



INVITATION TO BID

REQUEST FOR PROPOSAL (RFP)

**FOR APPOINTMENT OF A SERVICE PROVIDER FOR THE PROVISION OF
SECURITY SERVICES TO THE COUNCIL ON HIGHER EDUCATION (CHE),
FOR A PERIOD OF THREE (3) YEARS**

BID NO: CHE/CS/01/01/2022

VALIDITY PERIOD 90 DAYS

CLOSING DATE AND TIME: 24 FEBRUARY 2022 at 11:00am
COMPULSORY BRIEFING SESSION DATE AND TIME: 10 FEBRUARY 2022
AT 08:30

[Click here to join the meeting](#)

TENDER BOX ADDRESS:

The Council on Higher Education (CHE)
Reception Area
No.: 1 Quintin Brand Street
Perseus Technopark
Brummeria
Pretoria East
0020

BID DOCUMENT INDEX PAGE

Bidders are to ensure that they have received all pages of this document, which consist of the following sub-documents:

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1. PART A-INVITATION TO BID

SBD1

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE COUNCIL ON HIGHER EDUCATION					
BID NUMBER:	CHE/CS/01/01/2022)	CLOSING DATE:	24 February 2022	CLOSING TIME:	11:00am
DESCRIPTION	Appointment of a service provider for the Provision of Security Services to the Council on Higher Education (CHE)				
THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).					
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT: CHE Reception Area 1 Quintin Brand Street Persequor Technopark Brummeria Pretoria East, 0020 Time: 11:00 am No faxes or emailed bids will be accepted					
Bids can be delivered between 08:00 and 15:30, Mondays to Fridays prior to the closing date and between 08:00 and 11:00 on the closing date.					
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					
	TCS PIN:		OR	CSD No:	
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]	☐ Yes ☐ No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT ☐ Yes ☐ No		
IF YES, WHO WAS THE CERTIFICATE ISSUED BY?					
AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA) AND NAME THE APPLICABLE IN THE TICK BOX	☐	AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA)			
	☐	A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS)			
	☐	A REGISTERED AUDITOR			
		NAME:			

[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/SWORN AFFIDAVIT(FOR EMEs& QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	☐ Yes ☐ No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	☐ Yes ☐ No [IF YES ANSWER PART B:3 BELOW]
SIGNATURE OF BIDDER		DATE	
CAPACITY UNDER WHICH THIS BID IS SIGNED (Attach proof of authority to sign this bid; e.g. resolution of directors, etc.)			
TOTAL NUMBER OF ITEMS OFFERED		TOTAL BID PRICE (ALL INCLUSIVE)	
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:		TECHNICAL INFORMATION MAY BE DIRECTED TO:	
SUPPLY CHAIN MANAGEMENT		CONTACT PERSON	Mr Kabelo Makgalo
CONTACT PERSON	Mr Future Gumede	TELEPHONE NUMBER	012 349 3858
TELEPHONE NUMBER	012 349 3876	E-MAIL ADDRESS	Makgalo.K@che.ac.za
E-MAIL ADDRESS	Gumede.f@che.ac.za		

2. PART B- TERMS AND CONDITIONS FOR BIDDING

SBD1

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 ONLINE
- 1.3. BIDDERS MUST REGISTER ON THE CENTRAL SUPPLIER DATABASE (CSD) TO UPLOAD MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS; AND BANKING INFORMATION FOR VERIFICATION PURPOSES). B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.
- 1.4. WHERE A BIDDER IS NOT REGISTERED ON THE CSD, MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX INFORMATION (See paragraph 2 below) MUST BE SUBMITTED WITH THE BID DOCUMENTATION. B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.
- 1.5. 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 LEGISLATION OR SPECIAL CONDITIONS OF CONTRACT.

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 VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.
- 2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.
- 2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS TOGETHER WITH THE BID.
- 2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE PROOF OF TCS / PIN / CSD NUMBER.
- 2.6 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.

3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

- 3.1. IS THE BIDDER A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? ☐.YES ☐ NO
- 3.2. DOES THE BIDDER HAVE A BRANCH IN THE RSA? ☐.YES ☐ NO
- 3.3. DOES THE BIDDER HAVE A PERMANENT ESTABLISHMENT IN THE RSA? ☐.YES ☐ NO
- 3.4. DOES THE BIDDER HAVE ANY SOURCE OF INCOME IN THE RSA? ☐.YES ☐ NO

IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN, IT IS NOT A REQUIREMENT TO OBTAIN A TAX COMPLIANCE STATUS / TAX COMPLIANCE SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE.

PRICING SCHEDULE

NAME OF BIDDER:

BID NO: **CHE/CS/01/01/2022**

CLOSING TIME 11:00

CLOSING DATE: 24 February 2022

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

ITEM

DESCRIPTION BID PRICE IN RSA CURRENCY (INCLUSIVE OF VALUE ADDED TAX)

1. The accompanying information must be used for the formulation of proposals.
2. Bidders are required to indicate a ceiling price based on the total amount
R.....

Ceiling price in words.....

.....

NB: To be completed by all bidders. Failure to complete this questionnaire may result in disqualification

3. Monthly Fixed Services

Description	Grade	Quantity	Amount per Month (VAT Incl.)	Total Cost per Annum (VAT Incl.)
Security Guards (Day Shift): Mon - Sunday	C	2	R	R
Security Guards (Night Shift): Mon - Sunday	C	1	R	R
Armed Response System (Rental)			R	R

Total Cost: Year 1 (VAT inclusive)		R	R
Total Cost: Year 2 , including escalation (VAT inclusive)	Escalation Percentage %	R	R
Total Cost: Year 3 , including escalation (VAT inclusive)	Escalation Percentage %	R	R
Grand Total for 3 years (VAT inclusive)			R

1.1. Adhoc Service

Service Type	Hourly Rate	Hourly Rate	Hourly Rate
	Year 1	Year 2	Year 3

Armed Response (*on panic button activation*)

4. Are the rates quoted firm for the full period of contract? *YES ☐ /NO ☐

5. If not firm for the full period, provide details of the basis on which adjustments will be applied for, for example consumer price index.

.....

Any enquiries regarding bidding procedures may be directed to the –

SUPPLY CHAIN MANAGEMENT
 Future Gumede
Gumede.f@che.ac.za
 Tel: 012 349 3876

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? YES ☐ / NO ☐

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 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? YES ☐ / NO ☐

2.9.1 If so, furnish particulars.

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

2.10 Are you, or any person connected with the bidder,
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?

YES ☐ /NO ☐

2.10.1 If so, furnish particulars.

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

2.11 Do you or any of the directors / trustees / shareholders / members
of the company have any interest in any other related companies
whether or not they are bidding for this contract?

YES ☐ /NO ☐

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 Employee Number / Personnel 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 IN TERMS OF PARAGRAPH 23 OF THE GENERAL CONDITIONS OF CONTRACT SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of bidder

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 to **exceed/not exceed** R50 000 000 (all applicable taxes included) and therefore the preference point system shall be applicable; or
- b) Either the 80/20 or 90/10 preference point system will be applicable to this tender (*delete whichever is not applicable for this tender*).

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

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

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 10 or 20 points)

(Points claimed in respect of paragraph 7.1 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
--	---

SBD 6.2

DECLARATION CERTIFICATE FOR LOCAL PRODUCTION AND CONTENT

This Standard Bidding Document (SBD) must form part of all bids invited. It contains general information and serves as a declaration form for local content (local production and local content are used interchangeably).

Before completing this declaration, bidders must study the General Conditions, Definitions, Directives applicable in respect of Local Content as prescribed in the Preferential Procurement Regulations, 2011 and the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:201x.

1. General Conditions

- 1.1. Preferential Procurement Regulations, 2011 (Regulation 9. (1) and 9. (3) make provision for the promotion of local production and content.
- 1.2. Regulation 9.(1) prescribes that in the case of designated sectors, where in the award of bids local production and content is of critical importance, such bids must be advertised with the specific bidding condition that only locally produced goods, services or works or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered.
- 1.3. Regulation 9.(3) prescribes that where there is no designated sector, a specific bidding condition may be included, that only locally produced services, works or goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered.
- 1.4. Where necessary, for bids referred to in paragraphs 1.2 and 1.3 above, a two stage bidding process may be followed, where the first stage involves a minimum threshold for local production and content and the second stage price and B-BBEE.
- 1.5. A person awarded a contract in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- 1.6. The local content (LC) as a percentage of the bid price must be calculated in accordance with the SABS approved technical specification number SATS 1286: 201x as follows:

$$LC = 1 - \left(\frac{x}{y} \right) \times 100$$

Where

x imported content

y bid price excluding value added tax (VAT)

Prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by South African Reserve Bank (SARB) at 12:00 on the

date, one week (7 calendar days) prior to the closing date of the bid as indicated in paragraph 4.1 below.

1.7. A bid will be disqualified if:

- the bidder fails to achieve the stipulated minimum threshold for local production and content indicated in paragraph 3 below; and.
- this declaration certificate is not submitted as part of the bid documentation.

2. Definitions

2.1. **“bid”** includes advertised competitive bids, written price quotations or proposals;

2.2. **“bid price”** price offered by the bidder, excluding value added tax (VAT);

2.3. **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;

2.4. **“designated sector”** means a sector, sub-sector or industry that has been designated by the Department of Trade and Industry in line with national development and industrial policies for local production, where only locally produced services, works or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content;

2.5. **“duly sign”** means a Declaration Certificate for Local Content that has been signed by the Chief Financial Officer or other legally responsible person nominated in writing by the Chief Executive, or senior member / person with management responsibility(close corporation, partnership or individual).

2.6. **“imported content”** means that portion of the bid price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs, such as landing costs, dock duties, import duty, sales duty or other similar tax or duty at the South African port of entry;

2.7. **“local content”** means that portion of the bid price which is not included in the imported content, provided that local manufacture does take place;

2.8. **“stipulated minimum threshold”** means that portion of local production and content as determined by the Department of Trade and Industry; and

2.9. **“sub-contract”** means the primary contractor's assigning, leasing, making out work to, or employing another person to support such primary contractor in the execution of part of a project in terms of the contract.

3. **The stipulated minimum threshold(s) for local production and content for this bid is/are as follows:**

<u>Description of services, works or goods</u>	<u>Stipulated minimum threshold</u>
_____	_____ %
_____	_____ %
_____	_____ %

4. Does any portion of the services, works or goods offered have any imported content? YES / NO

- 4.1 If yes, the rate(s) of exchange to be used in this bid to calculate the local content as prescribed in paragraph 1.6 of the general conditions must be the rate(s) published by SARB for the specific currency at 12:00 on the date, one week (7 calendar days) prior to the closing date of the bid.

The relevant rates of exchange information is accessible on **www.reservebank.co.za**.

Indicate the rate(s) of exchange against the appropriate currency in the table below:

Currency	Rates of exchange
US Dollar	
Pound Sterling	
Euro	
Yen	
Other	

NB: Bidders must submit proof of the SARB rate (s) of exchange used.

LOCAL CONTENT DECLARATION BY CHIEF FINANCIAL OFFICER OR OTHER LEGALLY RESPONSIBLE PERSON NOMINATED IN WRITING BY THE CHIEF EXECUTIVE OR SENIOR MEMBER/PERSON WITH MANAGEMENT RESPONSIBILITY (CLOSE CORPORATION, PARTNERSHIP OR INDIVIDUAL)

IN RESPECT OF BID No.

ISSUED BY: (Procurement Authority / Name of Institution):

.....

NB The obligation to complete, duly sign and submit this declaration cannot be transferred to an external authorized representative, auditor or any other third party acting on behalf of the bidder.

I, the undersigned, (full names),

do hereby declare, in my capacity as

of(name of bidder entity), the following:

(a) The facts contained herein are within my own personal knowledge.

(b) I have satisfied myself that the goods/services/works to be delivered in terms of the above-specified bid comply with the minimum local content requirements as specified in the bid, and as measured in terms of SATS 1286.

(c) The local content has been calculated using the formula given in clause 3 of SATS 1286, the rates of exchange indicated in paragraph 4.1 above and the following figures:

Bid price, excluding VAT (y)	R
Imported content (x)	R
Stipulated minimum threshold for Local content (paragraph 3 above)	
Local content % , as calculated in terms of SATS 1286	

If the bid is for more than one product, a schedule of the local content by product shall be attached.

(d) I accept that the Procurement Authority / Institution has the right to request that the local content be verified in terms of the requirements of SATS 1286.

(e) I understand that the awarding of the bid is dependent on the accuracy of the information furnished in this application. I also understand that the submission of incorrect data, or data that are not verifiable as described in SATS 1286, may result in the Procurement Authority / Institution imposing any or all of the remedies as provided for in Regulation 13 of the Preferential Procurement Regulations, 2011 promulgated under the Policy Framework Act (PPPFA), 2000 (Act No. 5 of 2000).

SIGNATURE: _____

DATE: _____

WITNESS No. 1 _____

DATE: _____

WITNESS No. 2 _____

DATE: _____

SBD 7.2

CONTRACT FORM - RENDERING OF SERVICES

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

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

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

2. The following documents shall be deemed to form and be read and construed as part of this agreement:
 - (i) Bidding documents, viz
 - Invitation to bid;
 - Tax clearance certificate;
 - Pricing schedule(s);
 - Filled in task directive/proposal;
 - Preference claims for Broad Based Black Economic Empowerment Status Level of Contribution in terms of the Preferential Procurement Regulations 2011;
 - Declaration of interest;
 - Declaration of bidder's past SCM practices;
 - Certificate of Independent Bid Determination;
 - Special Conditions of Contract;
 - (ii) General Conditions of Contract; and
 - (iii) Other (specify)

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

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

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

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

NAME (PRINT)

CAPACITY

SIGNATURE

NAME OF FIRM

DATE

WITNESSES

1

.

2

.

SBD 8

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 of Restricted Suppliers 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 Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied). The Database of Restricted Suppliers now resides on the National Treasury's website (www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.	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)? The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.	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.

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Institution)

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.

³ **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.**

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

CHECKLIST FOR COMPULSORY DOCUMENT TO BE ATTACHED TO THE TENDER DOCUMENT

NR	DOCUMENTS	TICKS
1	Company registration document / CSD Supplier Number	
2	Shareholder/members certified copied of ID/ CSD Supplier Number	
3	Resolution (letter)	
4	Pricing Proposal (Sealed separately)	
5	Completed SBD Forms.	
6	COIDA letter of good standing	
7	Proof of valid insurance	
8	5 Copies including 1 original of the proposal to be submitted	
9	PSIRA grade C certificate for security guards	
10	PSIRA registration for the company	
11	Proof of location (Pretoria/Tshwane)	

Annexure A

SCOPE OF WORK: BID NUMBER CHE/CS/01/01/2022

Security Services and Consulting shall employ every lawful means to prevent loss of life, property, equipment, etc. through damage, theft, explosion, fire, sabotage, espionage, and other occurrences. Security Services and Consulting shall render the following security services, but not limited to:

- Access Control: shall include but not be limited to monitoring entering and exiting of vehicles, employees/pedestrians into CHE premises inclusive of opening and locking of entrances in line with the CHE's requirements and/or policy.
- Patrolling duties: shall include but not be limited to the physical patrolling of CHE premises. Any incidents and/or deviations should be reported and are recorded in the occurrence book. Minimum eight (8) patrols per 24-hour shift.
- Guarding duties: shall include but not be limited to physical guarding of CHE premises, assets and properties, and assets of visitors e.g., cars.
- Key Control: shall include, but not be limited to, safekeeping of keys and remote controls issued to the service provider.
- Armed response: shall include, but not be limited to, armed response when called in an emergency.
- Panic Button: A panic button linked to the service provider to be installed at the CHE's reception desk. Provision of a panic button system linked to the services provider's Control Room and the security guard on duty must be supported by armed response.
- Cell phones: The service provider must supply the security guards on duty with cell phones.
- Registers and document management: The service provider must keep the occurrence register up to date and handle any unauthorized situations as per procedure and issue the necessary documentation.
- Couriered packages. The receipt or dispatch of courier packages, after working hours and during weekends, must be recorded.
- Occurrence books: every completed/full book to remain the property of the CHE.
- Compliance: PSIRA identification cards must be carried whilst on duty. All approved security related legislation, codes of conduct and procedures must be complied with.

Management

- Complaints raised by the CHE to be addressed within 24 hours or as agreed.
- The service provider must ensure that all incidents are accurately recorded in the Occurrence Book.
- The security personnel must wear corporate uniform (not combat).
- All security breach incidents occurring on site e.g., break-ins and theft must be recorded and reported to CHE immediately.

Hours of Work:**Monday to Sundays**

- 2 Day Shift 06h00-18h00: Grade C Security Guard per shift.
- 1 Night Shift 18h00-06h00: Grade C Security Guard per shift including reliever.

Required services:

- The service provider must be located in Pretoria/Tshwane and have an arm response capacity
- To ensure the quality of service rendered and to exercise control over the employees of the contractor, it is expected of the contractor to appoint manager/supervisor during the execution of the services referred to in this tender. The supervisor must always be available on his/her mobile provided by the contractor.

Dress Code:

- All personnel should wear acceptable contractor's uniform befitting working in a corporate environment like the CHE indicating the company name and name of your staff member (i.e., name tags).

Compliance:

- The service provider must comply with the:

- Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997)
- The Occupational Health and Safety Act (No 85 of 1993)
- Private Security and Investigative Services Act 2005.
- The company must be registered with the:
 - Workman's Compensation Fund.
 - Unemployment Insurance Fund.
 - Private Security Industry Regulatory Authority.

Performance Management

- The performance review for the service provider will be conducted on a quarterly basis.

1. BID EVALUATION CRITERIA

2. MANDATORY REQUIREMENT

NR	DOCUMENTS
1	Company registration document / CSD Supplier Number
2	Shareholder/members certified copied of ID/ CSD Supplier Number
3	Resolution (letter)
4	Pricing Proposal (Sealed separately)
5	Completed SBD Forms.
6	COIDA letter of good standing
7	Valid Workman's Insurance Fund
8	5 Copies including 1 original of the proposal to be submitted
9	PSIRA grade C certificate for security guards
10	PSIRA registration for the company
11	Unemployment Insurance Fund
12	Proof of location (Pretoria/Tshwane)

****NB:** The CHE will screen mandatory documents to check whether bidders meet compliance requirements.*

3. BID EVALUATION CRITERIA

Bids will be evaluated as follows:

a. Preliminary Stage: Compliance

Compliance with administrative requirements stated in the Standard Bidding Documents and the mandatory requirements as listed below. In this evaluation stage, all bidders that fail to provide the required information and documentation will be disqualified from further evaluation.

b. Evaluation Stage One: Functionality evaluation criteria

In this evaluation stage, bidders are expected to obtain a minimum of **70 out of 100** points available to proceed to the next evaluation stage of the evaluation process. Failure to obtain the prescribed **70 points** will automatically disqualify the bidder from proceeding to the next evaluation stage. See paragraph 8 below.

c. Evaluation Stage Two: Preferential Point System

The **80/20** preference point system shall be applicable to this phase, where by **80 points** represent maximum obtainable points for the lowest acceptable price, and **20 points** represents the B-BBEE level. Points will be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table as listed in the bid documentation.

4. BIDS EVALUATION CRITERIA

The following criteria was used for the evaluation of bids:

4.1.1 FUNCTIONALITY

Functionality Evaluation Criteria

Note: Only bidders who obtain a minimum cut-off score of **70** points out of **100** for functionality might be considered for presentation/site visit. The bidders who meet the aforementioned scores will further be evaluated for the preferential point system evaluation (Stage two (2)).

FUNCTIONALITY CALCULATION

CRITERION	MAXIMUM POINTS TO BE AWARDED
1. Functionality	
1.1 a) The bidder must submit a minimum of three (3) contactable references not older than one (1) year where a similar services has been rendered. b) The bidder must attach at least two CV's of the securities to be offered to the CHE. c) Indicate a number of years the company has been in business.	25
1.2 Control Room 1.2.1 Bidders must have a 24hour control room with relevant equipment. 1.2.2 Control room must be based in Tshwane (Pretoria)	20
1.3 Work Methodology. • Bidders must provide a detailed Operational Plan/Work Methodology on how security services will be handled.	25
1.4 Bidders must provide details on their contingency plans during emergencies and strikes.	10
1.5 Bidders must offer arm response services: 1.5.1 Proof of valid fire arm licenses 1.5.2 Must have at least three (3) registered vehicles dedicated for armed respond	20
Total points for Functionality	100
A minimum requirement for functionality out of 100	70

The percentage scored for functionality has been calculated as follows:

4.1.1.1 The scores for each criterion (and, where relevant, each sub-criterion) should be added to obtain the total score; and

4.1.1.2 The following formula should be used to convert the total score converted to a percentage for functionality:

$$Ps = \frac{So}{Ms} \times 100$$

Where:

Ps = percentage scored for functionality by bid
under consideration So = total score of bid under
consideration

Ms = maximum possible score

The percentage of each panel member should be added and divided by the number of panel members to establish the average percentage obtained by each bidder for functionality.

After calculation of the percentage for functionality, the price of all bids that obtained the minimum score

70 points for functionality have been taken into consideration.

4.6 PREFERENCE POINT SYSTEM

4.6.1 Price Calculation

The percentage scored for price shall be calculated as follows:

The lowest acceptable bid/proposal (adjusted or not), will obtain the maximum percentage allocated for prices (adjusted or not).

The points scored out of 90 shall be calculated according to the formula.

$$Ps = 90 \left(1 - \frac{Pt - P_{\min}}{P_{\min}} \right)$$

Where

Ps = Points scored for comparative price of bid under consideration
Pt = Comparative price of bid under consideration
Pmin = Comparative price of lowest acceptable bid

4.7. B-BBEE POINTS

4.7.1 POINTS BASED ON LEVELS

B-BBEE Status Points based on levels	
Points allocated for B-BBEE	80/20
Level 1	20
Level 2	18
Level 3	14
Level 4	12
Level 5	8
Level 6	6
Level 7	4
Level 8	2
Non- Compliant Contributor	0
TOTAL FOR B-BBEE PREFERENCE POINTS	20

ANNEXURE B GENERAL CONDITIONS OF CONTRACT (GCC)

Table of Clauses

1. Definitions
2. Application
3. Country of origin
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5. Use of contract documents and information
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7. Performance security
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19. Modification of contract
20. Assignment
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23. Liquidated damages.
24. Termination for default
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26. Termination for insolvency
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29. Governing language
30. Applicable law
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32. Taxes and duties

GENERAL CONDITIONS OF CONTRACT (GCC)

1. DEFINITIONS

1.1 In this contract the following terms shall be interpreted as indicated:

- a) "IFB" means Invitations for Bids.
- b) "ITB" means Instruction to Bidders
- c) "GCC" means General Conditions of Contract
- d) "RC" means Rate Contract
- e) "Contract" means a legal agreement entered into between the purchaser and the supplier, as recorded in the agreement signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- f) "Contract Price" means the price payable to the supplier under a contract for the full and proper performance of its contractual obligations.
- g) "Goods" means all the items, materials, equipment and /or machinery, which the supplier is required to supply to the purchaser in terms of a contract.
- h) "Services" means the services ancillary to the supply of the goods, such as transportation and insurance and any other incidental services, such as installation, commissioning, provision of technical assistance, training and other such obligations of the supplier covered under a contract.
- i) "Purchaser" means the buyer named in a bidding document and in the corresponding contract, purchasing the goods ordered and includes its successors and /or assignees.
- j) "Consignee" means the individual or body to whom the contracted goods are required to be delivered as per the terms and conditions incorporated in a contract.
- k) "Supplier" means the individual or firm supplying the goods under a contract and includes its successor and/assignees.
- l) "Day" means calendar day of the Gregorian Calendar.
- m) "Month" means calendar month of the Gregorian Calendar.

2. APPLICATION

2.1 These general conditions of contract (as contained in this section) shall apply to the extent they are not superseded by provisions in other parts of the contract.

3. COUNTRY OF ORIGIN

3.1 All goods and services supplied under the contract shall have their origin in India or in the countries, with which the Government of India has trade relations.

3.2 For purposes of this clause, "origin" means the place where the goods are mined, grow or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing and substantial or major assembling of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.

3.3 The origin of goods and services is distinct from the nationality of the supplier.

4. STANDARDS

4.1 The goods supplied under this contract shall conform to the standards mentioned in the "Technical Specification" and when no applicable standard is mentioned, to the latest authoritative standards, as applicable to the goods country of origin.

5. USE OF CONTRACT DOCUMENTS AND INFORMATION

- 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. Also disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for the purposes of such performance.
- 5.2 The supplier shall not, without the purchaser's prior written consent make use of any document of information enumerated in GCC sub-clause 5.1 except for the purposes of performing the contract.
- 5.3 Every document other than the contract itself, mentioned in GCC sub-clause 5.1 shall remain the property of the purchaser and shall be returned (in all copies) to the purchaser on completion of the supplier's performance under the contract, if so required by the purchaser.

6. PATENT RIGHTS

- 6.1 The supplier shall at all times indemnify the purchaser, free of cost, against all third-party claims of infringement of patent, trade mark or industrial design rights arising from use of the goods or any part thereof in India.

7. PERFORMANCE SECURITY

- 7.1 Within 21(twenty one) days after the issue of notification of award by the purchaser, the supplier, shall furnish performance security to the purchaser for an amount of 10% (Ten per cent) of the contract value, valid up to 60 (Sixty) days after the date of completion of all contractual obligations by the supplier, including the warranty obligations.
- 7.2 In the event of any correction of defects or a replacement of defective material during the warranty period, the warranty for the corrected/replaced material shall be extended to a further period of twelve months from the date of the correction/replacement and the Performance Security for the proportionate value (which will be determined by the purchaser in consultation with the supplier) shall be extended by 60 (Sixty) days over and above the extended warranty period.
- 7.3 In the event of any contract amendment, the supplier shall, within 21(twenty- one) days of issue of such amendment, furnish the necessary amendment to the Performance Security, rendering the same valid in all respect in terms of the contract, as amended.
- 7.4 The proceeds of the Performance Security shall be payable to he purchaser as compensation for any loss resulting from the supplier's failure to complete its obligations under the contract.
- 7.5 The Performance security shall be denominated in Indian Rupees or in the currency of the contract and shall be in one of the following forms:
 - a) Cash in Indian Currency,
 - b) Demand draft on any scheduled commercial bank in India, to be drawn in favour of the purchaser as indicated in the Schedule of Requirement s.
 - c) Bank Guarantee issues by a scheduled commercial bank in India, in the prescribed form as provided in section VII/4 of this bidding document.
- 7.6 Subject to GCC sub-clause 7.4 above, the performance security will be discharged by

the purchaser and returned to the supplier on completion of the supplier's contractual obligations including the warranty obligations under the contract.

8. INSPECTION AND TESTS

- 8.1 The purchasers and /or its nominated representative(s) shall have the right to inspect and/or to test the goods to confirm their conformity to the contract specification and other technical details incorporated in the contract at no extra cost to the purchaser. **The Schedule of Requirements** and the Technical Specification incorporated in the bidding document shall specify what inspections and tests, the purchaser requires and where and how they are to be conducted. The purchaser shall notify, in advance the supplier in writing, of the identity of any representative(s) for this purpose.
- 8.2 The inspections and tests may be conducted on the premises of the supplier or its subcontractor(s), at the point of delivery and/or at the goods final destination. If conducted on the premises of the supplier or its sub- contractor(s), all reasonable facilities and assistance, including access to relevant drawings, design details and production data, shall be furnished by the supplier to the inspectors at no charge to the purchaser.
- 8.3 Should any inspected or tested goods fail to conform to the required specifications and standard, the purchaser may reject them and the supplier shall either replace the rejected goods or make all alterations necessary to meet the specifications and standards, as required, free of cost to the purchaser and resubmit the same to the purchaser for conducting the inspections and tests again.
- 8.4 Where the contract stipulates pre-despatch inspection by the purchaser's nominated inspecting agency, the supplier shall put up the goods for inspection to the inspecting agency well ahead of time so that the inspecting agency is able to complete the inspection, within the stipulated delivery period. If the goods are tendered for inspection at the 1st moment without providing reasonable time to the inspection agency for completing the inspection, the inspecting agency may carry out the inspection and complete the formality beyond the contractual delivery period at the risk and expense of the supplier. The fact that the items have been inspected after the contractual delivery period will not have the effect of keeping the contract alive and

this will be without any prejudice to the legal rights and remedies available to the purchaser under the terms and conditions of the contract.

- 8.5 The purchaser's right to inspect, test and where necessary, reject the goods after the goods arrival at the final destination shall in no way be limited or waived by reasons of the goods having previously been inspected, tested and passed by purchaser or its representatives prior to the dispatch of the goods from the country of origin or from the supplier's premises.
- 8.6 Nothing in GCC clause 8 shall, in any way, release the supplier from any warranty or other obligations under the contract.

9. PACKING

- 9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during their transit to their final destination as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, humid weather and precipitation during transit and open storage. The sizes and weights of the packing cases shall also take into consideration, where applicable, the available inland mode(s) of transport in India, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit. Further, limitations and/or mandatory instructions, if any, in the weights, volumes and sizes of the packages shall also be taken care of by the supplier.
- 9.2 The packing, marking and documentation within and outside the packages shall comply strictly with such special requirements if any, as shall be expressly provided for in the contract, including additional requirements, if any, specified in the Schedule of Requirements and any subsequent instructions given by the purchaser.

9.3 PACKING INSTRUCTIONS:

The supplier will be required to make separate packages for each consignee named in the contract. Each package will be marked by supplier at its own expense, on three sides with indelible ink/paint, with the following details:

- a) contract no and date
- b) name and address of the consignee
- c) name and address of the supplier
- d) brief description of goods
- e) gross weight and outer dimension of the package
- f) country of origin of goods
- g) packing list reference number and
- h) any other requirement, relevant to the contract.

10. DELIVERY OF GOODS

- 10.1 Delivery of the goods shall be made by the supplier in accordance with the terms specified by the purchaser in the notification of award and in the contract.

- 10.2 For the purposes of the contract "FOB", CIF", CIP" and other trade terms used to describe the obligations of the parties shall have the meanings assigned to them in the current edition of " Incoterms" which are international commercial shipping terms, published by International Chamber of Commerce, Paris, France.

11. TRANSPORTATION

- 11.1 Where the supplier is required under the contract to deliver the goods F.O.B., transportation of the goods, up to and including the point of putting the goods on board the vessel at the specified port of loading, shall be arranged and paid for by the supplier and the cost thereof shall be included in the contract price.
- 11.2 Where the supplier is required under the contract to deliver the goods C.I.F. or C.I.P., transportation of the goods to the port of destination or such other specified place of destination in India, as shall be mentioned in the contract, shall be arranged and paid for by the supplier and the cost thereof shall be included in the contract price.
- 11.3 Where the supplier is required under the contract to deliver the goods CIF or CIP within India, the supplier shall arrange the shipment by Indian flag vessels or vessels belonging to Conference Lines in which India is a member. Where the supplier is required under the contract to deliver the goods FOB and also to arrange on behalf and at the expense of the purchaser for ocean transportation on Indian flag vessels or vessels of Conference Lines in which India is a member country, the supplier may arrange for such transportation on alternative carrier also, if the Indian flag vessels or Conference Line vessels are not available to transport the goods within the time frame specified in the contract. However, before arranging such alternative transportation, the supplier shall obtain prior concurrence of the purchaser for the same.
- 11.4 The supplier shall not arrange part-shipments and/or transshipment without the prior written consent of the purchaser.
- 11.5 In case the supplier violates any of the aforementioned instruction, the supplier shall be liable for all consequences (including financial loss) that the purchaser may face to such violations.

12. INSURANCE

- 12.1 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 as indicated below in this clause (Viz. GCC clause 12).
- 12.2 Where delivery of the goods is required by the purchaser on C.I.F. or C.I.P. basis, the supplier shall arrange and pay for the cargo insurance, naming the purchaser as the beneficiary. Where delivery is on FOB basis, the insurance shall be the responsibility of the purchaser.
- 12.3 In the case of a contract on CIF or CIP basis, the insurance shall be for an amount equal to 110% (one hundred and ten per cent) of the CIF or CIP value of the goods from " warehouse to warehouse" (final destination) on " all risks" basis

including war risks and strikes.

13

DISTRIBUTION OF DESPATCH DOCUMENTS.

- 13.1 The shipping and other documents as well as despatch details to be furnished by the supplier to the purchaser and/or to the purchaser's nominated authorities to enable the purchaser and/or its nominated authorities to clear and/or accept the goods will depend on the mode of despatch of the goods and the terms of delivery, as specified in the **Schedule of Requirements** and in the contract and, subject to the same, the instructions in this regard will be as indicated below.

A) FOR GOODS SUPPLIED FROM ABROAD:

Within 24 hours of shipment, the supplier shall notify the purchaser and its nominated authorities (as specified in the contract and the insurance company by cable or telex or fax, the full details of the shipment including contract number, description of goods, quantity, the vessel, the bill of lading number and date/airway bill number and date, port of loading, date of shipment, port of discharge, expected date of arrival at the port of entry etc. Further, the supplier shall also immediately dispatch by registered air-mail the specified number of copies of the following documents to the above authorities.

- i) Supplier's invoice showing contract number, description of goods, quantity, unit price and total amount.
- ii) Original and copies of the negotiable, clean, on-board bill of lading marked freight to pay and copies of non-negotiable bill of lading;
- iii) Copies of packing list identifying the contents of each package;
- iv) Insurance certificate;
- v) Manufacturer's /supplier's warranty certificate;
- vi) Pre-despatch inspection certificate issued by the purchaser's nominated inspection agency (if so specified) and the supplier's factory inspection report' and
- Vii) Certificate of origin.

The above documents shall be received by the purchaser and other authorities mentioned above at least one week before the arrival of goods at the port or place of arrival and, if not received, the supplier will be responsible for any consequent expenses.

B) FOR GOODS SUPPLIED FROM WITHIN INDIA.

Within 24 hours of dispatch of the goods, the supplier shall notify the complete dispatch details to the purchaser and/or the purchaser nominated authorities (as specified in the contract) and the insurance company. The supplier shall also mail the specified number of copies of the following documents to them:

- i) The supplier's invoice showing contract number, description of goods, quantity,

- unit price and the total amount:
- ii) Railway receipt or Delivery note;
 - iii) Packing list identifying contents of each package;
 - iv) Insurance certificate; Manufacture's Supplier's warranty certificate;
 - v) Pre-despatch inspection certificate issued by the purchaser's nominated inspection agency (is so specified) and the supplier's factory inspection report: and.
 - vi) Certificate of origin.

The purchaser shall receive the documents at least one week before the arrival of the goods (except where it is handed over to the consignee withal the documents) and if not received, the supplier will be responsible for any consequent expenses.

The documents to be provided by the supplier for claiming payment are specified in GCC clause 17 ("Payment")

14. INCIDENTAL SERVICES

- 14.1 The purchaser may include in the contract any or all of the following services and/or some additional services, if specified in the **Schedule of Requirements** and the supplier is required to provide the same:
- a) performance or supervision of on-site assembly and/or start-up 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 to by the parties, provided that this service shall not relieve the supplier of any warranty obligations under the contract, and.
 - e) Training 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.
- 14.2 Prices charged by the supplier for the above mentioned incidental services, if not included in the quoted price for the goods, shall be quoted separately in the bid itself and shall not exceed the prevailing rates, charged to other parties by the supplier for similar services.

15. SPARE PARTS

- 14.1 As specified in the **Schedule of Requirements**, the supplier may be required to provide any or all of the following materials, notifications and information pertaining to spare parts manufactured and/or distributed by the supplier:
- a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this will 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 notice to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and,

- ii) Immediately following such termination, furnishing at no cost to the purchaser, the blueprints, drawings and specifications of the spare parts, if requested.

15.2 Supplier shall carry sufficient inventories to assure ex-stock supply of consumable spares for the goods. Other spare parts and components shall be supplied as promptly as possible but in any case within three months of placement of order and opening the letter of credit.

15 WARRANTY

- 15.1 The supplier warrants that the goods supplied under the contract is new unused, of the most recent of current models and incorporate all recent improvements in design and materials unless provided otherwise in the contract: The supplier further warrants that the goods supplied under the contract shall have no defect arising from design, materials (except when the design adopted and/or the material used areas per the purchaser specifications) or workmanship or from any act or omission of the supplier, that may develop under normal use of the supplied goods under the conditions prevailing in India.
- 15.2 This warranty shall remain valid for 12 (twelve) months after the goods or any portion thereof as the case may be, have been delivered to the final destination and installed and commissioned at the final destination and accepted by the purchaser in terms of the contract or for 18 (eighteen) month from the date of dispatch from the suppliers works for domestic goods or for 21 (twenty-one) months after the date of shipment from the Porto place of loading in the source country for imported goods, whichever is earlier, unless specified otherwise in the **Schedule of Requirements** .
- 15.3 The purchaser shall promptly notify the supplier in writing of any claim arising under this warranty.
- 15.4 Upon receipt of such notice, the supplier shall, with all reasonable speed (or within the period, if specified in the **Schedule of Requirements** and the contract), repair or replace the defective goods or parts thereof, free of cost, at the ultimate destination. The supplier shall take over the replaced parts/goods at the time of their replacement. No claim what so ever shall lie on the purchaser for the replaced parts/goods thereafter?
- 15.5 In the event of any correction of a defect or replacement of any defective material during the warranty period, the warranty for the corrected/replaced material shall be extended to a further period of 12 (twelve) months from the date, such corrected/replaced material starts functioning to the satisfaction of the purchaser.
- 15.6 If the supplier, having been notified, fails to remedy the defect (s) within a reasonable period (or within the period, if specified in the **Schedule of Requirements** and the contract), 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.

17 PAYMENT

- 17.1 The payment shall be made in the currency/currencies specified in the contract. The

supplier shall send its claim (with relevant documents, as required) to the appropriate pay in authority as specified in the **Schedule of Requirements** and the contract. Before claiming any payment, the supplier shall ensure that all the contractual obligations for claiming that payment have been duly fulfilled.

- 17.2 The payment shall be made in the following manner and on production of the following documents:

A) PAYMENT FOR GOODS SUPPLIED FORM ABROAD;

i) on shipment;

90% of the contract price shall be paid through irrevocable letter of credit established in favour of the foreign supplier in a scheduled commercial bank in India or a bank in the supplier's country acceptable to the purchaser, upon submission of the following documents:

- a) Certified copy of the fax sent by the supplier to the purchaser and others as per GCC sub-clause 10.3 (a)
- b) Supplier's signed commercial invoice showing contract number, description of the supplied goods, corresponding quality, unit price and the total value and names(s) of the consignee(s) for the supplied goods.
- c) Original clean on board bill of lading marked freight pre-paid consigned to the interim/port consignee evidencing description of the goods, quantities, relevant details about the contract number etc.
- d) Packing list, identifying contents of each package.
- e) Insurance policy or certificate in duplicate endorsed in blank with claims payable in India in the currency of the Letter of Credit.
- f) Manufacturer's /supplier's warranty certificate and supplier's factory inspection report.
- g) Pre-despatch inspection certificate issued by the purchaser's nominated inspection agency, if so specified.
- h) Certificate of origin.
- i) Supplier's certificate confirming that the required documents have been sent to all concerned in terms of GCC sub-clause 10.3(a).
- j) Supplier's certificate confirming that the amounts shown in the invoice are correct in terms of the contract and that all the terms and conditions of the contract have been complied with for claiming this payment.
- k) Any other document(s) and/or modification of above documents specified in the **Schedule of Requirement**

and the contract.

II) ON FINAL ACCEPTANCE

10% of the contract price of goods received shall be paid within 30 (thirty) days of receipt of goods on submission of the claim supported by the acceptance certificate issued by the purchaser or the purchaser's nominated representative in the proforma given in the concerned section on the bidding documents.

III) PAYMENT OF AGENCY COMMISSION:

Payment shall be made in Indian rupees within 30(thirty) days of presentation of claim supported by a certificate from the purchaser confirming that the goods have been delivered, full 100% payment has been made to the foreign suppliers and all other contractual obligations, have been performed by the supplier and its agent for claiming this payment.

The payment (towards agency commission) will be made by the purchaser's paying authority specified in the contract and not through Letter of Credit.B). Payment for goods supplied from India:

Payment shall be made in Indian rupees by the purchaser's paying authority, as specified in the contract (and not through Letter of Credit), in the following manner:

- i) **on delivery:** 90% of the contract price shall be paid on receipt of the goods by the consignee and upon submission of following documents to the paying authority:
 - a) The supplier's invoice showing contract number, description of goods, quantity, unit price and the total amount;
 - b) Railway receipt or Delivery note;
 - c) Packing list identifying contents of each package;
 - d) Insurance certificate.
 - e) Manufacturer's /supplier's warranty certificate;
 - f) Pre-despatch inspection certificate issued by the purchaser's nominated inspection agency, if so specified and the supplier's factory inspection report,
 - g) Certificate of origin.
 - h) Provision receipt certificate for the corresponding delivery, issued by the consignee; and
 - i) Any other document(s) and/or modification of above documents specified in the **Schedule of Requirement** and the contract.

ii) ON FINAL ACCEPTANCE:

the remaining 10% of the contract price shall be paid to the supplier within 30(thirty) day of receipt of its claim, duly supported by the final acceptance certificate for the corresponding delivery issued by the purchaser's representative in then proforma given in the concerned section on the bidding documents.

C) PAYMENT FOR INCIDENTAL SERVICES AND SUPERVISION:

The incidental services and supervision, if required separately, will be specified in the Schedule of Requirements and in the contract. The payment terms applicable for such services and supervision will also be specified therein.

17.3 OPERATION OF THE LETTER OF CREDIT:

- (i) The payment effected through letter of credit, shall be subject to the latest Uniform Customs and Practice for Documentary Credit, of the International Chamber of Commerce;
- ii) If requested specifically by the supplier, the letter of credit will be confirmed, but the cost for the same shall be charged to the supplier's account.
- iii) If the letter of credit is required to be extended/reinstated for reasons not attributable to the purchaser; the charges thereof shall be to the supplier's account.

18. PRICES

- 18.1 Prices charged by the supplier for the goods supplied and the services performed under the contract shall not vary from the prices quoted by the supplier in its bid with the exception of any price adjustment authorized in the **Schedule of Requirements**.

19. MODIFICATION OF CONTRACT

- 19.1 The purchaser may at any time, by a written order given to the supplier pursuant to GCC clause 31, make changes and modifications within the general scope of contract in any one or more of the following:
- a) drawings, designs or specifications where goods to be supplied under the contract are to be specifically manufactured for the purchaser.
 - b) the mode of packing,
 - c) the mode of dispatch,
 - d) the place of delivery,
 - e) the services to be provided by the supplier, and /or
 - f) any other area(s) of the contract, depending on the merits of the case.
- 19.2 If any such change causes an increase or decrease in the cost of or in the time required for the supplier's performance of any provision under the contract, an equitable adjustment shall be made in the contract price or contract delivery schedule or both, and the contract shall be amended accordingly. Any claim by the supplier for adjustment under this clause must be asserted within 21 (twenty one) days from the date of the supplier's receipt of the purchaser's amendment/modification of the contract.
- 19.3 Subject to GCC sub-clauses 19.1 and 19.2, no variation in or modification of the terms of the contract shall be made except by written amendment signed by both the parties.

20. ASSIGNMENT

- 20.1 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.

21. SUB CONTRACTS

- 21.1 The supplier shall notify the purchaser in writing of all sub-contracts awarded under the contract, if not already specified in its bid. Such notifications, in its

original bid or later, shall not relieve the supplier from any liability or obligation, whatsoever, under the contract.

21.2 Subcontract shall be only for bought-out items and sub-assemblies.

21.3 Subcontracts must comply with the provisions of GCC clause 3.

22. DELAYS IN THE SUPPLIER'S PERFORMANCE

22.1 Delivery of the goods and performance of the services shall be made by the supplier in accordance with the time schedule specified by the purchaser in the "**Schedule of Requirements**".

22.2 Except as provided under GCC clause 25, any unexcused delay by the supplier in maintaining its contractual delivery obligations shall render the supplier liable to any or all of the following actions:

IMPOSITION OF LIQUIDATED DAMAGES, FORFEITURE OF ITS PERFORMANCE SECURITY AND/OR TERMINATION OF THE CONTRACT FOR DEFAULT.

22.3. If at any time during the performance of the contract, the supplier or its subcontract(s) should encounter conditions hindering 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). After the receipt of the supplier's notice the purchaser, as soon as practicable in which case the situation and may at its discretion extend the supplier's time for performance, in which case the extension of the delivery period shall be ratified by issuing an amendment to the contract.

22.4 The supplier shall not despatch the goods after expiry of the delivery period. The supplier is required to apply to the purchaser for extension of delivery period and obtain the same before dispatch. In case the supplier dispatches the goods without obtaining an extension, it would be doing so at its own risk and no claim for payment for such supply and/or any other expense related to such supply shall lie against the purchaser.

23. LIQUIDATED DAMAGES

23.1 Subject to GCC clause 25, if the supplier fails to deliver any or all of the goods or perform the services within the time period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as liquidated damages, as sum equivalent to 0.5% (half percent) of the delivered price of the delayed goods or unperformed services for each week of delay or part thereof until actual delivery or performance, up to a maximum deduction

of 10% (ten percent) of the goods or services contract price. Once the maximum is reached, the purchaser may consider termination of the contract, if the same have not been terminated already.

Further, during the above mentioned delayed period of supply and /or performance, the supplier, notwithstanding any stipulation in the contract for increase in price for any ground, shall be entitled to any increases in priced and cost, whatsoever, which take place during the period of delay. But, nevertheless, the purchaser shall be entitled to the benefit any decrease in price and cost on any ground during that period of delay. Termination for default

- 23.2 The purchaser, without prejudice to any other remedy for breach of contract, may by written notice of default sent to the supplier, terminate the contract in whole or in part, if the supplier fails to delivery any or all of the goods or fails to perform any other contractual obligation(s) within the time period specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC clause 22.
- 23.3 In the event the purchaser terminates the contract in whole or in part, pursuant to GCC sub-clause 24.1, the purchaser may procure, upon such terms and conditions and in such manner as it deems appropriate, goods and/or services similar to those undelivered and the supplier shall be liable to the purchaser for any excess cost for such similar goods and /or services. However, the supplier shall continue to perform the contract to the extent not terminated.

24. FORCE MAJEURE

- 24.1 Notwithstanding the provisions of GCC clauses 22,23and 24, the supplier shall not be liable for forfeiture of its performance security, liquidated damages or termination for default, if a to the extent that its delay in performance or other failure to perform its obligations under the contract is the result of any event of Force Majeure.
- 24.2 For purpose of this clause, "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 are not restricted to acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- 24.3 If a Force Majeure situation arises, the supplier shall promptly notify the purchaser in writing of such conditions 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 reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

25. TERMINATION FOR INSOLVENCY

- 25.1 If the supplier become bankrupt or otherwise insolvent, the purchaser may terminate the contract by giving written notice to the supplier, without any compensation to the supplier, provided, that such termination will not prejudice or affect any right of action or remedy which has accrued and/or will accrue thereafter to the purchaser.

26. TERMINATION FOR CONVENIENCE

- 26.1 The purchaser, by written notice sent to the supplier, may terminate the contract, in whole or in part, at any time for its convenience. The notice for termination shall specify that the termination is for the purchaser's convenience, the extent to which performance of the supplier under the contract is terminated, and the date with effect from which such termination becomes effective.
- 26.2 The goods that are complete and ready for shipment within 30 (thirty) days after the supplier's receipt of notice of termination shall be accepted by the purchaser at the contract terms and prices. For the remaining goods, the purchaser may elect:
- a) to have any portion completed and delivered at the contract terms and prices; and/or
 - b) to cancel the remainder and pay to the supplier an agreed amount for partially completed goods and services and for materials and parts already procured by the supplier for fulfilling the contractual obligations.

27. RESOLUTION OF DISPUTES

- 27.1 If any dispute or difference of any kind shall arise between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve the same amicably by mutual consultations.
- 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 its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given. A dispute or difference, in respect of which a notice of intention to commence arbitration has been given in accordance with GCC sub-clause 28.2, shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the goods under the contract.
- 27.3 The dispute resolution mechanism to be applied pursuant to GCC sub-clause 28..3, shall be as follows:
- a) In the case of a dispute or difference arising between the purchaser and the supplier relating to any matter arising out of or connected with the contract, such disputes or difference shall be settled in accordance with the Arbitration and Conciliation Act, 1996. The arbitral tribunal shall consist of three arbitrators, one each to be appointed by the purchaser and the supplier. The third arbitrator shall be chosen by the two arbitrators so appointed by the parties and shall act as presiding arbitrator. In case of failure of the two arbitrators appointed by the parties to reach upon a consensus within a period of thirty days from the appointment of the arbitrator appointed subsequently, the presiding arbitrator shall be appointed by the Indian Council of Arbitration or President of the Institution of Engineers (India).
 - c) The decision of majority of arbitrators shall be final and binding upon both the

parties.

- d) The cost and expenses of the arbitration proceedings will be paid as determined by the arbitral tribunal. However, the expenses incurred by each party in connection with the preparation, presentation etc. of its proceedings as also fees and expenses paid to the arbitrator appointed by such party or on its behalf shall be borne by each party itself.

27.4 However, where the value of the contract is Rs.15 lakhs (Rupees one and a half million) and below, the disputes or differences arising in it shall be referred to a sole arbitrator. The sole arbitrator shall be appointed by mutual agreement between the parties. If the parties fails to agree on the arbitrator within 30(thirty) days from the receipt of a request by one party from the other party to so agree, the appointment shall be made upon request of a party, by the Indian Council of Arbitration or the President of the Institution of Engineers (India).

27.5 The venue of arbitration shall be the place from where the contract is issued.

28. GOVERNING LANGUAGE

28.1 The contract shall be written in English language. All correspondence and other documents pertaining to the contract, which the parties exchange, shall also be written in English.

29. APPLICABLE LAW

29.1 The contract shall be interpreted in accordance with the laws of India.

30. NOTICES

31.1.1 Any notice given by one party to the other pursuant to the contract shall be sent in writing or by cable, telex or facsimile and confirmed in writing to the addresses specified in the **Schedule of Requirements**.

31.2 A notice shall be effective when delivered or on the notice's effective date whichever is later.

31. TAXES AND DUTIES

32.1.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees and other such levies imposed outside India.

32.1.2 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 Further instruction, if any, shall be as provided in the **Schedule of Requirements**.