



**drdar**

Department:  
Rural Development & Agrarian Reform  
**PROVINCE OF THE EASTERN CAPE**

**CONTRACT NO: SCMU8-21/22-0078**

**Provision of Security Services for the Butterworth Office for a period of thirty-six months (36) - Department of Rural Development and Agrarian Reform**

## **VOLUME 1**

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**Issued by:**

Province of the Eastern Cape  
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**Name of Tenderer:** .....

**CSD No:** .....

**Closing Date:** **17 May 2021**

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## SECTION 1

### CONDITIONS OF TENDER

<b>1</b>	<p><b>ECBD Forms</b> All ECBD documents should be completed in full, signed and submitted with the quotation / bid. Failure to do so may result in the elimination of bid/quote.</p>
<b>2</b>	<p><b>Specifications</b> Where items are specified in detail, the specifications forms an integral part of the quotation document and service providers shall indicate in the space provided whether the items offered are to specification or not. Failure to complete will automatically disqualify the quotation for any further consideration</p> <p>In respect of the paragraphs where the items offered are strictly to specification, service providers shall insert the words "as specified".</p> <p>In cases where the items are not to specification, the deviations from the specifications shall be indicated.</p>
<b>3</b>	<p><b>Unit Prices</b> The quotation prices shall be given in the unit shown.</p>
<b>4</b>	<p><b>Total Price</b> Quotation prices for goods and services where installation/erection/assembly is a requirement, shall include all costs and VAT. The cost of delivery to site shall also be included in the total price.</p>
<b>5</b>	<p><b>Fax / Emailed Submissions</b> Unless specifically provided for in the quotation document, no quotations transmitted by e-mail, fax or similar apparatus shall be considered.</p>
<b>6</b>	<p><b>ECBD 1</b> Failure on the part of the service provider to sign this quotation form (ECBD1) and thus to acknowledge and accept the conditions in writing or to complete the attached forms, questionnaires and specifications in all respects, may invalidate the quotation.</p>
<b>7</b>	<p><b>Alterations to documents</b> Not make any alterations or additions to the tender documents, except to comply with instructions issued by the employer, or necessary to correct errors made by the tenderer. All signatories to the tender offer shall initial all such alterations. Erasures and the use of masking / correction fluid are prohibited.</p> <p><b>Correcting errors when completing documents:</b> Corrections to information or prices to be done by drawing a line through the incorrect information, inserting the correct information and initialing the change. Changes not endorsed by the bidder may result in the elimination of the bid / quote.</p>
<b>8</b>	<p><b>Submitting a tender offer</b></p> <p>Submit a tender offer to provide the whole of the works, services or supply identified in document.</p> <p>Return all returnable documents to the employer after completing them in their entirety, by writing in black ink.</p> <p>Sign the original and all copies of the tender offer where required in terms of the tender data. The employer will hold all authorized signatories liable on behalf of the tenderer. Signatories for tenderers proposing to contract as joint ventures shall state which of the signatories is the lead partner whom the employer shall hold liable for the purpose of the tender offer.</p> <p>The quotation forms should not be retyped</p>

	Accept that the employer will not assume any responsibility for the misplacement or premature opening of the tender offer if the outer package is not sealed and marked.
<b>9</b>	<b>Checking the Document</b> The service provider shall satisfy himself that the documents received are correct, complete and sufficient to be the basis of a <i>bona fide</i> quotation. Service providers shall check the numbers of the pages and satisfy themselves that none are missing or duplicated. No liability shall be accepted in regard to claims arising from the fact that pages are missing or duplicated. Should a service provider not accept that the documents issued can form the basis of a <i>bona fide</i> quotation the SCM unit shall be requested to correct the discrepancy, ambiguity, missing or illegible information prior to the submission of quotation. The submission of a <i>bona fide</i> quotation shall absolve the employer from any liability whatsoever for any error in a quotation due to the foregoing.
<b>10</b>	<b>Eligibility</b> Submit a tender offer only if the tenderer satisfies the criteria stated in the tender data and the tenderer, or any of his principals
<b>11</b>	<b>Information and data to be completed in all respects</b> Accept that tender offers, which do not provide all the data or information requested completely and in the form required, may be regarded by the employer as non-responsive.
<b>12</b>	<b>Cost of tendering</b> Accept that the employer will not compensate the tenderer for any costs incurred in the preparation and submission of a tender offer, including the costs of any testing necessary to demonstrate that aspects of the offer satisfy requirements or cost of quote / bid documents. The deposit on quote / bid documents will not be refunded.
<b>13</b>	<b>Joint Venture</b> The joint venture documentation is also to clearly state that all its parties will remain severally and jointly bound for the duration of the defects liability period, as well as setting out how matters will be dealt with that may arise as latent defects once the joint venture has dissolved. If due to any unforeseen reasons the joint venture dissolves during the defects liability period, the agreement must clearly state how the liability will be dealt with in terms of honoring all the responsibilities it may still have with regards to the due performance of all contractual issues that could arise
<b>14</b>	<b>The employer's right to accept or reject any tender offer</b> The employer may accept or reject any variation, deviation, tender offer, or alternative tender offer, and may cancel the tender process and reject all tender offers at any time before the formation of a contract. The employer shall not accept or incur any liability to a tenderer for such cancellation and rejection, but will give written reasons for such action upon written request to do so.
<b>15</b>	<b>Closing time</b> Ensure that the employer receives the tender offer at the address specified in the tender data not later than the closing time stated in the tender data. Proof of posting shall not be accepted as proof of delivery. The employer shall <b>not</b> accept tender offers submitted by telegraph, telex, facsimile or e-mail, unless stated otherwise in the tender data. Accept that, if the employer extends the closing time stated in the tender data for any reason, the requirements of these conditions of tender apply equally to the extended deadline.
<b>16</b>	<b>Tender offer validity</b> Hold the tender offer(s) valid for acceptance by the employer at any time during the validity period stated in the tender data after the closing time stated in the tender data.  If requested by the employer, consider extending the validity period stated in the tender data for an agreed additional period.
<b>17</b>	<b>A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE</b>
<b>18</b>	<b>ECBD 6.2 Local Content.</b> If Local content is a requirement of this quotation, quotations will only be considered further if ECBD 6.2 and Annexure C are completed in full and the Local Content percentage in Annexure C is equal to or higher than the minimum percentage stated in this document.
<b>19</b>	<b>BID ACCEPTANCE</b> The Employer does not bind himself to accept the lowest or any bid.  Bidders should note that this forms part of a batch of security tenders advertised by DRDAR Amathole Region in the Eastern Cape; the employer MAY NOT award more than TWO projects to be executed

	simultaneously per tendering entity.
<b>20</b>	<b>DELIVERY</b> In cases when suppliers are requested to quote for delivery, delivery should include suppliers labour to off-load inputs or supplier to compensate local labour for off-loading.
<b>21</b>	<b>FREE DOCUMENTS</b> will only be available in an electronic format. Service providers to print the document.
<b>22</b>	<b>CHANGES TO THE DOCUMENT</b> Any changes made to the document will render the document null and void and it will not be considered further.
<b>23</b>	<b>VAT REGISTRATION</b>  Suppliers quoting / bidding on projects over R 1 million must be VAT registered.  Departmental Circular 11 of 2006 states: "The Department will not pay tax to companies who have not registered as VAT vendors or companies who do not display their VAT Registration Number on their Tax Invoices, even if they have registered as a VAT vendor because companies/suppliers that have not registered as VAT vendors or those that who don't display their VAT Registration Numbers on the invoices are not allowed to charge VAT."
<b>24</b>	<b>INCOMPLETE DOCUMENTS</b>  Incomplete documents will be considered non-responsive. All forms to be completed, signed and witnessed in full.
<b>25</b>	<b>CERTIFICATE: CONFIRMATION OF SUPPLY ARRANGEMENTS BETWEEN THE BIDDER AND HIS/HER SUPPLIER</b> Failure to complete this form in full will invalidate your bid/quotation.
<b>26</b>	These conditions form part of the quotation and failure to comply therewith may invalidate a quotation.

## SECTION 2

### BID RULES

#### 1. Bid Documents

The Bidder shall satisfy himself that the documents received are correct, complete and sufficient to be the basis of a *bona fide* tender. Bidders shall check the numbers of the pages and satisfy themselves that none are missing or duplicated. No liability shall be accepted in regard to claims arising from the fact that pages are missing or duplicated. Should a Bidder not accept that the documents issued can form the basis of a *bona fide* bid, the Deputy Director SCM, shall be requested to correct the discrepancy, ambiguity, missing or illegible information prior to the submission of bids. The submission of a *bona fide* bid shall absolve the Employer, Deputy Director SCM, from any liability whatsoever for any error in a bid due to the foregoing.

**Furthermore, no request for the revision of the Bid Sum as a result of such error shall be considered by the Employer after the closing date and hour set for the submission of bids.**

#### 2. Submission of Bids

Clearly marked bids in sealed envelopes shall be submitted at the place and **before the closing time** stated in the Bid Notice.

Electronic, faxed, or telegraphic bids will not be accepted.

#### 3. Deposit on Documents

The deposit on bid documents will not be refunded.

#### 4. Notice to Bidders

Should any additions or alterations to the documents as issued to bidders be deemed necessary prior to the date for submission of bids, these will be issued to bidders in the form of Notices to Bidders and these will form part of the bid document.

The Notices to Bidders shall be completed where applicable by bidders, signed, dated and returned with the bid documents.

#### 5. Completion of Bid Documents

Bidders will only be considered on receipt of this bid document correctly completed with all insertions in black ink.

Bidders are required to complete and sign, where applicable, all forms to be completed by bidder.

**Bidders are required to indicate the detail of their offer at the space provided in the PRICING SCHEDULE (ECBD 3.1) and Contract Form (ECBD 7.1) included in this document.**

No unauthorized alteration shall be made to the document. Mistakes made by the bidder in the completion of the **SERVICES PARTICULAR SPECIFICATIONS OR PRICING SCHEDULE**, forms, etc. shall not be erased nor erasing fluid used. A line shall be drawn through the incorrect entry and the correct entry shall be written above and the correction initialed by the bidder.

All information is to be provided on the forms provided in Bid Document. Should the provided space be insufficient, additional information should be attached to the back of the appropriate form.

Failure to comply with any of the foregoing clauses may invalidate the bid.

Bids may also be rejected if they show any additional items not originally included in the bid documents, irregularities of any kind in either the bid form or other documents, or if the amounts tendered in the bid form are

obviously unbalanced and the bidder, after having been called upon to adjust same in a reasonable manner, **fails to do so within a period of seven days of having received notification to that effect.**

## **6. Signing of Bids**

The bid must be signed by a person duly authorized to do so. In the case of a bid being submitted on behalf of a Company, Close Corporation, Partnership or Joint Venture, such bid shall be accompanied by a certified copy of a resolution of the Board of Directors of such Company, Close Corporation or other suitable authority in the case of a Partnership or Joint Venture, in terms of which the nominee is authorised to sign on behalf of the business entity.

A bid submitted by a corporation must bear the seal of the corporation and be attested by its CEO. Bidders submitted by joint ventures of two or more firms must be accompanied by the document of formation of the joint venture, authenticated by a notary public or other official deputed to witness sworn statements, in which is defined precisely the conditions under which the joint venture will function, its period of duration, the persons authorized to represent and obligate it, the participation of the several firms forming the joint venture, and any other information necessary to permit a full appraisal of its functioning.

The joint venture documentation is also to clearly state that all its parties will remain severally and jointly bound for the duration of the defects liability period, as well as setting out how matters will be dealt with that may arise as latent defects once the joint venture has dissolved. If due to any unforeseen reasons the joint venture dissolves during the defects liability period, the agreement must clearly state how the liability will be dealt with in terms of honoring all the responsibilities it may still have with regards to the due performance of all contractual issues that could arise.

## **7. ALLOWANCE FOR CONTRACT PRICE ADJUSTMENT**

There will be **no allowance for Contract Price Adjustment.**

## **8. SCHEDULE OF QUANTITIES**

Bidders shall note that all quantities in the schedule are provisional and substantial alterations to individual quantities could occur.

Should the bidder be in doubt as to the description of any items, or the meaning of any measurement or payment clause, clarification shall be obtained in writing from the Chief Engineer and this correspondence shall be submitted with the bid.

The Chief Engineer will not consider claims submitted on the basis of misunderstanding of or omissions from the description of scheduled items or measurement or payment clauses.

## **9. BID ALL INCLUSIVE**

Bidders shall allow in their bid for all costs of supply, delivery to the site and warranty in accordance with the bid documents. Bidders shall also allow for the payment and recovery of all taxes, levies and other duties. No claims for additional payment in this respect will be considered.

Prices and rates tendered in the schedule of quantities shall be exclusive of Value Added Tax (VAT). VAT shall be added in the summary and the total price shall be inclusive of VAT.

## **10. PERIOD OF VALIDITY OF BIDS**

The period of validity of bids shall be **90 days** from the closing date for submission of bids.

Should the bidder withdraw or retract his bid within the period of validity, or should the bidder fail to take up the Contract when notified in accordance with the General Conditions of Contract, or fail to furnish approved sureties or insurances within the period specified, then he shall pay either the difference between his bid and a less favourable bid accepted, or if the Employer decides to invite fresh bids, all additional expenses which the Employer has to incur in this regard, as well as any difference between his bid and the accepted new bid. The Employer may, however, Lightly or partly exempt a bidder from the provisions of this sub rule if he is of the opinion that the circumstances justify the exemption.

## **11. EVIDENCE OF SUPPLIERS / CONTRACTORS / CONSULTANTS EXPERIENCE**

Bidders shall fill in details of goods and services supplied or work previously and successfully executed by them of a similar nature to that for which this bid is being submitted in the Form provided in this document. In the case of joint ventures or consortiums, the work experience of each firm is to be submitted.

Failure to provide this information may deem the bid as being submitted by an inexperienced bidder and it may be rejected for such reason. If the Bidder having been called upon to provide information in a reasonable manner, **fails to do so within a period of seven (7) days of having received notification to that effect.**

## **12. SURETYSHIP AND INSURANCES**

In accordance with Clause 7 of the General Conditions of Contract and Special conditions of Contract, the successful bidder will be required to provide to the satisfaction of the employer a guarantee as security and documentation showing that the insurance policies required in terms of the General Conditions of Contract have been taken out and provide proof of payment of the premiums for the insurances required.

## **13. DECLARATION OF GOOD STANDING REGARDING TAX**

Bidders are not required to submit an original Tax Clearance Certificate with their bid as this will be verified on CSD.

## **14. DECLARATION OF GOOD STANDING REGARDING B-BBEE LEVEL STATUS**

Bidders are required to submit a B-BBEE Status Level Certificate or a Sworn Affidavit with their bid. Only Certificates that shows the SANAS Logo or a signed sworn affidavit by a Commissioner of Oath is acceptable.

## **15. FINANCIAL INVESTIGATION**

The Employer reserves the right to appoint an accountant to report on the financial resources of any bidder. The bidder shall provide all reasonable help in such investigation and ensure that the necessary documentation is provided within seven days of being called upon to do so.

## **16. AMENDMENTS TO BID BY EMPLOYER**

### **16.1 Arithmetical Errors**

The Employer reserves the right to correct arithmetical or other errors in the extension of rates and totals in the bid. The bidder will be informed about the effect of any corrections on his bid sum prior to acceptance of the bid. **In no case will the BID SUM be adjusted when such errors are corrected.**

### **16.2 Imbalance in Tender Rates**

In the event of there being any rate or rates which are declared to be unacceptable by the Employer for reasons which the Employer will indicate, the bidder will be requested -

- (a) to justify any specific rate or rates, i.e. to give a financial breakdown of how such rate or rates were obtained,
- (b) and subsequently to consider amending and adjusting such rate or rates while retaining the bid sum derived under sub-clause 15.1 unchanged and fixed. It must be understood that in the event of the **bidder refusing to adjust any rate or rates to the satisfaction of the Employer, such refusal may prejudice his bid.**

## **17. COST OF BID**

Any expenses or losses, which may be incurred by the bidders in the preparation and submission of their bids, shall be for the account of the bidders.

## **18. DISQUALIFICATION OF BID**

The bid of any bidder who has not conformed to these Bid Rules and the instructions reflected in the official Bid Notice or pricing instruction may be disqualified at the discretion of the Employer.

## 19. DELEGATION OF AUTHORITY BY EMPLOYER

The Employer may delegate any power vested in him by virtue of these Bid Rules to an officer or employee of the Employer.

## 20. BID RULES ARE BINDING

The bid rules as well as the instructions given in the official Bid Notice, Scope of works and Pricing Instruction, shall be binding on all bidders submitting bids for the services stated in the bid documents.

## 21. BID ACCEPTANCE

The Employer does not bind himself to accept the lowest or any bid. The Employer may award different items to different bidders.

## 22. ADJUDICATION OF BIDS

### 22.1 Bidders Qualifying for Adjudication

Only bidders meeting the following requirements will be eligible for adjudication in terms of the preference point system:

- (i) Bidder has complied with all the bid rules.
- (ii) The tender offer is signed by a person authorized to sign on behalf of the Tenderer;
- (iii) The Tenderer or a competent authorized representative of the Service provider/ Consultant/Contractor who submitted the tender has attended the compulsory clarification meeting and site verification inspection;
- (iv) Bidder has compiled all the declarations. (ECBD 4, 6.1, 6.2, 8 and 9);
- (v) The Tenderer or any of its directors is not listed on the Register of Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector;
- (vi) The Tenderer has not:
  - abused the Employer's Supply Chain Management System;
  - or failed to perform on any previous contract and has been given a written notice to this effect;
- (vii) Bidder has adequate resources available with regards to financial resources and personnel;
- (viii) Bidder has undertaken services, supply and deliveries of a similar nature and extent in all aspects before and has a proven track record;
- (ix) The Bidder has completed the "Suppliers arrangement forms" with an accredited fencing material manufacturer, supplier or distributor.
- (x) The Bidder has completed the Compulsory Enterprise Questionnaire and there are no conflicts of interest which may impact on the tenderer's ability to perform the contract in the best interests of the employer or potentially compromise the tender process;
- (xi) Having completed and attached the agreement form with a manufacturer / supplier / importer / contractor to deal, repair equipment and execute services.
- (xii) Having submitted a balanced bid with respect to unit rates and sums.
- (xiii) Any bidder from **outside the Province, must sub-contract a minimum of 25% of the work contract value to a nominated Local Service provider. The bidder must procure input materials from Local Suppliers where possible and appoint unskilled labour from within the locality of the project if labour is needed.** Proof of the preferred sub-contractors must be attached to the bid and nominated in ECBD 6.1 paragraph 7  
In order to ensure that the procurement point allocation for the financial components is not distorted by unreasonably low prices and to protect the integrity of the process, only bids that is considered to be reasonable, will be evaluated.

### 21.2 Procurement Points System

Bids will be adjudicated using the 80/20 or 90/10 point's formula

- the 80/20 system for requirements with a Rand value of up to R 50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R 50 000 000 (all applicable taxes included).

### 21.3 Financial Components

**Max 80 points (80/20 formula)**  
**Max 90 points (90/10 formula)**

The points scored for the financial component will be calculated using the formula as set out in ECBD 6.1.

### 21.4 B-BBEE Certificate of Accreditation

**Max 20 points (80/20 formula)**  
**Max 10 points (90/10 formula)**

Points as allocated on the B-BBEE Certificate submitted and as per prescribed regulations indicated in paragraph 5 as set out in ECBD 6.1.

<b>B-BBEE Status Level of Contributor</b>	<b>Number of points (90/10 system)</b>	<b>Number of points (80/20 system)</b>
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

### 21.5 Local Content

Bidders must ensure adherence to **the Local Content threshold of 100% for all steel product and components for construction** Non-compliance with this minimum threshold will render the bid non-responsive.

## 22. PROJECT COMPLETION TIME FRAME

The Bidder shall complete the works within 2 months (60 days) after the receipt of order.

## 23. PENALTY

The Bidder's attention is drawn to the forms which contain a declaration statement.

The Employer reserves the right to take legal action against bidders who tendered information that are later found to be incorrect.

If the Bidder fails to deliver any Services/works within the period specified in the contract, or within any extension thereof granted by the Employer, 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.

## 24. LEGAL ASPECTS

If, after the date of the Contract Agreement, the cost or duration of the services is altered as a result of changes in, or additions to any statute, regulation or by-law, or in the requirements of any authority having jurisdiction over any matter in respect of the Contract, then the agreed remuneration and time for completion shall be adjusted in order to reflect the impact of those changes.

## **SECTION 3**

### **SPECIAL CONDITIONS OF CONTRACT**

**The Special Conditions of Contract are to be read in conjunction with the General Conditions of Contract – July 2020**

#### **Delivery and documents**

Refer to Section 10 of the GCC

Delivery of services should take place at the project site detailed in the tender document and according to the ToR in Section 4 of the tender document.

The service provider is to supply with Department with a record / incident book detailing any security occurrence. Occurrences to be reported within 12 hours and a detailed monthly report must be submitted.

An attendance register to be kept of all personnel and visitors entering the premises.

A laptop register to be kept of all laptops and computers brought onto or leaving the premises.

#### **Incidental services**

Refer to Section 13 of the GCC

The supplier may be required to provide the following services:

- Patrolling of premises
- Access control
- Screening or scanning of personnel, visitors and vehicles
- Assets safeguarding and monitoring
- Personnel and members of the public escorted where required
- Protection to buildings within premises and general crime prevention measures that will be agreed upon
- Ensure that lights are switched off, doors and windows on the premises are closed and secured after hours
- Assist during emergency preparedness exercises and real emergency situations

#### **Services specifically related to Covid-19**

- To assist in the health screening of employees and visitors through facilitating the completion of a health screening questionnaire and conducting temperature screening (Security personnel are to be trained in the use of thermometer by their employer)
- Monitor social distancing at entrances
- Ensure all employees and visitors entering premises complete a register with their full name, identity number and contact details.
- Ensure all employees and visitors entering premises clean their hands with hand sanitizer.
- Their PPE should include; Face shield as they will be first contacts with all employees.

**Payment**

Refer to Section 16 of the GCC

Payment will be made in South African Rand

Payment will be made into the service providers bank account as captured on the Central Supplier Database.

**Prices**

Refer to Section 17 of the GCC

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.

**Settlement of Disputes.**

Refer to Section 27 of the GCC

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.

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

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

**Applicable law**

Refer to Section 30 of the GCC

The contract shall be interpreted in accordance with South African laws.

## SECTION 4 - BID NOTICE

### CONTRACT NO: SCMU8-21/22-0078

Bids are hereby invited from experienced service providers for **Provision of Security Services for the Butterworth Office for a period of 36 months - Department of Rural Development and Agrarian Reform**

Bids documents will be available electronically as from **23 April 2021** from 8:00 – 13:00 and 14:00 – 15:00 Monday to Friday. Documents can be obtained by emailing a request to Ms D McGregor at [debra.mcgregor@drdar.gov.za](mailto:debra.mcgregor@drdar.gov.za).

The completed tender document and any supporting documentation shall be placed in a sealed envelope clearly marked: **SCMU8-21/22-0078 Provision of Security Services for the Butterworth Office for a period of 36 months - Department of Rural Development and Agrarian Reform** and deposited in the Tender Box at: **Phillip Frame Road, Waverly Park Complex, SARS Building – 2<sup>nd</sup> Floor, Chiselhurst, East London by 11.00am on 17 May 2021**. Due to the Covid-19 Pandemic bid documents will not be opened in public. Bidders will be sent the opening register after opening.

There will be a compulsory site briefing on 30 April 2021 at 11:00 at the **Dutywa** DRDAR Office, Guido Street, Dutywa.

Strict Covid-19 protocols to be followed. If numbers exceed that of lawful gatherings, the meeting will be split into groups.

Bidders must take particular note of the following:-

1. Companies must be registered PSIRA.
2. **Bidders should note that this forms part of a batch of security tenders advertised by DRDAR Amathole Region in the Eastern Cape; the employer MAY NOT award more than TWO projects to be executed simultaneously per tendering entity. The Employer does not bind himself to accept the lowest or any bid.**
3. Due to COVID 19 Regulations, potential Bidders are requested to forward a request to Assistant Director Acquisition Services (Ms D McGregor email: [debra.mcgregor@drdar.gov.za](mailto:debra.mcgregor@drdar.gov.za)), who will e-mail the tenders to potential bidders.
4. All tenders must be submitted on the official forms – (not to be re-typed). E-mail documents will be accepted, and the original documents must be available on request.
5. **Due to COVID 19 Restrictions, Tenders will not be opened in public immediately after closing time. All bidders will be informed via e-mail of the name of the tenderer and the financial offer.**
6. A valid BBBEE verification level certificate, issued by SANAS, or a certified affidavit (for EME's & QSE's) must be submitted in order to qualify for BBBEE points.
7. A copy of the CSD (Centralised Supplier Database) Registration report to be attached. All prospective bidders must be registered on the Centralized Suppliers Database – see [www.csd.gov.za](http://www.csd.gov.za). Companies should also be registered on LOGIS. Bidders not registered on CSD may be eliminated.
8. Targeted procurement using 80:20 points policy will apply where 80 points are awarded for price and 20 points awarded for BBBEE Status.
9. Failure to supply all supplementary information will result in the tender being deemed an incomplete tender and will be disqualified.
10. Vetting of suppliers will be done in respect of capacity, past experiences and financial capabilities.
11. A Service Level Agreement must be signed with the Department before the order is issued.
12. If specifications are not adhered to the Department reserves the right to terminate the contract.
13. Suppliers and Service Providers are to provide references to confirm previous goods or services contract of a similar nature were completed satisfactorily.
14. The successful bidder will be held responsible for the implementation of the Occupational Health and Safety Act, the Department indemnifies itself from such Act. The onus will be on the bidder to be conversant in terms of the Occupational Health and Safety Act.

The Department will not entertain any late submissions. **Closing time is 11.00 the 17 May 2021**

All bids shall hold good for 90 (ninety days) after bid closing date. The lowest or any bid will not necessarily be accepted. Electronic, telegraphic or facsimile bids will not be considered.

Enquiries should be directed to:

Technical:

Ms Ngwexane

Tel: 0834517454

Administrative:

Ms D McGregor

Tel: 043 7068771

## PART A - INVITATION TO BID

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS FOR DEPT OF RURAL DEVELOPMENT &amp; AGRARIAN REFORM</b>					
BID NUMBER:	SCMU8-21/22-0078	CLOSING DATE: 17 May 2021		CLOSING TIME:	11:00
DESCRIPTION	<b>Provision of Security Services for the Butterworth Office for a period of 36 months</b>				
<b>BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT</b>					
Department of Rural Development & Agrarian Reform Office, Phillip Frame Road, Waverly Park Complex, SARS Building – 2 <sup>nd</sup> Floor, Chiselhurst, East London					
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>			<b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>		
CONTACT PERSON	Ms D McGregor		CONTACT PERSON	Ms Ngwexane	
TELEPHONE NUMBER	043 7068771		TELEPHONE NUMBER	0834517454	
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS	Debra.mcgregor@drdar.gov.za		E-MAIL ADDRESS		
<b>SUPPLIER INFORMATION</b>					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX]  <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX]  <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES &amp; QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]</b>					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?		<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER PART B:3 ]
<b>QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE A BRANCH IN THE RSA?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
<b>IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.</b>					

## PART B TERMS AND CONDITIONS FOR BIDDING

<b>1. BID SUBMISSION:</b>
1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2. <b>ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.</b>
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. <b>THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).</b>
<b>2. TAX COMPLIANCE REQUIREMENTS</b>
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: .....

## **SECTION 5 – TERMS OF REFERENCE**

### **TERMS OF REFERENCE FOR SECURITY SERVICES FOR THE BUTTERWORTH OFFICE**

#### **BACKGROUND**

The Department of Rural Development and Agrarian Reform seeks the services of the suitably qualified and experienced Security company to render security services at the Butterworth DRDAR Office in Butterworth for 36 months, commencing in December 2020.

#### **SCOPE OF WORK**

Services required are security services rendered by trained security officers at its premises and these shall be provided inclusive of at least the following:

- Patrolling of premises
- Access control
- Screening or scanning of personnel, visitors and vehicles
- Assets safeguarding and monitoring
- Personnel and members of the public escorted where required
- Protection to buildings within premises and general crime prevention measures that will be agreed upon
- Ensure that lights are switched off, doors and windows on the premises are closed and secured after hours
- Assist during emergency preparedness exercises and real emergency situations

#### **Services specifically related to Covid-19**

- To assist in the health screening of employees and visitors through facilitating the completion of a health screening questionnaire and conducting temperature screening (Security personnel are to be trained in the use of thermometer by their employer)
- Monitor social distancing at entrances
- Ensure all employees and visitors entering premises complete a register with their full name, identity number and contact details.
- Ensure all employees and visitors entering premises clean their hands with hand sanitizer.
- Their PPE should include; Face shield as they will be first contacts with all employees.

The specific duties of security personnel in respect of the premises shall be as described in detail and will be contained in the agreement to be signed with the successful service provider before commencement of rendering service.

The purpose of access control is to prevent unauthorized access of persons and vehicles and prohibit bringing in of any dangerous objects onto the property in order to safeguard the people, property/assets and the premises.

The following are expectations from security services officers on site:

- To act as authorized officers in terms of the Control of Access to Public Premises and Vehicles Act 53 of 1985
- Responsible for access control, guarding of premises, patrolling premises, escorting of VIP & members of the public into premises when required
- Protection of personnel, protection of property and assets of DRDAR, and DRDAR staff's personal belongings, protection of visitors and their personal belongings within premises, protection of information and execute other security functions as required by Security Services Manager at Butterworth DRDAR Office.
- To record incidents/events in an occurrence register and report such occurrences to DRDAR personnel responsible for security
- Enforce DRDAR security policy, systems and procedures – detailed duties of security officers at each security post will be discussed with successful service provider
- Security officers have to be on duty of day shift 06:00 to 18:00 and night shift 18:00 to 06:00

These activities will have to be done in terms of the following acts:

- a. The application of the Control of Access to Public Premises and Vehicle Act, 1985, Section 2, 3 and 4
- b. The Criminal Procedure Act, Act 51 of 1977, Section 20, 23 (b) (as amended in the Criminal Procedure Amendment Act, 33 of 1986) Section 24, 29 and 42
- c. The Firearms Control Act 60 of 2000, Section 10, 34, 90 and 106
- d. Private Security Industry Regulation Act 56 of 2001
- e. Protection of Information Act 84 of 1982
- f. Trespass Act 6 of 1959
- g. Occupational Health and Safety Act 85 of 1983
- h. Other legislations relevant to security services not mentioned above

## Post and grades of security officers

### Day shift

Post	Grade	Number of officer(s)
Main Gate	C	1
<b>Total number of day shift security officers</b>		

### Night shift – Armed Guard

Post	Grade	Number of officer(s)
Main Gate	C	1
Parameter fence guarding	C	1
<b>Total number of night shift security officers</b>		

N.B. The number of security officers indicated above is reflection of the Departments current requirements, and reserves the right to increase or decrease the number of officers when requirements change

## Equipment/provisions needed

The successful bidder must ensure that security guards always have the following service aids per security guard:

Tools required	Quantity
Hand held metal detectors	-
Two-way radios / PTT (push to talk) or cellphone radio (For	1 for each officer on

each officer)	night duty
Battery operated torches (For each officer on night duty)	1 for each officer on night duty
Batons (For each officer on day shift)	1 for each officer on day duty
Occurrence Book,	1
Handcuffs set for each officer	1 per officer
Reflector vests (For each officer on night shift)	-
Uniform, officers on site must always wear full uniform (service provider's corporate uniform)	1 per officer
Name tags must be worn by officers on duty at all times	1 per officer
Pocket book for each security officer	1
A whistle	-
Attendance register – on site	1
Other stationery relevant to security services	As required
Fire Arms for night duty officers	1 for each officer on night duty

## COMPETENCY AND EXPERTISE REQUIREMENTS OF SERVICE PROVIDER

- The companies interested in responding must meet all the requirements of the Private Security Industry Regulatory Authority (PSIRA), PSIRA Act, Act 56 of 2001.
- Companies to be registered with Private Security Industry Regulatory Authority (PSIRA).
- A company profile depicting the extent of experience, particularly in rendering security services to similar size or bigger projects with **contactable references**.
- Security officers assigned to AD-19/20-0054 must have grading levels stated in Scope of Work with valid registration certificates
- PSIRA compliance audit on the company appointed must be conducted at least once in twelve months by PSIRA Inspectors and it is the responsibility of the company to invite PSIRA for the inspections and audit reports and findings be submitted to DRDAR
- Security officers assigned to Butterworth offices must have valid PSIRA certificates and display valid PSIRA cards when on duty
- The company to render services at Butterworth Office must provide a backup communication system to be used during emergency for direct contact with their base station (e.g. cellphone, radio, etc)

## GENERAL REQUIREMENTS WITH REGARDS TO THE BID

- No late or incomplete responses will be accepted for this RFQ
- Suppliers must ensure that no services are rendered or goods delivered without written confirmation from DRDAR
- Only bidders who are registered on CSD as service providers or capable of being registered prior to the evaluation of submissions are eligible to submit bids. Bidders who are not registered on the CSD are not precluded from submitting bids, however bidders must compete

the CSD application online, prior the closing date ([www.csd.gov.za](http://www.csd.gov.za) is the website). It is the responsibility of bidders to ensure that this requirement is complied with.

- Kindly note that you need to have a working email address, working cell phone, the company registration documents and Tax Clearance Certificate.
- Tax compliance status and company directors of bidders will be verified on CSD for all price quotation s and bids. Hard copies of Tax Clearance Certificate and CK documents are therefore no longer needed to be attached in the bid.
- Bidders must be registered on LOGIS
- BEE Certificate must be attached.
- Failure to complete all supplementary information and returnable schedules will be deemed non responsive and maybe disqualified
- All supporting documents in relation to qualifications and experience must be submitted
- Only companies registered as Security Services and PSIRA valid affiliates must respond to this invitation and the valid PSIRA certificate.
- Companies responding to this **must** provide proof of Firearm licence.

## SECTION 6 PRICING SCHEDULE – FIRM PRICES

ECBD 3.1

**NOTE: ONLY FIRM PRICES WILL BE ACCEPTED. NON-FIRM PRICES (INCLUDING PRICES SUBJECT TO RATES OF EXCHANGE VARIATIONS) WILL NOT BE CONSIDERED**

**IN CASES WHERE DIFFERENT DELIVERY POINTS INFLUENCE THE PRICING, A SEPARATE PRICING SCHEDULE MUST BE SUBMITTED FOR EACH DELIVERY POINT**

Name of Service Provider: .....

Quotation NUMBER: **SCMU8-21/22-0078**

Closing Time 11:00 on 17 May 2021

OFFER TO BE VALID FOR **90** DAYS FROM THE CLOSING DATE

Monthly fee – all inclusive R.....

15% VAT R.....

Total Price for thirty six months R.....

**TOTAL AMOUNT IN WORDS:**

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

**SIGNATURE OF BIDDER**

.....

**PRICE BREAKDOWN:**

Basic salary per Guard	R .....
Overtime x 1 ⅓	R .....
Overtime x 1 ½	R .....
Overtime double	R .....
Leave pay	R .....
Sick leave	R .....
UIF	R .....
Public Holiday	R .....
Levy	R .....
Workman Compensation	R .....
Any other allowance/s	<u>R .....</u>
Total monthly cost per guard (all inclusive)	R .....
Total cost for number of guards offered	R ..... for guards/ month
Transport	R ...../ month
Overheads (including profit)	R ..... / month

**\* TOTAL BID PRICE** R ..... / MONTH

**\* TOTAL BID PRICE** R ..... / 36 MONTHS

**TOTAL PRICE IN WORDS:** \_\_\_\_\_  
\_\_\_\_\_

**\*PLEASE NOTE:** THIS Quotation IS NOT SUBJECT TO ANY PRICE ADJUSTMENTS

**\*QUOTED PRICE TO BE ALL INCLUSIVE**

The total quoted price to be all inclusive. All increases over the period of the contract to be included in the total price. No price adjustments or increases will be considered during the period of the contract.

**Signature of bidder:** .....

**NAME OF SERVICE PROVIDER/ COMPANY:** .....

**NAME OF AUTHORISED SIGNATORY (IN CAPITALS)** .....

**SIGNATURE OF AUTHORISED REPRESENTATIVE** .....

SIGNED ON THIS.....DAY OF.....OF THE YEAR.....

ON BEHALF OF: .....

ADDRESS: .....

**SWORN AFFIDAVIT'S FOR B-BBEE POINTS MUST BE IN THE FOLLOWING FORMAT,  
CERTIFICATES TO BE ISSUED BY A SANAS ACCREDITED AGENCY**

**SWORN AFFIDAVIT – B-BBEE EXEMPTED MICRO ENTERPRISE - GENERAL**

I, the undersigned,

<b>Full name &amp; Surname</b>	
<b>Identity number</b>	

Hereby declare under oath as follows:

1. The contents of this statement are to the best of my knowledge a true reflection of the facts.
2. I am a Member / Director / Owner of the following enterprise and am duly authorised to act on its behalf:

<b>Enterprise Name:</b>	
<b>Trading Name (If Applicable):</b>	
<b>Registration Number:</b>	
<b>Enterprise Physical Address:</b>	
<b>Type of Entity (CC, (Pty) Ltd, Sole Prop etc.):</b>	
<b>Nature of Business:</b>	
<b>Definition of "Black People"</b>	<p>As per the Broad-Based Black Economic Empowerment Act 53 of 2003 as Amended by Act No 46 of 2013 "Black People" is a generic term which means Africans, Coloureds and Indians –</p> <p>(a) who are citizens of the Republic of South Africa by birth or descent; or</p> <p>(b) who became citizens of the Republic of South Africa by naturalisation-</p> <p>i. before 27 April 1994; or</p> <p>ii. on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalization prior to that date;"</p>
<b>Definition of "Black Designated Groups"</b>	<p>"Black Designated Groups means:</p> <p>(a) unemployed black people not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution;</p> <p>(b) Black people who are youth as defined in the National Youth Commission Act of 1996;</p> <p>(c) Black people who are persons with disabilities as defined in the Code of Good Practice on employment of people with disabilities issued under the Employment Equity Act;</p> <p>(d) Black people living in rural and under developed areas;</p> <p>(e) Black military veterans who qualifies to be called a military veteran in terms of the Military Veterans Act 18 of 2011;"</p>

3. I hereby declare under Oath that:

- The Enterprise is \_\_\_\_\_% Black Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- The Enterprise is \_\_\_\_\_% Black Female Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- The Enterprise is \_\_\_\_\_% Black Designated Group Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- Black Designated Group Owned % Breakdown as per the definition stated above:
- Black Youth % = \_\_\_\_\_%
- Black Disabled % = \_\_\_\_\_%
- Black Unemployed % = \_\_\_\_\_%
- Black People living in Rural areas % = \_\_\_\_\_%
- Black Military Veterans % = \_\_\_\_\_%
- Based on the Financial Statements/Management Accounts and other information available on the latest financial year-end of \_\_\_\_\_, the annual Total Revenue was R10,000,000.00 (Ten Million Rands) or less
- Please Confirm on the below table the B-BBEE Level Contributor, **by ticking the applicable box.**

100% Black Owned	<b>Level One</b> (135% B-BBEE procurement recognition level)	
At least 51% Black Owned	<b>Level Two</b> (125% B-BBEE procurement recognition level)	
Less than 51% Black Owned	<b>Level Four</b> (100% B-BBEE procurement recognition level)	

4. I know and understand the contents of this affidavit and I have no objection to take the prescribed oath and consider the oath binding on my conscience and on the Owners of the Enterprise which I represent in this matter.
5. The sworn affidavit will be valid for a period of 12 months from the date signed by commissioner.

Deponent Signature: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Commissioner of Oaths  
Signature & stamp

### SWORN AFFIDAVIT – B-BBEE QUALIFYING SMALL ENTERPRISE - GENERAL

I, the undersigned,

<b>Full name &amp; Surname</b>	
<b>Identity number</b>	

Hereby declare under oath as follows:

1. The contents of this statement are to the best of my knowledge a true reflection of the facts.
2. I am a Member / Director / Owner of the following enterprise and am duly authorised to act on its behalf:

<b>Enterprise Name:</b>	
<b>Trading Name (If Applicable):</b>	
<b>Registration Number:</b>	
<b>Enterprise Physical Address:</b>	
<b>Type of Entity (CC, (Pty) Ltd, Sole Prop etc.):</b>	
<b>Nature of Business:</b>	
<b>Definition of “Black People”</b>	<p>As per the Broad-Based Black Economic Empowerment Act 53 of 2003 as Amended by Act No 46 of 2013 “Black People” is a generic term which means Africans, Coloureds and Indians –</p> <p style="margin-left: 40px;">(a) who are citizens of the Republic of South Africa by birth or descent; or</p> <p style="margin-left: 40px;">(b) who became citizens of the Republic of South Africa by naturalisation-</p> <p style="margin-left: 80px;">i. before 27 April 1994; or</p> <p style="margin-left: 80px;">ii. on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalization prior to that date;”</p>
<b>Definition of “Black Designated Groups”</b>	<p>“Black Designated Groups means:</p> <p style="margin-left: 40px;">(a) unemployed black people not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution;</p> <p style="margin-left: 40px;">(b) Black people who are youth as defined in the National Youth Commission Act of 1996;</p> <p style="margin-left: 40px;">(c) Black people who are persons with disabilities as defined in the Code of Good Practice on employment of people with disabilities issued under the Employment Equity Act;</p> <p style="margin-left: 40px;">(d) Black people living in rural and under developed areas;</p> <p style="margin-left: 40px;">(e) Black military veterans who qualifies to be called a military veteran in terms of the Military Veterans Act 18 of 2011;”</p>

3. I hereby declare under Oath that:

- The Enterprise is \_\_\_\_\_% Black Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- The Enterprise is \_\_\_\_\_% Black Female Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- The Enterprise is \_\_\_\_\_% Black Designated Group Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- Black Designated Group Owned % Breakdown as per the definition stated above:
  - Black Youth % = \_\_\_\_\_%
  - Black Disabled % = \_\_\_\_\_%
  - Black Unemployed % = \_\_\_\_\_%
  - Black People living in Rural areas % = \_\_\_\_\_%
  - Black Military Veterans % = \_\_\_\_\_%
- Based on the Financial Statements/Management Accounts and other information available on the latest financial year-end of \_\_\_\_\_, the annual Total Revenue was between R10,000,000.00 (Ten Million Rands) and R50,000,000.00 (Fifty Million Rands),
- Please confirm on the table below the B-BBEE level contributor, **by ticking the applicable box.**

100% Black Owned	<b>Level One</b> (135% B-BBEE procurement recognition level)	
At Least 51% black owned	<b>Level Two</b> (125% B-BBEE procurement recognition level)	

4. I know and understand the contents of this affidavit and I have no objection to take the prescribed oath and consider the oath binding on my conscience and on the owners of the enterprise which I represent in this matter.
5. The sworn affidavit will be valid for a period of 12 months from the date signed by commissioner.

Deponent Signature: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
**Commissioner of Oaths**  
**Signature & stamp**

## SECTION 7

### FORMS TO BE COMPLETED BY THE BIDDER

THESE FORMS MUST BE COMPLETED USING **BLACK INK**

Where the space provided in the bound document is insufficient, separate schedules may be drawn up in accordance with the given formats. These schedules shall then be bound together with a suitable contents page and submitted with the bid documents. All such schedules must be signed, and clearly marked as appendices to these relevant forms.

**All ECBD documents must be completed, signed in full and witnessed, failure to do so will result in the quotation/bid being eliminated.**

<b>A: CERTIFICATE OF AUTHORITY FOR SIGNATORY</b>
--------------------------------------------------

Signatory for companies shall confirm their authority thereto by attaching a duly signed and dated copy of the relevant resolution of the board of directors to this form.

An example is given below:

“ By resolution of the board of directors passed at a meeting held on .....

Mr/Ms ....., whose signature appears below, has been duly authorized to sign all documents in connection with the bid and any Contract that

may arise therefrom on behalf of (name of Bidder in block capitals) .....

.....

**SIGNED ON BEHALF OF THE COMPANY:** .....

**IN HIS/HER CAPACITY AS:** .....

**DATE:** .....

**SIGNATURE OF SIGNATORY:** .....

**WITNESSES:** 1. ....

2. ....

THIS PAGE MUST BE COMPLETED IN FULL



Province of the  
**EASTERN CAPE**  
 DEPARTMENT OF RURAL DEVELOPMENT AND AGRARIAN REFORM

**LOCAL ECONOMIC DEVELOPMENT FRAMEWORK DECLARATION FORM**

The Honourable Premier in his State of the Province address in 2014 made a pronouncement to the effect that 50% of Provincial procurement should be spent on goods and services which are manufactured and supplied by SMMEs and Co-operatives from within the Province.

In order for the Province to achieve the above, the successful service providers must source the required goods/services with the Eastern Cape Province as per Local Economic Development Procurement Framework.

The details of the manufacturers of these goods are:

NAME MANUFACTURER	OF	ITEM DESCRIPTION	LOCATION

I,.....in my capacity as .....of

.....  
 commit in procuring/sourcing the required goods from local manufacturers within the Eastern Cape Province where available.

I accept that the Department may invoke penalties as per General Conditions of Contract should I be misrepresenting the content contained herein this declaration.

.....  
**Signature**

.....  
**Date**

.....  
**Position**

.....  
**Name of bidder**

### SMME (Small, Medium and Micro Entities) Category

The National Small Business Act divides SMMEs into the following categories, if your company is an SMME please tick the appropriate SMME classification:

Category of SMME	Description	Tick
<b>Survivalist enterprises</b>	Operates in the informal sector of the economy. Mainly undertaken by unemployed persons. Income generated below the poverty line, providing minimum means to keep the unemployed and their families alive. Little capital invested, not much assets. Not much training. Opportunities for growing the business very small.	
<b>Micro enterprises</b>	Between one to five employees, usually the owner and family. Informal - no license, formal business premises, labour legislation Turnover below the VAT registration level of R300 000 per year. Basic business skills and training Potential to make the transition to a viable formal small business.	
<b>Very small enterprise</b>	Part of the formal economy, use technology Less than 10 paid employees Include self-employed artisans (electricians, plumbers) and professionals.	
<b>Small enterprise</b>	Less than 100 employees More established than very small enterprises, formal and registered, fixed business premises. Owner managed, but more complex management structure	
<b>Medium enterprise</b>	Up to 200 employees Still mainly owner managed, but decentralised management structure with division of labour Operates from fixed premises with all formal requirements.	
<b>Not applicable</b>		

<b>ECBD 4: DECLARATION OF INTEREST</b>
----------------------------------------

**DECLARATION OF INTEREST**

1. Any legal person, including persons employed by the state<sup>1</sup>, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-

- the bidder is employed by the state; and/or
- the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

2. **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

2.1 Full Name of bidder or his or her representative: .....

2.2 Identity Number: .....

2.3 Position occupied in the Company (director, trustee, shareholder<sup>2</sup>): .....

2.4 Company Registration Number: .....

2.5 Tax Reference Number: .....

2.6 VAT Registration Number: .....

- 2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / persal numbers must be indicated in paragraph 3 below.

<sup>1</sup>"State" means –

- (a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (b) any municipality or municipal entity;
- (c) provincial legislature;
- (d) national Assembly or the national Council of provinces; or
- (e) Parliament.

<sup>2</sup>"Shareholder" means a person who owns shares in the company and is actively involved in the management of the enterprise or business and exercises control over the enterprise.

- 2.7 Are you or any person connected with the bidder presently employed by the state? **YES / NO**

- 2.7.1 If so, furnish the following particulars:

Name of person / director / trustee / shareholder/ member: .....

Name of state institution at which you or the person connected to the bidder is employed : .....

Position occupied in the state institution: .....

Any other particulars:

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

2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector? YES / NO

2.7.2.1 If yes, did you attached proof of such authority to the bid document? YES / NO

(Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.

2.7.2.2 If no, furnish reasons for non-submission of such proof:

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

2.8 Did you or your spouse, or any of the company's directors / trustees / shareholders / members or their spouses conduct business with the state in the previous twelve months? YES / NO

2.8.1 If so, furnish particulars:

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

2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid? YES / NO

2.9.1 If so, furnish particulars.

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

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

2.10.1 If so, furnish particulars.

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

2.11 Do you or any of the directors / trustees / shareholders / members of the company have any interest in any other related companies YES/NO

whether or not they are bidding for this contract?

**NB – FAILURE TO DECLARE CAN  
 RESULT IN ELIMINATION**

2.11.1 If so, furnish particulars:

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

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

Full Name	Identity Number	Personal Reference Number	Tax Number	State Number	Employee / Persal Number

### 4 DECLARATION

I, THE UNDERSIGNED (NAME).....

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

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 23 OF THE GENERAL CONDITIONS OF CONTRACT SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of bidder

Name of bidder .....

May 2011

**All ECBD documents must be completed, signed in full and witnessed, failure to do so will result in the quotation/bid being eliminated**

## ECBD 6.1: PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL

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

1.3 Points for this bid shall be awarded for:

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

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

	POINTS
PRICE	80
B-BBEE STATUS LEVEL OF CONTRIBUTOR	20
Total points for Price and B-BBEE must not exceed	100

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

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

### 2. DEFINITIONS

- (a) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (b) **“B-BBEE status level of contributor”** means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (c) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services, through price quotations,

advertised competitive bidding processes or proposals;

- (d) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (e) **“EME”** means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (f) **“functionality”** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.
- (g) **“prices”** includes all applicable taxes less all unconditional discounts;
- (h) **“proof of B-BBEE status level of contributor”** means:
  - 1) 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. POINTS AWARDED FOR PRICE

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

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

**80/20**

**or**

**90/10**

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

Where

$P_s$  = Points scored for price of bid under consideration

$P_t$  = Price of bid under consideration

$P_{\min}$  = Price of lowest acceptable bid

### 4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

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

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

6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

## 5. BID DECLARATION

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

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

- 6.1 B-BBEE Status Level of Contributor: . = .....(maximum of 10 or 20 points)  
(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

## 7. SUB-CONTRACTING

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

(*Tick applicable box*)

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

- 7.1.1 If yes, indicate:

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

(*Tick applicable box*)

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

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

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

**8. DECLARATION WITH REGARD TO COMPANY/FIRM**

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

8.2 VAT registration number:.....

8.3 Company registration number:.....

**8.4 TYPE OF COMPANY/ FIRM**

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

[TICK APPLICABLE BOX]

**8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES**

.....

.....

.....

.....

**8.6 COMPANY CLASSIFICATION**

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

[TICK APPLICABLE BOX]

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

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

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
  - (a) disqualify the person from the bidding process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;

- (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
- (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
- (e) forward the matter for criminal prosecution.

**WITNESSES**

- 1. ....
- 2. ....

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

DATE: .....

ADDRESS .....

.....

.....

<b>BANKING DETAILS</b>
------------------------

*Bidders must ensure that the banking details provided are correct and that the details provided correspond with the banking details on CSD.*

*Bidders who have changed banking details must contact the Department in order to obtain the necessary forms to change their banking details.*

NAME OF BUSINESS: .....

TYPE OF BUSINESS: (please tick)

Limited Liability Company .....

Close Corporation .....

Partnership .....

Sole Proprietor.....

Joint Venture

GOVERNMENT SUPPLIERS NUMBER: .....

.....

VAT REG NO: .....

COMPANY REGISTRATION NO: .....  
(or Identity Number if Bidder is an individual)

COMPANY INCOME TAX REF. NO: .....

BANK ACCOUNT DETAILS:    Name of Bank: .....

Account No: .....

Branch No: .....

Type of Account: .....

<b>SCHEDULE OF PREVIOUS WORK CARRIED OUT BY THE BIDDER</b>
------------------------------------------------------------

Suppliers and Service Providers are to provide references to confirm previous goods or services contracts of a similar nature were completed satisfactorily. Failure to complete this page may result in your bid being eliminated.

YEAR COMPLETED										
VALUE OF WORK										
NATURE OF WORK										
CONTACT PERSON (NAME & TEL NO)										
EMPLOYER (NAME & TEL NO)										

**SIGNED ON BEHALF OF THE BIDDER:** .....

## CONTRACT FORM - PURCHASE OF GOODS/WORKS

**THIS FORM MUST BE FILLED IN DUPLICATE BY BOTH THE SUCCESSFUL BIDDER (PART 1) AND THE PURCHASER (PART 2). BOTH FORMS MUST BE SIGNED IN THE ORIGINAL SO THAT THE SUCCESSFUL BIDDER AND THE PURCHASER WOULD BE IN POSSESSION OF ORIGINALLY SIGNED CONTRACTS FOR THEIR RESPECTIVE RECORDS.**

### PART 1 (TO BE FILLED IN BY THE BIDDER)

1. I hereby undertake to supply all or any of the goods and/or works described in the attached bidding documents to (name of institution)..... in accordance with the requirements and specifications stipulated in bid number..... at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the purchaser during the validity period indicated and calculated from the closing time of bid.
2. The following documents shall be deemed to form and be read and construed as part of this agreement:
  - (i) Bidding documents, viz
    - Invitation to bid;
    - Tax clearance certificate;
    - Pricing schedule(s);
    - Technical Specification(s);
    - Preference claims for Broad Based Black Economic Empowerment Status Level of Contribution in terms of the Preferential Procurement Regulations 2011;
    - Declaration of interest;
    - Declaration of bidder's past SCM practices;
    - Certificate of Independent Bid Determination
    - Special Conditions of Contract;
  - (ii) General Conditions of Contract; and
  - (iii) Other (specify)
3. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the goods and/or works specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfillment of this contract.
5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
6. I confirm that I am duly authorised to sign this contract.

NAME (PRINT) .....

CAPACITY .....

SIGNATURE .....

NAME OF FIRM .....

DATE .....

#### WITNESSES

1 .....

2. ....

DATE: .....

**CONTRACT FORM - PURCHASE OF GOODS/WORKS**  
**PART 2 (TO BE FILLED IN BY THE PURCHASER)**

1. I ..... in my capacity  
as .....  
accept your bid under reference number ..... dated ..... for the supply of  
goods/works indicated hereunder and/or further specified in the annexure(s).
2. An official order indicating delivery instructions is forthcoming.
3. I undertake to make payment for the goods/works delivered in accordance with the terms and  
conditions of the contract, within 30 (thirty) days after receipt of an invoice accompanied by the delivery  
note.

ITEM NO.	PRICE (ALL APPLICABLE TAXES INCLUDED)	BRAND	DELIVERY PERIOD	B-BBEE STATUS LEVEL OF CONTRIBUTION	MINIMUM THRESHOLD FOR LOCAL PRODUCTION AND CONTENT (if applicable)

4. I confirm that I am duly authorised to sign this contract.

SIGNED AT ..... ON .....

NAME (PRINT) .....

SIGNATURE .....

OFFICIAL STAMP

WITNESSES

1. ....

2. ....

DATE .....

<b>ECBD 8: DECLARATION OF BIDDERS PAST SUPPLY CHAIN MAN PRACTICES</b>
-----------------------------------------------------------------------

**DECLARATION OF BIDDERS PAST SUPPLY CHAIN MANAGEMENT PRACTICES**

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

Item	Question	Yes	No
4.1	Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?  (Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).  <b>The Database of Restricted Suppliers now resides on the National Treasury's website(<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) and can be accessed by clicking on its link at the bottom of the home page.</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?  <b>The Register for Tender Defaulters can be accessed on the National Treasury's website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) by clicking on its link at the bottom of the home page.</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
4.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		

## CERTIFICATION

I, THE UNDERSIGNED (FULL NAME) .....  
CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS TRUE AND  
CORRECT.

I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION MAY BE TAKEN  
AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

All ECBD documents must be completed, signed in full and witnessed, failure to do so will result in the quotation/bid being eliminated.

## ECBD 9

## CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Standard Bidding Document (SBD) must form part of all bids<sup>1</sup> invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).<sup>2</sup> Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
  - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
  - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
- 4 This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

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

<sup>2</sup> Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

I, the undersigned, in submitting the accompanying bid:

---

(Bid Number and Description)

in response to the invitation for the bid made by:

---

(Name of Institution)

do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: \_\_\_\_\_ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
  - (a) has been requested to submit a bid in response to this bid invitation;
  - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
  - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium<sup>3</sup> will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
  - (a) prices;

- (b) geographical area where product or service will be rendered (market allocation)
  - (c) methods, factors or formulas used to calculate prices;
  - (d) the intention or decision to submit or not to submit, a bid;
  - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
  - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.....

Signature

.....

Date

.....

Position

.....

Name of Bidder

Js914w 2

<sup>3</sup> Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

**THE NATIONAL TREASURY**  
**Republic of South Africa**



**GOVERNMENT PROCUREMENT:**  
**GENERAL CONDITIONS OF CONTRACT**  
**July 2010**

## ***GOVERNMENT PROCUREMENT***

### **GENERAL CONDITIONS OF CONTRACT**

#### 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.

**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:

- 1.1. The following terms shall be interpreted as indicated:
- 1.2. "Closing time" means the date and hour specified in the bidding documents for the receipt of bids.
- 1.3. "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.
- 1.4. "Contract price" means the price payable to the supplier under the contract *for* the full and proper performance of his contractual obligations.
- 1.5. "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.
- 1.6. "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
- 1.7. "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.
- 1.8. "Day" means calendar day.
- 1.9. "Delivery" means delivery in compliance of the conditions *of* the contract or order.
- 1.10. "Delivery ex stock" means immediate delivery directly from stock actually on hand.
- 1.11. "Delivery into consignees store or to its site" means delivered and unloaded in the specified store or depot or on the specified site in compliance with the condition, 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.
- 1.12. "Dumping" occurs when a private enterprise abroad markets 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.
- 1.13. "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.
- 1.14. "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.
- 1.15. "GCC" means the General Conditions of Contract.

- 1.16. "Goods" means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.17. "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.
- 1.18. "Local content" means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- 1.19. "Manufacture" means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.20. "Order" means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.21. "Project site," where applicable, means the place indicated in bidding documents.
- 1.22. "Purchaser" means the organization purchasing the goods.
- 1.23. "Republic" means the Republic of South Africa.
- 1.24. "SCC" means the Special Conditions of Contract.
- 1.25. "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 obligation, of the supplier covered under the contract.
- 1.26. "Written" or "in writing" means handwritten in ink or any form of electronic or mechanical writing.

**2. Application.**

- 2.1. These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
- 2.2. Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.
- 2.3. Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

**3. General.**

- 3.1. Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.
- 3.2. With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from [www.treasury.gov.za](http://www.treasury.gov.za)

**4. Standards.**

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

**5. Use of 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. 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
- 5.4. 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.

**6. Patent rights.**

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

**7. Performance.**

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

**10. Delivery and documents.**

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

10.2. Documents to be submitted by the supplier are specified in SCC.

**11. Insurance.**

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

**12. Transportation.**

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

**13. Incidental services.**

13.1. The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:

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

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

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

13.5. performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and

13.6. 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.

13.7. 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 see, the supplier may be required to provide any or all of the following materials, notifications and information pertaining to spare parts manufactured or distributed by the supplier:

14.2. such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and

14.3. in the event of termination of production of the spare parts:

**14.3.1.** Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and

- 14.3.2. following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

**15. Warranty.**

- 15.1. The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.
- 15.2. This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in SCC.
- 15.3. The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.
- 15.4. Upon receipt of such notice, the supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof without costs to the purchaser.
- 15.5. If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

**16. Payment.**

- 16.1. The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.
- 16.2. The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.
- 16.3. Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.
- 16.4. Payment will be made in Rand unless otherwise stipulated in SCC.

**17. Prices.**

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

**18. Contract amendments.**

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

**19. Assignment.**

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

**20. Subcontracts.**

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

**21. Delays in the supplier's performance.**

- 21.1. Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.
- 21.2. If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the

imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.

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

## **22. Penalties.**

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

## **23. Termination for default.**

- 23.1. The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part
  - 23.1.1. 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;
  - 23.1.2. if the Supplier fails to perform any other obligation(s) under the contract; or
  - 23.1.3. 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.

## **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 favorable difference shall on demand be paid forthwith by the contractor to the State or the State may deduct such amounts from moneys (if any) which may otherwise be due to the contractor in regard to supplies or services which he delivered or rendered, or is to deliver or render in terms of the contract or any other contract or any other amount which may be due to him

## **25. Force Majeure.**

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

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

**26. Termination for insolvency.**

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

**27. Settlement of Disputes.**

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

27.2. If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.

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

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

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

27.5.1. the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and

27.5.2. the purchaser shall pay the supplier any monies due the supplier.

**28. Limitation of liability**

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

28.1.1. 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 time, 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

28.1.2. the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

**29. Governing language.**

29.1. The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.

**30. Applicable law.**

30.1. The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC

**31. Notices.**

31.1. Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice.

31.2. The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

**32. Taxes and duties.**

32.1. A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.

32.2. A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.

32.3. No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.

**33. National Industrial Participation (NIP) Programme**

33.1. The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.

**34. Prohibition of Restrictive practices**

34.1. In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding or bid rigging.

34.2. If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.

34.3. If a bidder(s) or contractor(s), has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.

*Js General Conditions of Contract (revised July 2010)*