



**DEPARTMENT OF WATER AND SANITATION
REPUBLIC OF SOUTH AFRICA**

DUE AT 11:00 ON

29 SEPTEMBER 2022

BID DWS04 0922WTE

**THE HIRING OF PLANT TO VARIOUS PROJECTS FOR A PERIOD OF 36 MONTHS
TO DWS CONSTRUCTION NORTH IN THE LIMPOPO PROVINCE**

SUBMIT BID DOCUMENTS TO:

POSTAL ADDRESS:
DIRECTOR-GENERAL:
WATER AND SANITATION
PRIVATE BAG X313
PRETORIA, 0001

OR

TO BE DEPOSITED IN:
THE BID BOX AT THE ENTRANCE
OF ZWAMADAKA BUILDING
157 FRANCIS BAARD STREET
PRETORIA, 0001

Compulsory Briefing Session

Date: 22 September 2022

Time: 10:00am

Venue: Department of Water and Sanitation (Polokwane Office)
49 General Joubert Street
Azmo Place Building
Polokwane

BIDDER: (Company Address or Stamp)

COMPILED BY: CONSTRUCTION

DEPARTMENT OF WATER AND SANITATION

BID DWS04 – 0922 WTE

**THE HIRING OF PLANT VARIOUS PROJECTS FOR A PERIOD OF 36 MONTHS TO DWS CONSTRUCTION
NORTH IN THE LIMPOPO PROVINCE**

CONTENTS

INVITATION TO BID (SBD 1)

SECTION 1: LEGALITIES

SECTION 2: SPECIFICATIONS

SECTION 3: PRICING AND RATE SCHEDULE

PART A INVITATION TO BID

SBD1

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)					
BID NUMBER:	BID DWS04 - 0922 WTE	CLOSING DATE:	29 SEPTEMBER 2022	CLOSING TIME:	11:00am
DESCRIPTION	THE HIRING OF PLANT TO VARIOUS PROJECTS FOR A PERIOD OF 36 MONTHS TO DWS CONSTRUCTION NORTH IN THE LIMPOPO PROVINCE				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
THE BID BOX. AT THE ENTRANCE OF ZWAMADAKA BUILDING					
157 FRANCIS BAARD STREET, PRETORIA 0001					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	Bid Office		CONTACT PERSON	Mr J. Mutshinya	
TELEPHONE NUMBER	012 336 7780/ 6562/8151/7596		TELEPHONE NUMBER	073 300 7880	
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS	bidenquirieswte@dws.gov.za		E-MAIL ADDRESS	MutshinyaJ@dws.gov.za	
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] ☐ Yes ☐ No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX] ☐ Yes ☐ No
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	☐ Yes ☐ No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?		☐ Yes ☐ No [IF YES, ANSWER PART B:3]
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? ☐ YES ☐ NO					
DOES THE ENTITY HAVE A BRANCH IN THE RSA? ☐ YES ☐ NO					
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? ☐ YES ☐ NO					
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? ☐ YES ☐ NO					
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? ☐ YES ☐ NO					
IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.					

PART B TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:

- 1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
- 1.2. **ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED-(NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.**
- 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
- 1.4. **THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).**

2. TAX COMPLIANCE REQUIREMENTS

- 2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
- 2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
- 2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
- 2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
- 2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
- 2.6 WHERE NO TCS 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:

.....

DEPARTMENT OF WATER AND SANITATION

BID DWS04 - 0922 WTE

THE HIRING OF PLANT TO VARIOUS PROJECTS FOR A PERIOD OF 36 MONTHS TO DWS CONSTRUCTION NORTH IN THE LIMPOPO PROVINCE

SECTION 1: LEGALITIES

CONTENTS

1. Instructions to Bidders
2. Declaration of Interest (SBD 4)
3. Preference Points Claim in terms of the Preferential Procurement Regulation, 2017 (SBD 6.1)
4. Instructions to Bidders: Purchases (ANNEXURE 7)
5. National Treasury General Conditions of Contract

DEPARTMENT OF WATER AND SANITATION

BID DWS04 - 0922 WTE

THE HIRING OF PLANT TO VARIOUS PROJECTS FOR A PERIOD OF 36 MONTHS TO DWS CONSTRUCTION NORTH IN THE LIMPOPO PROVINCE

1. INSTRUCTIONS TO BIDDERS

CONTENTS

1. Issuing of documents
2. Queries with respect to this bid
3. Completion of Bids
4. Submission of Bids
5. Signature on Bids
6. General Conditions of Contract
7. Bids to comply with documents
8. Telegraphic bids
9. The Department's right to decline any bid
10. Department is not liable for bidder's expenses
11. Payments made under this contract
12. Evaluation Criteria
13. Rejection of bids
14. Results of bids

INSTRUCTIONS TO BIDDERS

1. ISSUING OF DOCUMENTS

- (a) A complete set of bid documents are available from the DWS website.
- (b) Bidders must satisfy themselves that the document is complete and conform to the index of this document. Should any figures or writing be indistinct, or should any pages be missing from this document, or should this document contain any obvious errors, the Bidders must immediately notify the Department to have any discrepancy rectified or clarified before submitting his bid. Such clarification will be valid only if made by the Department by means of formal amendment as described hereunder prior to the date of submission of bids. The Department may issue amendments to clarify or modify the Bid Documents. A copy of each amendment will be issued to each bidder and shall be acknowledged on the form issued with the amendments. No claim whatsoever will be entertained for faults in the bid price resulting from the above-mentioned discrepancies.
- (c) No alterations, omissions or additions shall be made to this document, but should it be deemed necessary to do so, the Bidder is at liberty to qualify his bid.
- (d) All Bidders shall be deemed to have waived, renounced and abandoned any conditions printed or written upon any stationery used by them for the purpose of or in connection with the submission of bids which conflict with the conditions laid down in this document.
- (e) Each page of the completed document that will be submitted should be initialled by the Bidder at the bottom of the page.

2. QUERIES WITH RESPECT TO THIS BID

Queries of a specific technical nature should be directed to J. Mutshinya in writing to: Project Manager, Construction North, Department of Water and Sanitation at mutshinyaJ@dws.gov.za OR Mr J Bezuidenhout, bezuidenhoutj2@dws.gov.za

3. COMPLETION OF BIDS

- (a) The bid must be signed on the Invitation to Bid form (SBD 1) annexed hereto with all blanks in the bid and the appendix filled in.
- (b) All spaces in the bid forms and other annexures shall be completed in full.
- (c) Section 3 in the bid document and the Pricing Schedule must be fully completed and priced out by the bidder, including the section dealing with price escalation. Failure to do so will deem your bid invalid.
- (d) The bid documents shall not be separated in any way, nor must any pages be detached from the original documents.

4. SUBMISSION OF BIDS

The Bid Document shall be completed, signed, and submitted as follows:

- (a) The original Bid, together with a covering letter and supporting documents, shall be sealed in an envelope endorsed:

"ORIGINAL BID REF DWS04 – 0922 (WTE) FOR BID THE HIRING OF PLANT TO VARIOUS PROJECTS FOR A PERIOD OF 36 MONTHS TO DWS CONSTRUCTION NORTH IN THE LIMPOPO PROVINCE"

and the name of the Bidder shall be clearly shown.

- (b) Bids sealed and endorsed as above, should be deposited in the bid box at the entrance of the ZwaMadaka Building, 157 Francis Baard Street, Pretoria and not later than 11:00 on the date stipulated on the front cover of this document.
- (c) In the case where a Bidder is the owner of the plant, the plant licence must be submitted with the bid or when requested by the Department within **14 days** after approval of the bid by the Department. In the case where the Bidder is only a supplier but not the actual owner and will lease the plant from a manufacturer or other plant owner

and, did not submit a lease agreement from the owner confirming supply arrangement (s) by the closing date of the bid, which is preferred, lease agreement must be submitted within **14 days** when requested by the Department. Lease agreements must state/ describe the plant leased and also be accompanied by the Licence of that particular plant. Failure to comply with this requirement within **14 calendar days** shall result in the bid being awarded to another bidder.

The plant will be hired by the Department on site **as and when required** and the duration will be indicated at the time of hiring the required plant during the contract period.

5. SIGNATURE ON BIDS

If the bid is submitted by joint venture of more than one person and/or Companies and/or firms it shall be accompanied by the following:

- (a) The original or a notarial certified copy of the original document under which such joint venture was constituted which must define precisely inter alia the conditions under which the joint venture will function, its period of duration and the participation of the several constituent persons and/or companies and/or firms.
- (b) A certificate signed by or on behalf of each participating person and/or company and/or firm authorising the person who signed the bid to do so.
- (c) Each company must submit a copy of National Treasury's Central Supplier Database CSD Report, Tax Compliance Status PIN page issued, CIPC / CIPRO certificate and SBD 4.

6. GENERAL CONDITIONS OF CONTRACT

The General Conditions of Contract (National Treasury 2010), as attached shall be regarded as an integral part of the contract documents.

7. BIDDERS TO COMPLY WITH DOCUMENTS

Where applicable, Bidders must allow in their Bids for all labour, material, machinery, and everything necessary for the execution and completion of the Contract in accordance with the bid documents. No alterations may be made in the Invitation to Bid, Schedule of Quantities or other documents and the bid will be deemed to comply entirely with the terms of the documents.

8. TELEGRAPHIC BIDS

No bid forwarded by telegram, telex, facsimile, e-mail, or similar apparatus will be considered.

9. THE DEPARTMENTS RIGHT TO DECLINE ANY BID

The Department does not bind itself to accept the lowest or any bid.

10. DEPARTMENT NOT LIABLE FOR BIDDER'S EXPENSES

The Department will not be held liable for any expenses incurred in preparing and submitting bids.

11. PAYMENTS UNDER THE CONTRACT

All payments due to the Bidders in terms of the contract will be done by means of Electronic Fund Transfer.

12. EVALUATION CRITERIA

Bids received will be evaluated on four (4) phases namely **Mandatory requirements, Prequalification criteria, Administrative compliance and Technical Evaluation and Specification Compliance.**

The Price and Preference Points Claimed evaluation will be applicable at the stage of actual work allocation. At the time of procurement, bids will be evaluated in accordance with the new Preferential Procurement Regulations, 2017, using either 80/20 or 90/10 preference points system as prescribed in the Preferential Procurement Policy Framework Act (PPPFA, Act 5 of 2000). The lowest acceptable bid will score 80/90 points for price and a maximum of 20/10 points will be awarded for attaining the Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution. The plant will be hired by the Department on

site as and when required and the duration will be indicated at the time of hiring the required plant during the contract period.

Phase 1:

Mandatory requirements

Failure to attend the compulsory briefing session will render your bid non-responsive and will be disqualified.

Yes – indicate your attendance of the compulsory briefing session

No	Criteria	Yes	No
1	Attendance of compulsory briefing session		

Phase 2:

Prequalification criteria

Preferential procurement regulations, 2017, Regulation 4

Prequalification criteria will be used in this bid to advance designated groups on the basis of B-BBEE Status Level of contributor and EME's or QSE's.

Failure to meet the below indicated prequalification criteria in terms of the PPR, 2017, Regulation 4 will automatically disqualify your bid.

• **B-BBEE Status Level of contributor**

Level 1	Level 2	Level 3	Level 4
X	X	X	X

• **EME or QSE**

EME	QSE
X	X

Bidders who are above Level 4 of B-BBEE level contributor and who are not an EME or QSE will not be considered for this bid.

Phase 3:

Administrative Compliance:

Bidders are required to comply with the following listed below

No	Criteria	Yes	No
1	Companies must be registered with National Treasury's Central Supplier Database. Provide MAAA number on SBD1		
2	Tax compliant with SARS (to be verified through CSD and SARS). Attach a copy of Tax Compliance Status PIN page issued.		
3	Active registration with Company Intellectual Property Commission (to be verified through CSD and CIPC). Attach copy of CIPC / CIPRO certificate.		
4	An original or certified copy of B-BBEE Status Level Verification Certificate (failure to submit, the Bidder will forfeit the preferential points to be claimed)		

No	Criteria	Yes	No
5	A valid letter of Good Standing with the Compensation Commissioner in terms of the Compensation for Occupational Injuries and Diseases Act No 130 of 1993 and or third parties insurance registered with Financial Service Board.		
6	Initial and sign Section 2 Tender data		
7	The Bid must be signed by a director of the company, or a duly authorised person and proof of such authority must be submitted with the bid.		
8	Complete, sign, submit SBD1, SBD 3.2, SBD 4 and SBD 6.1		

Phase 4:

Specification or Technical Compliance

Compliance requirements:

THE HIRING OF PLANT TO VARIOUS PROJECTS FOR A PERIOD OF 36 MONTHS TO DWS CONSTRUCTION NORTH IN THE LIMPOPO PROVINCE. BIDDER WILL BE REGARDED AS COMPLIANT IF THEY COMPLY TO ALL LISTED ITEMS, FAILURE TO COMPLY TO ALL LISTED ITEMS WILL LEAD TO DISQUALIFICATION.

ITEM NO	DESCRIPTION OF GOODS	QTY	COMPLY	NOT COMPLY
1.	<i>Excavator 35 ton</i>	Rate Only		
2.	<i>Tire Excavator 20 ton</i>	Rate Only		
3.	<i>Frontend Loader 3,5 m3</i>	Rate Only		
4.	<i>Tractor Loader Backhoe (TLB) 2 m3</i>	Rate Only		
5.	<i>Water Truck 18 000 litres</i>	Rate Only		
6.	<i>Dozer D7</i>	Rate Only		
7.	<i>Articulated Dump Truck B20 (ADT) 10 m3</i>	Rate Only		
8.	<i>Crane 25 ton</i>	Rate Only		
9.	<i>Flat drop side trucks 5 ton</i>	Rate Only		
10.	<i>16-seater Minibus</i>	Rate Only		
11.	<i>50-seater Bus</i>	Rate Only		

13. REJECTION OF BID

Bids not complying with the above-mentioned requirements and specifications may be regarded as incomplete and may not be considered.

14. RESULTS OF BIDS

Results of non-acceptance of bids will be sent to individual unsuccessful bidders. Particulars of accepted bids are published weekly on our departmental website, where bids are advertised.

DEPARTMENT OF WATER AND SANITATION

BID DWS04 - 0922WTE

**THE HIRING OF PLANT TO VARIOUS PROJECTS FOR A PERIOD OF 36 MONTHS TO DWS
CONSTRUCTION NORTH IN THE LIMPOPO PROVINCE**

SECTION 2: TENDER DATA

CONTENTS

1. STIPULATIONS

TENDER DATA

Initial next to each clause in this section.

Bidders are required to sign at the end of this Section

	STIPULATIONS	INITIAL
1.	SUPPLIER OF PLANT In the case where a Bidder is the owner of the plant, the plant licence must be submitted with the bid or when requested by the Department within 14 days after approval of the bid by the Department. In the case where the Bidder is only a supplier but not the actual owner and will lease the plant from a manufacturer or other plant owner and, did not submit a lease agreement from the owner confirming supply arrangement (s) by the closing date of the bid, which is preferred, lease agreement must be submitted within 14 days when requested by the Department. Lease agreements must state/ describe the plant leased and also be accompanied by the Licence of that particular plant. Failure to comply with this requirement within 14 calendar days shall result in the bid being awarded to another bidder.	
2.	SERVICE The service to be rendered is: i) The Hiring of plant	
3.	SITE The Department of Water and Sanitation Construction North sites is situated on the following GPS Coordinates. Construction Sites: Tzaneen Dam Coordinates - 23°47'54.32" S 30°10'11.22" E Babanana Water Project Coordinates: 23° 44.927'S 30° 29.569'E Giyani Water Service Project Coordinates: 23°19'10.61"S 30°43'37.71"E Giyani Reticulation Project Coordinates: 23°19'10.61"S 30°43'37.71"E Nandoni Dam Remedial Action Project, Nandoni Dam Coordinates - 22°58'40.74"S 30°36'20.06"E Makhado Bulk Water Supply Coordinates: 23° 4'44.84"S 30° 1'26.40"E Nzhelele Rehabilitation Canal Coordinates: 22°36'53.90"S 30° 9'34.67"E NB: Other sites coordinates will be provided in the future as projects roll in within the Limpopo Province.	

	STIPULATIONS	INITIAL
4.	STANDARDS, SPECIFICATIONS AND DEFINITIONS	
4.1	A bidder who fails to comply with the specification's requirements will be disqualified and not considered for further evaluation. • Delivery and breakdowns ○ Plant will be supplied as and when required ○ Plant must be delivered within 7 days to site upon request from site ○ Broken plant must be repaired within 3 days upon breakdown ○ Plant must be well maintained with records readily available on request to DWS:CN • Rates (Wet rate) ○ Plant rate must include the labour rate for the operator ○ Operator must be inducted on site before operating a machine ○ The rate must include diesel supply for the plant ○ Security will be provided by DWS:CN ○ The plant must be insured to cover for theft on site ○ DWS:CN will not be liable for any costs associated with theft, vandalism and Force Majeure • Diesel supply ○ The plant must be supplied with diesel less than a day after it depleted • Health and safety ○ Safety file should be updated upon award complying to DWS:CN standards • Operations and activities on site ○ Plant will be controlled by the supervisor on site when allocating activities ○ Operating times must be upheld according to the needs of the project	
4.2	HANDLING When offloading the plant on site, the equipment must not be damaged and must not damage the other equipment, materials, and the gate entrance.	
5.	TECHNICAL SUPPORT Should any problem be reported to the supplier concerning the services, the following response times are expected: • Within 24 hours a representative of the supplier should be on site to resolve the problem. • Within 24 hours there should be a solution to the problem or if not possible, replace the plant should be on site within 48 hours at the supplier's expense. ANY DEFECTED PLANTS SHOULD BE REPLACED AT THE SUPPLIER'S EXPENSE.	
6.	SCOPE OF CONTRACT Bidder The Bidder will be required to perform the following service as part of this contract:	

	STIPULATIONS	INITIAL
	(i) The hiring of plant for a period of 36 months	
7.	QUANTITIES REQUIRED / DELIVERY The quantity required cannot be guaranteed. The contract period will be for 36 months. The attached schedule provides a unit price only. However, the requirements can be as per the demand specified in the orders. The Bidder will not be entitled to claim any form of compensation for any requirement variations in the total quantities or specific quantities whatsoever. The delivered plant will be accepted and regarded as being in accordance with the specification if it fulfils the requirements given in hereunder. NOTE: THE DEPARTMENT RESERVES THE RIGHT TO CHANGE THE QUANTITY/ QUANTITIES TO BE ORDERED FROM THE SUCCESSFUL BIDDER.	
8.	PROGRAMME OF WORKS It is also a requirement that the plant requirements will be according to the main contractor's program of works	
9.	ROAD CONDITIONS AND DISTANCE Bidders are advised to acquaint themselves with roads, road conditions, distances, etc. on and to the site, before bidding.	
10.	COSTS Bidders shall provide in their bid for all labour, plant, material, implements and transport necessary for the execution of the contract and all operating and maintenance costs in accordance with the bid documents. A 10% markup is applicable on normal procurement under this bid.	
11.	DELIVERY The contractor will contact the supplier in advance to arrange a date and time on which the services must be rendered on site. The site address is: Department of Water and Sanitation Tzaneen Dam Coordinates - 23°47'54.32" S 30°10'11.22" E Nandoni Dam Remedial Action Project, Nandoni Dam Coordinates - 22°58'40.74"S 30°36'20.06"E Babanana Water Project Coordinates: 23° 44.927'S 30° 29.569'E Giyani Water Service Project and Reticulation Coordinates: 23°19'10.61"S 30°43'37.71"E Makhado Bulk Water Supply Coordinates: 23° 4'44.84"S 30° 1'26.40"E	

	STIPULATIONS	INITIAL
	Nzhelele Rehabilitation Canal Coordinates: 22°36'53.90"S 30° 9'34.67"E And any other site within Limpopo Province that may emerge Deliveries may be made during the following working hours 7h30 to 15h00 from Monday to Thursday but not on the following days or periods: (i) Fridays 14h00 to Mondays 7h00 (ii) All public holidays (iii) The period 14 December to 09 January per annual calendar. (iv) The last Thursday and Friday of the month The Bidder shall nominate a contract person with whom the Department will arrange and schedule deliveries. Official Purchase orders for material will be placed 48 hours before delivery is required. DWS will decline plant that does not comply to the normal standards plant performance. The declined consignments must be removed from site ASAP for the Bidders own cost. The ownership of and risk for the hired plant will pass to the Department at the point of delivery i.e., where a signed acceptance take place.	
12.	DELIVERY PERIOD A firm delivery period is required. Adherence to bid delivery period is of utmost importance. Note that the penalty for late delivery prescribed in paragraph 14 of the Specification will be imposed.	
13.	BID PRICE AND DELIVERY PERIODS All-inclusive bid prices are required, meaning delivery and any other cost mentioned in the specification for the Bidders account must be included in the unit price at the time of tendering.	
14.	PENALTIES AND DELAY DAMAGES The penalties referred to in clause 25 of the General Conditions of Contract state 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 price as a penalty, a sum 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 (National Treasury).	
15.	PAYMENT Interim monthly payment will be made. The Department reserves the right to check the quantities of plant delivered done at any time. Payment will be made monthly on receipt of specified tax invoices. Payment will not be made for consignment unless supported by delivery notes and hourly logbook duly signed by the official checking the delivery.	

	STIPULATIONS	INITIAL
	Payment will be done within 30 days of receipt and approval of original invoice by depositing the payment directly into the bank account of the successful bidder. No cash or cheque payment will be done. Payment for standing time exceeding two hours will only be made if such standing time is a result of the action of the Department.	
16.	ACCEPTANCE CRITERIA FOR DELIVERED PLANT The delivered plant will be accepted and regarded as being similar to the specification if it fulfils the requirements given in Clause 4.	
17.	SAFETY AND ENVIRONMENTAL Bidders are required to adhere to the Departments Safety and Environmental policies.	
18.	SPECIAL CONDITIONS a) The Department reserves the right to appoint more than one service provider per area. b) Bidders must complete the pricing/rate schedule for the area they are bidding for. c) When the DWS requires the services of a of hiring of plants to various projects for a period of 36 months to DWS construction north in the Limpopo province, a request for quotation (RFQ) will be sent to the pre-qualified service providers and appointment will be made based on regulation 6 or regulation 7: of Preferential Procurement Regulations, 2017. d) Actual rates will be requested at the bidding process and these rates may not be firm during the award. Only government gazetted rates will be considered for accommodation, rates exceeding the gazetted rates will not be considered. e) The Department of Water and Sanitation reserves the right to negotiate on rates submitted by bidders where applicable. f) The plant will be hired by the Department on site as and when required and the duration will be indicated at the time of hiring the required plant during the contract period.	
	<u>BIDDERS MUST INITIAL ALL PAGES &</u> <u>BELOW DECLARATION MUST BE SIGNED</u>	

Therewith I, _____ (Bidder's Name) declare that I have read, completed and understood the above specifications.

BIDDER'S SIGNATURE

DEPARTMENT OF WATER AND SANITATION

BID DWS04 - 0922 WTE

THE HIRING OF PLANT TO VARIOUS CONSTRUCTION NORTH'S PROJECTS FOR A PERIOD OF 36 MONTHS TO DWS CONSTRUCTION NORTH IN THE LIMPOPO PROVINCE

SECTION 3: SBD 3.2 – PRICING SCHEDULE AND THE SUMMARY SCHEDULE OF APPLICABLE RATES

CONTENTS

1. PREAMBLE TO THE SBD 3.2 – PRICING SCHEDULE
2. SBD 3.2 – PRICING SCHEDULE
3. SUMMARY SCHEDULE OF APPLICABLE RATES

PREAMBLE TO THE SBD 3.2 – PRICING SCHEDULE

1. GENERAL

The SBD 3.2 forms part of the Contract Documents and must be read and priced in conjunction with all other documents which include the Conditions of Contract and all other Specifications in the bid document.

2. QUANTITIES REFLECTED IN THE PRICING SCHEDULE

No quantity is given in the pricing schedule as this is a contract for a period of 36 months. This is a rate base pricing schedule. The Department reserves the right to hire any quantity from the service provider as and when required.

The contract period will be 36 months.

3. PRICING OF THE SCHEDULE

The rates to be filled in the SBD 3.2 should include all costs. All rates and amounts quoted in the SBD 3.2 shall be in Rand and shall include VAT.

4. CORRECTION OF ENTRIES

Incorrect entries shall not be erased or obliterated with correction fluid but must be crossed out neatly. The correct figures must be entered above or adjacent to the deleted entry, and the alteration must be initialled by the Bidder.

**PRICING SCHEDULE
(NON-FIRM PRICE)**

AREA 1 – GREATER TZANEEN LOCAL MUNICIPALITY

Tzaneen Dam

Babanana Water Project

**THE HIRING OF PLANT TO VARIOUS PROJECTS FOR A PERIOD OF 36 MONTHS TO DWS CONSTRUCTION
NORTH IN THE LIMPOPO PROVINCE**

THIS PRICING SCHEDULE MUST BE COMPLETED IN FULL – FAILURE TO COMPLY WILL INVALIDATE YOUR BID.
NOTE: PRICE ADJUSTMENTS WILL ONLY BE ALLOWED AT THE PERIODS AND TIMES AS SPECIFIED IN THE
BIDDING DOCUMENT

CLOSING TIME ON:

BID NO.: BID DWS04 - 0922 WTE

NAME OF BIDDER:

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

NB: RATE TO INCLUDE PLANT, OPERATOR, DIESEL AND ACCOMODATION WITHIN THE SPECIFIC SITE

ITEM	DESCRIPTION	UNIT PRICE IN RSA CURRENCY
1.	<i>Excavator 35 ton</i>	Rper / hour
2.	<i>Tire Excavator 20 ton</i>	Rper / hour
3.	<i>Frontend Loader 3,5 m3</i>	Rper / hour
4.	<i>Tractor Loader Backhoe (TLB) 2 m3</i>	Rper / hour
5.	<i>Water Truck 18 000 litres</i>	Rper / hour
6.	<i>Dozer D7</i>	Rper / hour
7.	<i>Articulated Dump Truck B20 (ADT) 10 m3</i>	Rper / hour
8.	<i>Crane 25 ton</i>	Rper / hour
9.	<i>Flat drop side trucks 5 ton</i>	Rper / hour
10.	<i>16-seater Mini bus</i>	Rper / hour
11.	<i>50-seater Bus</i>	Rper / hour
	SUB-TOTAL (EXCL. 15% VAT)	R
	15% VAT	R
	TOTAL (INCL. 15% VAT)	R

**PRICING SCHEDULE
(NON-FIRM PRICE)**

AREA 2 – GIYANI LOCAL MUNICIPALITY

Giyani Water Services Project

Giyani Reticulation Project

**THE HIRING OF PLANT TO VARIOUS PROJECTS FOR A PERIOD OF 36 MONTHS TO DWS CONSTRUCTION
NORTH IN THE LIMPOPO PROVINCE**

THIS PRICING SCHEDULE MUST BE COMPLETED IN FULL – FAILURE TO COMPLY WILL INVALIDATE YOUR BID.

NOTE: PRICE ADJUSTMENTS WILL ONLY BE ALLOWED AT THE PERIODS AND TIMES AS SPECIFIED IN THE BIDDING DOCUMENT

CLOSING TIME ON:

BID NO.: BID DWS04 - 0922 WTE

NAME OF BIDDER:

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

NB: RATE TO INCLUDE PLANT, OPERATOR, DIESEL AND ACCOMODATION WITHIN THE SPECIFIC SITE

ITEM	DESCRIPTION	UNIT PRICE IN RSA CURRENCY
1.	<i>Excavator 35 ton</i>	Rper / hour
2.	<i>Tire Excavator 20 ton</i>	Rper / hour
3.	<i>Frontend Loader 3,5 m3</i>	Rper / hour
4.	<i>Tractor Loader Backhoe (TLB) 2 m3</i>	Rper / hour
5.	<i>Water Truck 18 000 litres</i>	Rper / hour
6.	<i>Dozer D7</i>	Rper / hour
7.	<i>Articulated Dump Truck B20 (ADT) 10 m3</i>	Rper / hour
8.	<i>Crane 25 ton</i>	Rper / hour
9.	<i>Flat drop side trucks 5 ton</i>	Rper / hour
10.	<i>16-seater Mini bus</i>	Rper / hour
11.	<i>50-seater Bus</i>	Rper / hour
	SUB-TOTAL (EXCL. 15% VAT)	R
	15% VAT	R
	TOTAL (INCL. 15% VAT)	R

SBD 3.2

**PRICING SCHEDULE
(NON-FIRM PRICE)**

AREA 3 – VHEMBE DISTRICT MUNICIPALITY

Makhado Bulk Water Supply

Nandoni Dam Remedial Action Project

Nzhelele Rehabilitation Canal

**THE HIRING OF PLANT TO VARIOUS PROJECTS FOR A PERIOD OF 36 MONTHS TO DWS CONSTRUCTION
NORTH IN THE LIMPOPO PROVINCE**

THIS PRICING SCHEDULE MUST BE COMPLETED IN FULL – FAILURE TO COMPLY WILL INVALIDATE YOUR BID.
NOTE: PRICE ADJUSTMENTS WILL ONLY BE ALLOWED AT THE PERIODS AND TIMES AS SPECIFIED IN THE BIDDING DOCUMENT

CLOSING TIME ON:

BID NO.: BID DWS04 - 0922 WTE

NAME OF BIDDER:

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

NB: RATE TO INCLUDE PLANT, OPERATOR, DIESEL AND ACCOMODATION WITHIN THE SPECIFIC SITE

ITEM	DESCRIPTION	UNIT PRICE IN RSA CURRENCY
1.	<i>Excavator 35 ton</i>	Rper / hour
2.	<i>Tire Excavator 20 ton</i>	Rper / hour
3.	<i>Frontend Loader 3,5 m3</i>	Rper / hour
4.	<i>Tractor Loader Backhoe (TLB) 2 m3</i>	Rper / hour
5.	<i>Water Truck 18 000 litres</i>	Rper / hour
6.	<i>Dozer D7</i>	Rper / hour
7.	<i>Articulated Dump Truck B20 (ADT) 10 m3</i>	Rper / hour
8.	<i>Crane 25 ton</i>	Rper / hour
9.	<i>Flat drop side trucks 5 ton</i>	Rper / hour
10.	<i>16-seater Mini bus</i>	Rper / hour
11.	<i>50-seater Bus</i>	Rper / hour
	SUB-TOTAL (EXCL. 15% VAT)	R
	15% VAT	R
	TOTAL (INCL. 15% VAT)	R

- Delivery basis. (See note hereunder)	CONSTRUCTION NORTH PROJECTS IN THE LIMPOPO PROVINCE
- Period required for delivery after receipt of order: o Plant must be delivered within 7 days to site upon request from site.	_____
Name and addresses of the supplier where the product is sourced from? -	_____
- Delivery period:	*FIRM / NOT FIRM
- Is the price firm?	*FIRM / NOT FIRM
- Are you registered in terms of section 23(1) or 23(3) of the value Added Tax Act, 1991 (Act no 89 of 1991?)	*YES / NO
- If so, state your VAT registration number.	_____
- Is the offer strictly to specification?	*YES / NO
- If <u>not</u> to specification, state deviation(s)	_____ _____ _____ _____

Any enquiries regarding bidding procedures may be directed to the SCM officials–

Department of Water and Sanitation
Supply Chain Management Office

Tel: **(012) 336-7780/6562/8151**

Email address: bidenquirieswte@dws.gov.za

Or

For technical or site information –

M. J. Mutshinya

Email address: mutshinyaJ@dws.gov.za (During office hours)

Or

J. Bezuidenhout

Bezuidenhoutj2@dws.gov.za (During office hours)

PRICE ADJUSTMENTS

A. NON-FIRM PRICES SUBJECT TO ESCALATION

1. IN CASES OF PERIOD CONTRACTS, NON-FIRM PRICES WILL BE ADJUSTED (LOADED) WITH THE ASSESSED CONTRACT PRICE ADJUSTMENTS IMPLICIT IN NON-FIRM PRICES WHEN CALCULATING THE COMPARATIVE PRICES
2. IN THIS CATEGORY PRICE ESCALATIONS WILL ONLY BE CONSIDERED IN TERMS OF THE FOLLOWING FORMULA:

$$Pa = (1 - V)Pt \left(D1 \frac{R1t}{R1o} + D2 \frac{R2t}{R2o} + D3 \frac{R3t}{R3o} + D4 \frac{D4t}{D4o} \right) + VPt$$

Where:

- Pa = The new escalated price to be calculated.
 (1-V)Pt = 85% of the original bid price.
Note that Pt must always be the original bid price and not an escalated price.
 D1, D2.. = Each factor of the bid price e.g., labour, transport, clothing, footwear, etc.
 The total of the various factors D1, D2...etc. must add up to 100%.
 R1t, R2t..... = Index figure obtained from new index (depends on the number of factors used).
 R1o, R2o = Index figure at time of bidding.
 VPt = 15% of the original bid price.
 This portion of the bid price remains firm i.e., it is not subject to any price escalations.

3. The following index/indices must be used to calculate your bid price:

Index..... Dated.....	Index..... Dated.....	Index..... Dated.....
Index..... Dated.....	Index..... Dated.....	Index..... Dated.....

4. FURNISH A BREAKDOWN OF YOUR PRICE IN TERMS OF ABOVE-MENTIONED FORMULA. THE TOTAL OF THE VARIOUS FACTORS MUST ADD UP TO 100%.

FACTOR (D1, D2 etc. e.g. Labour, Transport, Materials, etc.)	PERCENTAGE OF BID PRICE

FAILURE TO COMPLETE THE ABOVE WILL RESULT IN NO PRICE INCREASE ON A NON-FIRM PRICE

WHERE PRICES ARE INDICATED AS FIRM NO PRICE INCREASE CLAIM WILL BE ENTERAINED DURING THE CONTRACT PERIOD

Pricing Schedule: Purchases (Non-firm prices)
(SBD 3.2)

DEPARTMENT OF WATER AND SANITATION

BID DWS04 - 0922 WTE - THE HIRING OF PLANT TO VARIOUS CONSTRUCTION NORTH'S PROJECTS FOR A PERIOD OF 36 MONTHS TO DWS CONSTRUCTION NORTH IN THE LIMPOPO PROVINCE

PROVIDE THE AREA YOU ARE BIDDING FOR :

SUMMARY SCHEDULE OF APPLICABLE RATES FOR HIRING OF PLANT						
Item No.	Plant Description	Normal rate per hour - Wet (Diesel rate per hour)	Operator - Normal rate per hour	Operator - Overtime rate per hour	Operator Accommodation rate per day	TOTAL RATES
1.	Tire Excavator 35 ton	R	R	R	R	R
2.	Tire Excavator 20 ton	R	R	R	R	R
3.	Frontend Loader 3,5 m3	R	R	R	R	R
4.	Tractor Loader Backhoe (TLB) 2 m3	R	R	R	R	R
5.	Water Truck 18 000 litres	R	R	R	R	R
6.	Dozer D7	R	R	R	R	R
7.	Articulated Dump Truck B20 (ADT) 10 m3	R	R	R	R	R
8.	Crane 25 ton	R	R	R	R	R
9.	Flat drop side trucks 5 ton	R	R	R	R	R
10.	16-seater Minibus	R	R	R	R	R
11.	50-seater Bus	R	R	R	R	R

DEPARTMENT OF WATER AND SANITATION

BID DWS04 - 0922 WTE - THE HIRING OF PLANT TO VARIOUS CONSTRUCTION NORTH'S PROJECTS FOR A PERIOD OF 36 MONTHS TO DWS CONSTRUCTION NORTH IN THE LIMPOPO PROVINCE.

CHECKLIST FOR PLANT DOCUMENTATION REQUIRED

ITEM NO	DESCRIPTION OF GOODS	Did you submit the Licence for the plant? - Owned Plant	Did you submit the Lease agreement for the plant? - Plant Hire
1.	<i>Excavator 35 ton</i>		
2.	<i>Tire Excavator 20 ton</i>		
3.	<i>Frontend Loader 3,5 m3</i>		
4.	<i>Tractor Loader Backhoe (TLB) 2 m3</i>		
5.	<i>Water Truck 18 000 litres</i>		
6.	<i>Dozer D7</i>		
7.	<i>Articulated Dump Truck B20 (ADT) 10 m3</i>		
8.	<i>Crane 25 ton</i>		
9.	<i>Flat drop side trucks 5 ton</i>		
10.	<i>16-seater Minibus</i>		
11.	<i>50-seater Bus</i>		

Therewith I, _____ (Bidder's Name) declare that I have read, completed and understood the above checklist.

BIDDER'S SIGNATURE

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

Any person (natural or juristic) may make an offer or offers in terms of this 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

- 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:

.....

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.

3 DECLARATION

I, the undersigned, (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.
- 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

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.

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

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

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

1. GENERAL CONDITIONS

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

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.2

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

1.3 Points for this bid shall be awarded for:

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

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

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

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

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

2. DEFINITIONS

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

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

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

4. POINTS AWARDED FOR PRICE

4.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

A maximum of 80 or 90 points is allocated for price on the following basis:

80/20 or **90/10**

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

Where

Ps = Points scored for price of bid under consideration

Pt = Price of bid under consideration

P_{min} = Price of lowest acceptable bid

4.2 FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME-GENERATING PROCUREMENT

4.3 POINTS AWARDED FOR PRICE

A maximum of 80 or 90 points is allocated for price on the following basis:

80/20 or 90/10

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

Where

- Ps = Points scored for price of bid under consideration
Pt = Price of bid under consideration
Pmax = Price of highest acceptable bid

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

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

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

6. BID DECLARATION

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

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

- 7.1 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.)

8. SUB-CONTRACTING

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

(Tick applicable box)

YES	☐	NO	☐
-----	--------------------------	----	--------------------------

- 8.1.1 If yes, indicate:

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

(Tick applicable box)

YES	☐	NO	☐
-----	--------------------------	----	--------------------------

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

Designated Group: An EME or QSE which is at last 51% owned by:	EME √	QSE √
Black people		
Black people who are youth		
Black people who are women		
Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		
Black people who are military veterans		
OR		
Any EME		
Any QSE		

9. DECLARATION WITH REGARD TO COMPANY/FIRM

9.1 Name of company/firm:.....

9.2 VAT registration number:.....

9.3 Company registration number:.....

9.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

.....

.....

.....

9.6 COMPANY CLASSIFICATION

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

[TICK APPLICABLE BOX]

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

9.8 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	
	
	

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

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:
- (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 and documents

- 10.1 Delivery of the goods shall be made by the supplier in accordance with the terms specified in the contract. The details of shipping and/or other documents to be furnished by the supplier are specified in SCC.
- 10.2 Documents to be submitted by the supplier are specified in SCC.

11. Insurance

- 11.1 The goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the SCC.

12. Transportation

- 12.1 Should a price other than an all-inclusive delivered price be required, this shall be specified in the SCC.

13. Incidental services

- 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:
- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
 - (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
 - (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;

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

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

14. Spare parts

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

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

15. Warranty

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

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

15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.

15.4 Upon receipt of such notice, the supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.

15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take

such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

- | | |
|---|---|
| 16. Payment | <p>16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.</p> <p>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.</p> <p>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.</p> <p>16.4 Payment will be made in Rand unless otherwise stipulated in SCC.</p> |
| 17. Prices | <p>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.</p> |
| 18. Contract amendments | <p>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.</p> |
| 19. Assignment | <p>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.</p> |
| 20. Subcontracts | <p>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.</p> |
| 21. Delays in the supplier's performance | <p>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.</p> <p>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.</p> <p>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.</p> <p>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</p> |

supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.

21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.

21.6 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without canceling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.

22. Penalties

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

23. Termination for default

23.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:

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

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

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 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,
- (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 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 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.
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.