



INVITATION TO BID

13 DARD 010/2020: SUPPLY, DELIVERY AND ERECTION OF A NEW 19 KM HIGH SECURITY INVINCIBLE CLEARVIEW FENCING, AND THE DISMANTLING OF THE EXISTING FENCES AND POLES AT KGORA FARMER TRAINING CENTRE IN THE NGAKA MODIRI MOLEMA DISTRICT OF THE NORTH WEST PROVINCE.

You are invited to submit a bid for the service as indicated in the attached bid documents.

1. The conditions contained in the General Conditions of Contract (GCC), and the attached bid forms, as well as any other conditions accompanying this invitation, are applicable.
2. The work procedure, the bidder proposes to follow in order to obtain the required result must be clearly outlined and its terms may not conflict with those contained in the General Conditions of Contract (GCC).
3. Kindly receive attached the following bid documents:
 - 3.1. SBD 1- Invitation to Bid Form
 - 3.2. SBD 4- Declaration of Interest
 - 3.3. SBD 6.1—Preferential Points
 - 3.4. SBD 6.2 – Local Content Declaration
 - 3.5. SBD 8 – Declaration of Bidder's past Supply Chain Practices
 - 3.6. SBD 9 – Certificate of independent determination
 - 3.7. Terms of reference
 - 3.8. General conditions of contract (GCC)
4. All the documents accompanying this invitation to bid must be completed in detail, be sealed in an envelope and be deposited in the bid box before the closing date and time as follows:

Location of bid box: Department of Agriculture and Rural Development

Physical address: Ngaka Modiri Molema District Office, C/n Onkgopotse Tiro Road and Moshoeshoe Drive, Mmabatho

Identification details: Supply, delivery and erection of a new 19 km high security invincible Clearview fencing, and the dismantling of the existing fences and poles at Kgora Farmer Training Centre in the Ngaka Modiri Molema District of the North West Province.

Closing date and time:

The closing time for submission of Bid Offers is: **16/09/2020 at 11H00**

Briefing Session:

Note that the site briefing is not compulsory due to covid-19 strict regulations; however bidders who wish to view sites can do so by making prior arrangements with the Technical Official. Dates to will be from 01/09/2020 to 04/09/2020 and time from 11H00 to 14H00.

5. Access

Access shall be provided for inspections and testing by personnel acting on behalf of the Department.

6. No Telephonic, telegraphic, telex, facsimile, electronic or e-mailed bids will be considered.
7. The Department of Agriculture and Rural Development reserves the right to accept any bid in whole or in part and does not bind itself to accept the lowest or any bid.
8. For more information please contact the following:

Department : Department of Agriculture and Rural Development

SCM Contact: Mr S Mothibi – 018 389 5053 Email: smothibi@nwpg.gov.za

Contact Person: Mr. Thuthukani Hlangu - **078 490 4596**: Email: thlangu@nwpg.gov.za

9. BID REQUIREMENTS

- a) Late bids will not be considered. Please note that bids are late if they are received at the address given in the bid document after the bid closing date and time.
- b) Bids will be valid for a period of 90 days.
- c) All the relevant forms attached to this bid document must be completed and signed in ink where applicable by a duly authorised official.

10. EVALUATION CRITERIA

The evaluation process will be conducted in phases as follows:

Phase 1	Phase 2	Phase 3
Pre-qualification criteria Mandatory and other requirements	Technical / Functionality Requirements	Price and B-BBEE



10.1: PHASE 1: Pre-qualification Criteria (part 1)

10.1.1. It is a condition of this bid that only the following bidders may respond to this bid:

10.1.1.1 A bidder having a B-BBEE status level of contributor 1 to 8. Bidders are required to complete the preference claim form (SBD 6.1), and submit a valid B-BBEE Status Level Verification certificate accredited by **SANAS** or a certified copy thereof **or** Sworn Affidavit **signed by** Commissioner of Oath **or** SAPS at the closing date and time of the bid.

10.1.1.2 A Bidder subcontracting a minimum of 30% to any of the following:

- An EME or QSE which at least 51% owned by black people;
- An EME or QSE which at least 51% owned by black people who are youth;
- An EME or QSE which at least 51% owned by black people who are women;
- An EME or QSE which at least 51% owned by black people with disability;
- An EME or QSE which at least 51% owned by black people living in rural areas and underdeveloped areas or townships;
- An EME or QSE which at least 51% owned by black people;
- A cooperative with at least 51% owned by black people;
- An EME or QSE which at least 51% owned by black people who are military veterans;

10.1.1.3. All sub-contracted suppliers must be registered on the Central Supplier Database.

10.1.1.4. Failure to meet any pre-qualification criteria shall invalidate the bid.

10.2: Mandatory and other bid requirements (Part 2):

The prospective bidders are required to provide the following documentation which will be used for the **phase 1 (part 2) of the evaluation on Mandatory and other bid Requirements**:

- Fully completed and signed Standard Bidding Documents (SBD's).
- It is a requirement that the tax matters of the successful bidder be in order.
- Where Consortia / Joint Ventures / Sub-contractors are involved, each party must be registered on the Central Supplier Database and their tax compliance status will be verified through the Central Supplier Database.
- In case of Joint Venture, bidders should submit a consolidated Broad-Based Black Economic Empowerment (BBBEE) Status Level Certificates.
- UIF letter of Good Standing
- COIDA certificate



- Proof of successful registration on the Centralised Supplier Database (CSD).
- **CIDB Certificate Grade 6 SQ or higher.**

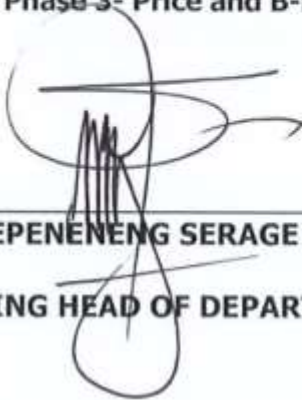
11. EVALUATION METHODOLOGY:

The Evaluation Processes will entail the following phases:

Phase 1- Evaluation on Pre-qualification Criteria and Mandatory requirements.

Phase 2- Technical/ functional Requirements and bidders who obtain 70% will pass over to the next stage of evaluation

Phase 3- Price and B-BBEE



DIPEPENENENG SERAGE (MR)

ACTING HEAD OF DEPARTMENT



DATE

TERMS OF REFERENCE

SUPPLY, DELIVERY AND ERECTION OF A NEW 19 KM HIGH SECURITY INVINCIBLE CLEARVIEW FENCING AND THE DISMANTLING OF THE EXISTING FENCES AND POLES AT KGORA FARMER TRAINING CENTRE IN THE NGAKA MODIRI MOLEMA DISTRICT OF THE NORTH WEST PROVINCE

1. INTRODUCTION

Kgora Farmer Training Centre is a unique public service institution in the North West Province, dedicated and accredited solely for the development, empowerment and training of farmers across all farmer categories (households/subsistence, small holder and commercial).

This is where smallholder, subsistence and commercial farmers, especially those who have benefited from state funding interventions are trained in-situ or ex-situ for the duration determined by the notional hours as per unit standard.

Kgora is officially accredited by the Agriculture Sector Education and Training Authority (AgriSETA), as an education and training provider in agriculture sector on animal and plant production whereby national certificates NQF 1 – 4 are recognized by the South African qualifications Authority in terms of the SAQA Act of 1995. The institution is therefore accredited to offer National Certificates in animal production, of which pig production is one of the disciplines.

Training models used at the Centre devotes more attention to the practical training where farmers are housed at the Centre for a dedicated training period to ensure exposure to the real production cycles. It is therefore necessary that pertinent infrastructure be in place to impact on training offered at the Centre. It must be noted that, unlike other institutions where training is outsourced, the Kgora Farmer Training Centre, as part of the assets for the department, need to be sourced in a way that depicts a fully fleshed reputable training centre. This means that development on matters of infrastructure should be congruent with the type of training that is to be offered.

2. OBJECTIVES

- 2.1 To appoint a suitably qualified Service Provider for the supply, delivery and erection of a new 19 km high security invincible clear-view fencing, and the dismantling of the existing fences and poles at Kgora Farmer Training Centre.

3. SCOPE OF SERVICES

- 3.1 The contract covers the supply, delivery and erection of new 19 km clear-view security fences, the dismantling of existing fences, and finally the stacking of the fencing material at specified locations at KFTC, and associated/optional & additional works.

4. PROJECT LOCATION

- 4.1 Kgora Farmer Training Centre is situated in Ramatlabama area, Ngaka Modiri Molema District of the North West Province. Coordinates for the Centre are S 25°41'57'' S E 25°36'40

5. REFERENCE TO NATIONAL TREASURY GUIDELINES

5.1 Supply Chain Management "a guide to accounting officers/authorities

February 2004" Clause 4.6 "To stimulate the promotion of BEE and development of HDIs and SMMEs, it is suggested that institutions should advertise in the local media for businesses to bid as potential suppliers for goods and services to be obtained by means of quotations. The accounting officer/authority may further categorise the suppliers according to the goods/services they are capable of supplying. Quotations for the required goods/services should be obtained from all potential suppliers in the specific category or on a rotation basis from various suppliers".

- 5.2 This Request For Bids (RFB) documents details the scope of work with regard to the construction of Clearview fencing at Kgora Farmer Training centre. The RFB incorporates, as far as possible, the tasks and responsibilities of the potential service provider, required by the North West Department of Agriculture and Rural Development (DARD) in terms of supply, delivery and erection of a new 19 km high security invincible clear-view fencing, and the dismantling of the existing fences and poles at Kgora Farmer Training Centre.

DARD has a detailed evaluation methodology premised on Treasury Regulation 16A3 promulgated under section 76 of the Public Finance Management Act 1999 (Act, No. 1 of 1999), the Preferential Procurement Policy Framework Act 2000 (Act No.5 of 2000) and the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003).

6. APPOINTMENT TERMS

- 6.1 The successful service provider will be appointed once-off for the duration of the project as shall be outlined in the site service level agreement.
- 6.2 Once bids have been received, evaluated and adjudicated upon, only the successful bidder will be approached so as to enter into a formal agreement with the Department.

7. SCOPE OF WORK

7.1 PRELIMINARIES & GENERAL

The contractor is to note that all insurances (UIF, workmen compensation, works, public liability etc.); site and equipment safety; site establishment and security; services (water and electricity); testing of materials and any specialist services are for the contractor's responsibility and attention throughout the contract duration until handover of the project. This item also includes Occupational Health & Safety Act requirements. The Department reserves the right to stop progress of the works in case of non-compliance until these conditions are complied with.

- 7.2 Installation of 19 km clear view High Security Fence at Kgora Farmer Training Centre.
- 7.3 Post to be 2.6 meters Long, 76mm depth x 76-45mm wide with locking mechanisms to secure panel edge.
- 7.4 Post foundation is 300X300X600mm 15MP concrete.
- 7.5 2.0 m high x 2.6m wide panels of galvanised Mesh panel, aperture size not to exceed 76 x 13mm.
- 7.6 Panels to be secured with metal security fixators, bolted through the posts & firmly secured with antivandal tekscrews 8mm HDGalvanised. The post is will be fully Hot Dipped Galvanized.
- 7.7 600 mm anti-burrow to consist of a 200mm concrete sill and panels to be topped with 100mm high "shark tooth" spikes.
- 7.8. Paint work (anti-rust primer base coat and top coat for finishing cement and stones for concrete base on post and sliding gate track.
- 7.9. The costs should include the dismantling and stacking existing fence, clearing of site, water and electricity if needed and other costs not specified in the specifications.

7.10. DARD will not accept poor quality of works and the contractor will be paid until such time when the Quality is acceptable and complies with the required SANS and ISO standards.

Pricing Schedule

Item No	Description	Quantity	Unit prize	Total cost
1.	Preliminaries and General <ul style="list-style-type: none"> Fixed items Contractual Requirements Facilities for Contractor (Office and storage sheds, Ablution facilities, Tools and equipment, Water supplies, electric power and communications Other fixed charge obligations (Health and safety compliance, Environmental compliance) Environmental compliance 	1		
2.	Dismantling and stacking up of existing 19 km fences and poles	1		
3.	12'76 SS High Secure Mesh Panel : 2000mm (H) X 2515mm (W) fully galvanised (minimum of 275g/m2 Zinc coated), powder coated and plastic coated	7308		
4.	Post Square 76'76mm with PVC Cap 2600mm (H) HD-fully galvanised (minimum of 275g/m2 Zinc coated), powder coated and plastic coated	7309		
5.	Clamping Fixator With Tek Screw Set (HD-GALV) SQR Post fully galvanised (minimum of 275g/m2 Zinc coated), powder coated and plastic coated	116944		
6.	Nutset 8mm 13m Chuck	1		
7.	Sliding gate 6000mm X 2100mmH with ANTILIFT system Heavy Duty Track	3		
8.	Track: I Beam 100X50X5mm + Round Bar 16mm	6		

9.	Support post rear	3		
10.	Support post front	3		
11.	15MPA Concrete base line 300X300X600 Deep foundation post-base	7309		
12.	Full installation/ erection of the 19 km fence	1		
			TOTAL	
			ADD 10% CONTINGENCY	
			SUB TOTAL	
			ADD 15% VAT	
			GRAND TOTAL	

NB. Bidders must bid to perform all the activities as listed in the detailed copy of specifications, from item 1 -12

8. **SPECIAL CONDITIONS**

- 8.1 Where an entity forms a joint venture or a consortium with (an) other entities(y), the parties to this agreement must express in the bid proposal what aspect of the scope of work each party would be adding value to and what percentage each party will receive in terms of the proceeds flowing from any assignment.
- 8.2 All prospective bidders (s) shall have to treat all available data provided by the Department in the process as strictly confidential and not for any form of distribution or use unless an express written approval is obtained from the Head of the Department in advance.
- 8.3 Successful bidders must be in a position to commence work immediately from receipt of an official order.
- 8.4 The service provider who meets the minimum requirements in terms of the evaluation will be considered for appointment.

9. LOGISTICAL ARRANGEMENTS

9.1 The prospective bidders will be expected to complete SBD documents when submitting bids. The quotation or bid will include the details of the assignment and will be evaluated in terms of Preferential Procurement Policy Framework Act 05 of 2000 and Regulations of 2017.

9.2 Once appointed, an order number will be issued to the service provider which must be used in all future financial related correspondence.

9.3 No up-front payments will be made. READ will pay for satisfactory completion of work within 30 days of submission of the invoice.

10. TIME FRAMES

The successful bidder will be expected to commence with the work within two weeks of appointment. If there is a delay, reasons should be provided and agreed upon by both parties. The timeframe for the completion of different activities will be specified in the site service level agreement, and must be strictly adhered to.

11. CANCELLATION

DARD reserves the right to cancel the contract if the service provider fails to adhere to the conditions of the contract.

- 11.1 On termination of the contract for whatever reason, the service provider shall on Demand, deliver, without the right to retention all documents and information gained in terms of this agreement.

12. CONTRACTUAL ARRANGEMENTS

A standard agreement will be drawn up detailing all contractual obligations and it will be expected of the service provider to sign such with the Department. The Department will become the owners of any intellectual property that may be a product or an outcome of this project.

13. EVALUATION METHODOLOGY

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

- Pre-Qualification Criteria (Phase 1) – Evaluation on legal and other requirements
- Technical Evaluation Criteria (Phase 2) – Bidder(s) must attain a minimum of 70 out of 100 points to be passed over to the next phase of evaluation. This might include physical visits.
- Preference Points: Price and B-BBEE

13.1 Phase 1 (A)- Prequalification Criteria:

- It is a condition of this bid that only the following bidders may respond.
- A Bidder having a B-BBEE status level of contributor 1 to 8. Bidders are required to complete the preference claim form (SBD 6.1), and submit a valid B-BBEE Status Level Verification certificate accredited by **SANAS** or a certified copy thereof **or** Sworn Affidavit **signed by** Commissioner of Oath **or** SAPS at the closing date and time of the bid.

A tenderer subcontracting a minimum of 30% to:

- An EME or QSE which at least 51% owned by black people;
 - An EME or QSE which at least 51% owned by black people who are youth;
 - An EME or QSE which at least 51% owned by black people who are women;
 - An EME or QSE which at least 51% owned by black people with disability;
 - An EME or QSE which at least 51% owned by black people living in rural areas and underdeveloped areas or townships;
 - An EME or QSE which at least 51% owned by black people;
 - A cooperative with at least 51% owned by black people;
 - An EME or QSE which at least 51% owned by black people who are military veterans;
- Bidders must comply with the Pre-qualification criteria for Preferential Procurement as indicated above.

13.2 Phase 1 (B) - Evaluation on Legal and other requirements:

This phase will entail initial screening of bid responses received at close of bid. During this phase bid responses are registered and to ascertain the number of bid responses received before the closing date and time and to verify if the bidders submitted all mandatory requirements.

The prospective bidders are required to ensure that original bid documents are completed and signed where applicable and ensure that the following documents are submitted:

- Standard Bidding Documents (Original, fully completed and signed where necessary).
- Tax status of the bidders must be compliant and will be verified on CSD
- In case of Joint Ventures bidders should submitted a consolidated Broad-Based Black Economic Empowerment (BBBEE) Status Level Certificates.
- UIF letter of Good standing
- COIDA certificate
- **Recent Central Supplier Database (CSD) Report.**
- **CIDB Certificate GRADE 6 SQ OR higher**

During this stage, bids that do not comply will be disqualified, and will not be considered for the second stage of evaluation i.e. technical / functional capability and ability.

13.3 Phase 2 – Technical / functional Requirements:

This evaluation will be based on the responses using the resource requirements i.e. equipment and machinery, previous experience, and financial strength. The threshold values set for the qualification of bid is 70 % and all the bidders who score below will be eliminated.

The bidder(s) information will be scored according to the following points system:

HEADING	COMMENT	POINTS
Equipment and machinery	<ul style="list-style-type: none"> Hired equipment and machinery (Proof of agreement to hire machinery) Own equipment and machinery (Proof of ownership to be attached): <ul style="list-style-type: none"> a) TLB Proof of ownership = 4 points Proof of hiring = 2 point b) Concrete Mixer Proof of ownership = 4 points Proof of hiring = 2 point c) Utility Vehicle Proof of ownership = 2 points Proof of hiring = 1 point 	10
Experience on similar work and Proven Track Record.	<p>The contractor to provide a list of all previous construction projects undertaken and completed in the last 5 years accompanied by a completion certificate signed by the Project Manager as proof with the following values:</p> <p>R10 000 001 and above = 40 R8 000 001 – R10 000 000 = 32 R6 000 001 – R 8 000 000 = 24 R4 000 001 – R 6 000 000 = 16 R2 000 001 – R 4 000 000 = 08</p>	40
	<p>Previous Track Record of having done similar work done in the last 5 years: (Proof of reference letters must be attached)</p> <p>5 or more projects = 40 points 4 projects = 32 points 3 projects = 24 points 2 projects = 16 points 1 project = 08 points</p>	40
Financial capability (Proof must be attached e.g. bank rating letter)	<p>Recent Bank Credit Rating letter</p> <p>A = 10 points B = 08 points C = 05 points D = 03 points</p>	10
Minimum Threshold	Note: Bidders scoring less than 70% during this stage would not be considered for the next stage of evaluation	100

Kindly note that the shortlisted bidders may be subjected to site inspections where the information submitted will be verified.

13.4 Phase 3 – Price and BBBEE Level of Contributor Points

This stage will entail evaluating price and BBBEE and will only be done once quotes have been requested from approved service providers. The criteria will depend on the specific work / service to be undertaken.

14. DEPARTMENTAL RIGHT

The Department reserves the right to award the bid in its entirety to one successful bidder or to award individual units or structures to various bidders or not award at all.

15. DURATION OF THE CONTRACT

The successful bidder/s will enter into a once off contract with the department clearly stipulating terms and conditions of the agreement. The required deliverables will be communicated and agreed upon with the bidder. The contracted bidder/s will be legally bound to deliver within the set duration of the contract.

16. Enquiries

Technical Enquiries: Thuthukani Hlangu -078 490 4596

thlangu@nwpg.gov.za

Conditions of Contract:

- The cables must be stretched to the required tension according to SAIEE norms.
- Condition of Contract: COC certificate will be required should be submitted before payment may be effected.
- All the materials for the project must SABS approved
- SBD 6.2. must form part of the bid document: Sector Designation - Local Content
- CIDB Grading of 6 SQ

South African Technical Specification (SATS) 1286:2011, Local content Declaration template (Annexure C, D & E) and the Guidance Document for the Calculation of local content is accessible to all potential bidders on the DTI official website:

(<http://www.dti.gov.za/industrialdevelopment/ip.jsp>) at no cost.

This bid will be evaluated in terms of the Local Content and production requirements for different categories of Steel Products and Components for Construction as follows:

Description		% Local Content
A. Steel Products and Components for Construction : Steel Value-added Products		100%
1.	Fabricated Structural Steel	100%
2.	Joining/Connecting Components	100%
3.	Frames	100%
4.	Roof and Cladding	100%
5.	Fasteners	100%
6.	Wire products	100%
7.	Ducting and Structural pipework	100%
8.	Gutters, downpipes and Lauders	100%
9.	Plates	100%
10.	Sheets	100%
11.	Galvanised and Colour Coated Coils	100%
12.	Wire Rod and Drawn Wire	100%
13.	Sections	100%
14.	Reinforcing bars	100%

INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT

BID NUMBER: **13 DARD 010/2020** CLOSING DATE: **16 SEPTEMBER 2020** CLOSING TIME: **11:00**

DESCRIPTION: SUPPLY, DELIVERY AND ERECTION OF 19 KM HIGH SECURITY CLEARVIEW FENCING AT KGORA FARMER TRAINING CENTRE IN THE NGAKA MODIRI MOLEMA DISTRICT OF THE NORTH WEST PROVINCE

The successful bidder will be required to fill in and sign a written Contract Form (SBD 7).

BID DOCUMENTS MAY BE POSTED TO:

.....

OR

DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)

DEPT. OF AGRICULTURE AND RURAL DEVELOPMENT,
NGAKA MODIRI MOLEMA DISTRICT OFFICE, C/N ONKGOPOTSE TIRO ROAD
AND MOSHOESHOE DRIVE,
MMABATHO

Bidders should ensure that bids are delivered timeously to the correct address. If the bid is late, it will not be accepted for consideration.

The bid box is generally open 24 hours a day, 7 days a week.

ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS – (NOT TO BE RE-TYPED)

THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2011, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT

THE FOLLOWING PARTICULARS MUST BE FURNISHED (FAILURE TO DO SO MAY RESULT IN YOUR BID BEING DISQUALIFIED)

NAME OF BIDDER.....

POSTAL ADDRESS.....

STREET ADDRESS.....

TELEPHONE NUMBER.....

CELLPHONE NUMBER

E-MAIL ADDRESS

VAT REGISTRATION NUMBER

HAS AN ORIGINAL AND VALID TAX CLEARANCE CERTIFICATE BEEN SUBMITTED? (SBD 2) YES or NO

HAS A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE BEEN SUBMITTED? (SBD 6.1) YES or NO

IF YES, WHO WAS THE CERTIFICATE ISSUED BY?

AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA).....☐

A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS); OR.....☐

A REGISTERED AUDITOR☐
[TICK APPLICABLE BOX]

(A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE 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 or NO

YES ENCLOSE PROOF]

SIGNATURE OF BIDDER

DATE.....

CAPACITY UNDER WHICH THIS BID IS SIGNED.....

TOTAL BID PRICE.....

TOTAL NUMBER OF ITEMS OFFERED

ANY ENQUIRIES REGARDING THE BIDDING PROCEDURE MAY BE DIRECTED TO:

Department : AGRICULTURE AND RURAL DEVELOPMENT

Contact Person : MR L S MOTHIBI

Tel : 018 389 5053

Fax : 086 646 0925

E-mail address : Smothibi@nwpg.gov.za

ANY ENQUIRIES REGARDING TECHNICAL INFORMATION MAY BE DIRECTED TO:

Contact Person : MR. THUTHUKANI HLANGU

Tel : 078 490 4596

E-mail address : thlangu@nwpg.gov.za

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 a price quotation, advertised competitive bid, limited bid or proposal). 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):

2.4 Company Registration Number:

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.

"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 attached 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.

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

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

10.1 If so, furnish particulars.

.....
.....

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

11.1 If so, furnish particulars:

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

Full details of Directors / Trustees / Members / Shareholders.

Full Name	Identity Number	Personal Tax Reference Number	State Number 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 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)	certificate issued by an authorized body or person;	B-BBEE Status level
2)	prescribed by the B-BBEE Codes of Good Practice;	A sworn affidavit as
3)	prescribed in terms of the B-BBEE Act;	Any other requirement
- (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 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	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

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	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

- 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 least 51% owned by:	EME	QSE
Black people	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Black people who are youth	<input type="checkbox"/>	<input type="checkbox"/>

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 CERTIFICATE FOR LOCAL PRODUCTION AND CONTENT FOR DESIGNATED SECTORS

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, the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:2011 (Edition 1) and the Guidance on the Calculation of Local Content together with the Local Content Declaration Templates [Annex C (Local Content Declaration: Summary Schedule), D (Imported Content Declaration: Supporting Schedule to Annex C) and E (Local Content Declaration: Supporting Schedule to Annex C)].

1. General Conditions

- 1.1. Preferential Procurement Regulations, 2011 (Regulation 9) makes 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. Where necessary, for bids referred to in paragraph 1.2 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.
- 1.4. 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.
- 1.5. The local content (LC) expressed as a percentage of the bid price must be calculated in accordance with the SABS approved technical specification number SATS 1286: 2011 as follows:

$$LC = [1 - \frac{x}{y}] * 100$$

Where

x is the imported content in Rand

y is the bid price in Rand 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 of advertisement of the bid as indicated in paragraph 4.1 below.

The SABS approved technical specification number SATS 1286:2011 is accessible on http://www.thedti.gov.za/industrial_development/ip.jsp at no cost.

1.6 A bid may be disqualified if –

- (a) this Declaration Certificate and the Annex C (Local Content Declaration: Summary Schedule) are not submitted as part of the bid documentation; and
- (b) the bidder fails to declare that the Local Content Declaration Templates (Annex C, D and E) have been audited and certified as correct.

2. Definitions

- 2.1. **“bid”** includes written price quotations, advertised competitive bids 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 (this includes labour or intellectual property costs), 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 (refer to Annex A of SATS 1286:2011) 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?

(Tick applicable box)

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 1.5 of the general conditions must be the rate(s) published by SARB for the specific currency at 12:00 on the date of advertisement 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 (refer to Annex A of SATS 1286:2011):

Currency	Rates of exchange
US Dollar	
Pound Sterling	
Euro	
Yen	
Other	

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

5. Were the Local Content Declaration Templates (Annex C, D and E) audited and certified as correct?

(Tick applicable box)

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

- 5.1. If yes, provide the following particulars:

- (a) Full name of auditor:
- (b) Practice number:
- (c) Telephone and cell number:
- (d) Email address:

(Documentary proof regarding the declaration will, when required, be submitted to the satisfaction of the Accounting Officer / Accounting Authority)

6. Where, after the award of a bid, challenges are experienced in meeting the stipulated minimum threshold for local content the dti must be informed accordingly in order for the dti to verify and in consultation with the AO/AA provide directives in this regard.

LOCAL CONTENT DECLARATION
(REFER TO ANNEX B OF SATS 1286:2011)

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:

1. 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.

2. Guidance on the Calculation of Local Content together with Local Content Declaration Templates (Annex C, D and E) is accessible on http://www.thdti.gov.za/industrial_development/ip.jsp. Bidders should first complete Declaration D. After completing Declaration D, bidders should complete Declaration E and then consolidate the information on Declaration C. **Declaration C should be submitted with the bid documentation at the closing date and time of the bid in order to substantiate the declaration made in paragraph (c) below.** Declarations D and E should be kept by the bidders for verification purposes for a period of at least 5 years. The successful bidder is required to continuously update Declarations C, D and E with the actual values for the duration of the contract.

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:

- (i) 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 1286:2011; and
- (ii) the declaration templates have been audited and certified to be correct.

(c) The local content percentage (%) indicated below has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E which has been consolidated in Declaration C:

Bid price, excluding VAT (y)	R
Imported content (x), as calculated in terms of SATS 1286:2011	R
Stipulated minimum threshold for local content (paragraph 3 above)	
Local content %, as calculated in terms of SATS 1286:2011	

If the bid is for more than one product, the local content percentages for each product contained in Declaration C shall be used instead of the table above.

The local content percentages for each product has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E.

(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 1286:2011.

(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 1286:2011, 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 Preferential Policy Framework Act (PPPFA), 2000 (Act No. 5 of 2000).

SIGNATURE: _____

DATE: _____

WITNESS No. 1 _____

DATE: _____

WITNESS No. 2 _____

DATE: _____

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	<p>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?</p> <p>(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 audi alteram partem rule was applied).</p> <p>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.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	<p>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)?</p> <p>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.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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 <input type="checkbox"/>	No <input type="checkbox"/>
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 <input type="checkbox"/>	No <input type="checkbox"/>
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

Js365bW

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 *pe 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.

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.

CERTIFICATE OF INDEPENDENT BID DETERMINATION

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.
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

THE NATIONAL TREASURY

Republic of South Africa



GOVERNMENT PROCUREMENT:

GENERAL CONDITIONS OF CONTRACT

July 2010

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.

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GENERAL CONDITIONS OF CONTRACT

1. Definitions

1. The following terms shall be interpreted as indicated:
 - 1.1 "Closing time" means the date and hour specified in the bidding documents for the receipt of bids.
 - 1.2 "Contract" means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
 - 1.3 "Contract price" means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
 - 1.4 "Corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.
 - 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
 - 1.6 "Country of origin" means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
 - 1.7 "Day" means calendar day.
 - 1.8 "Delivery" means delivery in compliance of the conditions of the contract or order.
 - 1.9 "Delivery ex stock" means immediate delivery directly from stock actually on hand.
 - 1.10 "Delivery into consignees store or to his site" means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
 - 1.11 "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.
 - 1.12 "Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not

foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.

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

- 1.25 "Written" or "in writing" means handwritten in ink or any form of electronic or mechanical writing.
- 2. Application**
- 2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
- 2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.
- 2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.
- 3. General**
- 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.
- 3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from www.treasury.gov.za
- 4. Standards**
- 4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.
- 5. Use of contract documents and information inspection.**
- 5.1 The supplier shall not, without the purchaser's prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 5.2 The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.
- 5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

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| 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 bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or (b) a cashier's or certified cheque |
| | 7.4 | The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified in SCC. |
| 8. Inspections, tests and analyses | 8.1 | All pre-bidding testing will be for the account of the bidder. |
| | 8.2 | If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department. |
| | 8.3 | If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned. |
| | 8.4 | If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser. |
| | 8.5 | Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier. |

	8.6	Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.
	8.7	Any contract supplies may on or after delivery be inspected, tested or analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.
	8.8	The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of GCC.
9. Packing	9.1	The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.
	9.2	The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in SCC, and in any subsequent instructions ordered by the purchaser.
10. Delivery and documents	10.1	Delivery of the goods shall be made by the supplier in accordance with the terms specified in the contract. The details of shipping and/or other documents to be furnished by the supplier are specified in SCC.
	10.2	Documents to be submitted by the supplier are specified in SCC.
11. Insurance	11.1	The goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the SCC.
12. Transportation	12.1	Should a price other than an all-inclusive delivered price be required, this shall be specified in the SCC.
13. Incidental services	13.1	The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:

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

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

14. Spare parts

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

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

15. Warranty

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

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

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

discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.

- 21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.
- 21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.
- 21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.
- 21.6 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without canceling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.

22. Penalties

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

23. Termination for default

- 23.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:
 - a) the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
 - b) if the Supplier fails to perform any other obligation(s) under the contract; or
 - c) if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the

contract.

- 23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.
- 23.3 Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.
- 23.4 If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the intended penalty as not objected against and may impose it on the supplier.
- 23.5 Any restriction imposed on any person by the Accounting Officer / Authority will, at the discretion of the Accounting Officer / Authority, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Accounting Officer / Authority actively associated.
- 23.6 If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:
- (i) the name and address of the supplier and / or person restricted by the purchaser;
 - (ii) the date of commencement of the restriction
 - (iii) the period of restriction; and
 - (iv) the reasons for the restriction.
- These details will be loaded in the National Treasury's central database of suppliers or persons prohibited from doing business with the public sector.
- 23.7 If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction

and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.

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| 24. Anti-dumping and countervailing duties and rights | 24.1 | When, after the date of bid, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference shall on demand be paid forthwith by the contractor to the State or the State may deduct such amounts from moneys (if any) which may otherwise be due to the contractor in regard to supplies or services which he delivered or rendered, or is to deliver or render in terms of the contract or any other contract or any other amount which may be due to him |
| 25. Force Majeure | 25.1 | Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure. |
| | 25.2 | If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event. |
| 26. Termination for insolvency | 26.1 | The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the purchaser. |
| 27. Settlement of Disputes | 27.1 | If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation. |
| | 27.2 | If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party. |
| | 27.3 | Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law. |

28. Limitation of liability	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.
	28.1	Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6; (a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.
29. Governing language	29.1	The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.
30. Applicable law	30.1	The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.
31. Notices	31.1	Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice.
	31.2	The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.
32. Taxes and duties	32.1	A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
	32.2	A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
	32.3	No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.

- 33. National Industrial Participation (NIP) Programme**
- 33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.
- 34 Prohibition of Restrictive practices**
- 34.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).
- 34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.
- 34.3 If a bidder(s) or contractor(s), has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.