



## INKOMATI-USUTHU CATCHMENT MANAGEMENT AGENCY

### REQUEST FOR QUOTATION (RFQ)

|                                    |                                                                                                                                                                       |
|------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>RFQ REFERENCE</b>               | RFQ07-TNG-2026                                                                                                                                                        |
| <b>RFQ DESCRIPTION</b>             | APPOINTMENT OF A SERVICE PROVIDER FOR CLEANING SERVICES AT HEAD OFFICE (IUCMA) OFFICES                                                                                |
| <b>RFQ ISSUE DATE</b>              | 19 MARCH 2026                                                                                                                                                         |
| <b>COMPULSORY BRIEFING SESSION</b> | N/A                                                                                                                                                                   |
| <b>CLOSING DATE &amp; TIME</b>     | 23 MARCH 2026 @ 15:00 AM                                                                                                                                              |
| <b>LOCATION OF SUBMISSIONS</b>     | <a href="mailto:ngelet@iucma.co.za">ngelet@iucma.co.za</a> : Hand delivery: IUCMA, 2 <sup>nd</sup> floor, ABSA Square building, 20 Paul Kruger Street, Mbombela, 1200 |

**LATE AND INCOMPLETE SUBMISSIONS WILL INVALIDATE THE QUOTE SUBMITTED.**

Supplier's Name: \_\_\_\_\_

CSD Number: MAAA\_\_\_\_\_

Physical Address: \_\_\_\_\_

Bid Price: \_\_\_\_\_

Email Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Contact Number: \_\_\_\_\_

Signature of Bidder: \_\_\_\_\_

## INVITATION TO QUOTATION AND INSTRUCTIONS TO BIDDERS

### NOTE:

1. Quotation must be on the **company letterhead** and made out to Supply Chain Management of the IUCMA, clearly indicating a “**Quotation Number** and **CSD Registration Number**”.
2. All prices must be quoted in South African Rand on a fixed price basis, inclusive of VAT.
3. Quotation must be clearly dated and valid for at least **60 days**.
4. If you are a VAT vendor, the VAT number must be indicated on the quotation.
5. Should your company not receive any response from IUCMA within 10 days of closing on the RFQ, Please accept that your quotation was unsuccessful.
6. Submissions should include CSD as well as the BBBEE certificate.
7. **Standard Bidding Documents 4 and 6.1** should accompany the quotation.
8. No contract shall be concluded with any bidder whose tax matters are not in order.
9. ***Please note that no quotations received after the closing time will be considered.***

### CONDITIONS TO BE OBSERVED WHEN BIDDING

- a) Quotations for the supply of goods or services described in this document are invited in accordance with the provision of Government Procurement: General Conditions of Contract available for download from <http://www.treasury.gov.za/divisions/ocpo/sc/GeneralConditions/>
- b) IUCMA does not bind itself to accept the lowest or any RFQ, nor shall it be responsible for or pay any expenses or losses which may be incurred by the bidder in the preparation and delivery of the RFQ.
- c) No RFQ shall be deemed to have been accepted unless and until a purchase order/letter of appointment is prepared and executed.

## SPECIFICATION

### **APPOINTMENT OF A PROFESSIONAL SERVICE PROVIDER TO render CLEANING AND HYGIENE SERVICES FOR IUCMA BATHROOMS IN HEAD OFFICE (MBOMBELA) AND SUPPLY & COLLECT SHE BINS FOR IUCMA OFFICES FOR A PERIOD OF TWELVE (12) MONTHS**

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- **Purpose**

To appoint a suitable service provider to render cleaning and hygiene services for Inkomati-Usuthu Catchment Management Agency (IUCMA) bathrooms in Head Office (Mbombela) and supply and collect SHE bins at IUCMA offices in Mbombela, Piet Retief and Bushbuckridge for a period of twelve months.

- **Background**

The Inkomati-Usuthu Catchment Management Agency (IUCMA) is a water resource management institution established under section 78 of the National Water Act (Act 36 of 1998, NWA) having jurisdiction over the Inkomati-Usuthu Water Management Area (WMA). One of the inherent functions of a Catchment Management Agency (CMA) (s80) NWA is to investigate and advise interested persons on water resource protection, use, conservation, and management.

The Agency has leased 3000 square meter office space which comprises working offices (closed offices and open plan offices), boardrooms, ablution facilities, server room and storerooms, at the ABSA Square building. IUCMA occupies the lower ground which mainly consists of strong rooms; the ground floor, the 2nd floor and part of the 3rd floor which mainly consists of offices and boardrooms.

The service is necessitated and in accordance with the Occupational Health and Safety Act No. 85 of 1993 which compels the employer to provide for a healthy and safe working environment. The Act requires that working conditions should always be in acceptable standards which involves the provision of a clean, healthy, and hygienic working environment for employees.

- **LOCATION OF WORKS**

IUCMA OFFICES, 2ND FLOOR, ABSA SQUARE BUILDING; 20 PAUL KRUGER STREET; MBOMBELA; 1200

- **Scope of Work**

The appointed service provider will be required to provide *inter alia* and not limited to the following services:

- **Hygiene Services:** Cleaning of toilets, provisioning, removal, and disposal of **SHE bins** to be provided for a period of twelve months at IUCMA offices in Mbombela, Piet Retief and Bushbuckridge. Pricing for this service is to be indicated separately from other services (General Cleaning Services).

- **General Cleaning Services of Bathrooms:** Cleaning is to be provided for a period of 12 months calculated from the date of appointment only at Mbombela IUCMA offices and there should be **one (1) personnel** to perform the work.

## **STANDARD CLEANING SERVICE (TASK DESCRIPTION)**

### **A. BATHROOMS /ABLUTION FACILITIES.**

- Clean toilet seats including all interior and exterior surfaces, base, floor, and wall area.
- Clean and polish basins and taps.
- Clean and polish all mirrors.
- Clean, mop, and polish the floor.
- Spot clean doors with special attention around the doorknobs and handles.
- Clean light switches.
- Provide and maintain **SHE / Sanitary bins** in female toilets. Disposal is to be per applicable legislation and regulations.

### **B. EXCLUDED AREAS**

- Electrical and mechanical plant cabinets (NO ENTRY)
- Offices
- Kitchens
- Boardrooms
- Storerooms

**NB: Service Provider to provide own cleaning materials for the bathrooms and 1x personnel to perform the work.**

IUCMA bathrooms/ ablution facilities to be cleaned are as follows:

| <b>Floor</b> | <b>Females</b> | <b>Males</b> | <b>Males Urinals</b> |
|--------------|----------------|--------------|----------------------|
| Second Floor | 2              | 1            | 1                    |
| Third Floor  | 2              | 1            | 1                    |
| <b>TOTAL</b> | <b>4</b>       | <b>2</b>     | <b>2</b>             |

**SHE bins** to be provided and collected will be for the following offices:

| Floor/ Office                                              | Females  |
|------------------------------------------------------------|----------|
| Second Floor (Mbombela) for 12 months                      | 2        |
| Third Floor (Mbombela) for 12 months                       | 2        |
| Piet Retief Office for 7 months starting from October 2026 | 1        |
| Bushbuckridge Office 7 months starting from October 2026   | 1        |
| <b>TOTAL</b>                                               | <b>6</b> |

- **Project Period**

The project is for a period of 12 months.

- **Contractual Obligation**

- In the case of the service provider using subcontractors, the former will be responsible for ensuring the delivery of services from any such sub-contractors and for making any payments to such sub-contractors.
- Bidder will be required to sign a letter of award, SBD 7.2 contract form, or service level agreement upon appointment.
- Bidder will be subject to confidentiality throughout the contract period.
- Bidders are required to fully comply with the provisions of the POPIA 4 of 2014 and any other applicable legislative framework.

- **General Conditions**

The **service provider** is required to:

- Conduct business in a courteous and professional manner.
- Provide the necessary documentation as requested prior to the cleaning service contract being awarded.
- Comply with all relevant employment legislation and applicable bargaining council agreements, including UIF, PAYE.
- Ensure that all personnel working under this contract are in good health and pose no risk to any personnel in the IUCMA.
- Provide all personnel working under this contract with uniforms, which state the name of the service provider and that can be clearly identified from other service providers, IUCMA personnel, etc. The IUCMA reserves the right to order the immediate removal of a staff member that does not adhere to this arrangement.
- Provide all personnel working under this contract with adequate and appropriate personal protective equipment (PPE) and clothing and ensure these items are worn at all times.
- The IUCMA reserves the right to reject an award of a specific category where responses are found to be insubstantial by the evaluating panel.
- The IUCMA reserves the right to award the contract to one or more service providers.

- The successful service provider(s) must sign a service level agreement (SLA) with the IUCMA after the bid of being awarded the bid.
- **FEES AND DISBURSEMENTS**
  - A total cost must also be indicated on the quotation.
  - All fees quoted must be inclusive of vat.
- The **IUCMA** shall:
  - Conduct business with the service provider in a courteous and professional manner.
  - Not accept responsibility for any damages suffered by the service provider or their personnel for the duration of the contract.
  - Not accept any responsibility for accounts/expenses incurred by the service provider that was not agreed upon by the contracting parties.
  - Provide a storage facility for equipment and materials.
- **Evaluation Criteria**
  - **Administrative prequalification criteria (Phase 1)**
    - Bidder must submit Proof of registration on CSD (**Central Supplier Database**).
    - The SBD forms must be fully completed, signed, and initialed by the authorized company representative.
      - ✓ **SBD 4 Bidder's Disclosure**
      - ✓ **SBD 6.1 Preference Points Claim Form**
      - ✓ **General Condition of Contract (GCC) must be initialed against all pages of GCC and initial all pages of this RFQ document and submit a formal quotation on company letterhead.**
  - **Mandatory evaluation criteria (Phase 2)**
    - Only service providers that have met the administrative pre-qualification criteria in phase 1 will be evaluated in phase 2 for mandatory evaluation. The table below contains the mandatory evaluation criteria.
    - If a service provider does not meet any of the mandatory evaluation criteria, the bidder will be disqualified, and the bid will not be evaluated further.

| #  | Mandatory Requirements                                                                                                                                                  | Proof of Evidence         |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|
| 1. | The bidder will be required to provide a disposal certificate in the name of the bidding entity or letter of intent in case of subcontracting to remove sanitary waste. | Accreditation certificate |

- **Price and specific goals criteria**
  - Bids will be evaluated in terms of the prevailing Supply Chain Management policy applicable to IUCMA and it should be noted that bids will be assessed using the 80/20

formula (preference points system) for price and specific goals as per the PPPFA and IUCMA Preferential Procurement Policy.

| #                                                | Criteria       | Sub-Criteria                                                                                                                                                                                                                                               | Substantiation                                                                                                                                                                                                                                                                                                                      | Points     |
|--------------------------------------------------|----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| 1.                                               | Price          | Detailed budget breakdown                                                                                                                                                                                                                                  | Attach quotation on the company letterhead                                                                                                                                                                                                                                                                                          | 80         |
| 2.                                               | Specific Goals | Enterprises owned (ownership) by the below-designated groups:<br>- black people (51% or more)<br>- women (30% or more)<br>- youth or disabilities (25% or more)<br>- B-BBEE Status level contributors from levels 1 to 2 contributors which are EME or QSE | CSD report/ MAAA number<br>Valid BBEE certificate/affidavit.<br>Consolidated BBEE certificate/affidavit in case of a joint venture.<br>CIPC document/ B-BBEE Certificate/ sworn affidavit.<br>Medical certificate/ letter from the accredited Health Professional to claim points for ownership for people living with a disability | 20         |
| <b>Total Points for Price and Specific Goals</b> |                |                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                     | <b>100</b> |

- *Price evaluation*

- All pricing must be in South African Rands.

- *Specific Goals Evaluation*

- Points for the evaluation of the specific goals will be allocated per Table 1 of the SBD 6.1 form.
- Bidders who do not claim preference points may be scored zero for specific goals.
- IUCMA reserves the right to request bidders submitting proof of any information, to substantiate claims made about their specific goals.
- A trust, consortium, or joint venture will qualify for points for their specific goals as a legal entity, provided that the entity submits all documents listed in the section above.
- The points scored by a bidder for the price evaluation and the evaluation of the specific goals will be added together to determine the overall points a bidder's bid will score out of 100 points for the consolidated price and specific goals evaluation.

- **Pricing Schedule**

- Service providers must ensure that the price quotations are inclusive of all applicable taxes (including VAT). Costing must comprise all the relevant services proposed in line with the scope of work but not limited to:

| Description                                  | MONTHLY Qty                            | Unit Cost (VAT incl) | Total Cost (VAT incl) |
|----------------------------------------------|----------------------------------------|----------------------|-----------------------|
| Supply and maintenance of hygiene equipments | 12                                     |                      |                       |
| Refills, and service                         | 12                                     |                      |                       |
| Consumables                                  | 12                                     |                      |                       |
| Supply and collection of SHE Bins            | 12 head office                         |                      |                       |
| Supply and collection of SHE Bins            | 7 months Bushbuckridge and Piet Retief |                      |                       |
| General Cleaning ablution facilities         | 12                                     |                      |                       |
| VAT                                          |                                        |                      |                       |
| <b>Total Evaluated Price</b>                 |                                        |                      |                       |

- **CONDITIONS TO BE OBSERVED WHEN BIDDING**

- IUCMA does not bind itself to accept the lowest or any BID, nor shall it be responsible for or pay any expenses or losses that may be incurred by the bidder in the preparation and delivery of the quotation.
- No quotation shall be deemed to have been accepted unless and until a purchase order/letter of appointment is prepared and executed.
- A quotation shall remain open for acceptance by IUCMA **for 90 days from** the closing date of the quotation enquiry.
- Should your company not receive any response from IUCMA within 90 days of closing on the RFQ, please accept that your quotation was unsuccessful.
- IUCMA reserves the right to:
  - Not evaluate and award a bid that does not comply strictly with the requirements of this bid document.
  - Make a selection solely on the information received in the bid document and enter into negotiations with any one or more of the preferred bidder(s) based on the criteria specified in the evaluation of this bid document.
  - Contact any bidder during the evaluation process to clarify any information without informing any other bidders and no change in the content of the bid shall be sought, offered or permitted.
  - Award a contract to one or more bidder(s).

- Withdraw the BID at any stage.
- Accept a separate BID or any BID in part or whole at its discretion.
- Cancel this BID or any part thereof at any stage as prescribed in the PPPFA regulation.
- Should bidder(s) be selected for further negotiations, they will be chosen based on cost-effectiveness and the principle of value for money not necessarily based on the lowest costs. The IUCMA, therefore, reserves the right not to appoint the lowest bidder.
- Cancel a contract where the service provider's performance is not satisfactory and not meet IUCMA's expectations.

- **CONTACT PERSONS**

| Technical Enquiries                                                                                                                     | SCM Enquiries                                                                                                                             |
|-----------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| Records and auxiliary<br>Mr HJ Mathunjwa<br>tel 0616840494<br>EMAIL: <a href="mailto:mathunjwah@iucma.co.za">mathunjwah@iucma.co.za</a> | Supply Chain Management<br>Ms. F Makwakwa<br>Tel: 078 459 0350<br>Email: <a href="mailto:makwakwam@iucma.co.za">makwakwam@iucma.co.za</a> |

***NB: All bidders are urged to submit quotation (s) on their company letter clearly indicating monthly costs and total for 12 months.***

## 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 interest<sup>1</sup> 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:

.....  
.....

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

- 2.3 Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract?  
**YES/NO**

- 2.3.1 If so, furnish particulars:

.....  
.....

### 3 DECLARATION

I, \_\_\_\_\_ 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 consortium<sup>2</sup> 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

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<sup>2</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.

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 |

## SBD 6.1

### PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for specific goals.

**NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022**

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#### 1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to invitations to tender:

- 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 To be completed by the organ of state

- a) The applicable preference point system for this tender is the **80/20** preference point system.

1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:

- (a) Price; and
- (b) Specific Goals.

#### 1.4 To be completed by the organ of state:

The maximum points for this tender are allocated as follows:

|                                           | POINTS |
|-------------------------------------------|--------|
| PRICE                                     | 80     |
| SPECIFIC GOALS                            | 20     |
| Total points for Price and SPECIFIC GOALS | 100    |

1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.

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

## 2. DEFINITIONS

- (a) **“tender”** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- (b) **“price”** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (c) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (d) **“tender for income-generating contracts”** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
- (e) **“the Act”** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

## 3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

### 3.1. POINTS AWARDED FOR PRICE

#### 3.1.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

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

$$\begin{array}{ccc} \mathbf{80/20} & \mathbf{or} & \mathbf{90/10} \\ \mathbf{Ps = 80 \left( 1 - \frac{Pt - P_{min}}{P_{min}} \right)} & \mathbf{or} & \mathbf{Ps = 90 \left( 1 - \frac{Pt - P_{min}}{P_{min}} \right)} \end{array}$$

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

### 3.2. FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT

#### 3.2.1. POINTS AWARDED FOR PRICE

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

$$\begin{array}{ccc} \mathbf{80/20} & \mathbf{or} & \mathbf{90/10} \\ \mathbf{Ps = 80 \left( 1 + \frac{Pt - P_{max}}{P_{max}} \right)} & \mathbf{or} & \mathbf{Ps = 90 \left( 1 + \frac{Pt - P_{max}}{P_{max}} \right)} \end{array}$$

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmax = Price of highest acceptable tender

#### 4. POINTS AWARDED FOR SPECIFIC GOALS

- 4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:
- 4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—
- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
  - (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,
- then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

**Table 1: Specific goals for the tender and points claimed are indicated per the table below.**

***(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.)***

***Note to tenderers: The tenderer must indicate how they claim points for each preference point system.)***

| The specific goals allocated points in terms of this tender                            | Number of points allocated (80/20 system)<br>(To be completed by the organ of state) | Number of points claimed (80/20 system)<br>(To be completed by the tenderer) |
|----------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| Enterprises with ownership of 51% or more by person/s who are black                    | 10                                                                                   |                                                                              |
| Enterprises with ownership of 30% or more by person/s who are women                    | 5                                                                                    |                                                                              |
| Enterprises with ownership of 25% or more by person/s who are youth or with disability | 3                                                                                    |                                                                              |
| B-BBEE Status level contributors from level 1 to 2 contributors which are EME or QSE   | 2                                                                                    |                                                                              |
| <b>Total</b>                                                                           | <b>20</b>                                                                            |                                                                              |

| Returnable documents to claim points                                                                               | Please tick here for the attached document |
|--------------------------------------------------------------------------------------------------------------------|--------------------------------------------|
| Valid BBEE certificate / sworn affidavit. Consolidated BBEE certificate / sworn affidavit in case of joint venture |                                            |
| Full CSD report or CSD registration number                                                                         |                                            |
| CIPC registration documents                                                                                        |                                            |
| Declaration / proof of disability issued by medical practitioner                                                   |                                            |

## DECLARATION WITH REGARD TO COMPANY/FIRM

4.3. Name of company/firm.....

4.4. Company registration number: .....

4.5. TYPE OF COMPANY/ FIRM

- |                                                                 |                                              |
|-----------------------------------------------------------------|----------------------------------------------|
| <input type="checkbox"/> Partnership/Joint Venture / Consortium |                                              |
| <input type="checkbox"/> One-person business/sole propriety     |                                              |
| <input type="checkbox"/> Close corporation                      | <input type="checkbox"/> Public Company      |
| <input type="checkbox"/> Personal Liability Company             | <input type="checkbox"/> (Pty) Limited       |
| <input type="checkbox"/> Non-Profit Company                     | <input type="checkbox"/> State Owned Company |

[TICK APPLICABLE BOX]

4.6. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I 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 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
  - (a) disqualify the person from the tendering 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 tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted 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, if deemed necessary.

.....  
**SIGNATURE(S) OF TENDERER(S)**

**SURNAME AND NAME:** .....

**DATE:** .....

**ADDRESS:** .....

.....

## 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 vendor, 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 Vendor under the contract for the full and proper performance of his contractual obligations.
  - 1.4. **"Corrupt practice"** means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the 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 vendor bearing all risks and charges involved until the goods 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 vendor 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 vendor 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 goods 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 Institution purchasing the goods/works and/or service.
- 1.22. **“Republic”** means the Republic of South Africa.
- 1.23. **“SCC”** means the Special Conditions of Contract.
- 1.24. **“Services”** means that 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 vendor 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 vendors, 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. Invitations to bid are usually published in locally distributed news media and on the municipality/municipal entity website.

#### **4. Standards**

- 4.1. The goods/works and/or service supplied shall conform to the standards mentioned in the bidding documents and specifications.

#### **5. Use of contract documents and information inspection**

- 5.1. The vendor 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 vendor 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 vendor 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 vendor shall permit the purchaser to inspect the vendor's records relating to the performance of the vendor and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.
- 5.5. The vendor 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.

#### **6. Patent Rights**

- 6.1. The vendor 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. The proceeds of the performance security shall be payable to the purchaser as compensation for any loss result from them vendor's failure to complete his obligations under the contract.
- 7.2. 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.

- 7.3. The performance security will be discharged by the purchaser and returned to the vendor not later than thirty (30) days following the date of completion of the vendor'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 Institution or an organization acting on behalf of the Institution.
- 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 vendor.
- 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 analysed 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 vendor 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 vendor's cost and risk. Should the vendor fail to provide the substitute supplies forthwith, the purchaser may, without giving the vendor further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the vendor.
- 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. Packaging**

- 9.1. The vendor 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 vendor in accordance with the terms specified in the contract. The details of shipping and/or other documents to be furnished by the vendor are specified in SCC.
- 10.2. Documents to be submitted by the vendor 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 vendor 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 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 vendor of any warranty obligations under this contract;
  - e) training of the purchaser's personnel, at the vendor's plant and/or
  - f) on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.
- 13.2. Prices charged by the vendor 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 vendor for similar services.

## **14. Spare parts**

- 14.1. Specified in SCC, the vendor may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the vendor:
- a) such spare parts as the purchaser may elect to purchase from the vendor, provided that this election shall not relieve the vendor 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 vendor 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 vendor 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 vendor, 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 vendor in writing of any claims arising under this warranty.
- 15.4. Upon receipt of such notice, the vendor 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 vendor, 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 vendor's risk and expense and without prejudice to any other rights which the purchaser may have against the vendor under the contract.

## **16. Payment**

- 16.1. The method and conditions of payment to be made to the vendor under this contract shall be specified in SCC.
- 16.2. The vendor 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 vendor.
- 16.4. Payment will be made in Rand unless otherwise stipulated in SCC.

## **17. Prices**

- 17.1. Prices charged by the vendor for goods/works delivered and/or services performed under the contract shall not vary from the prices quoted by the vendor in this bid, with the exception of any price adjustments authorized in SCC or purchaser's request for bid validity extension, as the case may be.

## **18. Contract Amendments**

- 18.1. No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.

## **19. Assignment**

- 19.1. The vendor shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.

## **20. Subcontractors**

- 20.1. The vendor shall notify the purchaser in writing of all subcontractors awarded under this contract if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the vendor from any liability or obligation under the contract.

## **21. Delays in the vendor's performance**

- 21.1. Delivery of the goods/works and/or performance of services shall be made by the vendor in accordance with the time schedule prescribed by the purchaser in the contract.
- 21.2. If at any time during performance of the contract, the vendor or its subcontractor(s) should encounter conditions impeding timely delivery of the goods/works and/or performance of services, the vendor 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 vendor's notice, the purchaser shall evaluate the situation and may at his discretion extend the vendor'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 essential services executed if an emergency arises, the vendor's point of supply is not situated at or near the place the supplies are required or the vendor's supplies or goods are not readily available.
- 21.5. Except as provided under GCC Clause 25, a delay by the vendor in the performance of its delivery obligations shall render the vendor liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.
- 21.6. Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without cancelling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the vendor'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 vendor.

## **22. Penalties**

- 22.1. Subject to GCC Clause 25, if the vendor 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/works and/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 vendor, may terminate this contract in whole or in part:

- a) if the vendor 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 vendor fails to perform any other obligation(s) under the contract; or
- c) if the vendor, in the judgement 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 and/or services similar to those undelivered, and the vendor shall be liable to the purchaser for any excess costs for such similar goods/works and/or services. However, the vendor 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 vendor by prohibiting such vendor 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 vendor or any person associated with the vendor, the vendor 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 vendor 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 vendor.

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 vendor 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 vendors 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. Antidumping 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 vendor 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 as a result of an event of Force Majeure.
- 25.2. If a force majeure situation arises, the Vendor shall promptly notify the Purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the Purchaser in writing, the Vendor 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 on insolvency**

- 26.1. The purchaser may at any time terminate the contract by giving written notice to the vendor if the vendor becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the vendor, 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 vendor 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 vendor 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 vendor any monies due the vendor.

## **28. Limitation of Liability**

28.1. Except in cases of criminal negligence or wilful misconduct, and in the case of infringement pursuant to Clause 6;

- a) the vendor 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 vendor to pay penalties and/or damages to the purchaser; and
- b) the aggregate liability of the vendor 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 vendor 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 vendor 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 vendor 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 purchaser 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**

- 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.
- 34.2. 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.