

BID NO: SCMU5-24/25-0174

BID FOR THE APPOINTMENT OF A QUALIFIED SERVICE PROVIDER(S) FOR LEASING OF SPACE TO INSTALL, MAINTAIN AND SERVICE VENDING MACHINES IN STATE-OCCUPIED BUILDINGS FOR A PERIOD OF 36 MONTHS AS PER SPECIFICATION OF THE DEPARTMENT THROUGH EXPRESSION OF INTEREST

Name of bidder_____

Bidder's CSD registration no._____

Closing date and time: 06 March 2025 at 11:00 am

ENQUIRIES:

SUPPLY CHAIN MANAGEMENT

EASTERN CAPE DEPARTMENT OF PUBLIC WORKS & INFRASTRUCTURE
QHASANA BUILDING
PRIVATE BAG X 0022
BHISHO

SCM RELATED ENQUIRIES

Tel No: 040-602 4000

Email Address:

supply.chain@ecdpw.gov.za

TECHNICAL ENQUIRIES

Enquiries: Ms. S. Plaatjie

Tel No: 040-602 4259

Email address:

Siphesihle.Plaatjie@ecdpw.gov.za



Fraud, Complaints & Tender Abuse Hotline
0800 701 701 (toll free number)

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE DEPARTMENT OF PUBLIC WORKS & INFRASTRUCTURE

BID NUMBER:	SCMU5-24/25-0174	CLOSING DATE:	06 March 2025	CLOSING TIME:	11H00
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DESCRIPTION	BID FOR THE APPOINTMENT OF A QUALIFIED SERVICE PROVIDER(S) TO LEASE SPACE TO INSTALL, MAINTAIN AND SERVICE VENDING MACHINES IN STATE-OCCUPIED BUILDINGS FOR A PERIOD OF 36 MONTHS AS PER SPECIFICATION OF THE DEPARTMENT THROUGH EXPRESSION OF INTEREST
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BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)

TENDER BOX, GROUND FLOOR

QHASANA BUILDING

INDEPENDENCE AVENUE, BHISHO

BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO

CONTACT PERSON	SCM
TELEPHONE NUMBER	
FACSIMILE NUMBER	
E-MAIL ADDRESS	supply.chain@ecdpw.gov.za

TECHNICAL ENQUIRIES MAY BE DIRECTED TO:

CONTACT PERSON	Siphesihle Plaatjie
TELEPHONE NUMBER	040-602 4259
FACSIMILE NUMBER	
E-MAIL ADDRESS	Siphesihle.Plaatjie@ecdpw.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 INVITATION TO BID

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.

For ease of reference, Bidders shall enter their Price in the space provided below:

SERVICE/GOODS REQUIRED	GRAND TOTAL (amount in figures)	GRAND TOTAL (amount in words)
	R..... (Carried over from 3.1)	 (Carried over from 3.1)

(1) The total amount for the 36 months lease should not be less than 20% of total sales made from each vending machines per month. This amount must be the total of all the properties that you are bidding for.

(2) If the Bid Sum (amount in words) differ from the Bid Sum (amount in figures), the Bid Sum (amount in words) will govern

SIGNATURE OF THE BIDDER:

CAPACITY UNDER WHICH THIS BID IS SIGNED:

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

DATE:



BID INVITATION BID NOTICE
SCMU5-24/25-0174

BID FOR THE APPOINTMENT OF A QUALIFIED SERVICE PROVIDER(S) FOR LEASING OF SPACE TO INTALL, MAINTAIN AND SERVICE VENDING MACHINES IN STATE-OCCUPIED BUILDINGS FOR A PERIOD OF 36 MONTHS AS PER SPECIFICATION OF THE DEPARTMENT THROUGH EXPRESSION OF INTEREST

Tender documents are downloadable for free of charge from National Treasury's eTender Portal: (<https://www.etenders.gov.za/>) or from the Department of Public Works and Infrastructure website (www.ecdpw.gov.za/tenders) from **24 January 2025**.

Completed bid documents in a sealed envelope endorsed with the relevant bid number, bid description and the closing date, must be deposited in the bid box not later than **11h00** on the **06 March 2025**.

Physical Address of Bid Box: Department of Public Works & Infrastructure, Qhasana Building, Ground floor, Bhisho

Bidders must ensure that bids submitted via courier services are deposited by the courier service in the Departmental bid box prior to the closing date and that it is not delivered to Departmental officials. The Department will not accept responsibility if bids received by officials are not timely deposited in the Bid Box.

A. BID EVALUATION

This bid will be evaluated in three (3) phases as follows:

Phase One: Compliance, responsiveness to the bid rules and conditions

Phase Two: Bidders passing stage 1 above will thereafter be evaluated on functionality

Phase Three: Bidders passing all stages above will thereafter be evaluated on Price

PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT (PPPFA) POINTS WILL BE APPLIED AS FOLLOWS:

Maximum points on price	-	80 points
Specific goals	-	20 points
Maximum points	-	100 points

BIDDERS SHALL TAKE NOTE OF THE FOLLOWING BID CONDITIONS:

1. The Department intends to award this to the highest point scorer/s per item(erf) / economic unit unless circumstances justifies otherwise.
2. **SBD4 must be duly completed and signed. 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, such interest must be disclosed on question 2.3.1.**
3. **The bid will remain valid until award.**
4. **The successful Bidder will be required to submit a detailed Project Implementation Plan within 21 days of award.**
5. The minimum specifications, functionality and other bid conditions and rules are detailed in the bid document.

B. TENDER SUBMISSIONS:

Bids must be submitted in sealed envelopes clearly marked “SCMU5-24/25-0174: BID FOR THE APPOINTMENT OF A QUALIFIED SERVICE PROVIDER(S) FOR LEASING OF SPACE TO INSTALL, MAINTAIN AND SERVICE VENDING MACHINES IN STATE-OCCUPIED BUILDINGS FOR A PERIOD OF 36 MONTHS AS PER SPECIFICATION OF THE DEPARTMENT THROUGH EXPRESSION OF INTEREST

C. ENQUIRIES WITH REGARD TO THIS ADVERT MAY BE DIRECTED TO:

SCM SPECIFIC ENQUIRIES:

Email Address: supply.chain@ecdpcw.gov.za.

TECHNICAL /PROJECT SPECIFIC ENQUIRIES

Enquiries: Ms. S Plaatjie

Tel No: 040-602 4259

Email address: Sipheshle.Plaatjie@ecdpcw.gov.za

Fraud, Complaints & Tender Abuse Hotline

0800 701 701 (toll free number)

SPECIAL CONDITIONS OF BID

1. INTERPRETATION

The word "Bidder" in these conditions shall mean and include any firm of Contractors or any company or body incorporated or unincorporated.

The word "Department" in these conditions shall mean the EASTERN CAPE DEPARTMENT OF PUBLIC WORKS & INFRASTRUCTURE.

2. EXTENT OF BID

This contract is for the **APPOINTMENT OF A QUALIFIED SERVICE PROVIDER(S) FOR LEASING OF SPACE TO INSTALL, MAINTAIN AND SERVICE VENDING MACHINES IN STATE-OCCUPIED BUILDINGS FOR A PERIOD OF 36 MONTHS AS PER SPECIFICATION OF THE DEPARTMENT THROUGH EXPRESSION OF INTEREST**

3. CONTRACT TO BE BINDING

The formal acceptance of this Bid by the Department will constitute a contract binding on both parties, and the Department may require sureties to its satisfaction from the contractor, for the due fulfilment of this contract.

4. MODE OF BID

All Bids shall be completed and signed: All forms, annexures, addendums and specifications shall be signed and returned with the Bid document as a whole. ***The highest or any bid will not necessarily be accepted.***

The Department wishes to deal on a prime contractual basis with the successful Bidder being responsible and accountable for all aspects of the entire solution or service offered.

5. QUALITY

Should the specifications and / or descriptions not address any aspects of quality as specified, this should be clarified with the Department prior to the submission of a Bid.

6. INSURANCE CLAIMS, ETC.

The Department shall not be liable in any manner in respect of any claims, damages, accidents and injuries to persons, property or rights or any other courses of civil or criminal action that may arise from the carrying out of this contract.

The contractor shall insure his / her / their personnel and any plant, machinery or other mechanical or electronic equipment involved in the fulfilment of this contract and shall indemnify The Department against all risks or claims which may arise.

7. PERIOD OF VALIDITY FOR BIDS AND WITHDRAWAL OF BID AFTER CLOSING DATE

All Bids must remain valid until award from the closing date as stipulated in the bid document.

8. PENALTY PROVISION

8.1 Should the successful Bidder:

- [a] Withdraw the Bid during the afore-mentioned period of validity; or
- [b] Advise the Department of his / her / their inability to fulfil the contract; or
- [c] Fail or refuse to fulfil the contract; or
- [d] Fail or refuse to sign the agreement or provide any surety if required to do so;

Then, the Bidder will be held responsible for and is obligated to pay to the Department:

- [a] All expenses incurred by the Department to advertise for or invite and deliberate upon new Bids, should this be necessary.
- [b] The difference between the original accepted Bid price (inclusive of escalation) and:

- [i] A less favourable (for the Department) Bid price (inclusive of escalation) accepted as an alternative by the Department from the Bids originally submitted; or
- [ii] A new Bid price (inclusive of escalation).

8.2 Should the successful Bidder fail to deliver; provisions of the General Conditions of Contract will apply.

8.3 Disputes between the Department and a bidder (if any) will be dealt with in the form of litigation.

9. BRAND NAMES

Wherever a brand name is specified in this bid/quotation document (i.e. in the specifications, pricing schedule or bill of quantities or anywhere in this document), the department's requirement is not limited to the specified brand name but requires an item similar/equivalent or better than specified.

10. VALUE ADDED TAX

In calculating the cost of the supply and delivery of services and / or material, the supplier will issue a "Tax Invoice" for all services rendered and / or materials supplied, which will reflect the exclusive cost of such services, goods or materials with the relevant Value Added Tax being added to the total.

11. PRICE ESCALATION

Not applicable

12. CONTRACTUAL PRICE ADJUSTMENTS

Bidders are required to submit their proposal based on the current Rate of Exchange (ROE). negotiations will be made with the awarded bidder to adjust their pricing to align with the exchange rate on time of award.

13. AUTHORITY TO SIGN BID DOCUMENTS

- a) In the case of a Bid being submitted on behalf of a company, close corporation or partnership, evidence must be submitted to the Department at the time of submission of the Bid that the Bid has been signed by persons properly authorised thereto by resolution of the directors or under the articles of the entity. Furthermore, in the case of a joint venture or consortium at least one directors/ members of each party to the joint venture or consortium must give consent to give authorisation for signatory to this bid.
- b) In the event that a resolution to sign is not completed by all directors/ members of the enterprise, the signature of any one of the directors or members to this bid will bind all the directors/ members of the enterprise and will therefore render the bid valid.
- c) No authority to sign is required from a company or close corporation or partnership which has only one director or member.
- d) In the event that a non-member/ non-director to the enterprise sign this declaration, and no authority is granted, it will automatically invalidate the bid.
- e) If the document is signed by one of the directors, Resolution to sign is not required to be completed.

14. CONTRACT PERIOD

- a) The expected contract period is **thirty-six (36 months)** from the contract start date as would be agreed.
- b) The Department may accept or reject any bid offer and may cancel the bid process or reject all bid offers at any time before the formation of a contract.
- c) The Department also reserves the right to accept the bid as a whole or a part of the bid, or any item or part of any item.
- d) The Department shall not accept or incur any liability to a supplier for such cancellation or rejection or acceptance but will give written reasons for such action upon receiving a written request to do so.

15. DELIVERY PERIODS

Delivery periods, where indicated must adhered to. Notwithstanding the termination date of the assignment the bidder will be required to submit progress reports to the Department the contract, form

and frequency and dates thereof to be stipulated and agreed upon by the parties upon the awarding of the Bid.

16. DISPUTES OR LIABILITIES

In the event that disputes/ liabilities cannot be resolved by internal systems, the disputes will be settled by litigation.

17. CLOSING DATE / SUBMITTING OF BIDS

17.1 Bids must be submitted in sealed envelopes clearly marked:

SCMU5-24/25-0174: APPOINTMENT OF A QUALIFIED SERVICE PROVIDER(S) FOR LEASING OF SPACE TO INSTALL, MAINTAIN AND SERVICE VENDING MACHINES IN STATE-OCCUPIED BUILDINGS FOR A PERIOD OF 36 MONTHS AS PER SPECIFICATION OF THE DEPARTMENT THROUGH EXPRESSION OF INTEREST.

Completed bid documents in a sealed envelope endorsed with the relevant bid number, bid description and the closing, must be deposited in the bid box, Department of Public Works & Infrastructure, Qhasana Building, Ground floor, Bhisho not later than **11h00** on the **06 March 2025**.

Bidders must ensure that bids submitted via courier services are deposited by the courier service in the Departmental bid box prior to the closing date and that it is not delivered to Departmental officials. The Department will not accept responsibility if bids received by officials are not timely deposited in the Bid Box.

18. NEGOTIATION WITH THE IDENTIFIED PREFERRED BIDDER

18.1 The Bid will be awarded to the bidder who scores the highest PPPFA points:

18.1.1 However, should an offer not be market related, the Department reserves the right to negotiate with bidders in accordance with the PPPFA Regulation 6 sub regulation 9(a) & (b).

19. PAYMENT FOR SERVICES RENDERED

Payment will be accordance to the General Conditions of Contract.

20. AWARD OF BIDDERS NOT SCORING THE HIGHEST POINTS

20.1 A contract may be awarded to a tenderer that did not score the highest points subject to a risk assessment.

21. LATE BIDS

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

22. COMMUNICATION

- 22.1 A nominated official of the bidder(s) can make enquiries in writing, to the specified persons, as indicated on this document via email. Bidder(s) must reduce all telephonic enquiries to writing and send to the above-mentioned email addresses.
- 22.2 The delegated office of Department may communicate with Bidder(s) where clarity is sought in the bid proposal.
- 22.3 Any communication to an official or a person acting in an advisory capacity for the Department in respect of the bid between the closing date and the award of the bid by the Bidder(s) is discouraged.
- 22.4 Whilst all due care has been taken in connection with the preparation of this bid, Department makes no representations or warranties that the content of the bid or any information communicated to or provided to Bidder(s) during the bidding process is, or will be, accurate, current or complete. The Department, and its employees and advisors will not be liable with respect to any information communicated which may not accurate, current or complete.
- 22.5 If Bidder(s) finds or reasonably believes it has found any discrepancy, ambiguity, error or inconsistency in this bid or any other information provided by the Department (other than minor clerical matters), the

Bidder(s) must promptly notify the Department in writing of such discrepancy, ambiguity, error or inconsistency in order to afford the Department an opportunity to consider what corrective action is necessary (if any).

- 22.6 Any actual discrepancy, ambiguity, error or inconsistency in the bid or any other information provided by the Department will, if possible, be corrected and provided to all Bidder(s) without attribution to the Bidder(s) who provided the written notice.
- 22.7 All persons (including Bidder(s)) obtaining or receiving the bid and any other information in connection with the Bid or the Tendering process must keep the contents of the Bid and other such information confidential, and not disclose or use the information except as required for the purpose of developing a proposal in response to this Bid.

23. PREPARATION COSTS

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

24. INDEMNITY

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

25. PRECEDENCE

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

26. LIMITATION OF LIABILITY

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

27. TAX COMPLIANCE

No tender shall be awarded to a bidder who is not tax compliant

28. VAT

- 28.1 The Department is not registered for VAT. Therefore, there should be no VAT charged on rentals.

29. GOVERNING LAW

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

30. GENERAL BID RULES

- a) The bid document shall be completed and signed
- b) The Department Supply Chain Management Policy will apply.
- c) The Department does not bind itself to accept the lowest bid or any other bid and reserves the right to accept the whole or part of the bid.
- d) The Department may accept or reject any bid offer and may cancel the bid process or reject all bid offers at any time before the formation of a contract.
- e) The Department shall not accept or incur any liability to a supplier for such cancellation or rejection or acceptance, but will give written reasons for such action upon receiving a written request to do so.
- f) Bids which are late, incomplete, unsigned or submitted by facsimile or electronically, will not be accepted

- g) Bidders are not allowed to recruit or shall not attempt to recruit an employee of the Department for purposes of preparation of the bid or for the duration of the execution of this contract or any part thereof.

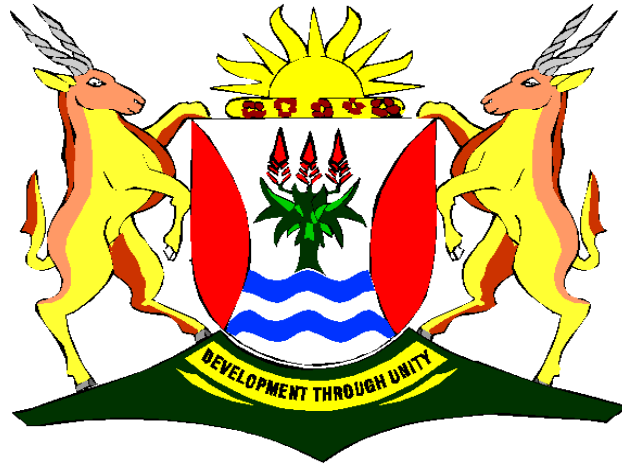
31. CONTRACT VARIATIONS, EXPANSIONS, AMENDMENTS OR MODIFICATIONS (if applicable)

- 31.1 Should a need arise to vary or expand or amend or modify contract quantities for any goods or services, after a valid contract has been concluded and or after the contract has already commenced, the Department reserves the right to approach the contracted service provider to reduce or increase the contracted quantities.
- 31.2 Bidders are required to submit their proposal based on the current Rate of Exchange (ROE) on the time of the advert. negotiations will be made with the awarded bidder to adjust their pricing to align with the exchange rate on time of award.

32. OTHER CONDITIONS OF BID

- 32.1 All bidders' tax matters must be in order prior award. Bidders' tax matters will be verified through Central Supplier Database (CSD).
- 32.2 The Department will contract with the successful bidder by signing a formal contract.
- 32.3 A Health Certificate will need to be obtained from the Department of Health within 21 days after the installation of vending machine on site.
- 32.4 Vending machines that use wireless networks or radio frequencies must be certified by the Independent Communications Authority of South Africa (ICASA). This certification confirms that the machine complies with ICASA's standards and regulations. It ensures compliance with radio frequency regulations and legal usage of your vending machines. <http://www.icasa.org.za/>
- 32.5 The successful bidder must submit the Public Liability insurance to the value of R1 million within 21 days after receipt of an appointment letter.
- 32.6 The successful bidder to prepare a proposal plan / implementation plan with time frame for the installation, maintaining and servicing of vending machines
- 32.7 The successful bidder will have to undertake or complete delivery, installation and operation at all awarded locations within a period of thirty (30) calendar days after notification of award.
- 32.8 The rent will commence on the 2nd month after the installation of Vending Machines.
- 32.9 The Department reserves the right not to award to one bidder more than one item (Erf) / economic unit/s.
- 32.10 The Department will contract with the successful bidder by signing a Short term (36 months) lease agreement.
- 32.11 The bidders may only bid for a maximum of five (5) properties from the provided Table 1.
- 32.12 Table 1 should be completed and signed

**TERMS OF REFERENCE/
SPECIFICATION**
Eastern Cape Provincial Government
Public Works & Infrastructure



BID NUMBER: SCMU5-24/25-0174

TERMS OF REFERENCE/ SPECIFICATION

APPOINTMENT OF A QUALIFIED SERVICE PROVIDER(S) FOR LEASING OF SPACE TO INSTALL, MAINTAIN AND SERVICE VENDING MACHINES IN STATE-OCCUPIED BUILDINGS FOR A PERIOD OF 36 MONTHS AS PER SPECIFICATION OF THE DEPARTMENT THROUGH EXPRESSION OF INTEREST

BIDNUMBER: SCMU5-24/25-0174

INTRODUCTION

The Department is seeking a Service Provider/ Service Providers to provide and install vending machines in State-occupied buildings provincially. The Service Provider will submit proposals on machines to provide a variety of snacks and non-alcoholic beverages.

The Department reserves the right to specify the product in line with all legislative requirements and by-laws.

The Service Provider may request permission from the Department to change the vending equipment or products if sales do not warrant continuation. Such requests should be submitted in writing to the Department for review and consideration. If the request is approved, a mutual date will be agreed for the change to take effect.

The list of State-occupied buildings for installation of vending machines is attached as an annexure on the last page of this specification. **(Annexure A).**

EQUIPMENT REQUIREMENTS

It will be the responsibility of the Service Provider to make the necessary site visits to determine available space for installation, available utility connections and proposed arrangements, capacity, variety and product mix of vending machines. The successful Service Provider shall provide new or like new equipment or a Department-approved equivalent. The Service Provider should include as part of his proposal pictures of machine graphics and the quantity and variety of machines proposed per location, as well as a listing of proposed products, including brand names and nutritional contents of foods and beverages. Equipment that is not located in an air-conditioned environment must be refrigerated in order for items to maintain freshness.

DELIVERY AND INSTALLATION

Equipment shall be delivered, installed and operational at all awarded locations within a period of thirty (30) calendar days after notification of award. Equipment shall be installed so as to present an attractive, flush-front, matched and uniform configuration. Equipment shall be secured to provide for safe, secure operation and to prevent tipping or shifting. All delivery and installation costs shall be the responsibility of the Service Provider.

MAINTENANCE, REPAIRS AND SCHEDULING

The Department shall expect prompt service from the Service Provider in response to advertising equipment that is not operational, and problems related to damaged equipment failure or product complaints. Service calls shall be responded to within twenty-four (24) hours from Department notification to Service Provider. If equipment repairs cannot be made on site, and downtime is determined by the Department to be excessive, the Service Provider may be requested to replace the equipment with a loaner/ replacement unit until such time as repairs can be completed or the Service Provider provides a permanent replacement. Lost, stolen or damaged equipment shall be replaced or repaired (as applicable) at no cost to the Department.

The Service Provider agrees to provide and maintain an adequate supply of merchandise for dispensing in the equipment provided. The Service Provider shall be responsible to provide an adequate routing schedule to ensure that merchandise is fresh, continuously available and equipment is properly functioning. Routing schedule should be on a regular scheduled basis set up by the Service Provider and the Department. Notification should be given to the Department if the set up schedule is going to change.

MONTHLY PAYMENTS

Upon award of contract, the successful Service Provider shall adhere to the remittance/ payment procedure below. Reports and revenue checks should be received no more than twenty-five (25) days after the end of a monthly cycle.

The monthly statement shall include the following:

- A. Machine number and description (beverage, snack, etc.)
- B. Machine location (address)
- C. Starting and ending machine counter numbers
- D. Total units sold monthly
- E. Gross sales
- F. Applicable Sales Taxes
- G. Amount due to the Department

Losses of cash as a result of vandalism, and natural factors etc., shall not be deducted from proceeds to be paid to the Department. Other unforeseen losses related to the product will be for the service providers account.

DEFAULT IN PAYMENT

The monthly report of gross receipts and the monthly payments due to the Department must be submitted no later than twenty-five (25) calendar days after the last day of preceding month.

REFUNDS

The Service Provider shall provide the Contract Administrator with refund “funds” to allow the immediate reimbursement to vending customers for lost moneys related to equipment malfunction or product complaint. These refund “funds” shall be on request and a dated, signed receipt will be provided by the contract administrators. The final procedure for such shall be subject to agreement and approval by the Department.

VENDING MACHINES AND PRODUCTS

The vending machines must have an attractive, distinctive and fresh look with graphics and verbiage to indicate healthy vending.

The product offerings must include, but not limited to, the following:

Cold Beverages	• 100% Fruit Juice • Bottled water • Soft drinks • Energy blend beverages. The Service Provider shall include a list and number of proposed juice products. All beverages must be provided and dispensed in recyclable aluminum cans with “litter-free” pop-tops, or recyclable plastic bottles or cartons.
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Snacks	• Healthy Energy Bar & other chocolates • Nuts • Crisps • Sweets Any product offered must be fresh when delivered and stock must be rotated on a regular basis to maintain a fresh supply. Equipment that is not located in an air-conditioned environment must be refrigerated in order for items like chocolate not to melt.
Medicine	Schedule 0 over the counter products such as: • Baby & Child Crae • Cold & Flu • Pain & Fever • Unique OTC Products • Oral Care • Adult Health & Nasal Care (a) All substances referred to in this Schedule are excluded when specifically packed, labelled, sold and used for— (i) industrial purposes including the manufacture or compounding of consumer items or products which have no pharmacological action or medicinal purpose, and which are intended to be ingested by man or animals as a food or applied to the body as a cosmetic, and which are approved for such use in terms of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act 54 of 1972) or that are registered in terms of the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act 36 of 1947);

All items must be maintained, rotated and replaced in accordance with all applicable local, state and food storage regulations to ensure freshness. All products must be dated in accordance with Food regulations. **No tobacco, nicotine or alcohol products shall be sold, offered or given away by the Service Provider on Department property.**

CURRENCY AND COIN USAGE

All vending equipment must have the ability to accept notes and coins, and to dispense change for any vended product in South African currency only. The bidders shall specify details of payment acceptance as part of the bid response.

OTHER SERVICE PROVIDER RESPONSIBILITIES

- A. Provide all necessary labor and supervision to accomplish the tasks detailed herein.
The Service Provider personnel shall be adequately trained, present a professional appearance and be readily identified by uniform or identification badge as an employee of the Service Provider while on Department property.
- B. The Service Provider will work with the Department representative to determine the need for area signage and, if required, provide such signage at no cost to the Department. The Service Provider should present plans for merchandising or marketing promotions and secure prior approval before

implementation of any such activities. No signs, advertising or promotions shall be initiated by the Service Provider without prior approval by the Department.

- C. The Service Provider shall be responsible for the removal of all empty cartons, defective and spoiled products from the vending area to a waste disposal area designated by the Department. The Service Provider shall also be responsible for vermin and pest control in and around its vending equipment. The Service Provider shall keep all vending machinery clean, both inside and outside. Machines should be wiped and sanitized at each visit and thoroughly cleaned must be done at least twice once per month, or when required by the Department.
- D. The Service Provider shall be responsible for the removal of their equipment within five (5) business days from contract termination, or it will be considered abandoned property and disposed of by the Department.
- E. The Service Provider shall at the Service Provider's expense, be responsible for the removal and reinstallation of machines within 48 hours of request by the Department due to unforeseen circumstances (electricity outages, unscheduled maintenance or repairs etc.).
- F. At the end of the contract, the Service Provider will be required to restore the area where the vending machine was installed to its original condition

THE DEPARTMENT WILL PROVIDE:

- A. Vending area space.
- B. Standard electrical connections of 110 volt, 20-30 amps for each machine. The prospective bidder must indicate with their bid any electrical requirements in excess of this standard.

Example of items to be dispensed from a vending machine:

- Include a variety of soft drinks, including fruit juices and bottled water. (canned and bottled).
- Include snacks which include a variety of pre-packaged products e.g. chocolates, chips, etc.
- Include medicine which includes a variety of pre-packaged products e.g. oral care products, tablets and adult care products etc.

CONDITIONS OF BID

The successful bidder will be required to enter into a written agreement with the Department of Public Works and Infrastructure (DPWI) subject to the general and specific conditions listed below and any other conditions that may be required, but mutually agreeable to either party.

The DPWI shall not be liable for any damages caused on the vending machine installed.

Bidders will be required to indemnify the DPWI against any claims which might arise from the erection, location, material or condition of the vending machine on state land, and shall take suitable public liability insurance, in the name of the Bidder and the DPWI against any material damage and third-party liability.

Should the DPWI consider that at any time the Bidder is not fulfilling his/her obligations in terms of the contract, and if after due notice to do so the Bidder is still in default, the DPWI may terminate the Bidder whereupon the contractor must remove the billboard/billboards and make good all state property to the satisfaction of the Accounting Officer of the Department and any other party.

Any concessions awarded will also be subject to the following specific conditions:

- a) The bidder must submit a proposal plan for the installation of the vending machines with time frames for all the bided properties.

OWNERSHIP OF THE VENDING MACHINES

The vending machines shall remain the property of the Bidder on termination of the contract and shall be removed within sixty (60) days from termination of the contract. Should the Bidder fail to remove the vending machines within the stipulated time period, the Department shall have it removed at the cost of the Bidder.

**LIST OF APPROVED PROPERTIES AT WHICH THE VENDING MACHINES WILL BE INSTALLED
ATTACHED AS ANNEXURE A**

NO	DISTRICT OFFICE	PROPERTY DESCRIPTION	FACILITY NAME	FACILITY TYPE
1	BCMM	Farm 1924, King William's Town RD	DPWI (Maintenance Unit) Harker	Office
2		Erf 68614, East London	Amathole & BCMM District Office	Office
3		Erf 304, Dimbaza	Social Development	Office
4		Erf 19009, East London	Government Garage	Office
5		Erf 27306, East London	Strling Teachers Centre	Office
6		Erf 657, Bisho	Office of the Premier	Office
7	ALFRED NZO	Erf 206, Maluti	Old Maluti College	Office
8	OR TAMBO	Erf 1635, Port St Johns	PSJ Depot	Office
9	NMBM	Erf 3966, Port Elizabeth Central	Collegiate Building	Office
10		Erf 213, Korsten	Dept. of Education District Office	Office
11		Erf 2968, Port Elizabeth Central	Old Ford House	Office
12		Erf 1651, Mount Road	Walton Building (Dept of Health District Office)	Office

BID EVALUATION

This bid will be evaluated in three (03) phases as follows

- (a) Phase One: Compliance, responsiveness to the bid rules and conditions
- (b) Phase Two: Bidders passing stage 1 above will thereafter be evaluated on functionality
- (c) Phase Three: Bidders passing all stages above will thereafter be evaluated on Price

PHASE ONE: COMPLIANCE, RESPONSIVENESS TO THE BID RULES AND CONDITIONS

Bids which are late, incomplete, unsigned or submitted by facsimile or electronically, will not be accepted. Bidders' proposals must meet the following minimum requirements and supporting documents must be submitted with the completed bid document in a sealed envelope in the bid box at the closing date and time. Failure to comply will automatically eliminate the bid for further consideration:

- 1. Bids must be submitted on the original documents and bids which are late, incomplete, unsigned or submitted by facsimile or electronically, will not be accepted.
- 2. **The following Declarations must be duly completed and signed: (SBD4). Does the bidder or any of its Directors / Trustees / Shareholder / Members / Partners or any person having a controlling interest in the enterprise have any other related enterprise whether or not they are bidding for this contract such interest must be disclosed on question 2.3.1 of SBD 4.**
- 3. The Form SBD1 "Part A" should be completed and "Part B" must be fully completed (date, signature, amount)
- 4. SBD 3.1 – Pricing Schedule – Firm Prices – must be completed
- 5. **Annexure A** - Resolution to sign must be completed and signed (if applicable):
- 6. Bidders must be a legal entity. In the event of a subcontractor or joint ventures or consortiums a signed agreement by all parties must be submitted with the bid. Also see notes to the "Authority to Sign". Failure to submit a compliant agreement with the bid will automatically eliminate the bid for further consideration.

PHASE TWO: EVALUATION OF FUNCTIONALITY

The functionality criteria and maximum score in respect of each of the criteria are as follows:

FUNCTIONALITY CRITERIA	MAXIMUM POINTS SCORE
A. Project Development Proposal	100
TOTAL SCORE	100
Bidder should score a minimum of 70 points for further evaluation.	

NB: *Bidder should score a point for each of the categories above. Failure to get a point will result to disqualification.

Proof of Financial Guarantee from the potential Funders

Table 1: FUNCTIONALITY EVALUATION CRITERIA: MINIMUM POINTS TO BE SCORED ON THE FUNCTIONALITY IS 70 POINTS FOR FURTHER EVALUATION.

Table 1: Functionality and Evaluation Criteria					
				Max Points	Points Scored
Project Proposal	1	Project Implementation Approach & Understanding of the brief	Project Implementation Proposal:		
			Proposal plan for installation, maintaining and servicing of the vending machine (s)	20	
			Turnaround time for installation of the Vending Machine	20	
			Provide list of items to be sold	20	
			Estimated prices per item to be sold	20	
			Images of the Vending Machine(s)	20	
			No Submission	0	
Total Points				100	

PHASE THREE EVALUATION ON NEW PPPFA and SPECIFIC GOALS

THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT WILL BE APPLIED AND THE 80/20 OR 90/10 PREFERENCE POINTS SYSTEM WILL BE APPLICABLE

POINTS FOR PRICE	80 POINTS	OR	90 POINTS
SPECIFIC GOALS	20 POINTS	OR	10 POINTS
TOTAL POINTS	100 POINTS		100 POINTS

Please note:

1. Bidders need to complete and sign SBD 6.1 to claim points for specific goals. Failure will lead in non-awarding of points for specific goals.
2. The Department intends to award this to the highest point scorer as per item (erf), unless circumstances justifies otherwise.
3. When evaluating bids/quotations of joint ventures/consortia, preference points must be allocated proportionately for such bidders in terms of their attributes or qualification for the relevant specific goal that is being scored, subject to the joint venture/consortium submitting the relevant proof of substantiation of points claimed as stipulated in the bidding documents. The points scored for the specific goals must then be added to the points scored for price and rounded off to the nearest two decimal points.” A JV/consortia agreement must be submitted with the bid to substantiate the calculations. Failure will also lead in non-awarding of points for specific goals.
4. All information will be verified through CSD (if applicable)
5. A Cipro certificate (CK) and certified ID copy/s must be attached as proof of ownership to claim points for specific goals.
6. A Medical certificate from a medical Practitioner with a practise number must be attached to claim points for disability.
7. SBD 6.1 is attached

The bidder/ developer will have to undertake or complete the proposed development in no longer than **24 months unless determined otherwise by the Department**. In the event that the bidder fails to complete the project within the stipulated time of 24 months, the bidder will be **liable for rental as stated on the Form of Offer**.

Despite any delays, the bidder/ developer, the rental will commence at expiry of 24 months, unless the department agrees otherwise with the party.

NB: All Information provided will be subject to risk assessment.

PRICING SCHEDULE – FIRM PRICES

SBD 3.1

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

Name of bidder.....

Bid number: **SCMU5-24/25-0174**

Closing Time **11:00**

Closing date: **06 March 2025**

OFFER TO BE VALID FOR PERIOD UP UNTIL AWARD FROM THE CLOSING DATE OF BID.

NO	DISTRICT OFFICE	PROPERTY DESCRIPTION	FACILITY NAME	FACILITY TYPE
1	BCMM	Farm 1924, King William's Town RD	DPWI (Maintenance Unit) Harker	Office
2		Erf 68614, East London	Amathole & BCMM District Office	Office
3		Erf 304, Dimbaza	Social Development	Office
4		Erf 19009, East London	Government Garage	Office
5		Erf 27306, East London	Strling Teachers Centre	Office
6		Erf 657, Bisho	Office of the Premier	Office
7	ALFRED NZO	Erf 206, Maluti	Old Maluti College	Office
8	OR TAMBO	Erf 1635, Port St Johns	PSJ Depot	Office
9	NMBM	Erf 3966, Port Elizabeth Central	Collegiate Building	Office
10		Erf 213, Korsten	Dept. of Education District Office	Office
11		Erf 2968, Port Elizabeth Central	Old Ford House	Office
12		Erf 1651, Mount Road	Walton Building (Dept of Health District Office)	Office

RENTAL PAYABLE TO DPW ON LETTABLE SPACE

A.	Proposed rental of space for vending machine to be payable on a monthly basis (as a percentage of sales)	
B.	Total rental payable per annum (as a percentage of sales)	
C.	Total rental payable over 3 year (as a percentage of sales)	
TOTAL INVESTMENT INCOME (To be carried over to the form of offer)		

PLEASE NOTE: The Department will not accept proposals with less than 20% of the total sales made from each vending machine per month.

If VAT is charged, VAT registration must be completed below

VAT NUMBER REGISTRATION

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 **80/20** preference point system.
- b) 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	POINTS
PRICE	80	90
SPECIFIC GOALS	20	10
Total points for Price and SPECIFIC GOALS	100	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

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

Where

P_s = Points scored for price of tender under consideration

P_t = Price of tender under consideration

P_{min} = Price of lowest acceptable tender

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

3.2.1. POINTS AWARDED FOR PRICE

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

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

Where

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

4. POINTS AWARDED FOR SPECIFIC GOALS

4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the 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 (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (To be completed by the tenderer)	Number of points allocated (90/10 system) (To be completed by the organ of state)	Number of points claimed (90/10 system) (To be completed by the tenderer)
Historically Disadvantaged Individual: -				
(a) 100% black ownership	4		2	
(b) 51% to 99% black ownership	2		1	
(c) Less than 51% black ownership	0		0	
Black women ownership:-				
(a) 100% black women ownership	4		2	
(b) 30% to 99% black women ownership	2		1	
(c) Less than 30% black women ownership	0		0	
Black youth ownership:-				
(a) 100% black youth ownership	8		4	
(b) 30% to 99% black youth ownership	2		1	
(c) Less than 30% black youth ownership	0		0	
People with disability:-				
(a) 20% or more disabled people ownership	2		1	
(b) Less than 20% disabled people ownership	0		0	
Locality:-				
(a) Within the Eastern Cape	2		1	
(b) Outside the Eastern Cape	0		0	

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:

.....

.....

.....

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

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

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

2. Bidder's declaration

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

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

Full Name	Identity Number	Name of State institution

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

2.2.1 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.

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

2.3.1 If so, furnish particulars:

.....
.....

3 DECLARATION

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

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium² will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.5 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.
- 3.6 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.
- 3.7 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.

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.

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 ENHANCING COMPLIANCE, TRANSPARENCY AND ACCOUNTABILITY IN SUPPLY CHAIN MANAGEMENT SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature Date

.....
Position Name of bidder

RESOLUTION FOR SIGNATORY

(See also “Special Conditions of Bid”)

Signatory for companies shall confirm their authority hereto by attaching a duly signed and dated copy of the relevant resolution of the board of directors to this form.

An example is given below:

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

Mr/Ms_____, whose signature appears below, has been duly authorised to sign all documents in connection with the tender for

Bid Number: SCMU5-

and any Contract which may arise there from on behalf of (Block Capitals) _____

SIGNED ON BEHALF OF THE COMPANY: _____

IN HIS/HER CAPACITY AS: _____

DATE:_____

SIGNATURE OF SIGNATORY: _____

WITNESSES:

1. _____ SIGNATURE: _____

**DETAILS OF TENDERERS NEAREST OFFICE TO DEPARTMENT OF PUBLIC WORKS
EASTERN CAPE**

1. Physical address of tenderer:

1 Telephone No of nearest office: _____

3 Time period for which such office has been used by tenderer: _____

.....
SIGNATURE OF (ON BEHALF OF) TENDERER

.....
NAME IN CAPITALS

In the presence of:

1.

2.

CREDIT CHECK AUTHORIZATION FORM

I (Director), _____, do hereby authorize Eastern Cape Department of Public Works and Infrastructure _____ to obtain a Background Check and / or Credit Report on me.

This authorization is only valid and applicable for to obtain and verify information given to the Department for the purpose of evaluating for this current Tender, or any other lawful purpose.

By signing this document below, I am authorizing all Financial Institutions, law enforcement agencies, courts at all levels, and other relevant persons to release information they may be holding about me including but not limited to criminal history and credit history.

The authorization is valid in original copy or form.

Director's Full Name: _____

Identity Number: _____

Director's addresses

Current Street Address: _____

Suburb: _____

City: _____ Code: _____

Signature: _____ Date: _____

GENERAL CONDITIONS OF CONTRACT

A. TABLE OF CLAUSES

1. Definitions
2. Application
3. General
4. Standards
5. Use of contract documents and information; inspection
6. Patent rights
7. Performance security
8. Inspections, tests and analysis
9. Packing
10. Delivery and documents
11. Insurance
12. Transportation
13. Incidental services
14. Spare parts
15. Warranty
16. Payment
17. Prices
18. Contract amendments
19. Assignment
20. Subcontracts
21. Delays in the provider's performance
22. Penalties
23. Termination for defaults
24. Dumping and countervailing duties
25. Force Majeure
26. Termination for insolvency
27. Settlement of disputes
28. Limitation of liability
29. Governing language
30. Applicable law
31. Notices
32. Taxes and duties

GENERAL CONDITIONS OF CONTRACT

1. Definitions

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 provider, 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 provider 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 the 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 provider 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 markets 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 provider and not involving the provider'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 provider 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 provider or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as land 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 provider covered under the contract.

1.25 **“Written” or “in writing”** means hand-written 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 (excluding professional services related to the building and construction industry), sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise 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 Invitations to bid are usually published in locally distributed news media and in the institution's website.

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 provider 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 provider 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 provider 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 provider's performance under the contract if so required by the purchaser.

5.4 The provider shall permit the purchaser to inspect the provider's records relating to the performance of the provider and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

6. Patent rights

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

6.2 When a provider developed documentation/projects for the department or PROVINCIAL entity, the intellectual, copy and patent rights or ownership or such documents or projects will vest in the department or PROVINCIAL entity.

7. Performance security

7.1 Within thirty (30) days of receipt of the notification of contract award, the success 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 provider'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 provider not later than thirty (30) days following the date of completion of the provider's performance obligations under the contract, including any warranty obligations, unless otherwise specified.

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 purchaser or an organization acting on behalf of the purchaser.

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 clause 8.2 & 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 provider.

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

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. Packaging

9.1 The provider shall provide such packaging of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packaging shall be

sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packaging, case size and weights shall take into consideration, where appropriate, the remoteness of the good's final destination and the absence of heavy handling facilities at all points in transit.

9.2 The packaging, 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, and in any subsequent instructions ordered by the purchaser.

10. Delivery and documents

10.1 Delivery of the goods and arrangements for shipping and clearance obligations, shall be made by the provider in accordance with the terms specified in the contract.

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.

12. Transportation

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

13. Incidental services

13.1 The provider may be required to provide any or all of the following services, including additional services, if any:

- (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 provider of any warranty obligations under this contract; and
- (e) training of the purchaser's personnel, at the provider'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 provider 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 provider for similar services.

14. Spare parts

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

- 1) such spare parts as the purchaser may elect to purchase from the provider, provided that this election shall not relieve the provider of any warranty obligations under the contract, and
- 2) in the event of termination of production of the spare parts:
 - a) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and

- b) 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 provider 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 provider further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the provider, 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.

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

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

15.5 If the provider, having been notified, fails to remedy the defect(s) within the period specified, the purchaser may proceed to take such remedial action as may be necessary, at the provider's risk and expense and without prejudice to any other rights which the purchaser may have against the provider under the contract.

16. Payment

16.1 The method and conditions of payment to be made to the provider under this contract shall be specified

16.2 The provider shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfilment 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 provider.

16.4 Payment will be made in Rand unless otherwise stipulated.

17. Prices

17.1 Prices charged by the provider for goods delivered and services performed under the contract shall not vary from the prices quoted by the provider in his bid, with the exception of any price adjustments authorized or in the purchaser's request for bid validity extension, as the case may be.

18. Increase/decrease of quantities

18.1 In cases where the estimated value of the envisaged changes in purchase does not exceed 15% of the total value of the original contract, the contractor may be instructed to deliver the revised quantities. The contractor may be approached to reduce the unit price, and such offers may be accepted provided that there is no escalation in price.

19. Contract amendments

19.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.

20. Assignment

20.1 The provider shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.

21. Subcontracts

21.1 The provider 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 provider from any liability or obligation under the contract.

22. Delays in the provider's performance

22.1 Delivery of the goods and performance of services shall be made by the provider in accordance with the time schedule prescribed by the purchaser in the contract.

22.2 If at any time during performance of the contract, the provider or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the provider 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 provider's notice, the purchaser shall evaluate the situation and may at his discretion extend the provider'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.

22.3 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if any emergency arises, the provider's point of supply is not situated at or near the place where the supplies are required, or the provider's services are not readily available.

22.4 Except as provided under GCC Clause 25, a delay by the provider in the performance of its delivery obligations shall render the provider 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.

22.4 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 provider'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 provider.

23. Penalties

23.1 Subject to GCC Clause 25, if the provider 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 good 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.

24. Termination for Default

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

- (a) if the provider 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 provider fails to perform any other obligation(s) under the contract; or
- (c) if the provider, in the judgement of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

24.2 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 provider shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the provider shall continue performance of the contract to the extent not terminated.

25. Anti-Dumping And Counter-Vailing Duties And Rights

25.1 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 provider to the purchaser or the purchaser may deduct such amounts from moneys (if any) which may otherwise be due to the provider 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.

26. Force Majeure

26.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the provider 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.

26.2 If a force majeure situation arises, the provider shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the provider 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.

27. Termination for Insolvency

27.1 The purchaser may at any time terminate the contract by giving written notice to the provider if the provider becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the provider, 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,

28. Settlement of Disputes

28.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the provider 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.

28.2 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 provider 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.

28.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.

28.4 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 provider any monies due to the provider for goods delivered and / or services rendered according to the prescripts of the contract.

29. Limitation of Liability

29.1 Except in cases of criminal negligence or wilful misconduct, and in the case of infringement pursuant to Clause 6;

(a) the provider 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 provider to pay penalties and / or damages to the purchaser; and

(b) the aggregate liability of the provider 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.

30. Governing Language

30.1 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.

31. Applicable Law

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

32. Notices

32.1 Every written acceptance of a bid shall be posted to the provider 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.

32.2 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.

33. TAXES AND DUTIES

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

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

33.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid SARS must have certified that the tax matters of the preferred bidder are in order.

34. Transfer of Contracts

34.1 The contractor shall not abandon, transfer, assign or sublet a contract or part thereof without the written permission of the purchaser.

35. Amendment of Contracts

35.1 No agreement to amend or vary a contract or order or the conditions, stipulations or provisions thereof shall be valid and of any force unless such agreement to amend or vary is entered into in writing and signed by the contracting parties. Any waiver of the requirement that the agreement to amend or vary shall be in writing, shall also be in writing.