venture)*

	Name	Capacity	Signature
1			
2			
3			
4			
5			

Held at ____ (*place)*

On ____ *(date)*

RESOLVED that:

A. The above-mentioned Enterprises submit a Bid in Consortium/Joint Venture to the DEPARTMENT OF ROADS & PUBLIC WORKS in respect of the following project:

____

____
(*Project description as per Bid /Tender Document)*

Bid / Tender Number: DRPW 007/2023 (*Bid / Tender Number as per Bid /Tender Document)*

B. Mr/Mrs/Ms:
____

in *his/her Capacity as:____________________________________*(Position in the Enterprise)*

and who will sign as follows: ____

be, and is hereby, authorised to sign the Bid, and any and all other documents and/or correspondence in connection with and relating to the Bid, as well as to sign any Contract, and any and all documentation, resulting from the award of the Bid to the Enterprises in Consortium/Joint Venture mentioned above.

C. The Enterprises constituting the Consortium/Joint Venture, notwithstanding its composition, shall conduct all business under the name and style _____________________________________

D. The Enterprises to the Consortium/Joint Venture accept joint and several liability for the due fulfilment of the obligations of the Consortium/Joint Venture deriving from, and in any way connected with, the Contract entered into with the Department in respect of the project described under item A above.

E. Any of the Enterprises to the Consortium/Joint Venture intending to terminate the consortium/joint venture agreement, for whatever reason, shall give the Department 30 days written notice of such intention. Notwithstanding such decision to terminate, the Enterprises shall remain jointly and severally liable to the Department for the due fulfilment of the obligations of the Consortium/Joint Venture as mentioned under item D above.

F. No Enterprise to the Consortium/Joint Venture shall, without the prior written consent of the other Enterprises to the Consortium/Joint Venture and of the Department, cede any of its rights or assign any of its obligations under the consortium/joint venture agreement in relation to the Contract with the Department referred to herein.

G. The Enterprises choose as the *domicilium citandi et executandi* of the Consortium/Joint Venture for all purposes arising from the consortium/joint venture agreement and the Contract with the Department in respect of the project under item A above:

Physical address: ________________________________

____

__________________________ (code)

Business address: ________________________________

____

____

__________________________ (code)

Postal Address: ________________________________

____

____

Telephone number: __________________________ (code)

Fax number: __________________________ (code)

	Name	Capacity	Signature
1			
2			
3			
4			
5			

Note:

1. ** Delete which is not applicable*
2. ***NB**. This resolution must be signed by <u>all</u> the Duly Authorised Representatives of the Legal Entities to the ConsortiumJoint Venture submitting this Bid*
3. *Should the number of Duly Authorised Representatives of the Legal Entities joining forces in this Bid exceed the space available above, additional names and signatures must be supplied on a separate page*
4. *Resolutions, duly completed and signed, from the separate Enterprises who participate in this Consortium/Joint Venture must be attached to the Special Resolution.*

6.CAPACITY OF TENDERER

1. **WORK CAPACITY:** *(The Tenderer is requested to furnish the following particulars, attach additional pages if more space is required. Failure to furnish the particulars may result in the Tender being disregarded.)*

CVs of Proposed Key Persons, Qualifications & Competencies of Key Staff	

Please describe the management arrangements for the required scope.

You are requested to include:

1. An organisation chart showing onsite and off-site management

2. CVs proposed project team.

3. An explanation of how you propose to allocate adequate resources to enable you to comply with the requirements and prohibitions imposed on you by or under the statutory provisions relating to health and safety.

Summary of Items attached to this schedule

Signed _______________________________ Date_______________________

Name of tenderer______________________ Position ____________________

the dr&pw
Department:
Roads And Public Works
NORTHERN CAPE PROVINCE
REPUBLIC OF SOUTH AFRICA

2. PARTICULARS OF COMMITMENTS WHICH THE TENDERER HAS PREVIOUSLY COMPLETED AND PRESENTLY ENGAGED WITH:

Current Projects relating to Legal Services (please attach annexure if space is insufficient) (IF APPLICABLE)

Project	Place (town)	Reference / Contact person	Contact Tel. No.	Contract amount	Contract period	Date of commenc e-ment	Scheduled date of completion

3. Previous projects related to Legal Services (please attach annexure if space is insufficient) (IF APLICABLE)

Project	Place (town)	Reference / Contact person	Contact Tel. No.	Contract amount	Contract period	Start Date	End Date

Name of Bidder	Signature as per resolution of board directors	Date

TAX REQUIREMENTS

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

It is therefore essential to ensure that the person conducting business with the state are tax compliant at the awarding of price quotations or competitive bids as no price quotation or competitive bid may be awarded to persons who are not tax compliant

National Treasury Regulation 16A9.1 (d) requires an Accounting Office and Accounting Officer to reject any bid from a supplier who fails to provide written proof from the South African Revenue Service that, that supplier either has no tax obligations or has made arrangements to meet outstanding tax obligations

The Central Supplier database and tax compliance status PIN are approved methods that will be utilized to verify tax compliance as the SARS does not issue Tax Clearance Certificates but has made an online provision available, via eFiling, for bidder to print their own TCC which they can submit with their bids or price quotations

Where the recommended bidder is not tax compliant, the bidder will be notified in writing of their non-compliance status and will be granted seven calendar days, the bidder must then provide the procuring entity with proof of its tax compliance status, which will be verified on CSD or eFiling.

The Accounting Officer and Accounting Authority will reject a bid submitted by the bidder if such a bidder fails to provide proof of tax compliance status in terms of above.

Bidders are required to indicate their eFiling pin number, for the purpose of Tax Clearance Certificate / or Tax Complaint status verification

the dr&pw
Department:
Roads And Public Works
NORTHERN CAPE PROVINCE
REPUBLIC OF SOUTH AFRICA

IMPORTANT NOTICE

PLEASE NOTE THE FOLLOWING:
WITH REFERENCE TO THE ATTACHED NCP 4:

1. The notes refer inhere, should be read in conjunction with the NCP 4 Questionnaire document.

2. It should be noted that the NCP4 Questionnaire serve as a tool to determine any conflict of interest that might rise, between the State and the Prospective bidder, or prospective bidder with other bidders bidding for the same project, or bidders with state officials who are part of the evaluation or adjudication process, or bidders with the other company/ business which does not bid for the same bid.

3. Bidders who fails to complete this questionnaire, to their best knowledge and in full, will result the bid being non responsive (Non Complaint). It should be noted that information furnished by bidder in response to NCP4 Questionnaire, its regarded as correct and true information, if it is found and proofing the state that the information provided by the bidder is not correct and not true, the state will regard the information as the intention of the bidder to mislead the state in the process of evaluating and adjudicating the bidder, therefore will render the bid being non responsive or non-complaint.

4. In case where the information furnished by the bidder in response to NCP4 Questionnaires is false, and its only realised after the bid has been awarded to the bidder, the state will take legal actions against the bidder, of which remedial action could be-:

    a. Payment of penalties determine by court
    b. Cancellation of the Project awarded
    c. Listing of the Bidder and its Directors on National Treasury Database of Restricted Bidders.

5. Bidders are advised to mark only the correct or applicable answer to the questions, and the other option/ answer must be left unmarked. This relates to answering Yes Or No Questions.

Paragraph 2 (2.1 - 2.1.1)
Please note that "the state" means:

(a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
(b) any municipality or municipal entity;

(c) provincial legislature;
(d) national Assembly or the national Council of provinces; or
(e) Parliament.

- "Shareholder" means a person who owns shares in the company and is actively involved in the management of the enterprise or business and exercises control over the enterprise.
- The department is at liberty to use the current project as reported in the bid document to confirm responses on this paragraph as well as any other means of information available.
- Previous Twelve months in this context, is calculated back from the closing date of the bid to the same date, month of the previous year.
- The bidder should disclose any work done for the state in this period.

Paragraph 2.3

- Please note that "Any interest in any other related companies " in this context, means any business shares, directorship of directors/shareholders of the bidding company in other entity, company, business, that should be disclosed.

- The department is at liberty to use CIPC to confirm any interest in any other related companies.

- Please ensure that the document is fully completed, that is, if a paragraph/question (2.1 to 2.6) is not applicable to you indicate "N/A". Please tick or circle the correct answer when responding to paragraph/questions 2.7 to 2.11, and provide information on allocated spaces ONLY (if applicable).

SHOULD YOU BE INVOLVED IN A JOINT VENTURE, BOTH PARTIES MUST FULLY DECLARE INTEREST. PLEASE ENSURE THAT YOU ARE AWARE OF ALL INTERESTED PERSONS WHO SHOULD DECLARE INTEREST.

THIS REQUEST IS MADE FOR THE SAKE OF TRANSPARANCY AND THE TIMEOUS CONCLUSION OF BIDS

****

BIDDER'S DISCLOSURE (SBD4)

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 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:
……………………………………………………………………………….
……………………………………………………………………………….

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.

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 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

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.

7.THE DEPARTMENT ROADS AND PUBLIC WORKS SPECIFIC GOAL DETERMINATION

For 80/20 preference point system;

80/20 preference point system for acquisition of goods or services with Rand value equal to or below R50 million

i. The following formula must be used to calculate the points out of 80 for price in respect of an invitation for a tender with a Rand value equal to or below R50 million, inclusive of all applicable taxes:

Ps = 80(1-Pt – P min)
P min

Where

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

ii. A maximum of 20 points may be awarded to a tenderer for the specific goals specified for the tender.

iii. The points scored for the specific goal must be added to the points scored for the price and the total must be rounded to the nearest two decimal places.

iv. Subject to section 2(1)(f) of the Preferential Procurement Policy Framework Act, 2000, the contract must be awarded to the tenderer scoring the highest points.

The following table must be used to calculate the score out of 20 for specific goals: Specific Goals:

Specific Goals	Number of Points
At leas fifty one per cent (51%) or more black owned companies	10
At leas fifty one per cent (51%) or more women owned companies	5
At leas fifty one per cent (51%) or more youth owned companies	3
At leas fifty one per cent (51%) or more disabled owned companies	2
Maximum Point to Claim	20

NB: To substantiate the points claim above the must to submit proof of its B-BBEE status level of contributor.

Attache a certified true copy of the original BBBEE sworn affidavit certificate or CIPC printout or SANAS Accredited certificate certified.

These certificates will be used to substantiate your points claimed as illustrated in the table above.

SBD 6.1

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

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

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

---

1. GENERAL CONDITIONS

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

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

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

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

a) ~~The applicable preference point system for this tender is the 90/10 preference point system.~~

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

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

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

(a) Price; and

(b) Specific Goals.

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

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	80
SPECIFIC GOALS	20
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 OR 90/10 PREFERENCE POINT SYSTEMS

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

80/20 **or** **90/10**

$$Ps = 80\left(1 - \frac{Pt - P\,min}{P\,min}\right) \quad \text{or} \quad Ps = 90\left(1 - \frac{Pt - P\,min}{P\,min}\right)$$

Where

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

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

3.2.1. POINTS AWARDED FOR PRICE

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

80/20 or **90/10**

$$Ps = 80\left(1 + \frac{Pt - P\,max}{P\,max}\right) \text{ or } \qquad Ps = 90\left(1 + \frac{Pt - P\,max}{Pmax}\right)$$

Where:

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmax = Price of highest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:

4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—

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

(b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,

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

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

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

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

The specific goals allocated points in terms of this tender	Number of points allocated (90/10 system) (To be completed by the organ of state)	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (90/10 system) (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)
COLUMN	1	**2**	3	**4**
		80		MAX 20
At leas fifty one per cent (51%) or more black owned companies = 10	N/A		N/A	
At leas fifty one per cent (51%) or more women owned companies = 5	N/A		N/A	
At leas fifty one per cent (51%) or more youth owned companies = 3	N/A		N/A	
At leas fifty one per cent (51%) or more disabled owned companies = 2	N/A		N/A	
TOTAL POINTS COLUMN = 2+4		80 +20 = 100	N/A	

DECLARATION WITH REGARD TO COMPANY/FIRM

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

4.4. Company registration number: ……………………………………………………………...

4.5. TYPE OF COMPANY/ FIRM

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

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

i) The information furnished is true and correct;

ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;

iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;

iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –

(a) disqualify the person from the tendering process;

(b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;

(c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;

(d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and

(e) forward the matter for criminal prosecution, if deemed necessary.

…………………………………………
SIGNATURE(S) OF TENDERER(S)

SURNAME AND NAME: ……………………………………………………….

DATE: …………………………………………………………

ADDRESS: …………………………………………………………

…………………………………………………………

…………………………………………………………

SDB7.1

8.CONTRACT FORM - PURCHASE OF GOODS/WORKS (PART 1)

THIS FORM MUST BE FILLED IN DUPLICATE BY BOTH THE SUCCESSFUL BIDDER (PART 1) AND THE PURCHASER (PART 2). BOTH FORMS MUST BE SIGNED IN THE ORIGINAL SO THAT THE SUCCESSFUL BIDDER AND THE PURCHASER WOULD BE IN POSSESSION OF ORIGINALLY SIGNED CONTRACTS FOR THEIR RESPECTIVE RECORDS.

PART 1 (TO BE FILLED IN BY THE BIDDER)

1. I hereby undertake to supply all or any of the goods and/or works described in the attached bidding documents to the DRPW in accordance with the requirements and specifications stipulated in bid number DRPW 007/2023 at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the purchaser during the validity period indicated and calculated from the closing time of bid.

2. The following documents shall be deemed to form and be read and construed as part of this agreement:

   (i) Bidding documents, *viz*
   - Invitation to bid;
   - Proof of tax compliance status;
   - Pricing schedule(s);
   - Technical Specification(s);
   - Preference claim form for Preferential Procurement in terms of the Preferential Procurement Regulations;
   - Bidder's Disclosure form;
   - Special Conditions of Contract;

   (ii) General Conditions of Contract; and
   (iii) Other (specify)

3. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the goods and/or works specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.

4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfillment of this contract.

5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.

6. I confirm that I am duly authorised to sign this contract.

NAME (PRINT) ……………………………………………

CAPACITY ……………………………………………

SIGNATURE ……………………………………………

NAME OF FIRM ……………………………………………

DATE ……………………………………………

WITNESSES

1 ……..…………………..…

2. …………………...……

DATE: ………………….…….

the dr&pw
Department:
Roads And Public Works
NORTHERN CAPE PROVINCE
REPUBLIC OF SOUTH AFRICA

SBD 7.1

9. CONTRACT FORM - PURCHASE OF GOODS/WORKS

PART 2 (TO BE FILLED IN BY THE PURCHASER)

1. I……………………………………… in my capacity as………………………………………………..….. accept your bid under reference DRPW 007/2023 dated………………………for the supply of goods/works indicated hereunder and/or further specified in the annexure(s).

2. An official order indicating delivery instructions is forthcoming.

3. I undertake to make payment for the goods/works delivered in accordance with the terms and conditions of the contract, within 30 (thirty) days after receipt of an invoice accompanied by the delivery note.

ITEM NO.	PRICE (ALL APPLICABLE TAXES INCLUDED)	BRAND	DELIVERY PERIOD	TOTAL PREFERENCE POINTS CLAIMED	POINTS CLAIMED FOR EACH SPECIFIC GOAL

4. I confirm that I am duly authorised to sign this contract.

SIGNED AT ………………………………………ON……………………………….

NAME (PRINT) ……………………………….

SIGNATURE ……………………………….

OFFICIAL STAMP

WITNESSES

1. …………………….

2. …………………….

DATE …………………….

the dr&pw
Department:
Roads And Public Works
NORTHERN CAPE PROVINCE
REPUBLIC OF SOUTH AFRICA

10. CONTRACT FORM - RENDERING OF SERVICES

THIS FORM MUST BE FILLED IN DUPLICATE BY BOTH THE SERVICE PROVIDER (PART 1) AND THE PURCHASER (PART 2). BOTH FORMS MUST BE SIGNED IN THE ORIGINAL SO THAT THE SERVICE PROVIDER AND THE PURCHASER WOULD BE IN POSSESSION OF ORIGINALLY SIGNED CONTRACTS FOR THEIR RESPECTIVE RECORDS.

PART 1 (TO BE FILLED IN BY THE SERVICE PROVIDER)

1. I hereby undertake to render services described in the attached bidding documents to the DRPW in accordance with the requirements and task directives / proposals specifications stipulated in DRPW 007/2023 at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the Purchaser during the validity period indicated and calculated from the closing date of the bid .

2. The following documents shall be deemed to form and be read and construed as part of this agreement:

   (iv) Bidding documents, *viz*
   - Invitation to bid;
   - Proof of tax compliance status;
   - Pricing schedule(s);
   - Filled in task directive/proposal;
   - Preference claim form for Preferential Procurement in terms of the Preferential Procurement Regulations;
   - Bidder's Disclosure form;
   - Special Conditions of Contract;

   (v) General Conditions of Contract; and
   (vi) Other (specify)

3. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the services specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.

4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfillment of this contract.

5 I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.

7. I confirm that I am duly authorised to sign this contract.

NAME (PRINT) ……………………………

CAPACITY ……………………………

SIGNATURE ……………………………

NAME OF FIRM ……………………………

DATE ……………………………

WITNESSES

1 …….………………………….

2 …….………………………….

DATE: ……………………………..

11. CONTRACT FORM - RENDERING OF SERVICES

PART 2 (TO BE FILLED IN BY THE PURCHASER)

1. I…………………………………………in my capacity as…………………...……………………………….. accept your bid under reference number DRPW 007/2023 dated………………………for the rendering of services indicated hereunder and/or further specified in the annexure(s).

2. An official order indicating service delivery instructions is forthcoming.

3. I undertake to make payment for the services rendered in accordance with the terms and conditions of the contract, within 30 (thirty) days after receipt of an invoice.

DESCRIPTION OF SERVICE	PRICE (ALL APPLICABLE TAXES INCLUDED)	COMPLETION DATE	TOTAL PREFERENCE POINTS CLAIMED	POINTS CLAIMED FOR EACH SPECIFIC GOAL

4. I confirm that I am duly authorised to sign this contract.

SIGNED AT ………………………………………ON………………………………………………….…………..

NAME (PRINT) ………………………………………….

SIGNATURE ………………………………………….

OFFICIAL STAMP

WITNESSES

1 ….………………………………

2 …..………………………………

DATE: ……………………………..

DEPARTMENT OF ROADS AND PUBLIC WORKS NORTHERN CAPE PROVINCE (DRPW)

TERMS OF REFERENCE

the dr&pw
Department:
Roads And Public Works
NORTHERN CAPE PROVINCE
REPUBLIC OF SOUTH AFRICA

TERMS OF REFERENCE FOR THE APPOINTMENT OF A PANEL OF ATTORNEYS FOR FIVE (5) YEARS TO PROVIDE LEGAL SERVICES FOR DEPARTMENT OF ROADS AND PUBLIC WORKS

1. BACKGROUND

The Department of Roads and Public Works Northern Cape (DRPW) is committed to delivering infrastructure, and construction opportunities through integrated, sustainable infrastructure and construction projects. To achieve this vision, DRPW aims to establish panels of service providers in various categories, including **CIVIL LITIGATION**, **CONVEYANCERS**, and **DRAFTING OF COMMERCIAL CONTRACTS and LABOUR AND EMPLOYMENT LAW** to provide legal services for DRPW.

DRPW requires the services of qualified Attorneys and Labour Consultants to render legal services in the fields as stated here above, to be appointed in each for a Five (5) years contractual period.

The scope of work shall include the full range of services associated with the Department of Roads and Public Works. The establishment of these panels aims to ensure a streamlined and efficient procurement process for engaging qualified service providers, promote transparency and fairness in the procurement process, foster a competitive environment for service providers, and enhance the quality and timeliness of service delivery within the province.

The bidder is required to indicates areas of specialization by ticking on the below table:

Public Private Partnership	
Project Finance	
Commercial and Contract Law	
Civil Litigation	
Labour and Employment Law	
Constitutional Law	
Administrative Law	
Construction Law	
Corporate Law	
Insurance Law	
Corporate Governance	
Supply Chain Management	

Competition Law	
Environmental Law	
Data Privacy Law	
Cyber Law	
Conveyancing	
Other	

1. Scope of Work

Firms of attorneys will be required to render services to the DRPW on a wide range of legal matters relating to, amongst others, the following fields of law:

- Public Private Partnership; Project Finance
- Commercial and Contract Law
- Civil Litigation
- Labour and Employment Law
- Constitutional Law
- Administrative Law
- Construction Law
- Corporate Law
- Insurance Law
- Corporate Governance;
- Supply Chain Management
- Environmental Law
- Competition Law
- Conveyancing
- Data Privacy Law and
- Cyber Law

Any other specialized field of law that the firm of attorney has expertise in and that is relevant to the working environment of the DRPW

2. ESSENTIAL SPECIALIZED FIELD AND REQUIREMENTS OF LAW

2.1 Civil Litigation

Attorneys will attend to Civil Litigation on behalf of the DRPW, either in the court of law or through arbitrations. Attorneys are required to have an in-depth practical knowledge of civil litigation procedures through arbitration or in the High Court and Magistrates' Court.
Attorneys are required to have practical knowledge of: -

- the entire spectrum of construction and engineering law, and the related regulatory environment, but not limited to the knowledge of the standard forms of contract, including FIDIC, the NEC, the SAICE General Conditions of Contract, PROCSA, Standard Professional Services Contract and the JBCC; and

- Construction Industry Development Board (CIDB) and its legislations (Construction Industry Development Board Act, 2000, Construction industry Development Regulations, 2004 (as amended), CIDB's Code of Conduct for all parties engaged in Construction Procurement and CIDB's Inform Practice Notes).

2.2 Conveyancing

The conveyancing attorney plays a pivotal role in the transfer process and is the driving force behind the transaction overseeing each step of the process. The attorney will prepare certain documents for signature and will also obtain further necessary documents like municipal rates- or body corporate and association clearance certificates, transfer duty receipts from SARS etc. Most importantly, the conveyancing attorney will see to all financial aspects relating to the transaction and will ensure that the proceeds of the sale of the property is paid to the DRPW's as soon as possible following registration at the Deeds Office. Other than the transfer and registration of a property, the conveyancing attorney will provide in respect of commercial and residential properties the following:

- Advising on and drafting of commercial and residential leases
- Conventional transfers of properties, as well as transfers as a result of or in terms of liquidations, auctions, court orders, foreclosures and donations
- Negotiating and drafting agreements relating to the sale of residential and commercial properties
- Registration of all types of servitudes
- Property valuation
- Subdivision and consolidation of properties and
- Any other related activity in the property sector as and when required to do so
- As and when required, the firm will required to appoint a valuation company to render the service of property valuation

2.3 Drafting of Commercial Contract

Practical knowledge is required of all spheres of commercial and construction law including but not limited to knowledge and application of the standard forms of contract, including FIDIC, the NEC, the SAICE General Conditions of Contract, PROCSA, Standard Professional Services Contract and the JBCC. Develop and coordinate Communication structure, process and procedures

Over and above the above-mentioned standard forms of contract, Attorneys may be required to attend to drafting, negotiation and interpretation of commercial agreements more specifically, but not limited to:

- Lease Agreements
- Service Level Agreements (SLA)
- Memorandum of Agreements (MOA)
- Memorandum of Understandings (MOU)
- Programme Implementation Agreements (PIA)
- Supply industry construction books as and when required to do so

2.4 Labour and Employment Law

Expertise in labour and employment law matters are required, more specifically:

- Ability to prosecute senior level employees in disciplinary hearings.
- Advise on procedural and substantive issues relating to disciplinary hearings conducted.
- Advise on disciplinary codes, policies and governing legislation.
- Representation at the CCMA, Labour Court and Labour Appeal Court.
- Advise and assist in process and compliance with Section 189 of the Labour Relations Act 66 of 1995 procedures.
- Negotiation and settlement of labour disputes whether with individual employees or the bargaining unit represented by a union.
- Provision of Legal Opinion.
- Investigation of alleged misconduct.

3. Special Conditions

a. Service delivery levels and quality of the work will be a measure of appointment and retention in the panel.

b. A firm of attorneys assigned any work may not cede, assign or sub-contract any part thereof to any person unless with the written consent of the DRPW or as may be required by the applicable laws, for instance, in cases where correspondent attorneys may be necessary.

c. Fees shall be charged in accordance with the DRPW's Service Level Agreement, DRPW's Tariff of Fees and Milestones. The Service Level Agreement will be signed with the successful bidders.

d. There will be no guarantee that attorneys will receive instructions if they are appointed onto the DRPW's panel.

e. All instruction(s) to the panel attorneys shall be given, in writing, by duly authorized representative of the DRPW.

f. The panel will be reviewed on a 5 yearly basis and attorneys on the panel may have to resubmit their proposals.

g. The DRPW shall be entitled in its discretion to remove a firm of attorneys from the panel before the expiry of the said 5 years' period by written notice and recall all the files in the possession of the said law firm.

h. The firm shall have at least 5 years' experience. In the case of a new firm, the attorneys who will be dealing with the DRPW matters shall have at least five years' post admission experience.

i. The general conditions of tender, contract and order will be applicable to this tender.

j. Intellectual property rights:

- All copyright and intellectual property rights that may result as consequences of the work to be performed will be become the property of the DRPW.
- Firms of attorneys must hand over all documents and information in any format, including copies thereof, that it received from the DRPW or that it had access to during the assignment immediately after completion of the assignments to the DRPW.
- Firms of attorneys shall deliver to the DRPW, on completion of an assignment, any security devices, passwords or protective mechanisms to the soft versions of documents that were written and the DRPW will have the right to amend and change these without obligation whatsoever to the firms of attorneys upon completion of the assignment.

k. The DRPW reserves the right, under exceptional circumstances, to appoint attorneys outside the panel attorneys.

4. PANEL CATEGORIES

The following four panels will be established:

CIVIL LITIGATION PANEL
CONVEYANCERS PANEL
DRAFTING OF COMMERCIAL CONTRACTS PANEL
LABOUR AND EMPLOYMENT LAW PANEL

The method of Submission must include all the following:

Important!!! EACH RESPONDENT SHOULD CLEARLY INDICATE ON HIS TENDER DOCUMENT FOR WHICH PANEL HE IS SUBMITTING (YOU MAY SUBMIT FOR ALL FOUR POE MUST BE PROVIDED).

Hard Copy x 1

Email, faxed submissions will not be accepted

4.1 ASSESSMENT AND EVALUATION PROCESS

Firm/s will be required to meet a minimum of 70% (Equivalent to 70 Points) on functionality in order to be listed on DRPW's Panel of Attorneys for a period of five (5) years. Bidders who failed to meet a minimum of 70% (Equivalent to 70 Points) on functionality will be disqualified.

4.1.1 Stage Two: Technical Assessment Compliance Criteria
4.1.2 Stage One Table 1: Technical Assessment Criteria:

The Bids will be evaluated on Functionality and in terms of DRPW's SCM Policies. The bidders are required to score a minimum of 70% on functionality to be listed on DRPW panel of Attorneys.

VARIABLES	CRITERIA	DESCRIPTION OF CRITERIA	POINTS
Capacity *(Bidder's Organogram Profile)*	Directors/ Partners = 5 Points Senior Associates = 5 Points Professional Assistants = 5 Points Candidate Attorneys = 5 Points	The bidder/s must submit a firm profile with an Organogram The bidder/s must indicate the proposed key personnel on their profile / organogram.	30

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NORTHERN CAPE PROVINCE
REPUBLIC OF SOUTH AFRICA

	Admin Support = 5 Points Organogram = 5 points		
Qualification *(Key Personnel Relevant Qualification)*	Directors/ Partners = 5 Points Senior Associates = 5 Points Professional Assistants = 5 Points Candidate Attorneys = 5 Points	The Project Team must have at least B. Proc, LLB *Information on the CV will not be used to allocate points for qualification. Actual certified copy of qualification must be provided.*	20
Accreditation *(Key Personnel* Admission *Certificate)*	Directors/ Partners = 5 Points Senior Associates = 5 Points Professional Assistants = 5 Points Candidate Attorneys = 5 Points	The bidder/s must submit admission certificate for key personnel. **NB:** Candidate Attorneys must submit right of appearance/contract	20
Firm Experience *(Bidder's Relevant Firm Experience)*	5 and above Reference Letters = 25 Points 4 Reference Letters = 20 Points 3 Reference Letters = 15 Points 2 Reference Letters = 10 Points 1 Reference Letter = 5 Points	The bidder must submit reference letter/s from previous clients where legal services were provided in the last five years. Points allocated for previous client references and submission in relation to nature of work. The reference letter must be on a company's letter head, signed and dated	25
Knowledge and Expertise	1 and above Litigation Services Reference Letters = 5 Points	The bidder/s must submit at least one reference letter from previous clients where general litigation, Labour/ employment law and advisory services were provided in the last five years	5
VARIABLES	**CRITERIA**	**DESCRIPTION OF CRITERIA**	**POINTS**
TOTAL			100

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Roads And Public Works
NORTHERN CAPE PROVINCE
REPUBLIC OF SOUTH AFRICA

THE NATIONAL TREASURY

Republic of South Africa

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

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 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)

or

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 (NIP) Programme

33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.

34 Prohibition of Restrictive practices

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