



**REQUEST FOR PROPOSAL**

The Gauteng Partnership Fund (GPF) invites all interested parties to submit bids for requirements stipulated below:

<b>BID REFERENCE NUMBER:</b>	<b>RFP004/2020</b>
<b>SUBMISSION OF BIDS CLOSING DATE:</b>	<b>19 February 2021</b>
<b>CLOSING TIME</b>	<b>11:00</b>
<b>RFP VALIDITY PERIOD</b>	<b>90 Days</b>
<b>DESCRIPTION</b>	<b>IT Infrastructure, Security and Network Managed Service Contract for the period of 12 months</b>
<b>BID PERIOD</b>	<b>12 MONTHS</b>
<b>BRIEFING SESSION</b>	<b>No briefing session</b>
<b>QUESTIONS AND ANSWERS CLOSING DATE</b>	<b>12 February 2021</b>
<b>ENQUIRIES</b>	<b>Supply Chain Management Enquiries: <a href="mailto:Nokuthulam@gpf.org.za">Nokuthulam@gpf.org.za</a> Technical Enquiries: <a href="mailto:Galeboem@gpf.org.za">Galeboem@gpf.org.za</a></b>



PART A

INVITATION TO BID

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (GAUTENG PARTNERSHIP FUND)</b>					
BID NUMBER:	RFP004/2020	CLOSING DATE:	19 February 2021	CLOSING TIME:	11h00
DESCRIPTION	<b>IT Infrastructure, Security and Network Managed Service Contract for the period of 12 months</b>				
<b>BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)</b>					
<b>Reception Area,</b>					
<b>West wing, 1<sup>st</sup> floor,</b>					
<b>82 Grayston Drive, sandton</b>					
<b>2031</b>					
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>			<b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>		
CONTACT PERSON	Nokuthula Mqwashi		CONTACT PERSON	Galeboe Mogotsi	
TELEPHONE NUMBER	011 685 6627		TELEPHONE NUMBER	011 685 6640	
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS	Nokuthulam@gpf.org.za		E-MAIL ADDRESS	Galeboem@gpf.org.za	
<b>SUPPLIER INFORMATION</b>					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES &amp; QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]</b>					



<p>ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>[IF YES ENCLOSE PROOF]</p>	<p>ARE YOU A FOREIGN BASED SUPPLIER FOR <b>THE GOODS /SERVICES /WORKS OFFERED?</b></p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>[IF YES, ANSWER THE QUESTIONNAIRE BELOW ]</p>
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**QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS**

<p>IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?</p>	<p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>
<p>DOES THE ENTITY HAVE A BRANCH IN THE RSA?</p>	<p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>
<p>DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?</p>	<p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>
<p>DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?</p>	<p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>
<p>IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?</p>	<p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>
<p><b>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.</b></p>	



PART B

TERMS AND CONDITIONS FOR BIDDING

<p><b>1. BID SUBMISSION:</b></p> <p>1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.</p> <p>1.2. <b>ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED-(NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.</b></p> <p>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.</p> <p>1.4. <b>THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).</b></p>
<p><b>2. TAX COMPLIANCE REQUIREMENTS</b></p> <p>2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.</p> <p>2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.</p> <p>2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.</p> <p>2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.</p> <p>2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.</p> <p>2.6 WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.</p> <p>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."</p>

**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: .....



## **TERMS OF REFERENCE**

### **1 BACKGROUND**

- 1.1 The Gauteng Partnership Fund (GPF) was founded in 2002 as a Benevolent Trust under the Trust Properties Control Act 57 (1988), by the Executive Authority of the GPF, Gauteng Department of Human Settlements.
- 1.2 The GPF needs to partner with reputable IT managed service provider to deliver the expected services in accordance with the required service standards, in order to bridge the gap between the internal human resources and skills capacity required to provide the full spectrum of Information and Communication Technology (ICT) services needed by the organization to fulfil its mandate.

### **2 REQUIRED SKILLS AND EXPERIENCE**

- 2.1 Prospective bidders must possess the following skills and experience:
- (a) Must possess at least (5) years' experience in provision of ICT Network and Security Services to Medium (>50 users) to Large enterprises (>100 users);
  - (b) Must possess at least (5) years' hands-on experience in managing enterprise-wide ICT Services for organizations; and
  - (c) Must have ICT Network and Security engineers with skills and experience in the following areas:
    - i). Network Configuration and Troubleshooting;
    - ii). Network Management/Monitoring;
    - iii). ICT Security Management with experience in Fortinet;
    - iv). End-point security management with experience in ESET end-point security management tools;
    - v). ICT Infrastructure Performance Management;
    - vi). Windows Updates Management;
    - vii). Server Virtualization with Microsoft Windows Server Hyper-V System Centre;
    - viii). Microsoft Hyper-V Virtual Hosts and Servers Management;
    - ix). Microsoft SharePoint Online Administration;
    - x). Microsoft Azure Administration;



- xi). Microsoft Office 365 Administration, including Security and Compliance;
- xii). Microsoft Exchange online administration;
- xiii). Microsoft Windows Server Management and Support;
- xiv). Workstation Management and Support (Patches and Antivirus);
- xv). ICT Applications Support;
- xvi). Disaster Recovery and Backup Management;
- xvii). Data Centre Management.

### **3 THE INFORMATION COMMUNICATIONS TECHNOLOGY ENVIRONMENT**

- 3.1 The current GPF production infrastructure to be included in the scope of the required SLA includes Network Infrastructure, ICT Security Infrastructure, Data Centre Equipment, Servers, Storage Infrastructure, Application Software, and Enterprise Software Systems. A detailed breakdown of this infrastructure will be availed to bidders upon written enquiries to the ICT Manager.
- 3.2 The GPF is also currently in the process of establishing its Disaster Recovery environment, which upon completion will also form part of the infrastructure to be managed within this Information Communications Technology Support Services SLA. The capacity and nature of the Disaster Recovery Environment is yet to be established.

### **4 REQUIRED INFORMATION COMMUNICATIONS TECHNOLOGY SERVICES**

- 4.1 The services to be included in the scope of the required Service Level Agreement (SLA) Comprises of the following:
  - (a) **Network and Security Support Services** - the required network and security support services include the following:
    - i). Maintenance and support of network equipment, including switches, firewalls, Wireless controller, etc.;
    - ii). Assessment and configuration of network monitoring tools;
    - iii). Installation of patches and upgrades to network and security infrastructure;
    - iv). Minor cabling if needed;
    - v). Configuration of monitoring alert notification in case of failure of equipment, etc.;
    - vi). Isolation of bottlenecks and associated problems;
    - vii). Configuration of peripheral devices on network;



- viii). General troubleshooting of network problems;
- ix). Setup of secure network connections including, Server Virtualization setup and management;
- x). Periodic vulnerability scans of the network;
- xi). General network & security administration and support advisory; and
- xii). Other on-demand network and security support services.

(b) **Servers Maintenance Services** – The following server administrative services are included in the scope of the services to be provided:

- i). Management of the Server and Storage Infrastructure including the HyperV Clusters and virtual hosts;
- ii). Configuration of software patches and security updates configurations using ;
- iii). Management of software patches and security updates;
- iv). Configuration of anti-virus and anti-malware management tools;
- v). Scheduling of preventive maintenance for equipment;
- vi). Servers and workstations security management;
- vii). Distribution of Software patches and security updates;
- viii). Performance optimization;
- ix). General servers maintenance advisory; and
- x). Other preventative maintenance activities.

(c) **Server Support Services** - the required server support services include the following:

- i). Server Virtualization setup and management;
- ii). Server software installations, configuration, maintenance and support; iii). Directory services administration;
- iv). Directory Policy configuration, maintenance and support; v). General fault finding and troubleshooting;
- vi). Storage capacity management;
- vii). General server technology advisory; and
- viii). Other On-Demand Server Administration and Support Requests.

(d) **Application support** – the application support services included in the scope are limited to systems and application software. The specific application support services included in the scope of the support includes the following:

- i). Applications fault finding and troubleshooting;



- ii). Installation and configuration of systems and application softwares; iii). Installation of product updates;
  - iii). Migrations to major releases of softwares; and
  - iv). Other on-demand applications support requests.
  - v) WSUS Implementation
- (e) **Backup Management** – Support and work hand-in-hand with the current Backup Service Provider, and takeover from the current service provider when their contract expires in Feb 2021.
- (f) **Security Management** – the security management services required include the following:
- i). FortiGate Firewall assessment, reconfiguring (if needed), support and maintenance;
  - ii). Timely updates and release management (patch and security hotfix);
  - iv). Continuous device health and availability monitoring;
  - v) Microsoft Office 365 Tenant Security and Compliance
  - vi). Other on-demand security management requests;
- (g) **IT Security Governance and Compliance** – the IT Security Governance services required include the following:
- i) Risk Management;
  - ii). IT Audit;
  - iii). Security Assessments;
  - iv). Policies and Procedures;
  - v). Security Awareness and Training; and
  - vi). Other on-demand Governance requests;

## 5 SERVICE CHANNELS AND AVAILABILITY

- 5.1 The successful bidder shall be expected to deliver services to the GPF through the following service channels and corresponding service availability parameters:





- (a) **Telephonic Support and Remote Support** – the service provider shall avail a dedicated contact number to which support requests will be directed. This service shall be provided within the following parameters:
- i). Telephone support services shall be accessible to the GPF between 08:00 hours – 17:00 hours during working days; and
  - ii). After hours telephonic support shall also be available to the GPF and such calls shall be routed to a designated after-hours support contact number.
- (b) **Email Support** – the service provider shall avail a dedicated email address to which support requests will be directed. This service shall be provided within the following parameters:
- i). Email support shall be accessible to the GPF between 08:00 hours – 17:00 hours during working days; and
  - ii). Emails made outside of office hours shall be collected and processed on the next working day, if not processed on the same day.
- (c) **Online Services Portal** – the service provider shall provide an online services portal, which will be used to log support request as well as to monitor the status of the logged support requests. This service shall be provided within the following parameters:
- i). The online portal shall be available 24 hours a day and 7 days a week; and
  - ii). The online portal may be off-line **only** during maintenance windows, which shall not be during the 08:00 hours – 17:00 hours working days.
- (d) **On-site Support** – the service provider shall provide on-site support services for support request **that require on-site support**. This service shall be provided within the following parameters:
- i). On-site support shall be provided to the GPF at its office
  - ii). Onsite support services shall be accessible to the GPF between 08:00 hours – 17:00 hours during working days; and
  - iii). After-hours on-site support services must be available for critical and urgent support request as well as for maintenance activities that cannot be carried-out during office hours to avoid unnecessary service disruptions.

## 6 SERVICE TARGETS

- 6.1 Logged service requests within this service contract must be treated in accordance with their priority levels. The successful bidder will be expected to respond and address service request in accordance with priorities and targets outlined in Table 1 below:

Priority Level	Priority Description	Response Times	Ongoing Response	Resolution Times
Priority 1 (Critical)	<ul style="list-style-type: none"> <li>Incident affecting multiple users, and/or multiple services and causing cessation of work within the entire secretariat or multiple departments;</li> <li>Multiple services or critical service down;</li> <li>No work-around exists; and</li> <li>Examples include complete network failure, firewall failure, virtual host failure, critical server failure, failure of main service (e.g. Sage, File Server, SAP, Internet, email, etc.), data restores and new server creation/configuration requests intended to restore critical services.</li> </ul>	<ul style="list-style-type: none"> <li>Within 30 minutes</li> </ul>	<ul style="list-style-type: none"> <li>Attended within 30 minutes</li> <li>Hourly status updates</li> </ul>	<ul style="list-style-type: none"> <li>Within 4 working hours</li> </ul>
Priority 2 (Urgent)	<ul style="list-style-type: none"> <li>Problems causing a complete stoppage of work for one or more users;</li> <li>A single non-critical service affected;</li> <li>No work-around exists; and</li> <li>Examples include failures of non-critical server and services, loss of connection to network or any service for a single user, normal data restores and new server creation/configuration requests, etc.</li> </ul>	<ul style="list-style-type: none"> <li>Within 1 hour</li> </ul>	<ul style="list-style-type: none"> <li>Attended within 1 hour</li> <li>Status updates ½ business day</li> </ul>	<ul style="list-style-type: none"> <li>Within 1 working day</li> </ul>



Priority Level	Priority Description	Response Times	Ongoing Response	Resolution Times
Priority 3 (High)	<ul style="list-style-type: none"> <li>Problems affecting multiple users, which prevents the successful and timely completion of work;</li> <li>Service(s) working but in an impaired fashion;</li> <li>Workarounds exist; and</li> <li>Examples include network services slow, internet services; printing problems when print jobs cannot be re-routed to other printers, and software/application errors that affect performance of users' work</li> </ul>	<ul style="list-style-type: none"> <li>Within 2 hours</li> </ul>	<ul style="list-style-type: none"> <li>Attended within 2 hours.</li> <li>Daily status updates</li> </ul>	<ul style="list-style-type: none"> <li>Within 2 working days</li> </ul>
Priority 4 (Standard)	<ul style="list-style-type: none"> <li>Problems affecting a single user, which prevents the successful and timely completion of work;</li> <li>Service(s) working but in an impaired fashion;</li> <li>Workarounds exist; and</li> <li>Examples include installation of new workstations, repairs to workstations, inability to install or use a particular software packages, software enhancements, usage questions, inability to install or use a particular software package, software enhancements etc.</li> </ul>	<ul style="list-style-type: none"> <li>Within 4 hours</li> </ul>	<ul style="list-style-type: none"> <li>Attended within 4 hours</li> <li>Daily status updates</li> </ul>	<ul style="list-style-type: none"> <li>Within 5 working days</li> </ul>
Priority 5 (Low)	<ul style="list-style-type: none"> <li>Problems involving application or personal procedure unusable;</li> <li>Workaround is available or a repair is possible;</li> <li>Examples included installation/configuration of certain softwares and customizations to suit a particular user, etc.</li> </ul>	<ul style="list-style-type: none"> <li>Within 1 working day</li> </ul>	<ul style="list-style-type: none"> <li>Attended within 1 working day</li> </ul>	<ul style="list-style-type: none"> <li>Within 10 working days</li> </ul>



Priority Level	Priority Description	Response Times	Ongoing Response	Resolution Times
Priority 6 (Scheduled)	<ul style="list-style-type: none"> <li>Scheduled appointments to perform to perform requested services;</li> <li>Procurement and/installation of certain new services;</li> <li>Examples includes installation of security updates and patches, undertaking backups, testing backups, server room maintenance tasks including UPS testing, antivirus and malware updates, periodic vulnerability scans, etc.</li> </ul>	<ul style="list-style-type: none"> <li>Within 1 working day</li> </ul>	<ul style="list-style-type: none"> <li>Agreed between Service Provider and GPF IT</li> </ul>	<ul style="list-style-type: none"> <li>Agreed between Service Provider and GPF IT</li> </ul>



## 7 SERVICE PERFORMANCE MANAGEMENT

7.1 The following processes will be used in order to manage the provision of the support services within the service contract:

(a) **Ongoing Request Monitoring** – request monitoring will be carried out as follows:

- i). The bidder will be expected to undertake regular monitoring of service requests to ensure that these are carried out in accordance with set SLA targets; and
- ii). The GPF ICT unit will also continuously monitor logged requests, flag-up requests of high criticality for speedy resolution, and escalate worrisome requests that are likely to or have exceeded their service targets.

(b) **Monthly and Quarterly SLA Reports** – the service provider shall be expected to provide monthly SLA reports by the 7<sup>th</sup> day of the subsequent month. This reports should provide among others the following details:

- i). A summarized system availability report indicating the availability of systems managed within the contract, where appropriate;
- ii). A summary of request statistics indicating volumes of request per month, comparing the reporting month against the preceding months;
- iii). A summary of requests per classification (category) for the reporting month;
- iv). A summary of requests per priority (criticality) for the reporting month;
- v). A summary indicating requests logged, requests solved and outstanding requests during the period;
- vi). A request obsolescence report indicating outstanding requests and time elapsed.
- vii). A service performance summary indicating, per priority, requests logged, average response times, average resolution times, percentage responded within SLA parameters, and percentage resolved within SLA;
- viii). An overall service response performance score derived from the percentage of requests responded within SLA parameters; and
- ix). An overall service resolution performance score derived from percentage of requests resolved within SLA parameters.



(c) **Monthly SLA Meetings** – there shall be monthly SLA meetings that will be conducted to review service performance for the previous month, by the 15<sup>th</sup> of the subsequent month. The recording and distribution of the proceedings of the SLA meetings shall be the responsibility of the bidder. These meetings will be address among others the following issues:

- i). Review of the performance for the previous month;
- ii). Tracking outstanding requests and plans for addressing the issues; and
- iii). Any challenges and issues pertaining to delivery of services for the previous month.

## **8 TECHNICAL PROPOSAL**

Each Technical Proposal must contain the following information:

### **A - GENERAL INFORMATION**

- 8.1 A letter of introduction identifying the company and signed by the person(s) authorized to bind the organization to all the statements made in the proposal.
- 8.2 A Company Profile that describes the organization, its history, its people, its experience, its market and its products and services.
- 8.3 Proof of qualifications and experience of key staff that will carry out the assignment, including the Team Leader.

### **B – METHODOLOGY**

- 8.4 A detailed proposal which indicates a clear understanding of the technical environment to be supported, the required support services and service targets and the approach that will be used by the bidder to deliver the services.

### **C – IT MANAGED SERVICES ASSIGNMENTS AND REFERENCES**

- 8.5 A signed reference letter, not older that 5 (five) years, limited to 2 (Two) per client a letter of completion for current or previous work on **PROVISION OF MANAGED ICT SERVICES** projects/contracts detailing the value of the project, on appropriate letterhead and signed off by



client, must be attached. Letter must detail the scope of work undertaken, project value undertaken, date of award and completion, and location where work was carried out

8.6 A matrix of **Team Skills** showing the company's support and management team that will be involved in providing support services to the GPF with their roles and proficiency levels. Proponents may list any skills they deem relevant for the contract.

#### **D – ADDITIONAL INFORMATION**

8.7 Bidders may provide any other information which may support or be relevant to their tender proposal. This may include product brochures, manuals and other marketing paraphernalia.

9. The bidders will be evaluated in the following 3 stages:

**Stage 1: Administration compliance checks**

**Stage 2: Functionality evaluation**

**Stage 3: Price and B-BBEE**



**9.1 Stage 1: Administrative compliance checks**

Subject	Tick Yes	Tick No	Comment
<p>a) Submission of the bid proposal</p> <ul style="list-style-type: none"> <li>Bidders must submit <b>SBD 4, 6.1, 8 and 9</b>. All SBD forms must be fully completed and signed.</li> </ul>			
<p>Bidders are required to, together with their bids submit:</p> <p>An original and valid B-BBEE Certificate or certified copies thereof,</p> <p>Tenderers who qualify as Exempted Micro Enterprises (EME) must submit a valid Sworn Affidavit signed by the EME representative and attested by a Commissioner of Oaths in line with the justices of the Peace and Commissioners of Oaths Act, 1963. Alternatively, the bidder must submit a valid B-BBEE Certificate for Exempted Micro Enterprises issued by the Companies &amp; Intellectual Property Commission (CIPC) on behalf of the Department of Trade and Industry (This certificate serves as an sworn affidavit in terms of Code Series 000, Section 4.5 of the Amended codes 2013.)</p> <p>In the case of Qualifying Small Enterprises (QSE), if the bidding entity is more than 51% black owned, then no B-BBEE Certificate is required as a valid Sworn Affidavit signed by the QSE representative and attested by a Commissioner of Oaths in line with the justices of the Peace and Commissioners of Oaths Act, 1963. If the QSE is less than 51% black owned, then the bidding entity will be required to provide an original and valid B-BBEE Certificate (issued by an agency accredited by SANAS) or certified copies thereof.</p> <p>Only B-BBEE Status Level Verification Certificates issued by agencies accredited by SANAS will be accepted.</p> <p>In case of a trust, consortium or joint venture, all bidders must submit a valid consolidated B-BBEE Status Level Verification Certificate issued by an agency accredited by SANAS or certified copies thereof, will be accepted.</p> <p>Note that a sworn affidavit as explained above is to be signed by a commissioner of oath at the same date as deponent</p>			





## 9.2 Stage 2: Functionality evaluation

FUNCTIONALITY:		
	Detailed Functionality Criteria	Points
1	<p><b>Capacity and ability to execute and deliver on the scope of this contract</b></p> <p>The bidder is required to provide a motivation of their company's suitability with respect to its capacity/ability to execute and deliver on the required services, based on the bidder's track record, of IT managed services work having been undertaken within the scope and scale of this services. Statements made in the motivation must be verifiable.</p>	30
a.	<p>Bidder must attached signed reference letter, not older that 5 (five) years, limited to 2 (Two) per client a letter of completion for current or previous work on <b>PROVISION OF MANAGED ICT SERVICES</b> projects/contracts detailing the value of the project, on appropriate letterhead and signed off by client, must be attached. Letter must detail the scope of work undertaken, project value undertaken, date of award and completion, and location where work was carried out. <b>Failure to attach the required documents shall lead to forfeiture of points.</b></p> <ul style="list-style-type: none"> <li>•No letter –0 points</li> <li>•1 letter = 4 points</li> <li>•2 letters = 8 points</li> <li>•3 letters = 12 points</li> <li>•4 letters = 16 points</li> <li>•5 and above letters = 20 points</li> </ul>	20



b.	Bidder must submit Proof of Professional Registration/Certification for: •Microsoft server, Fortinet, Microsoft Cloud Partner, Dell EMC Networking, *ESET (2 point per registration, up to a maximum of 10 points). *Any Anti-virus certification but preferably ESET <b>NB: Failure to attach a copy of the certificate/required documents shall lead to forfeiture of points.</b>	10
2	<b>Expertise and Ability</b>	
	The company profile must also contain the entity’s organizational structure, a staff organogram, as well as a project resources plan for this project detailing key staff, their experience, and achievements. <b>Submit CVs as proof of key staff experience.</b> <b>NOTE: Proposed project resource schedule (please identify each resource and specify role in the project). Failure to provide full details shall lead to forfeiture of points</b>	70
a.	<b>Service Delivery Manager</b> Must have experience in managing IT managed services contracts/s and points will be awarded from the 3 <sup>rd</sup> year of experience up to a maximum of 20 points as follows: <ul style="list-style-type: none"> <li>• Less than 3 years –0 points</li> <li>• 3 years’ less than 4 years’ experience –4 points</li> <li>• 4 years’ less than 5 years’ experience –12 points</li> <li>• 5 years or more experience –20 points</li> </ul>	20
b.	<b>Escalation Process</b> Provide details of the escalation processes that should be followed to deal with: <ul style="list-style-type: none"> <li>•Operational aspects of the services provided under this contract;</li> </ul>	10



	<ul style="list-style-type: none"> <li>•Strategic and tactical aspects that will need to be addressed by senior management on both sides.</li> <li>•Process is inadequate or no information provided (0 points)</li> <li>•Plan is poor or poorly demonstrated –generic overall (2 points)</li> <li>•Plan is adequate, and is specifically prepared for GPF, specific solution (10 points)</li> </ul>	
c.	<p><b>Information Security Specialist</b></p> <p>Must have experience in managing IT security managed services contracts/s and points will be awarded from the 3<sup>rd</sup> year of experience up to a maximum of 10 points as follows</p> <ul style="list-style-type: none"> <li>• Less than 3 years –0 points</li> <li>• 3 years’ less than 4 years’ experience –4 points</li> <li>• 4 years’ less than 5 years’ experience –12 points</li> <li>• 5 years or more experience –20 points</li> </ul>	20
d.	<p><b>Network Specialist</b></p> <p>Must have experience in managing IT network managed services contracts/s and points will be awarded from the 3<sup>rd</sup> year of experience up to a maximum of 20 points as follows</p> <ul style="list-style-type: none"> <li>• Less than 3 years –0 points</li> <li>• 3 years’ less than 4 years’ experience –4 points</li> <li>• 4 years’ less than 5 years’ experience –12 points</li> <li>• 5 years or more experience –20 points</li> </ul>	20
<b>TOTAL POINTS</b>		<b>100</b>

**FAILURE TO PROVIDE RELEVANT INFORMATION IN RELATION TO THE EVALUATION CRITERIA WILL RESULT IN NO POINTS BEING ALLOCATED.**



### 9.3 Stage 3: Price and B-BBEE

**A BIDDER MUST HAVE OBTAINED A MINIMUM OF 70 POINTS OUT OF THE TOTAL POINTS FOR FUNCTIONALITY TO QUALIFY TO BE EVALUATED ON PRICES AND B-BBEE. AFTER THE FUNCTIONALITY EVALUATION, THE QUALIFYING BIDS WILL BE EVALUATED IN ACCORDANCE WITH THE 80/20 PREFERENCE POINT SYSTEM, AS CONTEMPLATED IN THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT (ACT 5 OF 2000), PREFERENTIAL PROCUREMENT REGULATION**

## 10 FINANCIAL PROPOSAL

10.1 The Financial Proposal must contain a schedule of costs in the following format:

- (a) All costs must be quoted in South African Rand (ZAR).
- (b) The total cost of the proposal.
- (c) An itemized breakdown of the cost of all options being proposed.
- (d) The applicable rate of VAT in respect of each product and service being proposed.
- (e) Details of any other costs, taxes or duties which may be incurred.

10.2 The Financial Proposal must contain a written confirmation that the proposed costs remain valid for **90 days** from the tender closing date.

## 11. Pricing Schedule.

Description	Rate (a)	Unit (b)	Amount (Incl VAT) (a x b)
Managed Service Monthly Fee		12	R
<b>Sub-Total</b>			
<b>Vat (15%)</b>			
<b>Total</b>			



## 12. NON-COMMITMENT

- 12.2 The GPF reserves the right to withdraw or amend these terms of reference by notice in writing to all parties who have received the terms of reference prior to the closing date.
- 12.3 The cost of preparing bids will not be reimbursed.

## 13 REVIEW PROCESS

- 13.1 Documents submitted on time by bidders shall not be returned and shall remain the property of the GPF.
- 13.2 All bids duly lodged will be evaluated in accordance with the evaluation criteria.

## 14 LATE BIDS

Bids received late shall not be considered and would therefore be returned to the bidder if possible. **A bid will be considered late if it is received one second after closing time.** The bid closing time is stipulated in the advert.

## 15 REASONS FOR REJECTION

- 15.2 The GPF reserves the right to return late bids as mentioned in section 14 above.
- 15.3 The GPF reserves the right to determine and reject bids that are not in accordance with Terms of Reference.
- 15.4 Bidders shall not contact GPF on any matter pertaining to their bids from the closing date to the time the bid has been adjudicated. Any effort by a bidder to influence the bid evaluation or adjudication may result in rejection of the bid concerned.
- 15.5 The GPF shall reject a submission if the bidder has committed a proven corrupt or fraudulent act in competing for a particular contract.
- 15.6 The GPF may disregard any submission if that bidder, or any of its directors:



1. Have abused the Supply Chain Management (SCM) system of any Government Department.
2. Have committed proven fraud or any other improper conduct in relation to such system.
3. Have failed to perform on any previous contract and the proof thereof exists; and
4. Are restricted from doing business with the public sector or if such supplier failed to perform on a contract based on the specific goals.



**DECLARATION OF INTEREST**

1. Any legal person, including persons employed by the state<sup>1</sup>, 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, shareholder<sup>2</sup>):  
.....

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.

<sup>1</sup>“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.

<sup>2</sup>“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.

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

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

2.10.1 If so, furnish particulars.

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

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

2.11.1 If so, furnish particulars:

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



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

Full Name	Identity Number	Personal Tax Reference Number	State Number / Peral 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 BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.**

---

**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 **not exceed** R50 000 000 (all applicable taxes included) and therefore the 80/20 preference point system shall be applicable; or
  - b) Either the 80/20 preference point system will be applicable to 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.

## DEFINITIONS

(a) “**B-BBEE**” means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;

(b) “**B-BBEE status level of contributor**” means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

(c) “**bid**” means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services, through price quotations, advertised competitive bidding processes or proposals;

(d) “**Broad-Based Black Economic Empowerment Act**” means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

(e) “**EME**” means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;

(f) “**functionality**” means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents. (g) “**prices**” includes all applicable taxes less all unconditional discounts; (h) “**proof of B-BBEE status level of contributor**” means:

1) B-BBEE Status level certificate issued by an authorized body or person;

2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;

3) Any other requirement prescribed in terms of the B-BBEE Act;

(i) “**QSE**” means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;



(j) “rand value” means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

## POINTS AWARDED FOR PRICE

### 3.1 THE 80/20 PREFERENCE POINT SYSTEMS

A maximum of 80 points is allocated for price on the following basis:  
**80/20**

$$P_s = 80 \left[ 1 - \frac{P_t - P_{min}}{P_t} \right]$$

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

## 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 (80/20 system)
1	20
2	18
3	14
4	12
5	8
6	6



7	4
8	2
Non-compliant contributor	0

**BID DECLARATION**

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

**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.)

**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 subcontractor.....
- iii) The B-BBEE status level of the subcontractor.....
- 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 last 51% owned by:	EME	QSE
Black people	√	√



Black people who are youth		
Black people who are women		
Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		
Black people who are military veterans		
<b>OR</b>		
Any EME		
Any QSE		

### DECLARATION WITH REGARD TO COMPANY/FIRM

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

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
- One person business/sole propriety
- Close corporation
- Company
- (Pty) Limited

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

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

8.6 COMPANY CLASSIFICATION



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

[TICK APPLICABLE BOX]

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

8.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that: i) The information furnished is true and correct;

ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;

iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;

iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –

(a) disqualify the person from the bidding process;

(b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;

(c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;

(d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and

(e) forward the matter for criminal prosecution.





WITNESSES

1. .... 2.

.....

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

DATE: ..... ADDRESS

.....

.....

.....



## DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

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

Item	Question	Yes	No
------	----------	-----	----



4.1	<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 <i>audi alteram partem</i> rule was applied).</p> <p><b>The Database of Restricted Suppliers now resides on the National Treasury’s website(<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) and can be accessed by clicking on its link at the bottom of the home page.</b></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><b>The Register for Tender Defaulters can be accessed on the National Treasury’s website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) by clicking on its link at the bottom of the home page.</b></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:
-------	-----------------------------

**SBD 8**

**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



**SBD 9**

## **CERTIFICATE OF INDEPENDENT BID DETERMINATION**

- 1 This Standard Bidding Document (SBD) must form part of all bids<sup>1</sup> 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).<sup>2</sup> 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:

<sup>1</sup> Includes price quotations, advertised competitive bids, limited bids and proposals.

<sup>2</sup> 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.



**SBD 9**

**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

#### **SBD 9**

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 consortium<sup>3</sup> 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.

<sup>3</sup> 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.

## **SBD 9**

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

Js914w 2



**THE NATIONAL TREASURY**

**Republic of South Africa**





**GOVERNMENT PROCUREMENT:**

**GENERAL CONDITIONS OF CONTRACT**

**July 2010**

GOVERNMENT PROCUREMENT

**GENERAL CONDITIONS OF CONTRACT**

**July 2010**

## **NOTES**

The purpose of this document is to:

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

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

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

## **TABLE OF CLAUSES**

1. Definitions
2. Application



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



## General Conditions of Contract

### 1. Definitions

1. The following terms shall be interpreted as indicated:
  - 1.1 "Closing time" means the date and hour specified in the bidding documents for the receipt of bids.
  - 1.2 "Contract" means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
  - 1.3 "Contract price" means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
  - 1.4 "Corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.
  - 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
  - 1.6 "Country of origin" means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.



- 1.7 “Day” means calendar day.
- 1.8 “Delivery” means delivery in compliance of the conditions of the contract or order.
- 1.9 “Delivery ex stock” means immediate delivery directly from stock actually on hand.
- 1.10 “Delivery into consignees store or to his site” means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
- 1.11 “Dumping” occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.
- 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](http://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** 5.1 The supplier shall not, without the purchaser's prior written consent, **contract** disclose the contract, or any provision thereof, or any specification, **documents** plan, drawing, pattern, sample, or information furnished by or on **and** behalf of the purchaser in connection therewith, to any person other **information;** than a person employed by the supplier in the performance of the **inspection.** 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** 7.1 Within thirty (30) days of receipt of the notification of contract award, security the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.

7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.

7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:

- (a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or
- (b) a cashier's or certified cheque

7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified in SCC.

**8. Inspections, tests and analyses** 8.1 All pre-bidding testing will be for the account of the bidder.

8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or 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** 10.1 Delivery of the goods shall be made by the supplier in accordance with **and documents** 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** 18.1 No variation in or modification of the terms of the contract shall be amendments 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** 21.1 Delivery of the goods and performance of services shall be made by **supplier's** the supplier in accordance with the time schedule prescribed by the **performance** 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 23.1** The purchaser, without prejudice to any other remedy for breach of for default contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:

- (a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
- (b) if the Supplier fails to perform any other obligation(s) under the contract; or
- (c) if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

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

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 and countervailing duties and rights**

24.1 When, after the date of bid, provisional payments are required, or antidumping 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** 26.1 The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the purchaser.

**27. Settlement of Disputes** 27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.

27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may



give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.

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

27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.

27.5 Notwithstanding any reference to mediation and/or court proceedings herein,

(a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and (b) the purchaser shall pay the supplier any monies due the supplier.

**28. Limitation of liability** 28.1 Except in cases of criminal negligence or willful misconduct, and in

the case of infringement pursuant to Clause 6;

(a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and

(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 laws** 30.1 The contract shall be interpreted in accordance with South African law, 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** 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

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 Programme (NIP)** 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. country.

**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 Prohibition of**

- 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.