

BID DOCUMENT

DOP066-20-21

THE FREE STATE PROVINCIAL GOVERNMENT

Office of the Premier



the premier

Office of the Premier

FREE STATE PROVINCE

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SBD 1

PART A
INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (Office of the Premier Free State)					
BID NUMBER:	DOP066-20-21	CLOSING DATE 23 July 2021	CLOSING TIME:	16:00	
DESCRIPTION	REQUEST FOR BIDS-DOP066-20-21 REQUEST FOR SERVICES OF A FIRM OF CHARTERED ACCOUNTANTS TO INVESTIGATE AND REPORT ON EXPENDITURE OF HUMAN SETTLEMENTS IN RE ASBESTOS PROJECT				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
Outside Room 333, 3 rd Floor, OR Tambo House					
cor St Andrews and Markgraaff Streets					
BLOEMFONTEIN					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	Mr MS Tsunke		CONTACT PERSON	Mr AJ Venter	
TELEPHONE NUMBER	051 405 4017		TELEPHONE NUMBER	051 405 4926	
FACSIMILE NUMBER	051 405 4071		FACSIMILE NUMBER	051 405 4955	
E-MAIL ADDRESS	stephen.tsunke@fspremier.gov.za		E-MAIL ADDRESS	joann.kleynhans@fspremier.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
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] ☐ Yes ☐ No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX] ☐ Yes ☐ No
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	☐ Yes ☐ No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?		☐ Yes ☐ No [IF YES, ANSWER 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, 2017, 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:

TENDER SPECIAL CONDITIONS OF CONTRACT

1. LEGISLATIVE AND REGULATORY FRAMEWORK

- 1.1 This bid and all contracts emanating there from will be subject to the General Conditions of Contract issued in accordance with Treasury Regulation 16A published in terms of the Public Finance Management Act, 1999 (Act 1 of 1999). The Special Conditions of Contract are supplementary to that of the General Conditions of Contract. Where, however, the Special Conditions of Contract are in conflict with the General Conditions of Contract, the Special Conditions of Contract prevail.

2. SPECIAL CONDITIONS /BID SUBMISSION

- 2.1 The OFFICE OF THE PREMIER is hereby inviting potential bidders to conduct an investigation and report on expenditure of the Department of Human Settlements in relation to the Asbestos Project.
- 2.2 This bid is an invitation for Bidders to submit a proposal for the provision of the services as set out in the Terms of Reference contained herein and in the enclosed pricing schedule (SBD 3.1).
- 2.3 In response to this invitation your quotation and accompanying documents must be submitted in a sealed envelope and must be deposited in the tender box outside Room 333, 3rd Floor, OR Tambo House not later than 16:00 on 23 July 2021.
- 2.4 Price(s) tendered must be valid for at least ninety (90) days from closing date of the bid and these prices will be binding on the successful bidder(s)
- 2.5 Price(s) tendered must be firm and must be inclusive of VAT.
- 2.6 No binding contract or other understanding for the supply of the Services will exist between the OFFICE OF THE PREMIER and any Bidder unless the written contract form (SBD7) is completed and signed.
- 2.7 The OFFICE OF THE PREMIER will take no responsibility for the storing and safe keeping of material and equipment belonging to the service provider
- 2.8 The OFFICE OF THE PREMIER will not be responsible for providing accommodation, transport and resources for the staff of the service provider.
- 2.9 Bidders must provide all the information requested in specification and as specified further in the Special Conditions.
- 2.10 This bid will be evaluated in terms of the 80/20 preference point in line with Preferential Procurement Policy Regulations, 2017 and all of its provisions.
- 2.11 Enclosed are forms SBD 1, SBD 3.1, SBD 4, SBD 6.1, SBD 8, SBD 9 and a functionality questionnaire, which must be scrutinized, completed and submitted together with your proposal as part of the bid.

- 2.12 Bids will be evaluated on functionality. Bidders must complete the accompanying functionality scoresheet and submit where so required substantiating documentation. Bidders who score less than 70 out of 100 will be disqualified.
- 2.13 The General Conditions of Contract (GCC) as issued by the National Treasury, which can be obtained from www.treasury.gov.za/divisions/sf/sc/ will be applicable to the bid when awarded.
- 2.14 The successful service provider will be the one scoring the highest points in terms of the Preferential Procurement Policy Regulations, 2017.
- 2.15 All interested bidders must attend the compulsory briefing session scheduled for **Thursday, 15 July 2021 at 10:00, Adelaide Tambo Hall, O.R. Tambo House, cor. St Andrews and Markgraaff Streets, Bloemfontein**. During this session further detail will be provided regarding the project and an opportunity will be given to representatives to obtain clarity.
- 2.16 This bid document is free of charge and is available for download on the E-tender portal as well as at the OFFICE OF THE PREMIER's tender bulletin office in room 340, OR Tambo House, Bloemfontein.
- 2.17 Please note that only businesses registered on the Central Supplier database of Government will be considered. If your business is not registered you may complete the registration of your business prior to submitting your quotation. Refer to <https://secure.csd.gov.za/> to register your business. Ensure that all documentation on the database are updated and valid. Businesses who will submit bids must either provide their vendor number or a copy of the CSD Registration "Summary Report".
- 2.18 The bid may only be awarded to a business whose tax is in order. The attention of bidders is drawn to the requirements in SBD 1 Part B.
- 2.19 No points will be allocated for BBBEE if the *following document* is not submitted:
 - 2.19.1 Original or certified BBBEE (Status Level Verification Certificate) issued by verification agency accredited by SANAS (Generic Enterprises).
 - 2.19.2 A valid sworn affidavit or a BBBEE certificate from CIPRO, for Exempted Micro enterprises (EMEs).
 - 2.19.3 Original or certified BBBEE (Status Level Verification Certificate) issued by verification agency accredited by SANAS or a Sworn Affidavit from the commissioner of oaths (for Qualifying Small Enterprise "QSE").
- 2.20 The team of the Service Provider must be managed by a chartered account and include a forensic investigator, as well as any other skill necessary to successfully execute the project and handle pressures of the assignment.
- 2.21 Service Providers must submit -
 - 2.21.1 a proposal which includes an project plan, project milestones linked to dates to map implementation of the project until finalization; and

- 2.21.2 information, which includes the credentials of team members.
- 2.21.3 Bidders must submit a total price (vat inclusive) for completion of the project, inclusive of disbursements and any other cost.
- 2.22 If the Service Provider submit a bid as a joint venture/consortium the following is relevant:
- 2.22.1 Where entities forms a Joint Venture or a Consortium with another entity and/or other entities, such parties must express it in the bid proposal and a JV agreement should be submitted together with the bid. Kindly complete attached **Annexure A** and register on the CSD as a Joint Venture.
- 2.22.2 Individual Entity/ies must be registered on the CSD and after closing and before awarding, register a Joint Venture or a Consortium on the CSD. It will also be expected that a joint venture/consortium should open a joint bank account (proof of the bank account should be submitted after awarding) within 30 days after the awarding of the contract.
- 2.22.3 The JV/consortium must submit a consolidated BBBEE certificate.
- 2.22.4 Each party to the JV/consortium must submit its own tax information as required in SBD 1 Part B.
- 2.23 OFFICE OF THE PREMIER reserves the right to procure its requirements elsewhere outside the contract should the services be urgently required and not immediately available or in emergency cases.
- 2.24 OFFICE OF THE PREMIER reserves the right to arrange contracts with more than one service provider.
- 2.25 The completed bid document may serve as a basis for further negotiations at OFFICE OF THE PREMIER's selection process within the framework of the Preferential Procurement Regulations, 2017. OFFICE OF THE PREMIER may at its sole discretion decide how many potential service providers are requested to participate in the contract.
- 3. SUBMISSION OF BIDS**
- 3.1 Bidders must submit 1 original tender document in sealed envelope stating on the front envelope, the tender number, the closing date of the bid, as well the following address OR TAMBO HOUSE Room 333, cor. St Andrews and Markgraaff Streets, BLOEMFONTEIN, 9301 by the closing date and time of the bid.
- 3.2 In the event that a hard copy of the bid document is not received on or before the closing date and time, the bid will be invalidated.

4. SCOPE OF WORK / TERMS OF REFERENCE OF PROJECT

- 4.1 The OFFICE OF THE PREMIER requires the services of a firm of Chartered Accountants (the Service Provider) to investigate and report on expenditure by the Department of Human Settlements, which expenditure relates to fees for services rendered by a service provider to perform an assessment of low cost housing with asbestos roofs in the Province, in order to determine:
- 4.1.1 Whether in fact the expenditure can be regarded as irregular in accordance with the provisions of the Public Finance Management Act (PFMA).
 - 4.1.2 Whether value for money was received in respect of payments made to the service provider.
 - 4.1.3 Whether the Accounting Officer, the Director: Supply Chain Management and/or the Chief Financial Officer committed financial misconduct in terms of Section 81 of the PFMA or Section 45 of the PFMA, read with Regulation 4 of the Treasury Regulations.
 - 4.1.4 If found that financial misconduct or any other misconduct was committed, what the proposed charges of misconduct against any of such officials should be.
- 4.2 The Service Provider will be required to give evidence relating to their findings in any disciplinary proceedings, if necessary, at no extra cost.
- 4.3 This investigation should be completed within 60 days commencing on date of signing of the contract form (SBD7).
- 4.4 The report of the Auditor General relating to the annual audit of the financial statements of the Department of Human Settlements, in which this expenditure is addressed, the Department of Human Settlements' own investigation into the irregular expenditure, as identified by the Auditor General, and the report of the Public Protector, as well as copies of the documents on which were relied on for her findings, are available.
- 4.5 The DDG: Corporate Administration and Co-ordination, Mr AJ Venter, will be responsible for management of the contract and the successful Service Provider must liaise with and submit the investigation report to him.
- 4.6 Payment is due upon successful completion of the project. Payment by the OFFICE OF THE PREMIER will be made not later than 30 days after certification of the invoice by the DDG: Corporate Administration and Co-ordination that services were rendered satisfactorily.

5. OPENING OF BIDS

Bids will be opened publicly immediately on closing date and time stipulated. No faxed and e-mailed bids will be accepted. Bids delivered after the above-mentioned stipulated time and date will not be considered.

6. EVALUATION PROCESS

6.1 The evaluation process comprises the following phases:

Phase I	Phase II	Phase III	Phase IV
Administration and Mandatory bid requirements	Pre-qualification	Functionality	Price and B-BBEE
Compliance with administration and mandatory bid requirements	Pre-qualification criteria <i>(not applicable in this bid)</i>	Bids will be evaluated in terms of functionality	Bids evaluated in terms of the 80/20 preference system

Failure to comply with Phase I will invalidate the bid.

6.2 Phase I: Mandatory Requirements

During this phase Bidders' response will be evaluated based on the mandatory requirements indicated hereunder. This phase is not scored and Bidders who do not submit acceptable tenders by failing to comply with all the mandatory criteria and conditions will be disqualified.

6.2.1 Registration on Central Supplier Database (CSD)

The Bidders must be registered as a service provider on the Central Supplier Database (CSD). If you are not registered proceed to complete the registration of your company prior to submitting your bid. Refer to <https://secure.csd.gov.za/> to register your company. Ensure that all documentation on the database are updated and valid.

Are you a registered supplier on the Government's Central Supplier Database (CSD)? (Yes/No)

Complete your registered CSD vendor number on the checklist.

Provide a copy of the CSD Registration "Summary Report".

6.2.2 Valid Tax Clearance Certificate

Bidders must ensure that their tax information on Central Supplier Database (CSD) is in good standing and provide the information as indicated in Part B of SBD1.

Bidder(s) must be compliant when submitting a proposal to the Free State Provincial Government and remain compliant for the entire contract period with all applicable tax legislation, including but not limited to the Income Tax Act, 1962 (Act No. 58 of 1962) and Value Added Tax Act, 1991 (Act No. 89 of 1991).

6.2.3 Responsive Bids

Bidders must ensure their bids are responsive by completing and signing, where applicable, all relevant bid documents and that they meet all requirements set out in bid documents. Non-compliance with this condition will invalidate the bid for such services offered.

6.2.4 Company Registration

Bidder must provide a certified copy of the company registration certificate in responding to the tender.

6.3 Phase II: Pre-qualification Evaluation

6.3.1 There will be no prequalification Evaluation for this bid.

6.4 Phase III: Functionality Evaluation

Functionality will be evaluated on the basis of the responses on the Functionality Questionnaire and supporting documentation supplied by the Bidders as follows:

ELEMENTS OF FUNCTIONALITY CRITERIA & SCORES

CRITERIA FOR FUNCTIONALITY	DOCUMENTS TO BE ATTACHED	MAXIMUM POINTS	POINTS CLAIMED
Bidder's relevant experience in public sector: 10 + years' experience in public sector (25 points) 5 – 9 years' experience in public sector (15 points) 0 – 4 years' experience in public sector (5 points)	List of services rendered in relation to the public service with contact details of the client/s, copy/ies of orders and appointment letter/s	25	
Competency to execute the project: Team consisting of - • 2 or more Chartered Accountant/s with 5 years' experience (10 points) • Team members with a recognized degree in accounting and/or auditing: ➤ 100% of team meets above criteria (20 points) ➤ 80% to 99% of team meets above criteria (15 points) ➤ 60 to 79% of team meets above criteria (10 points)	Curriculum Vitaes, Certified copies of qualifications and registrations at professional bodies, any other information which could confirm the experience of team members	40	

➤ Below 60% of team meets above criteria (5 points) • Team must include a forensic auditor of at least 5 years' experience (10 points)			
Demonstrate the ability to execute the project	Project plan meets the specification of the Department (the project plan will be evaluated as indicated below*)	20	
Successful implementation of previous projects	At least three signed relevant client reference letters which confirms that work was done satisfactory in line with requirements Five or more letters (15 points) Four letters Three letters (10 points) Two letter (5 points) 1 letter	15	
TOTAL FOR FUNCTIONALITY:		100	

*The score for the project plan by the Bid Evaluation Committee (BEC) whereby each member will rate each individual criterion or it may be decided to rate bidders collectively by allocating the specified points using the below scoresheet:

Rating	Score
Excellent	20
Good	15
Average	10
Poor	5

6.4.1. Bids will be evaluated strictly according to the bid evaluation criteria stipulated in this section.

6.4.2 Bidders must, as part of their bid documents, submit supportive documentation for all functional requirements as indicated in the Terms of Reference. The panel responsible for scoring the respective bids will evaluate and score all bids based on their submissions and the information provided. The Department may at any time request clarity regarding any aspect of functionality.

- 6.4.3 The score for functionality will be determined by the Bid Evaluation Committee (BEC) whereby each member will rate each individual criterion or rating bidders collectively on the scoresheet
- 6.4.4 A bid must at least score a minimum of 70 points out a total of 100 points on functionality to qualify for further evaluation.
- 6.4.5 The OFFICE OF THE PREMIER reserves the right to determine the number of service providers to provide relevant services.

6.5 Phase IV: Preference Point System

- 6.5.1 In terms of Preferential Procurement Regulations 2017 pertaining to the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000), responsive bids will be adjudicated by the Department on the 80/20-preference point system in terms of which points are awarded to Bidders on the basis of:

- The bid price (maximum 80 points)
- Broad-Based Black Economic Empowerment (B-BBEE) status level of contributor (maximum 20 points)

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

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

Where

P_s = Points scored for comparative price of bid under consideration

P_t = Comparative price of bid under consideration

$P_{\min}$ = Comparative price of lowest acceptable bid

- 6.5.3 A maximum of 20 points may be allocated to a Bidder for attaining their B-BBEE status level of contributor in accordance with the table below:

B-BBEE Status Level of Contributor	Number of Points
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

- 6.5.4 Bidders are required to complete the preference claim form (SBD 6.1), and submit their SANAS accredited B-BBEE status level verification certificate or a certified copy thereof at the closing date and time of the bid in order to claim the B-BBEE status level point or in case of EME/QSE a sworn affidavit downloaded from DTI website and signed by the commissioner of oaths.

- 6.5.5 The points scored by a Bidder in respect of the level of B-BBEE contribution will be added to the points scored for price.
- 6.5.6 Only Bidders who have completed and signed the declaration part of the preference claim form and who have submitted SANAS accredited BBEE verification certificates or in case of EME/QSE a sworn affidavit downloaded from DTI website and signed by the commissioner of oaths, will be accepted.
- 6.5.7 Failure on the part of the Bidder to comply with paragraphs 7.7.4 and 7.7.6 above will be deemed that preference points for B-BBEE status level of contribution are not claimed and will therefore be allocated a zero (0).
- 6.5.8 In the case of a Joint Venture, the Joint Venture partners must submit a combined BBB-EE certificate.
- 6.5.9 The OFFICE OF THE PREMIER may, before a bid is adjudicated or at any time, require a Bidder to substantiate claims it has made with regard to preference.
- 6.5.10 The points scored will be rounded off to the nearest 2 decimals.
- 6.5.11 In the event that two or more bids have scored equal total points, the contract will be awarded to the Bidder scoring the highest number of preference points for B-BBEE.
- 6.5.12 However, when functionality is part of the evaluation process and two or more Bidders have scored equal points including equal preference points for B-BBEE, the contract will be awarded to the Bidder scoring the highest for functionality.
- 6.5.13 Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.
- 6.5.14 A contract may, on reasonable and justifiable grounds, be awarded to a bid that did not score the highest number of points.
- 6.5.15 The bid may be allocated to more than one service provider.

7. OVERALL CRITERIA

CRITERIA	MAXIMUM POINTS
Price	80
BBBEE Rating	20
Grand Total	100

8. ADJUDICATION OF THE BIDS

The adjudication of bids will be conducted in accordance with Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) and Regulations. The Bid Adjudication Committee will consider the recommendations of the Bid Evaluation Committee and make a recommendation to the Director General: OFFICE OF THE PREMIER, for a decision.

9. AWARD OF CONTRACT

- 9.1 The outcome of the bid will be published in the media in which the tender was advertised.
- 9.2 Upon becoming aware of the outcome of the bid, as contemplated in par. 9.1, bidders may request reasons for the decision within 90 days.

10. LATE BIDS

- 10.1 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.

11. COUNTER CONDITIONS

- 11.1 Bidders' attention is drawn to the fact that amendments to any of the Bid Conditions or setting of counter conditions by Bidders will result in the invalidation of such bids.

12. FRONTING

- 12.1 Government supports the spirit of broad based black economic empowerment and recognizes that real empowerment can only be achieved through individuals and businesses conducting themselves in accordance with the Constitution and in an honest, fair, equitable, transparent and legally compliant manner. Against this background the Government condemn any form of fronting.
- 12.2 The Government, in ensuring that Bidders conduct themselves in an honest manner may, as part of the bid evaluation processes, conduct or initiate the necessary enquiries/investigations to determine the accuracy of the representation made in bid documents. Should any of the fronting indicators as contained in the Guidelines on Complex Structures and Transactions and Fronting, issued by the Department of Trade and Industry, be established during such enquiry / investigation, the onus will be on the Bidder / contractor to prove that fronting does not exist. Failure to do so within a period of 14 days from date of notification may invalidate the bid / contract and may also result in the restriction of the Bidder /contractor to conduct business with the public sector for a period not exceeding ten years, in addition to any other remedies the OFFICE OF THE PREMIER may have against the Bidder / contractor concerned.

13. SUPPLIER DUE DILIGENCE

- 13.1 The OFFICE OF THE PREMIER reserves the right to conduct supplier due diligence during evaluation, prior to final award or at any time during the contract period. This may include site visits and verification of documents.

14. VERIFICATION OF BIDDERS

During the Bid Evaluation and Adjudication process, the status of the supplier must be verified. Should a default be detected, the procedure for the restriction of the supplier as stated in SCM Practice Note No. 5/2006 will be followed.

15. PRESENTATION

- 15.1 The OFFICE OF THE PREMIER may require presentations/interviews from the short-listed Bidders as part of the bid process.

16. COMMUNICATION AND CONFIDENTIALITY

- 16.1 The OFFICE OF THE PREMIER may communicate with Bidders where clarity is sought after the closing date of the bid and prior to the award of the contract, or to extend the validity period of the bid, if necessary.
- 16.2 All communication between the Bidder and the OFFICE OF THE PREMIER must be done in writing.
- 16.3 Whilst all due care has been taken in connection with the preparation of this bid, the OFFICE OF THE PREMIER makes no representations or warranties that the content of this bid or any information communicated to or provided to Bidders during the bidding process is, or will be, accurate, current or complete. The OFFICE OF THE PREMIER, and its offers, employees and advisors will not be liable with respect to any information communicated which is not accurate, current or complete.
- 16.4 If a Bidder finds or reasonably believes it has found any discrepancy, ambiguity, error or inconsistency in this bid or any other information provided by the OFFICE OF THE PREMIER (other than minor clerical matters), the Bidder must promptly notify the OFFICE OF THE PREMIER in writing of such discrepancy, ambiguity, error or inconsistency in order to afford the OFFICE OF THE PREMIER an opportunity to consider what corrective action is necessary (if any).
- 16.5 Any actual discrepancy, ambiguity, error or inconsistency in this bid or any other information provided by the OFFICE OF THE PREMIER will, if possible, be corrected and provided to all Bidders without attribution to the Bidder who provided the written notice.
- 16.6 All persons (including Bidders) obtaining or receiving this bid and any other information in connection with this 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.
- 16.7 No material or information derived from the procurement and provision of the services under the contract may be used for any purposes other than those of OFFICE OF THE PREMIER, except where authorized in writing to do so. All documents will remain the property to the OFFICE OF THE PREMIER.

17. FINANCIAL MANAGEMENT

The OFFICE OF THE PREMIER will settle the service providers' accounts within the agreed payment terms.

18. NEGOTIATIONS

- 18.1 Subject to regulation 6(9) of the Preferential Procurement Regulations, 2017, the OFFICE OF THE PREMIER reserves the right to negotiate with the Bidder(s) scoring the highest points.

19. CONFIDENTIALITY

- 19.1 Information relating to the evaluation of bids and recommendations concerning award shall not be disclosed to the bidder who submitted the proposals or to other persons not officially concerned with the process, until the successful bidder has been notified that he/she has been awarded the contract.
- 19.2 No material or information derived from the procurement and provision of the services under the contract may be used for any purposes other than those of OFFICE OF THE PREMIER, except where authorized in writing to do so.
- 19.3 The OFFICE OF THE PREMIER agrees to keep the details of the bidder's bid strictly confidential, including but not limited to any financial information provided, and will not disclose the content thereof to any third party, except as required and/or authorized by law or a court order after awarding of the bid.

20. AGREEMENTS

- 20.1 The Service Provider will be required to fill in and sign a written contract form (SBD7).
- 20.2 Should funds no longer be available to pay for the execution of the services due to policy prioritization, the OFFICE OF THE PREMIER may terminate the Agreement in its own discretion or temporarily suspend all or part of the services by notice to the bidder who shall immediately make arrangements to stop the performance of the services and minimize further expenditure: Provided that the bidder shall thereupon be entitled to payment in full for the services delivered, up to the date of cancellation or suspension.

21. OFFICIALS PROHIBITED FROM SUBMITTING BIDS

- 21.1 In accordance with Provincial Treasury Instruction Note 17 of 2012, an employee of the Free State Provincial Government or a provincial public entity may not have business interest in any entity conducting business with the Provincial Government.
- 21.2 According to the Public Service Regulations, 2016, an employee may not do business with any organ of state.
- 21.3 The Provincial Government may not award any tender or enter into any contract with an employee in the employment of the State.
- 21.4 All bids received contrary to Provincial Treasury Instruction Note 17 of 2012 and the Public Service Regulations, 2016 (Regulation 13) shall be disqualified.

22. JOINT VENTURE AGREEMENTS

22.1 Where an entity forms a Joint Venture or a Consortium with another entity and/or other entities, such parties must express in the bid proposal and a JV agreement should be submitted together with the bid.

22.2 Individual Entity/ies must all be registered on the CSD and after closing and/or awarding, register a Joint Venture or a Consortium on the CSD.

23. REASONS FOR REJECTION OF THE BID

Reasons for rejection of the bid could include the following:

23.1 OFFICE OF THE PREMIER shall not accept any late bid and it may return late bids.

23.2 OFFICE OF THE PREMIER shall reject bids that are not in accordance to specification / Terms of Reference.

23.3 Bidders shall not contact OFFICE OF THE PREMIER on any matter pertaining to their bids from the closing date to the time the bid has been adjudicated, unless otherwise stated in the bid (see par. 16.4). Any effort by a bidder to influence the bid evaluation or adjudication may result in rejection of the bid concerned.

23.4 OFFICE OF THE PREMIER shall reject a submission if the bidder has committed a proven corrupt or fraudulent act in competing for a particular contract.

23.5 OFFICE OF THE PREMIER shall disregard any bid if that bidder or any of its directors are guilty of the following transgressions:

- Have abused the Supply Chain Management (SCM) system of any Government OFFICE OF THE PREMIER;
- Have committed fraud or any other improper conduct in relation to such system;
- Have failed to perform on any previous contract and the proof thereof exists; and;
- Is restricted from doing business with the public sector if such a supplier;
- Obtained preferences fraudulently or if such supplier failed to perform on a contract based on the specific goals.

23.6 OFFICE OF THE PREMIER shall reject any bid which does not meet the mandatory requirements set out in the bid documents.

24. NON-COMMITMENT

24.1 OFFICE OF THE PREMIER is not bound to accept any of the bids submitted.

24.2 OFFICE OF THE PREMIER reserves the right to withdraw or amend these terms of reference/specification by notice in writing to all parties who have received the terms of reference/specification prior to the closing date.

24.3 The cost of preparing bids will not be reimbursed.

25. ACCEPTANCE OF THE TERMS OF REFERENCE AND GENERAL CONDITIONS OF CONTRACT

25.1 Failure to accept the Terms of Reference and the General Conditions of Contract or any part thereof shall result in the bid not being considered. Bidders may not amend any of the Special Conditions or include their own conditions, as such amendments or inclusions shall result in disqualification of the bid.

25.2 THE BIDDER MUST COMPLETE THE FOLLOWING

I _____ in my capacity as _____ of the company, hereby certifies that I take note and accept the above-mentioned Special Conditions of the Contract.

SIGNATURE

CAPACITY

Contact person of company:

Tel. of company: (____) _____

email address of
company:



PRICING SCHEDULE – FIRM PRICES (PURCHASES)

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

Name of bidder.....	Bid number: DOP066-20-21
Closing Time 16:00	Closing date: 23 July 2021

OFFER TO BE VALID FOR 90 DAYS FROM THE CLOSING DATE OF BID.

ITEM	PRICE
Delivery of services by a firm of chartered accountants to investigate and report on expenditure of human settlements in re asbestos project	
VAT 15%	
*TOTAL PRICE	

***NB: Total price is all inclusive all services and costs**

DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state¹, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes an advertised competitive bid, a limited bid, a proposal or written price quotation). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-
 - the bidder is employed by the state; and/or
 - the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.
2. **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**
 - 2.1 Full Name of bidder or his or her representative:
 - 2.2 Identity Number:.....
 - 2.3 Position occupied in the Company (director, trustee, shareholder², member):
.....
 - 2.4 Registration number of company, enterprise, close corporation, partnership agreement or trust:
.....
 - 2.5 Tax Reference Number:
 - 2.6 VAT Registration Number:
 - 2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / PERSAL numbers must be indicated in paragraph 3 below.

¹"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.

²"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.

2.7 Are you or any person connected with the bidder presently employed by the state?

2.7.1 If so, furnish the following particulars:

Name of person / director / trustee / shareholder/ member:

Name of state institution at which you or the person connected to the bidder is employed :

Position occupied in the state institution:

Any other particulars:

.....
.....
.....

2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector?

YES / NO

2.7.2.1 If yes, did you attach proof of such authority to the bid document?

YES / NO

(Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.

2.7.2.2 If no, furnish reasons for non-submission of such proof:

.....
.....
.....

2.8 Did you or your spouse, or any of the company's directors / trustees / shareholders / members or their spouses conduct business with the state in the previous twelve months?

YES / NO

2.8.1 If so, furnish particulars:



.....
.....
.....

2.9 Do you, or any person connected with the bidder, have **YES / NO**
any relationship (family, friend, other) with a person
employed by the state and who may be involved with
the evaluation and or adjudication of this bid?

2.9.1 If so, furnish particulars.

.....
.....
.....

2.10 Are you, or any person connected with the bidder, **YES/NO**
aware of any relationship (family, friend, other) between
any other bidder and any person employed by the state
who may be involved with the evaluation and or adjudication
of this bid?

2.10.1 If so, furnish particulars.

.....
.....
.....

2.11 Do you or any of the directors / trustees / shareholders / members **YES/NO**
of the company have any interest in any other related companies
whether or not they are bidding for this contract?

2.11.1 If so, furnish particulars:

.....
.....
.....

3 Full details of directors / trustees / members / shareholders.

Full Name	Identity Number	Personal Income Tax Reference Number	State Number / Employee Persal Number

4 DECLARATION

I, THE UNDERSIGNED (NAME).....

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

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

.....

Signature

.....

Date

.....

Position

.....

Name of bidder

SBD 6.1

**PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT
REGULATIONS 2017**

This preference form must form part of all bids invited. It contains general information and serves as a claim form for preference points for Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution

NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to all bids:

- 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

a) The value of this bid is estimated does not exceed R50 000 000 (all applicable taxes included) and therefore the **80/20** preference point system will be applied subject to the lowest bid received.

1.3 Points for this bid shall be awarded for:

- (a) Price; and
- (b) B-BBEE Status Level of Contributor.

1.4 The maximum points for this bid are allocated as follows:

	POINTS
PRICE	80
B-BBEE STATUS LEVEL OF CONTRIBUTOR	20
Total points for Price and B-BBEE must not exceed	100

1.5 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.

2. DEFINITIONS

- (a) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (b) **“B-BBEE status level of contributor”** means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (c) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services, through price quotations, advertised competitive bidding processes or proposals;
- (d) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (e) **“EME”** means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (f) **“functionality”** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.
- (g) **“prices”** includes all applicable taxes less all unconditional discounts;
- (h) **“proof of B-BBEE status level of contributor”** means:
 - 1) B-BBEE Status level certificate issued by an authorized body or person;
 - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
 - 3) Any other requirement prescribed in terms of the B-BBEE Act;
- (i) **“QSE”** means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (j) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

3. POINTS AWARDED FOR PRICE

3.1 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
$P_s = 80 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$	or	$P_s = 90 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$

Where

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

4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

- 4.1 In terms of Regulation 6 (2) and 7 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

5. BID DECLARATION

- 5.1 Bidders who claim points in respect of B-BBEE Status Level of Contribution must complete the following:

6. B-BBEE STATUS LEVEL OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1

- 6.1 B-BBEE Status Level of Contributor: . =(maximum of 20 points)
(Points claimed in respect of paragraph 6.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

7. SUB-CONTRACTING

- 7.1 Will any portion of the contract be sub-contracted?

(Tick applicable box)

YES		NO	
-----	--	----	--

- 7.1.1 If yes, indicate:

- i) What percentage of the contract will be subcontracted.....%
- ii) The name of the sub-contractor.....
- iii) The B-BBEE status level of the sub-contractor.....
- iv) Whether the sub-contractor is an EME or QSE

(Tick applicable box)

YES		NO	
-----	--	----	--

- v) Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations, 2017:



Designated Group: An EME or QSE which is at last 51% owned by:

EME

QSE

✓

✓

Black people

Black people who are youth

Black people who are women

Black people with disabilities

Black people living in rural or underdeveloped areas or townships

Cooperative owned by black people

Black people who are military veterans

OR

Any EME

Any QSE

8. **DECLARATION WITH REGARD TO COMPANY/FIRM**

8.1 Name of company/firm:.....

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

☐ Partnership/Joint Venture / Consortium

☐ One person business/sole propriety

☐ Close corporation

☐ Company

☐ (Pty) Limited

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

.....

.....

.....

8.6 COMPANY CLASSIFICATION

- ☐ Manufacturer
- ☐ Supplier
- ☐ Professional service provider
- ☐ Other service providers, e.g. transporter, etc.

[TICK APPLICABLE BOX]

8.7 Total number of years the company/firm has been in business:.....

8.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we 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 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
 - (a) disqualify the person from the bidding process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury 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.

WITNESSES

1.
2.

.....
SIGNATURE(S) OF BIDDERS(S)

DATE:

ADDRESS

.....

.....

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

1. This Standard Bidding Document must form part of all bids invited.
2. It serves as a declaration to be used by institutions in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
3. The bid of any bidder may be disregarded if that bidder or any of its directors have -
 - a. abused the institution's supply chain management system;
 - b. committed fraud or any other improper conduct in relation to such system; or
 - c. failed to perform on any previous contract.
4. **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

ITEM	QUESTION	YES	NO
4.1	Is the bidder or any of its directors listed on the National Treasury's database as companies or persons prohibited from doing business with the public sector? (Companies or persons who are listed on this database were informed in writing of this restriction by the National Treasury after the <i>audi alteram partem</i> rule was applied).	Yes ☐	No ☐
4.1.1	If so, furnish particulars:		
4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? To access this Register enter the National Treasury's website, www.treasury.gov.za, click on the icon "Register for tender Defaulters" or submit your written request for a hard copy of the Register to facsimile number (012) 3265445.	Yes ☐	No ☐
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes ☐	No ☐
4.3.1	If so, furnish particulars:		
4.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes ☐	No ☐
4.4.1	If so, furnish particulars:		

CERTIFICATION

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

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

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

CERTIFICATE OF INDEPENDENT BID DETERMINATION

1. This Standard Bidding Document (SBD) must form part of all bids¹ invited.
 2. Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).² Collusive bidding is a *per se* prohibition meaning that it cannot be justified under any grounds.
 3. Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
 - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
 - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
 4. This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
 5. In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:
- ¹ Includes price quotations, advertised competitive bids, limited bids and proposals.
- ² Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid in re -

BID: DOP066-20-21 for the delivery of services by a firm of chartered accountants to investigate and report on expenditure of human settlements in re asbestos project in response to the invitation for the quotation made by: Office of the Premier,

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

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

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a *joint venture or consortium³ will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid;or

- (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
 9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
 10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

**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.*

ANNEXURE A

REQUEST FOR SERVICES OF A FIRM OF CHARTERED ACCOUNTANTS TO INVESTIGATE AND REPORT ON EXPENDITURE OF HUMAN SETTLEMENTS IN RE ASBESTOS PROJECT

IN CASE OF A CONSORTIUM/JOINT VENTURE CONCERN:

I/we certify that this is a bona fide bid.

I/we also certify that I/we have not done and I/we undertake that I/we shall not do any of the following acts at any time before the hour and date specified for the closure of submission of Bid for this Contract.

1. Fixed or adjusted the amount of this bid by, or under, or in accordance with any agreement or arrangement with any other person outside this consortium/joint venture;
2. Communicate to a person outside this consortium/joint venture other than the person calling for these bids, the amount or approximate amount of the proposed bid, except where the disclosure, in confidence, of the approximate amount of the bid was necessary to obtain insurance premium quotations required for the preparation of the bid;
3. Caused or induced any other person outside this consortium/joint venture to communicate to me/us the amount or approximate amount of any rival bid for this contract;
4. Entered into any agreement or arrangement with any other person outside this consortium/joint venture to induce him/her to refrain from bidding for the contract, or as to the amount of any bid to be submitted or the conditions on which a bid is made, nor caused or induced any other person to enter to any sub agreement or arrangement; and
5. Officer or paid or given or agreed to pay or given any sum of money or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any bid or proposed bid for this contract, any act or thing of the sort described above.
6. Certified that a joint bank account will be open in the name of the Consortium/Joint/Venture's Names.

In this certificate, the term "person" includes any persons, body of persons or association, whether corporate or not; and the term "agreement or arrangement" includes any agreement or arrangement, whether formal or informal and whether legally binding or not and the term "person outside this consortium/joint venture means, when the consortium/joint venture is a partnership, a person other than a partner or an employee of such partnership, or when the consortium/joint venture is a company, a person other than a person or company holding shares in the consortium/joint venture, or any employee of such a person, consortium/joint venture.

SIGNED ON BEHALF OF BIDDER

Date: _____

GOVERNMENT PROCUREMENT

GENERAL CONDITIONS OF CONTRACT

NOTES

The purpose of this document is to:

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

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

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



TABLE OF CLAUSES

1. Definitions
2. Application
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 document
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 supplier's performance
22. Penalties
23. Termination for default
24. Dumping and countervailing duties
25. Force Majeure
26. Termination for insolvency
27. Settlement of disputes
28. Limitation of liability
29. Governing language
30. Applicable law
31. Notices
32. Taxes and duties
33. National Industrial Participation Programme (NIPP)
34. Prohibition of restrictive practices

General Conditions of Contract

1. Definitions	1. The following terms shall be interpreted as indicated: 1.1 “Closing time” means the date and hour specified in the bidding documents for the receipt of bids. 1.2 “Contract” means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein. 1.3 “Contract price” means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations. 1.4 “Corrupt practice” means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution. 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally. 1.6 “Country of origin” means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components. 1.7 “Day” means calendar day. 1.8 “Delivery” means delivery in compliance of the conditions of the contract or order. 1.9 “Delivery ex stock” means immediate delivery directly from stock actually on hand. 1.10 “Delivery into consignees store or to his site” means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained. 1.11 "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.
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	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 sub bidders) 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.
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	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 Bid Bulletin. The Government Bid 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.
1. 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 bidder shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department.
	8.3	If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
	8.4	If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.

	8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier. 8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected. 8.7 Any contract supplies may on or after delivery be inspected, tested or analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier. 8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of GCC.
9. Packing	9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit. 9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in SCC, and in any subsequent instructions ordered by the purchaser.
10. Delivery and documents	10.1 Delivery of the goods shall be made by the supplier in accordance with the terms specified in the contract. The details of shipping and/or other documents to be furnished by the supplier are specified in SCC. 10.2 Documents to be submitted by the supplier are specified in SCC.
11. Insurance	11.1 The goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the SCC.
12. Transportation	12.1 Should a price other than an all-inclusive delivered price be required, this shall be specified in the SCC.

13. Incidental services	13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC: (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods; (b) furnishing of tools required for assembly and/or maintenance of the supplied goods; (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods; (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods. 13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.
14. Spare parts	14.1 As specified in SCC, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier: (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and (b) in the event of termination of production of the spare parts: (i) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.
15. Warranty	15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination. 15.2 This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and

	accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in SCC. 15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty. 15.4 Upon receipt of such notice, the supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser. 15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.
16. Payment	16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC. 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract. 16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier. 16.4 Payment will be made in Rand unless otherwise stipulated in SCC.
17. Prices	17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized in SCC or in the purchaser's request for bid validity extension, as the case may be.
18. Contract amendments	18.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.
19. Assignment	19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.
20. Subcontracts	20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.
21. Delays in the supplier's performance	21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.

	21.2 If at any time during performance of the contract, the supplier or its subbidder(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.
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 bidder to the State or the State may deduct such amounts from moneys (if any) which may otherwise be due to the bidder 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. ForceMajeure	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. Terminationfor 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 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	34.1 In terms of Section 4 (1) (b) (iii) of the Competition Act No.89 of 1998,asamended,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 relationshipand 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 publicsector for a period not exceeding ten (10) years and/or claim damages from the bidder(s) or contractor(s) concerned.