



**agriculture &
rural development**

Department:
Agriculture and Rural Development
North West Provincial Government
REPUBLIC OF SOUTH AFRICA



Training Centre Building
Cnr. Moshoeshoe and Onkgopotse
Tiro Rd
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Mmabatho, 2735

OFFICE OF THE HEAD OF DEPARTMENT

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INVITATION TO BID/TERMS OF REFERENCE

**13 DARD 07/2026: THE APPOINTMENT OF A STRATEGIC PARTNER AND OPERATOR OF
NORTH WEST SILOS FOR GRAIN STORAGE.**

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 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. Bid documents.
 - 3.1. Bidders can obtain all Bid documents for this bid either from the E-tender Portal website www.etenders.gov.za/content/advertised-tenders or the Departmental Website www.nwpg.gov.za/Agriculture under Tenders.
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 situated at the foyer of the main entrance of NMM District, Training Centre Building Cnr. Onkgopotse Tiro Moshoeshoe Road Mmabatho, before the closing date and time as follows:

Bid Number : 13 DARD 07/2026

Closing Date : 30 October 2026

Closing Time : 11H00

Identification details: Terms of Reference for the appointment of a strategic partner and operator of North West Silos for grain storage.

13 DARD 07/2026: THE APPOINTMENT OF A STRATEGIC PARTNER AND OPERATOR OF NORTH WEST SILOS FOR GRAIN STORAGE.

5. Briefing Session

There will be compulsory briefing session at all three silos.

A compulsory clarification briefing session and physical site inspections will be held as follows:

5.1. Venue: Springbokpan Silos - Bodibe
Date: 16 October 2026
Time: 10h00 am
Coordinates: S: 26°5'24.56" E: 25°50'28.58"

5.2. Venue: Kraaipan Silos
Date: 16 October 2026
Time: 12h30 pm
Coordinates: S: 26°17'48" E: 25°28'20"

5.3 Venue: Vryhof Silos
Date: 16 October 2026
Time: 03h00 pm
Coordinates: S: 26°02'28" E: 25°30'59"

Note: Failure to attend the compulsory briefing session and sign the attendance register will result in immediate disqualification from the RFQ process

6. Closing Time

The closing time for submission of Bid Offers is **30 October 2026 at 11H00** at the Training Centre Building Cnr. Moshoeshoe and Onkgopotse Tiro Rd, Private Bag X2039, Mmabatho, 2735 (**Coordinates S:25° 50'10.5" E: 25°36'16.6"**)

7. Access

Where applicable, an official acting on behalf of the Department shall be provided access for inspections and testing.

8. No telephonic, telegraphic, telex, facsimile, electronic or e-mailed bids will be considered.

9. Bid documents can be downloaded from the E-Portal website www.etenders.gov.za/content/advertised-tenders or the Departmental Website www.nwpg.gov.za/Agriculture under Tenders.

11. Enquiries relating to this bid can be obtained from the following officials:

(Bidders are encouraged to utilize emails for enquiries)

Technical Enquiries	Ms. P. Chabeli	Tel: 064 890 9535 pchabeli@nwpg.gov.za
General SCM Enquiries	Ms. M. Matsheka	Tel: (018) 384 6080 mmatsheka@nwpg.gov.za

12. BID REQUIREMENTS

- 12.1. 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. The bidding box shall be locked at exactly 11:00. The closing time will be in accordance with Telkom Time (1026)
- 12.2. Bids will be valid for a period of 90 days.
- 12.3. All bid prices must be quoted in South African Currency and must be VAT-inclusive.
- 12.4. All relevant forms attached to this bid document must be completed in full and signed in black ink where applicable by a duly authorised official.
- 12.5. The successful bidder will be required to sign a written contract form (**Service Level Agreement (SLA)**).
- 12.6. The official forms as per paragraph 9 above and the bid terms of reference /specification must not be retyped. To ensure the authenticity of the documents, bidders must complete the forms manually.

13. MANDATORY DOCUMENTATION

- 13.1.** The prospective bidders are required to provide the following documents which will be used for **phase 1 of the Evaluation on Mandatory Documentation:**
- 13.1.1. A copy of the company Central Supplier Database (CSD) registration report.
- 13.1.2. Original, fully completed and signed Standard Bidding Documents
- 13.1.3. SARS Tax Pin.
- 13.1.4. Declaration of legal standing (not under liquidation or business rescue or debt review)
- 13.1.5. Proof of financial capacity (minimum R100 million)
- 13.1.6. For joint venture to be considered and points allocated accordingly, the following documents are required:

- 13.1.6.1. Agreement between the parties of the joint venture
- 13.1.6.2. The parties to the joint venture companies must be registered on the Central Supplier Database with a Tax compliance status for individual parties to the Joint Venture.

14. EVALUATION METHODOLOGY:

DARD has defined minimum standards or criteria (Threshold) that a bidder must meet to progress through the selection process. The process consists of the following three phases:

14.1. Phase 1: Pre-Qualification - Evaluation on mandatory requirements:

This entails initial screening of bid responses received at close of bid. During this phase bid responses are registered to ascertain the number of bid responses received before the closing date and time and to verify if the bidders submitted all mandatory requirements listed on 13.1. above.

Note: Failure to submit documents listed in paragraph 13 will result in the disqualification of your bid.

14.1.1. Reasons for disqualification

The Department reserves the right to disqualify any bidder who does any one or more of the following: -

- 14.1.1.1. Bidders who are not successfully registered on CSD;
- 14.1.1.2. Bidders who received information not available to other bidders through fraudulent means;
- 14.1.1.3. Bidders who are listed on the National Treasury's Database of restricted suppliers; and
- 14.1.1.4. Bidders who are employed by the State.

14.2. Phase 2 – Technical / functional Requirements

14.2.1. The following must also be attached to enable the evaluation committee to evaluate your bid on technical capabilities (Phase 2):

- 14.2.1.1. Minimum 10 years' experience in commercial grain farming and storage
- 14.2.1.2. Financial capacity (R100 million): Bank guarantee or funding letter (Not older than Three Months)
- 14.2.1.3. Good financial standing (not under debt review or liquidation) - Financial Capability - Provision of audited financial statements for the past three (3) years

demonstrating sufficient capital or access to lines of credit to cover initial capital expenditure (CapEx) and operational risks.

14.2.1.4. Detailed development plan with timeframes including sustainability approach.

14.3. A minimum threshold of **75 points** is required to be considered for shortlisting.



MS L DIALE
HEAD OF DEPARTMENT

07/10/2026

DATE

TERMS OF REFERENCE

THE APPOINTMENT OF A STRATEGIC PARTNER AND OPERATOR FOR NORTH WEST SILOS FOR GRAIN STORAGE.

REQUEST FOR PROPOSALS (RFP):

1. PURPOSE

- 1.1. The purpose of this Terms of Reference (ToR) is to invite proposals from qualified and experienced individuals or entities interested in investing in and operating the three (3) North West Silos for grain storage and related aspects. The objective is to secure a strategic partner with the necessary capital, experience, and capability to rehabilitate, develop, and manage the Silos sustainably, restoring them to commercial viability and maximizing socio-economic benefits for the North West farming community.
- 1.2. The North West Department of Agriculture and Rural Development (DARD) hereby invites experienced, financially sound, and legally compliant private sector operators to submit qualification proposals to enter a long-term Public-Private Partnership (PPP) Concession Agreement.
- 1.3. The strategic objective of this project is to secure a private concessionaire to **operate, maintain, upgrade, and commercially optimize** state-owned bulk grain storage silo infrastructure located at Springbokpan, Kraaipan and Vryhof within the North West Province. The concession is intended to run for a period of twenty-five years
- 1.4. The successful concessionaire will be required to preserve the structural integrity of the infrastructure, implement modern grain management technologies, and guarantee a dedicated allocation of storage capacity to support regional smallholder and emerging black farmers

2. BACKGROUND

- 2.1. The three North West Silos are based in Springbokpan, Kraaipan and Vryhof. These Silos have historically been used for grain storage, majority of which came from the maize triangle farming communities. Silos that were once prominent for full capacity usage, have now dilapidated over time due to poor maintenance and use. Despite the condition of the two Silos (Kraaipan and Vryhof) the potential remains for revitalization through strategic investment and professional management.

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3. GOVERNMENT SUPPORT AND DEVELOPMENT INITIATIVES

3.1. The North West Department of Agriculture and Rural Development (DARD) has initiated efforts to revive the Springbokpan Silos through infrastructure upgrades such as the restoration of power supply including a backup generator. The Department of Agriculture and Rural Development (DARD) managed to restore and improve internal and external electrical infrastructure including installed security cameras to enhance the viability of the Silos for future investment.

4. SCOPE OF PROPOSALS

4.1. Proposals are invited from individuals or entities with the necessary capital, experience, and capability to manage the already restored Springbokpan Silos, restore and manage the Kraaipan and Vryhof Silos to commercial viability and maximize socio-economic benefits for the North West farming community.

Proposals should be comprehensive and must include the following:

- 4.1.1 Business profile of the partner
- 4.1.2 Track record in large-scale agriculture, with emphasis on Silos.
- 4.1.3 Financial capacity with minimum bank guarantee of R100 million
- 4.1.4 Development plan (crops, infrastructure, budget, timeline)
- 4.1.5 Skills transfer and empowerment of local farmers.
- 4.1.6 Operation period aligned with Return on Investment.
- 4.1.7 Exit strategy and plan with clear timelines.
- 4.1.8 B-BBEE and AgriBEE compliance
- 4.1.9 SARS compliance.
- 4.1.10 Audited financial records and legal standing.

4.2. The scope of the project under the operate and maintenance framework includes, but is not limited to:

- 4.2.1. Infrastructure Upgrades:** Rehabilitation of mechanical equipment, conveyor systems, weighbridges, and moisture/pest control mechanisms.
- 4.2.2. Commercial Operations:** Management of bulk intake, grading, storage, and dispatch of primary regional crops (maize, sunflower seeds, and wheat).
- 4.2.3. Socio-Economic Development:** Integration of smallholder farming networks through preferential storage tariffs and skills transfer programmes.

5. PARTNERSHIP MODEL

5.1. The department is proposing a concession model to operate and transfer skills.

6. LAND AND ASSET OVERVIEW

6.1. Estate Overview:

The **Springbokpan Silos** sits on approximately 4,7 hectares of land and it has ten (10) grain bins which have the capacity to store 50 000 tons of grain. **Kraaipan Silo** is on approximately 4.7 hectares and has ten (14) grain bins which have the capacity to store 70 000 tons of grain and **Vryhof Silo** is on 5.2 hectares of land it has ten (14) grain bins which have the capacity to store 70 000 tons of grain. All properties hold significant potential for growth and development. The infrastructure in place provides a strong foundation for up-scaling commercial operations in a phased and sustainable manner. The silos are located in the following places:

Springbokpan Grain Silo: **Coordinates: S: 26°5'24.56" E: 25°50'28.58"**

Kraaipan Grain Silo: **Coordinates: S: 26°17'48" E: 25°28'20"**

Vryhof Grain Silo: **Coordinates: S: 26°02'28" E: 25°30'59"**

6.2. Summary of Assets:

6.2.1. Fixed Infrastructure:

6.2.1.1. Springbokpan Buildings:

- 6.2.1.1.1. Administrative offices.
- 6.2.1.1.2. Staff and worker accommodation (including housing units).
- 6.2.1.1.3. Workshop and maintenance sheds.

6.2.2. Road Network:

- 6.2.2.1. Internal paved roads and external tared access roads.

6.2.3. Utilities and Licenses:

- 6.2.3.1. Electrical infrastructure: Connection to Eskom grid; transformers and substations on site.
- 6.2.3.2. Water rights: Registered allocations from drilled boreholes and supported by reticulation infrastructure.
- 6.2.3.3. Telecommunications: Limited with some existing infrastructure for radio/telecoms.

6.2.4. Land Use and Potential:

Currently Idle and underutilized arable land: available for expansion or crop diversification.

6.2.5. Non-arable/conservation areas: hectares or %.

7. ENVIRONMENTAL AND REGULATORY COMPLIANCE

The partner must comply with:

- 7.1. Environmental Impact Assessments (EIA) where required
- 7.2. Water use licenses and land zoning laws
- 7.3. Occupational health and safety
- 7.4. Environmental sustainability best practices
- 7.5. Food safety and hygiene
- 7.6. A compliance plan must be included in the proposal.

8. COMMUNITY DEVELOPMENT AND SOCIAL IMPACT

Proposals must include:

- 8.1. Local employment plan
- 8.2. Skills development
- 8.3. Community participation
- 8.4. Social investment initiatives
- 8.5. Local enterprise development
- 8.6. A Community Development Plan must be submitted.

9. LEGAL AND CONTRACTUAL FRAMEWORK

- 9.1. The operations will be governed by a comprehensive legal agreement between the strategic partner and the department, in the form of Memorandum of Agreement (MoA). The final agreement will include, at minimum, the following elements:
- 9.1.1. Clearly defined roles and responsibilities of each party.
 - 9.1.2. Terms covering capital investment, operations, and profit-sharing.
 - 9.1.3. Corporate governance provisions, including board representation, decision-making protocols, and fiduciary duties.
 - 9.1.4. Reporting, monitoring, and audit requirements to ensure transparency and accountability.
 - 9.1.5. Mechanisms for dispute resolution, including mediation and arbitration procedures.
 - 9.1.6. Renewal, exit, and termination conditions, including change-of-control

and force majeure clauses.

- 9.1.7. Compliance with all relevant South African laws, including company law, land reform policies, and agricultural regulations.

10. PROJECT DURATION

- 10.1. The initial duration of the partnership is expected to be **25 years** with option to renew, depending on the development and investment recovery plan. The duration must support long-term sustainability and allow reasonable return on investment. Proposals must clearly indicate the operational timeline and include an exit strategy.

11. RISK MANAGEMENT

Proposals must outline key risks and mitigation strategies, including:

- 11.1. Market volatility
- 11.2. Climatic and environmental threats
- 11.3. Financial and inflationary pressures
- 11.4. Labor and operational risks
- 11.5. Political and social dynamics
- 11.6. A risk management framework must be included.

12. EVALUATION AND SELECTION PROCESS

All proposals will be evaluated in **three phases**:

12.1. Phase 1: Mandatory Submissions Requirements (At proposal stage)

- 12.1.1. A copy of the company central supplier database (CSD) registration report.
- 12.1.2. Original, fully completed and signed Standard Bidding Document.
- 12.1.3. SARS Tax Pin.
- 12.1.4. For joint venture to be considered and points allocated accordingly, the following documents are required:
 - 12.1.4.1. Agreement between the parties of the joint venture:

Both parties must be registered on the Central Supplier Database, and both parties must make full disclosures as required by SBD 4

- 12.2. The following documents must be submitted at the time of proposal submission.

Failure to provide any of these will result in disqualification and exclusion from further evaluation.

No.	Requirement	Means of verification
1.	Declaration of legal standing (not under liquidation or business rescue)	Signed declaration (Annexure B) and, for SA entities, CIPC status check
2.	Proof of financial capacity (minimum R100 million)	Bank guarantee or certified funding letter from financial institution
3.	Signed commitment to the partnership model	Declaration of Commitment to Partnership Model (Annexure C)

12.3. Phase 2: Functionality Evaluation Criteria

Proposals that meet all mandatory requirements will be evaluated based on the following criteria. A minimum threshold of **75 points** is required to be considered for shortlisting.

NO.	CRITERIA	MAXIMUM SCORE
1. Minimum 10 years' experience in commercial grain farming and storage	Company profile and client reference: More than 5 clients testimonial = 20 points 4 – 5 clients testimonial = 15 points 2 – 3 clients testimonial = 10 points 1 client testimonial = 5 points NB: All clients testimonials should be accompanied by Company profile	20
2. Financial capacity (R100 million)	Bank guarantee or funding letter (Not older than Three Months): Submission = 20 Non-submission = 0	20
3. Good financial standing (not under debt review or liquidation)	Audited financial statements (last 3 years), accompanied by report from credit bureaus: Submission = 15 Non-submission = 0	15
4. Sustainable development plan	Detailed development plan with timeframes including sustainability approach: Submission = 10 Non-submission = 0	10

3. Locality Proof of business address	Locality of Primary office that is in the North West Province RSA = 35. Locality of Primary office that is not in the North West Province RSA = 5 NB: Municipal billing statement / latest municipal account / Valid lease agreement letter from local authority	35
TOTAL POINTS	NB: Minimum Threshold: Bidders scoring less than 70 points during this stage would not be considered for the next stage of evaluation	100

12.4. Phase 3: Presentations by shortlisted partner

Shortlisted companies/individuals will be invited to make **in-person or virtual presentations** to the evaluation panel.

12.4.1. Objectives of the presentation:

- 12.4.1.1. Elaborate on the proposed development and operational plan.
- 12.4.1.2. Demonstrate understanding of the partnership model.
- 12.4.1.3. Present approach to governance, risk sharing, and profit distribution.
- 12.4.1.4. Detail plans for community empowerment and local participation.
- 12.4.2. Presentation scoring may be incorporated as part of the final functionality score or used as a qualitative input into final deliberations.

13. PROPOSAL FORMAT AND CHECKLIST

Proposals must be clearly structured as follows:

- 13.1. Cover Letter
- 13.2. Executive Summary
- 13.3. Partner Profile
- 13.4. Development Plan
- 13.5. Financial Proposal & Bank Guarantee
- 13.6. Partnership Model
- 13.7. Skills Transfer Plan
- 13.8. Community Empowerment Plan

13.9. Exit Strategy

13.10. Risk Management Plan

13.11. Legal and Compliance Documents:

13.11.1. Tax clearance certificate.

13.11.2. Audited financials (last 3 years).

13.11.3. Proof of clean legal status

14. SITE VISITS

Site inspections are encouraged. Appointments can be arranged by contacting:

Mr: E Melamu

Email: esemelamu@nwpg.gov.za

15. RESOURCES AND REFERENCE DOCUMENTS

The following documents are available upon request:

15.1. Land ownership records

15.2. Environmental assessments (if available)

15.3. Infrastructure condition reports

Requests to:

Email: Akapu@nwpg.gov.za

16. DISCLAIMER

The department reserves the right to:

16.1. Reject any or all proposals

16.2. Cancel or postpone the process

16.3. Request additional documentation

16.4. Conduct due diligence on any potential bidder

Annexure "A"

PREVIOUS SIMILAR EXPERIENCE AND CUSTOMER REFERENCES

The Service Provider must provide a statement of work successfully completed and a list of customer reference in the table provided below. Insert in the space below, the details of successfully completed work.

I / we certify that I / we have successfully carried out the following works in the categories stated:

CLIENT NAME	CONTACT DETAILS	NATURE OF WORK	CAPACITY OF WORK	YEAR OF SERVICE

NB: Failure to detail the required information shall signify that the bidder does not have experience and capacity.

The Service Provider must furnish details of customers who will comment on their customer experience with the Bid.

SIGNATURE OF BIDDER:_____

DATE:_____

ANNEXURE B: Declaration of Legal Standing (South African and International partners).

DECLARATION OF LEGAL STANDING.

I, _____ the undersigned, hereby declare on behalf of the bidding entity that:

1. The company is duly registered and in good legal standing in its country of incorporation.
2. The company is not currently under liquidation, judicial management, business rescue, or equivalent legal proceedings.
3. The company has not been declared insolvent or bankrupt.
4. There are no pending legal actions or regulatory restrictions that would prevent the company from entering into an investment partnership or joint venture with a South African public entity.
5. The information provided in support of this bid is true, accurate, and complete to the best of my knowledge.

For South African Entities Only:

6. I confirm that the company's registration is current with the Companies and Intellectual Property Commission (CIPC).
7. I acknowledge that the evaluation team may independently verify the company's legal and registration status via public or official records.

SIGNATURE OF BIDDER: _____ **DATE:** _____

ANNEXURE C: Declaration of Commitment to Partnership Model

DECLARATION OF COMMITMENT TO PARTNERSHIP MODEL.

I, _____ the undersigned, hereby declare on behalf of the bidding entity that:

1. It recognizes the need to transform the agricultural economy of the North West province
2. To modernize and maintain the grain storage infrastructure to improve operational efficiency and increase storage capacity.
3. To uphold ethical business practices and maintain Zero tolerance for fraud
4. The partnership will promote sustainable development, rehabilitation, financing, operation and management of the Northwest grain silos
5. They ensure compliance with all applicable South African legislation, regulations and government policies.
6. To promote inclusive participation of smallholder farmers, women, youth, persons with disabilities and rural communities throughout the value chain.
7. To maximize local employment opportunities and support the development of local enterprises and suppliers
8. To facilitate structured training programs for local communities to strengthen technical and managerial capacity
9. To support continuous innovation and operational excellence in grain storage and logistics
10. To remain committed to achieving the socio-economic development objective of the North West Province through this partnership

SIGNATURE OF BIDDER: _____ **DATE:** _____

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)					
BID NUMBER:	13 DARD 07/2026	CLOSING DATE:	30 October 2026	CLOSING TIME:	11H00
DESCRIPTION	13 DARD 07/2026: THE APPOINTMENT OF A STRATEGIC PARTNER AND OPERATOR OF NORTH WEST SILOS FOR GRAIN STORAGE.				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
Department of Agriculture and Rural Development					
NMM District Office, Training Centre Building					
Cnr. Onkgopotse Tiro and Moshoeshoe Road					
Mmabatho					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	MS M MATSHEKA		CONTACT PERSON	MS P. CHABELI	
TELEPHONE NUMBER	018 384 6080		TELEPHONE NUMBER	064 890 9535	
FACSIMILE NUMBER	N/A		FACSIMILE NUMBER	N/A	
E-MAIL ADDRESS	mmatsheka@nwpg.gov.za		E-MAIL ADDRESS	pchabeli@nwpg.gov.za	
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					

13 DARD 07/2026: THE APPOINTMENT OF A STRATEGIC PARTNER AND OPERATOR OF NORTH WEST SILOS FOR GRAIN STORAGE.

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	☐ Yes [IF YES PROOF] ☐ No ENCLOSE	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	☐ Yes ☐ No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS			
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? ☐ YES ☐ NO DOES THE ENTITY HAVE A BRANCH IN THE RSA? ☐ YES ☐ NO DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? ☐ YES ☐ NO DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? ☐ YES ☐ NO IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? ☐ YES ☐ NO IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.			

PART B

TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:

- 1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
- 1.2. **ALL BIDS MUST BE SUBMITTED IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.**
- 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
- 1.4. **THE SUCCESSFUL BIDDER WILL BE ENGAGED WITH NEGOTIATIONS BY THE CSIR THAT MIGHT RESULT IN THE ISSUING OF A PURCHASE ORDER.**

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 CSIR TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
- 2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
- 2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
- 2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED; EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
- 2.6 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
- 2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE

NB: FAILURE TO PROVIDE / OR COMPLY WITH ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.

SIGNATURE OF BIDDER:.....

CAPACITY UNDER WHICH THIS BID IS SIGNED:

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

DATE:

BIDDER'S DISCLOSURE**1. PURPOSE OF THE FORM**

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

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

2. Bidder's declaration

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

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

Full Name	Identity Number	Name of State institution

¹ the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.

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

2.2.1 If so, furnish particulars:

.....

.....

2.3 Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract?

YES/NO

2.3.1 If so, furnish particulars:

.....

.....

.....

3 DECLARATION

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

3.1 I have read, and I understand the contents of this disclosure;

3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect.

3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium² will not be construed as collusive bidding.

² Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

- 3.4 In addition, there have been no consultations, communications, agreements, or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements, or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.
- 3.6 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 and 3 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....	
Signature	Date
.....	
Position	Name of bidder

THE NATIONAL TREASURY

Republic of South Africa



GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT JULY 2010

13 DARD 07/2026: THE APPOINTMENT OF A STRATEGIC PARTNER AND OPERATOR OF NORTH WEST SILOS FOR GRAIN STORAGE.

NOTES

The purpose of this document is to:

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

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

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

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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 anything of value to influence the action of a public official in the process or in contract execution.
 - 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
 - 1.6 "Country of origin" means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
 - 1.7 "Day" means calendar day.
 - 1.8 "Delivery" means delivery in compliance of the conditions of the contract or order.

- 1.9 "Delivery ex stock" means immediate delivery directly from stock actually on hand.
- 1.10 "Delivery into consignees store or to his site" means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
- 1.11 "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.
- 1.12 "Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- 1.13 "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.
- 1.14 "GCC" means the General Conditions of Contract.
- 1.15 "Goods" means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.16 "Imported content" means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his

subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.

- 1.17 "Local content" means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- 1.18 "Manufacture" means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.19 "Order" means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20 "Project site," where applicable, means the place indicated in bidding documents.
- 1.21 "Purchaser" means the organization purchasing the goods.
- 1.22 "Republic" means the Republic of South Africa.
- 1.23 "SCC" means the Special Conditions of Contract.
- 1.24 "Services" means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.
- 1.25 "Written" or "in writing" means handwritten in ink or any form of electronic or mechanical writing.

2. Application

- 2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales,

hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.

2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.

2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

3. General

3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.

3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from www.treasury.gov.za

4. Standards

4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.

5. Use of contract documents and information; inspection.

5.1 The supplier shall not, without the purchaser's prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.

5.2 The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.

- 5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

6. Patent rights

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

7. Performance security

- 7.1 Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.
- 7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.
- 7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:
- 7.3.1 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
- 7.3.2 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 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:

13.1.1 performance or supervision of on-site assembly and/or commissioning of the supplied goods;

13.1.2 furnishing of tools required for assembly and/or maintenance of the supplied goods;

13.1.3 furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;

13.1.4 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

13.1.5 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:

14.1.1 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

14.1.2 in the event of termination of production of the spare parts: Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and

(i) 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 fulfilment of other obligations stipulated in the contract.
- 16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the 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 cancelling 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:

23.1.1 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;

23.1.1 if the Supplier fails to perform any other obligation(s) under the contract; or

23.1.1 if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.

23.3 Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.

23.4 If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the intended penalty as not objected against and may impose it on the supplier.

23.5 Any restriction imposed on any person by the Accounting Officer / Authority will, at the discretion of the Accounting Officer / Authority, also be applicable to any other enterprise or any partner, manager,

director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Accounting Officer / Authority actively associated.

23.6 If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:

- (i) the name and address of the supplier and / or person restricted by the purchaser;
- (ii) the date of commencement of the restriction
- (iii) the period of restriction; and
- (iv) the reasons for the restriction.

These details will be loaded in the National Treasury's central database of suppliers or persons prohibited from doing business with the public sector.

23.7 If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.

**24. Anti-dumping
A and
countervailing
duties and
rights**

24.1 When, after the date of bid, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference shall on demand be paid forthwith by the contractor to the State or the State may deduct such amounts from moneys (if any) which may otherwise be due to the contractor in regard to supplies or services which he delivered or rendered, or is to deliver or render in terms of the contract or any other contract or any other amount which may be due to him

**25. Force
Majeure**

25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.

25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

- 26. Termination for insolvency** 26.1 The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the purchaser.
- 27. Settlement of Disputes** 27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.
- 27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.
- 27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.
- 27.5 Notwithstanding any reference to mediation and/or court proceedings herein,
- 27.5.1 the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
- 27.5.2 the purchaser shall pay the supplier any monies due the supplier.
- 28. Limitation of liability**

- 28.1 Except in cases of criminal negligence or wilful 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) Programmes

- 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.