



human settlements

Department:
Human Settlements
REPUBLIC OF SOUTH AFRICA

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Private Bag X9057 Cape Town 8000 RSA Tel (021) 466 7600 Fax (021) 465 3810
<http://www.housing.gov.za> Fraud Line: 0800 701 701 Toll Free Line: 0800 1 46873 (0800 1 HOUSE)

REFERENCE : VA50/259

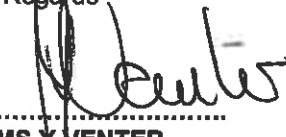
ENQUIRIES : MS M HITGE / MR M KWINANA / MR M CAMAGU / MR T MOKEMANE / MS C MATLALA

TELEPHONE : (012) - 421 1355 / 1586/ 1592/1539/1644

BID VA 50/259: TERMS OF REFERENCE: EVALUATING INTERVENTIONS BY THE DEPARTMENT OF HUMAN SETTLEMENTS TO FACILITATE ACCESS TO THE CITY FOR THE POOR.

- 1 The closing date for the submission of applications/bid documents is **09 December 2016 @ 11:00**. No late applications/bid documents will be considered. All bids must please be placed in the Tender Box at the main entrance of the building.
- 2 It is compulsory that an original proposal/bid documents together with a copy of the proposal /bid document to be handed in on the closing date of the bid. Please clearly mark by writing "Original" and "Copy" on the relevant bid documents.
- 3 You are invited to bid for the services as specified in the attached forms.
- 4 The conditions contained in General Conditions of Contracts (GCC) and the attached SBD1, SBD2, SBD 3.3, SBD4, SBD 6.1, SBD8 and SBD9 as well as any other conditions accompanying this request are applicable.
- 5 It is compulsory that the SUPPLIER MAINTENANCE FORM ANNEXURE A is completed.
- 6 **NATIONAL TREASURY CIRCULAR NO 3 OF 2015/2016**
From 1 April 2016, institutions/departments may not award any bid to a supplier who is not registered on the Central Supplier Database (CSD).
- 7 **Compulsory:** Please attach a copy of the CSD registration report.

Regards


.....
MS Y VENTER
SUPPLY CHAIN MANAGEMENT PROCUREMENT
For: **DIRECTOR-GENERAL**
DATE: **18 November 2016**
tendercovlet

Kgoro ya tsa Madulo * Lefapha la Bodulo * Lefapha la tsa Manno * Umnnyango Wezindawo Zokuhlala * Jeebe leNdawo zokuhlala
* Likho Lefakwathela Luntfu * Menelike Nedersettings * Umnnyango weNdawo zokuhlala * Muhasho wa zwa Vhudzulo * Ndzawulo ya awa Vutshamo

Breaking new ground in housing delivery - Houses, Security & Comfort

THE DEPARTMENT OF HUMAN SETTLEMENTS

BID NUMBER: VA50/259
DESCRIPTION: PROFESSIONAL SERVICES
CLOSING DATE: 09 December 2016

CHECK LIST TO BE COMPLETED BY ALL BIDDERS:

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Supporting Documents:		
Company Profile		
ID Copies of Directors		
Certificate issued by Registrar of Companies & Close Corporation, issued by CIPRO.		
Certified/Original Valid B-BBEE Status Level Verification Certificate - 07 December 2011		
Compulsory: Please attach a copy of CSD registration report.		

BIDDER NAME IN FULL: _____

SIGNATURE: _____

CAPACITY: _____ **DATE:** _____



Revised

human settlements

Department:
Human Settlements
REPUBLIC OF SOUTH AFRICA

**TERMS OF REFERENCE:
AN EVALUATION OF INTERVENTIONS BY THE
DEPARTMENT OF HUMAN SETTLEMENTS IN FACILITATING
ACCESS TO THE CITY FOR POOR HOUSEHOLDS**

09 November 2016

Chief Directorate: Human Settlements Strategy

1. Introduction and Background

An important objective highlighted in the Reconstruction and Development Plan (RDP) in 1994 was 'to improve the quality of life of all South Africans through a process of empowerment which will allow the poor to have control over their lives and mobilise resources to invest in and develop their own future.'¹ One programme for achieving this was the proposed Strategy on Housing. There was a recognition that the majority of those in need of shelter resided in urban areas and that in order to transform and integrate South African society, specific attention would need to be paid to urban shelter, basic needs and access to socio-economic opportunities.

The importance of gaining access to urban opportunities and particularly urban shelter was also recognised in the Housing White Paper of 1994. The White Paper highlighted the high number of South Africa's population, 66 percent at the time, that was urbanised and the fact that even those residing in rural areas at the time would spend part of their working lives in urban areas.² Ensuring that Black South Africans, who were previously denied the right to freely move, engage in and live in urban areas, the right to engage in South Africa's cities was a foremost concern of the post liberation government.

This priority has been emphasised consistently in Housing Policy over the past 20 years, most notably in the Comprehensive Plan for the Development of Sustainable Human Settlements of 2004 (Breaking New Ground (BNG) as it is more commonly referred to) and in the Social Housing Act of 2008. These made specific reference to interventions in the urban for poor South Africans. BNG noted that 'urban renewal is a targeted intervention by government to

¹ Reconstruction and Development Plan. 1994

² Department of Housing. 1994. Housing White Paper. Pretoria: Department of Housing

resuscitate declining urban areas.'³ Thus, it is clear that ensuring the right to access the urban has always been foremost in the minds of South Africa's policy makers.

While cities are considered as ideal spaces for addressing a range of development concerns facing the urban centres in South Africa, rapid population growth in cities has put more pressure on government to respond more efficiently to a larger urban population.⁴ This is because cities are seen as places with access to resources and opportunities and as such provide life changing possibilities for the millions that access them on a daily basis. According UN-Habitat⁵, South Africa's urban population will have grown from its current rate of 59.3% to 79.6% by 2030. The National Development Plan also noted that the increasing inequality, growing poverty and continuing spatial patterns that marginalise the poor, particularly in South Africa's urban centres are amongst key challenges facing the country⁶.

Thus, it is apparent that the urban question has been an important one in South Africa since 1994 and shows no signs of becoming any easier to respond to. The issue that this work is concerned with is two-pronged:

- Have the government housing programmes since 1994 sufficiently responded to and enabled better access and integration within South Africa's urban areas?
- How are the current programmes responding to the growing need for access to the city?

³ Department of Housing. 2004. "Breaking New Ground." A Comprehensive Plan for the Development of Sustainable Human Settlements. Pretoria: Department of Housing.

⁴ Pamell, S. (2004). Building developmental local government to fight poverty. *International Development Planning Review*, 26(4), 377-399; United Nations Human Settlements Programme (2008). *The State of African Cities 2008*: Nairobi: UN-Habitat; United Nations Population Fund (2007). *State of the World Population: Unleashing the potential of Urban Growth*. New York: United Nations Population Fund.

⁵ United Nations Human Settlements Programme. 2008. *The State of African Cities 2008*: Nairobi: UN-Habitat

⁶ Sexwale, T. 2011. *Presentation at 'Each-One-Settle-One' Investment Summit*. Johannesburg: Johannesburg Stock Exchange. 29 September 2011

1.1 Defining Access to the City

In recent years the call for the Right to City of the urban poor has gained momentum. Harvey⁷ refers to the right to the city as the ability to lay 'claim some kind of shaping power over the processes of urbanization, over the ways in which our cities are made and re-made and to do so in a fundamental and radical way.' Parnell and Pieterse⁸ use the notion of *full urban citizenship* to refer to rights that extend beyond access to basic services and socio-economic activities. Both these definitions refer to a right to claim access to the city but the question that this evaluation is concerned with is whether or not this access is actually achieved or carried out by all residents of the city.

It is important that this work defines how we view the city and what we consider to be both rights to the city in the legal sense and access to the city that enables and allows urban citizens to play an active part in the shaping of cities. How do we then define the latter? I.e. What does it mean to play an active part in the city and to give effect to the right to the city? Is this what is meant by access? Is the very act of creating and making a living in informal settlements or illegal connections to water and electricity an active (accessible) response by poor urban residents to take some measure of control over their livelihoods and access to services in the face of state incapacity to do so?⁹ Is what we are seeing (in terms of the proliferation of informality in the urban sphere) citizens claiming their rights to be in and participate in the city by physically 'forcing' their access to the city? Is it their response to a perceived anti-poor rhetoric when cities are being planned and built in a manner than excludes informality

7 Harvey, D. (date unknown). The right to the city. <http://urban-uprising.org/sites/default/files/files/righttothecity.pdf>

8 Parnell, S. and Pieterse, E. 2010. The 'Right to the City': Institutional Imperatives of a Developmental State. *International Journal of Urban and Regional Research*, Vol. 34.1 (March 2010), 146-62

9 Mitlin, D. 2008. With and beyond the state: Co-production as a route to political influence, power and transformation for grassroots organisations in *Environment and Urbanization*. Vol. 20. No. 2. October. Pages 339-360

and the strategies of the poor? Is this the kind of active citizenry, engagement or participation that has been created where citizens are able to access the city but only from a certain entry point? If so, what are the opportunities to engage these in a more positive, partnership driven manner that feeds into the future growth of diverse, accessible and integrated cities?

A great deal of work¹⁰ has been done to reflect on the meaning of the right to the city and the implications of this right for policy makers and government officials, cities as spaces of opportunity for all and the range of communities and actors that make use of and access urban spaces. Though it is very closely related to issues and debates regarding the right to the city and these will very likely inform the process, this evaluation does not specifically focus on continuing the debate around the right to the city. Instead the purpose of this evaluation is to act as somewhat of a starting point in order to identify what has been done to date to increase access to the city, or to give effect to this right, and more specifically how the programmes and activities of the National Department of Human Settlements have encouraged or limited the ability of people to access the city in various ways and may have contributed to more or less exclusion.

This evaluation has to respond to the question of whether or not the state, through its housing programmes has been able to facilitate access to the city for the poor that are not just about development rights but speaks to the ability of the poor to participate, co-produce and partner in the growth and development of the city. At the same time, it should look at how this is negotiated within a context where cities need to be efficient, equitable and have to ensure sustainable development.

¹⁰ For more on this see especially the work of David Harvey and Edesio Fernandes, local organizations like Isandla Institute and the Development Action Group and the local branch of the Informal Settlements Network/Shack Dwellers International

2. Purpose of the Evaluation

This study does not aim to evaluate a specific policy, plan or programme but aims to determine whether the overall government interventions have over time enabled poor households to access the city. The study will also assist the department to understand the role that it plays in integrating societies and creating a conduit for the poor to access the benefits of urbanity.

More importantly the study will contribute in improving human settlements policies and programmes.

3. Evaluation Questions

The evaluation must respond to the following:

Theoretical and Conceptual Framework:

- 3.1. Develop the theoretical framework including the theory of change to analyse how government provided access to the city. The conceptual framework must also clarify the correlation between the concept of access to the city and the right to the city.
- 3.2. Define what constitutes access to the city and what elements and conditions are necessary for this to be realised?
- 3.3. What are the lessons from literature on how poor people negotiate access to the city?

Main Evaluation Questions

- 3.4. How has the South African government particularly the Department of Human Settlements facilitated access to the city for previously marginalised

individuals?

- 3.5. What has been the role of partnerships such as private sector, communities, banking sector, households, etc. in facilitating access to the city?
- 3.6. How have people managed to facilitate access on their own? Do they have sufficient flexibility to negotiate their own access?
- 3.7. Why should the concept of '**access**' remain the key driver of government policies and programmes?
- 3.8. How should access to urban spaces be better facilitated in South Africa?

4. Scope of the Evaluation

The brief calls for the following:

- 4.1. Develop a conceptual framework to assess the extent to which government interventions have facilitated access to urban spaces in South Africa.
- 4.2. Determine a threshold and indicators for adequate access to the city.
- 4.3. Examine whether and how government policies and programmes facilitated access to the city for poor households.
- 4.4. Determine how government can better harness opportunities that encourage or discourage different kinds of access within cities and address the challenges experienced thereof.
- 4.5. Determine whether there is space for differentiated approach to facilitate access to cities, secondary towns and rural areas and explain instrument(s) that should be used in each.
- 4.6. Develop recommendations for facilitating improved access to urban spaces for poor households.

5. Expected Deliverables

- 5.1.1. Inception report.
- 5.1.2. A detailed project plan.
- 5.1.3. Conceptual framework.
- 5.1.4. A report that responds to the scope of work and evaluation questions in a both scholarly and pragmatic manner. The report must contain (though not limited to) the following:
 - 5.1.4.1. an executive summary (± 3 pages)
 - 5.1.4.2. a comprehensive literature review (from empirical research not only government or reports within the organisation)
 - 5.1.4.3. theoretical or analytical framework
 - 5.1.4.4. methodology
 - 5.1.4.5. analysis of findings
 - 5.1.4.6. key recommendations
- 5.1.5. Policy brief outlining policy implications (± 1 page).
- 5.1.6. Summary of the report (± 25 pages).
- 5.1.7. MS PowerPoint presentation of the project design, methodologies, conceptual framework, findings and recommendations.

6.1. Quality of the Deliverables

- 6.1.1. It is expected that all outputs should be in a manner that shows a high degree of professionalism and good report writing skills; the report should include a clear theoretical framework or reference to the theory, which informs the analysis contained in the report. This should be clearly substantiated and illustrated throughout so that the connection between theory and analysis is clear to the audience. The

methodological process outlined in the research report should reflect the credibility of the research, the relationship between the theoretical framework, the information sources used, the analysis, relevance and transferability of the findings for policy and be able to validate the findings.

6.1.2. All documents must be language edited.

6.1.3. The final reports should be submitted in three (3) Compact Disks and 3 bound copies printed in colour. The document should be written in 12 pts Arial, 1½ spacing, justified and in both PDF and MS Word formats. **No branding of the service provider shall be allowed in any of the documents submitted.**

7. Evaluation design

7.1. Methodology

The service provider must develop a methodology that responds to the scope of work and evaluation questions. This must illustrate an evaluation process that is rigorous and can stand up to academic scrutiny. The methodological process should reflect the credibility of the evaluation, the relationship between the theoretical framework, the information sources used and analysis, the relevance and transferability of the findings for policy and be able to validate the findings. In addition the methodology should include the following...

7.1.1 Conceptual Framework: Develop a sound theoretical and conceptual framework informed by a thorough literature review to frame and analyse the evaluation questions. The literature review should be relevant to the evaluation question.

7.1.2 Document analysis and review: Using policy documents and regulations, existing literature, empirical research, existing data sets, the evaluation should respond to the key evaluation questions.

8. Guiding principles and values

- 8.1. The evaluation should be development-orientated and should address key developmental priorities of Government and of citizens;
- 8.2. The evaluation should be undertaken ethically and with integrity;
- 8.3. The evaluation should be utilisation orientated;
- 8.4. The evaluation methods should be sound;
- 8.5. The evaluation should advance Government's transparency and accountability;
- 8.6. The evaluation must be undertaken in a manner which is inclusive and participatory;
- 8.7. The evaluation must promote learning;
- 8.8. Evaluators must display honesty and integrity in their own behaviour and should ensure the integrity of the entire evaluation process; and
- 8.9. The evaluation is expected to build the capacity of previously disadvantaged individuals (evaluators and researchers), as well as providing all the data in a usable format.

9. Project Plan and payment

9.1. Project Plan

This project should be completed within 6 months after the service provider has been appointed. The service provider is expected to develop a draft project plan and which take into consideration the following:

Table 3: Outline project plan

PHASE	ACTIVITY/DELIVERABLE	WHO	BY WHEN
1	1. Inception Meeting	Dept. & Service provider (SP)	1 week after receiving Confirmation of appointment
	2. Service Level Agreement contract signed	Dept. & Service provider (SP)	1 week after receiving Confirmation of appointment
	3. Inception report	SP	2 weeks after signing the contract
	4. A detailed project plan		
	5. First draft of conceptual framework		
	6. Workshop to discuss the conceptual framework and methodology	Dept. and SP	Date to be determined
	7. Final draft of conceptual framework and methodology	SP	1 week after the workshop
2	8. Draft Overall Analytical report	SP	12 weeks after the approval of the inception report
	9. Workshop with stakeholders on draft report	Dept and SP	2 weeks after receiving the draft report
	10. Peer reviewers submit reviewed draft report	Peer reviewers	2 weeks after receiving the report
3	11. Final report submitted to Dept.	SP	2 weeks after

PHASE	ACTIVITY/DELIVERABLE	WHO	BY WHEN
			receiving inputs
	12. Comments on final report	Peer reviewers and steering committee	1 weeks after receiving final report
	13. Final report submitted	SP	1 weeks after receiving comments

9.2. Payment structure

Payment for the delivery of the work will be as follows:

- 9.2.1. 10% of the total amount shall be paid upon the submission and approval of the inception report.
- 9.2.2. 25% of the total amount shall be paid upon the submission and approval of the draft analytical report.
- 9.2.3. 65% shall be payable upon the approval and acceptance of the final report.

10. Management Arrangement

10.1. Management

- 10.1.1. The DHS in conjunction with the Department of Performance Monitoring and Evaluation (DPME) will manage the project. However, the service provider shall account to the Department of Human Settlements (DHS).

- 10.1.2. The service provider will be expected to present the inception report, analytical framework, draft report and final report for comments and inputs to the evaluation steering committee, which comprise of DHS, DPME and other relevant stakeholders.
- 10.1.3. The Service Provider will submit monthly (or when requested) progress reports to the Project Manager at the DHS. All communication between the Service Provider and the Department shall be made through the Project Manager.

10.2. Reporting arrangements

- 10.2.1. Monthly progress reports should be submitted to the Project Manager in the DHS indicating the key developments in the time period reported on, future activity schedule, and obstacle if any that are being encountered together with the suggested solutions to the challenges.
- 10.2.2. It would be expected that any urgent matters that affect the service provider's ability to meet the deadlines should be brought to the attention of the Project Manager immediately.

11. Expectations of the Service Provider

11.1. Qualification criteria

The study requires a service provider who can demonstrate a high level of knowledge, skills, and experience in the following areas:

- 11.1.1. Poverty research, Economics, Housing and land markets, municipal finance systems and other poverty/wealth creation related disciplines;
- 11.1.2. Policy issues related to housing and human settlements. Clear understanding of the mandate of the National Department of

Human Settlements, its programmes and instruments, performance and proven experience in conducting programme evaluations and proven experience in conducting programme evaluations.

11.2. Evaluation criteria

The evaluation of the proposals submitted to the DHS will follow a two-step process. In the first step, all proposals will be evaluated on functionalities and capabilities. In the second step, only qualifying proposals will be evaluated on the 80/20-preference point system.

11.2.1. The functionalities and capabilities will be evaluated as follows:

CRITERIA	SUB CRITERIA	SUB POINTS	TOTAL POINTS
Levels of expertise	90% of the core evaluation team has expertise in Social Sciences (Poverty studies, Housing/Urban Studies), Economics, and Property Markets at Masters or PhD levels.	10	10
	90% of the core evaluation team has expertise in Social Sciences (poverty studies), Housing/Urban Studies Economics, Property Markets at Honours level	05	
Experience in social science research and evaluation	<ul style="list-style-type: none"> Years in the field: 20 years and above experience in social/ economic and human settlements related evaluations	10	10
	Between 15 and 19 years' experience	08	
	Between 10 and 14 years' experience	05	

CRITERIA	SUB CRITERIA	SUB POINTS	TOTAL POINTS
	Between five (5) and nine (09) years' experience	03	
Delivery of evaluation assignments ¹¹	<ul style="list-style-type: none"> Years¹² in the field: 20 years and above experience in social/ economic and human settlements related evaluations 	10	10
	<ul style="list-style-type: none"> Delivery of 15 and more similar assignments 	08	
	<ul style="list-style-type: none"> Between 10 and 14 years' experience 	05	
	<ul style="list-style-type: none"> Between five (5) and nine (09) years' experience 	03	
Understanding of the scope of work	Theoretical framework and methodology: A brief empirical methodology using literature to support the choice of methodological approach	35	65
	Design: explain how you will respond to the research questions and scope of work e.g. documents to be reviewed, data collection process and tools, Sampling techniques, etc.	30	
Responsive plan	Project plan reflecting relevant milestones and timeframes	05	05
OVERALL TOTAL			100

¹¹ Please provide a list of projects, stating the name of the client and contact person for reference

¹² Collective experience of the project team in conducting research and evaluations studies

- 11.2.2. A service provider that submits a proposal that scores less than 70 points would be considered to have submitted a non-responsive proposal.
- 11.2.3. DHS reserves the right to request presentations before the appointment of a service provider.
- 11.2.4. **Note: No service provider is allowed to score themselves on the submitted documents.**

12. General conditions

- 12.1. The call for proposals will be valid for a period of 90 days. The prices quoted in the tender remain applicable unless and until the DHS notified (in writing) to the contrary by the service provider.
- 12.2. The service provider must furnish the following information as comprehensively as possible:
 - 12.2.1. Full details of the service provider
 - o head office address and email
 - o telephone and fax numbers
 - 12.2.2. Level of technical competency
 - 12.2.3. Company profile
 - 12.2.4. Full details of the individuals to be involved, their expertise, track record and roles in the assignment.
 - 12.2.5. A detailed cost breakdown. Preference will be given to fixed price contracts linked to clearly identifiable deliverables;
 - 12.2.6. Clearly defined milestones;
 - 12.2.7. A detailed explanation of the methodology and process to be adopted.
- 12.3. The successful service provider would be expected to submit an inception report which includes a detailed description of the methodology and a

work break down schedule which will form the basis of the first meeting with DHS.

- 12.4. Regular progress reports should be submitted to the Department, indicating the key developments in the time period reported on, future activity schedule, and obstacle if any are encountered together with the suggested solutions to the challenges. This will be agreed upon at the first meeting with the Department.

13. Copyright

- 13.1. The copyright of all data collected and the final report to be delivered by the service provider will rest with the DHS. These must all be submitted to the DHS on completion of the assignment.
- 13.2. The service provider will not publish (including presentation to conferences and all other forums), whether in part or whole, the submitted report without the written permission of the DHS.

14. Enquiries

For further enquiries related to the contents of the Terms of Reference please contact **Bondy Mkhabela** at 012 421 1549 or email Bondy.Mkhabela@dhs.gov.za

INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/PUBLIC ENTITY)

BID NUMBER: **VA50/259**

CLOSING DATE: **09/12/2016**

CLOSING TIME: **11:00**

DESCRIPTION: PROFESSIONAL SERVICE

The successful bidder will be required to fill in and sign a written Contract Form (SBD 7).

BID DOCUMENTS MAY BE POSTED TO: THE NATIONAL DEPARTMENT OF HUMAN SETTLEMENTS, PRIVATE BAG X644, PRETORIA, 0001

OR

DEPOSITED IN THE BID BOX SITUATED AT: THE NATIONAL DEPARTMENT OF HUMAN SETTLEMENTS, 240 JUSTICE MAHOMED STREET, GOVAN MBEDI HOUSE, SUNNYSIDE, PRETORIA, 0002

Service providers should ensure that RFQs are delivered timeously to the correct address. If the RFQ is late, it will not be accepted for consideration.

The bid box is generally open 24 hours a day, 7 days a week.

ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS – (NOT TO BE RE-TYPED)

THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2011, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT

THE FOLLOWING PARTICULARS MUST BE FURNISHED
(FAILURE TO DO SO MAY RESULT IN YOUR BID BEING DISQUALIFIED)

NAME OF BIDDER	.....
POSTAL ADDRESS	.....
STREET ADDRESS	.....
TELEPHONE NUMBER	CODE.....NUMBER.....
CELLPHONE NUMBER	.....
FACSIMILE NUMBER	CODE NUMBER.....
E-MAIL ADDRESS	.....
VAT REGISTRATION NUMBER	.....

HAS AN ORIGINAL AND VALID TAX CLEARANCE CERTIFICATE BEEN SUBMITTED? (SBD 2)

YES or NO

HAS A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE BEEN SUBMITTED? (SBD 6.1)

YES or NO

IF YES, WHO WAS THE CERTIFICATE ISSUED BY?

AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA).....
 A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS); OR.....
 A REGISTERED AUDITOR
 [TICK APPLICABLE BOX]

(A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE)

ARE YOU THE ACCREDITED REPRESENTATIVE
IN SOUTH AFRICA FOR THE GOODS / SERVICES / WORKS OFFERED?
NO

YES or

[IF YES ENCLOSE PROOF]

SIGNATURE OF BIDDER
DATE
CAPACITY UNDER WHICH THIS BID IS SIGNED
TOTAL BID PRICE..... TOTAL NUMBER OF ITEMS OFFERED

ANY ENQUIRIES REGARDING THE BIDDING PROCEDURE MAY BE DIRECTED TO:

Department: THE NATIONAL DEPARTMENT OF HUMAN SETTLEMENTS

Contact Person MS M HITGE AND MR M KWINANA / MR A CAMAGU / MR T MOKEMANE / MS C MATLALA

Tel: 012 421 1355 AND 1586 OR 1592 OR 1397 OR 1539 OR 1644

Fax:

E-mail address: marie.hitge@dhs.gov.za / miuleki.kwinana@dhs.gov.za / mbulelo.camagu@dhs.gov.za / teboho.mokemane@dhs.gov.za
or caroline.matlala@dhs.gov.za

ANY ENQUIRIES REGARDING TECHNICAL INFORMATION MAY BE DIRECTED TO:

Contact Persons: Ms Bondy Mkhabela

In writing only

Fax:

E-mail address: bondy.mkhabela@dhs.gov.za

TAX CLEARANCE CERTIFICATE REQUIREMENTS

It is a condition of bid that the taxes of the successful bidder must be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the bidder's tax obligations.

- 1 In order to meet this requirement bidders are required to complete in full the attached form TCC 001 "Application for a Tax Clearance Certificate" and submit it to any SARS branch office nationally. The Tax Clearance Certificate Requirements are also applicable to foreign bidders / individuals who wish to submit bids.
- 2 SARS will then furnish the bidder with a Tax Clearance Certificate that will be valid for a period of 1 (one) year from the date of approval.
- 3 The original Tax Clearance Certificate must be submitted together with the bid. Failure to submit the original and valid Tax Clearance Certificate will result in the invalidation of the bid. Certified copies of the Tax Clearance Certificate will not be acceptable.
- 4 In bids where Consortia / Joint Ventures / Sub-contractors are involved, each party must submit a separate Tax Clearance Certificate.
- 5 Copies of the TCC 001 "Application for a Tax Clearance Certificate" form are available from any SARS branch office nationally or on the website www.sars.gov.za.
- 6 Applications for the Tax Clearance Certificates may also be made via eFiling. In order to use this provision, taxpayers will need to register with SARS as eFilers through the website www.sars.gov.za.

PRICING SCHEDULE
(Professional Services)

NAME OF BIDDER:	BID NO.: VA50/259
CLOSING TIME 11:00	CLOSING DATE: 9/12/2016

OFFER TO BE VALID FOR... 120... DAYS FROM THE CLOSING DATE OF BID.

ITEM NO	DESCRIPTION	BID PRICE IN RSA CURRENCY ** (ALL APPLICABLE TAXES INCLUDED)
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BID VA50/259: TERMS OF REFERENCE: EVALUATING INTERVENTIONS BY THE DEPARTMENT OF HUMAN SETTLEMENTS TO FACILITATE ACCESS TO THE CITY FOR THE POOR

The accompanying information must be used for the formulation of proposals.

2. Bidders are required to indicate a **ceiling price** based on the total estimated time for completion of all phases and including all expenses inclusive of all applicable taxes for the project.

R.....

3. PERSONS WHO WILL BE INVOLVED IN THE PROJECT AND RATES APPLICABLE (CERTIFIED INVOICES MUST BE RENDERED IN TERMS HEREOF)

4. PERSON AND POSITION

HOURLY RATE

DAILY RATE

	R.....	
	R.....	
	R.....	
	R.....	
	R.....	

5. PHASES ACCORDING TO WHICH THE PROJECT WILL BE COMPLETED, COST PER PHASE AND MAN-DAYS TO BE SPENT

	R.....	..... days
	R.....	..... days
	R.....	..... days
	R.....	..... days

- 5.1 Travel expenses (specify, for example rate/km and total km, class of air travel, etc). Only actual costs are recoverable. Proof of the expenses incurred must accompany certified invoices.

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT
	R.....
	R.....
	R.....
	R.....

TOTAL: R.....

** "all applicable taxes" includes value- added tax, pay as you earn, income tax, unemployment insurance contributions and skills development levies.

- 5.2 Other expenses, for example accommodation (specify, eg. Three star hotel, bed and breakfast, telephone cost, reproduction cost, etc.). On basis of these particulars, certified invoices will be checked for correctness. Proof of the expenses must accompany invoices.

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT
.....	R.....
.....	R.....
.....	R.....
.....	R.....
TOTAL: R.....			

6. Period required for commencement with project after acceptance of bid
 7. Estimated man-days for completion of project
 8. Are the rates quoted firm for the full period of contract? *YES/NO
 9. If not firm for the full period, provide details of the basis on which adjustments will be applied for, for example consumer price index.

*[DELETE IF NOT APPLICABLE]

ANY ENQUIRIES REGARDING THE BIDDING PROCEDURE MAY BE DIRECTED TO:

Department: THE NATIONAL DEPARTMENT OF HUMAN SETTLEMENTS

Contact Person MS M HITGE AND MR M KWINANA / MR A CAMAGU / MR T MOKEMANE / MS C MATLALA

Tel: 012 421 1355 AND 1586 OR 1592 OR 1397 OR 1539 OR 1644

Fax:

E-mail address: marie.hitge@dhs.gov.za / mluleki.kwinana@dhs.gov.za / mbulelo.camagu@dhs.gov.za / teboho.mokemane@dhs.gov.za or caroline.matlala@dhs.gov.za

ANY ENQUIRIES REGARDING TECHNICAL INFORMATION MAY BE DIRECTED TO:

Contact Persons: MS BONDY MKHABELA

In writing only

Fax:

E-mail address: bondy.mkhabela@dhs.gov.za

DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state¹, 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, shareholder²):
 - 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.
- ¹"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.
- ²"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

[illegible]

YES/NO

[illegible]

YES/NO

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

[illegible]

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

May 2011

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2011

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, 2011.

1. GENERAL CONDITIONS

1.1 The following preference point system is applicable to all bids:

the 80/20 system for requirements with a Rand value of up to R 500 000 (all applicable taxes included); and

1.2 The value of this bid is estimated not to exceed R 500 000 (all applicable taxes included) and therefore the.....80/20.....system shall be applicable.

1.3 Preference points for this bid shall be awarded for:

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

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

POINTS

1.3.1.1 **PRICE**80.....

1.3.1.2 **B-BBEE STATUS LEVEL OF CONTRIBUTION**20.....

Total points for Price and B-BBEE must not exceed 100

1.4 Failure on the part of a bidder to fill in and/or to sign this form and submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System (SANAS) or a Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA) or an Accounting Officer as contemplated in the Close Corporation Act (CCA) together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

1.5. 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

- 2.1 **"all applicable taxes"** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- 2.2 **"B-BBEE"** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- 2.3 **"B-BBEE status level of contributor"** means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- 2.4 **"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 services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
- 2.5 **"Broad-Based Black Economic Empowerment Act"** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- 2.6 **"comparative price"** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;
- 2.7 **"consortium or joint venture"** 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;
- 2.8 **"contract"** means the agreement that results from the acceptance of a bid by an organ of state;
- 2.9 **"EME"** means any enterprise with an annual total revenue of R5 million or less .
- 2.10 **"Firm price"** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- 2.11 **"functionality"** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
- 2.12 **"non-firm prices"** means all prices other than "firm" prices;
- 2.13 **"person"** includes a juristic person;
- 2.14 **"rand value"** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;
- 2.15 **"sub-contract"** means the primary contractor's assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;
- 2.16 **"total revenue"** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the *Government Gazette* on 9 February 2007;

- 2.17 “trust” means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
- 2.18 “trustee” means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

3. ADJUDICATION USING A POINT SYSTEM

- 3.1 The bidder obtaining the highest number of total points will be awarded the contract.
- 3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts;.
- 3.3 Points scored must be rounded off to the nearest 2 decimal places.
- 3.4 In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for B-BBEE.
- 3.5 However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal preference points for B-BBEE, the successful bid must be the one scoring the highest score for functionality.
- 3.6 Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

4. POINTS AWARDED FOR PRICE

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

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

80/20

or

90/10

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

Where

- P_s = Points scored for comparative price of bid under consideration
- P_t = Comparative price of bid under consideration
- P_{\min} = Comparative price of lowest acceptable bid

5. Points awarded for B-BBEE Status Level of Contribution

- 5.1 In terms of Regulation 5 (2) and 6 (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	8	16
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

- 5.2 Bidders who qualify as EMEs in terms of the B-BBEE Act must submit a certificate issued by an Accounting Officer as contemplated in the CCA or a Verification Agency accredited by SANAS or a Registered Auditor. Registered auditors do not need to meet the prerequisite for IRBA's approval for the purpose of conducting verification and issuing EMEs with B-BBEE Status Level Certificates.
- 5.3 Bidders other than EMEs must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.
- 5.4 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- 5.5 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- 5.6 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- 5.7 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
- 5.8 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.

6. BID DECLARATION

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

7. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.3.1.2 AND 5.1

7.1 B-BBEE Status Level of Contribution: =(maximum of 10 or 20 points)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or an Accounting Officer as contemplated in the CCA).

8 SUB-CONTRACTING

8.1 Will any portion of the contract be sub-contracted? YES / NO (delete which is not applicable)

8.1.1 If yes, indicate:

- (i) what percentage of the contract will be subcontracted?%
- (ii) the name of the sub-contractor?
- (iii) the B-BBEE status level of the sub-contractor?
- (iv) whether the sub-contractor is an EME? YES / NO (delete which is not applicable)

9 DECLARATION WITH REGARD TO COMPANY/FIRM

9.1 Name of company/firm :

9.2 VAT registration number :

9.3 Company registration number
:

9.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

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

9.6 COMPANY CLASSIFICATION

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

[TICK APPLICABLE BOX]

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

9.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contribution indicated in paragraph 7 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 paragraph 7, 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 contribution 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) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, 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.

SIGNATURE(S) OF BIDDER(S)

2.

DATE:.....

ADDRESS:.....

.....

.....

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

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

Item	Question	Yes	No
4.1	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). The Database of Restricted Suppliers now resides on the National Treasury's website(www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.	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)? The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		

4.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		

SBD 8

CERTIFICATION

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

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

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Standard Bidding Document (SBD) must form part of all bids¹ 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).² 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:

¹ Includes price quotations, advertised competitive bids, limited bids and proposals.

² 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 consortium³ 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.

³ 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.

10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

Js914w 2

THE NATIONAL TREASURY

Republic of South Africa



GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT

July 2010

GOVERNMENT PROCUREMENT
GENERAL CONDITIONS OF CONTRACT
July 2010

NOTES

The purpose of this document is to:

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

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

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

TABLE OF CLAUSES

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34. Prohibition of restrictive practices

General Conditions of Contract

1. Definitions

1. The following terms shall be interpreted as indicated:
 - 1.1 "Closing time" means the date and hour specified in the bidding documents for the receipt of bids.
 - 1.2 "Contract" means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
 - 1.3 "Contract price" means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
 - 1.4 "Corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.
 - 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
 - 1.6 "Country of origin" means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
 - 1.7 "Day" means calendar day.
 - 1.8 "Delivery" means delivery in compliance of the conditions of the contract or order.
 - 1.9 "Delivery ex stock" means immediate delivery directly from stock actually on hand.
 - 1.10 "Delivery into consignees store or to his site" means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
 - 1.11 "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the

RSA.

- 1.12 "Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- 1.13 "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.
- 1.14 "GCC" means the General Conditions of Contract.
- 1.15 "Goods" means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.16 "Imported content" means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.
- 1.17 "Local content" means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- 1.18 "Manufacture" means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.19 "Order" means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20 "Project site," where applicable, means the place indicated in bidding documents.
- 1.21 "Purchaser" means the organization purchasing the goods.
- 1.22 "Republic" means the Republic of South Africa.
- 1.23 "SCC" means the Special Conditions of Contract.
- 1.24 "Services" means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such

obligations of the supplier covered under the contract.

- 1.25 "Written" or "in writing" means handwritten in ink or any form of electronic or mechanical writing.
- 2. Application**
- 2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
- 2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.
- 2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.
- 3. General**
- 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.
- 3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from www.treasury.gov.za
- 4. Standards**
- 4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.
- 5. Use of contract documents and information; inspection.**
- 5.1 The supplier shall not, without the purchaser's prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 5.2 The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.
- 5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.
- 6. Patent rights**
- 6.1 The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof by the purchaser.

7. Performance security

- 7.1 Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.
- 7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.
- 7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:
 - (a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or
 - (b) a cashier's or certified cheque
- 7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified in SCC.

8. Inspections, tests and analyses

- 8.1 All pre-bidding testing will be for the account of the bidder.
- 8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department.
- 8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
- 8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.
- 8.7 Any contract supplies may on or after delivery be inspected, tested or

analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.

- 8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of GCC.

9. Packing

- 9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

- 9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in SCC, and in any subsequent instructions ordered by the purchaser.

10. Delivery and documents

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

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

11. Insurance

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

12. Transportation

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

13. Incidental services

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

- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
- (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
- (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;

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

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

14. Spare parts

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

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

15. Warranty

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

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

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

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

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

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

16. Payment

- 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 contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.

21. Delays in the supplier's performance

- 21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.
- 21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.
- 21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.
- 21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the

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

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

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

22. Penalties

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

23. Termination for default

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

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

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

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

23.4 If a purchaser intends imposing a restriction on a supplier or any

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

23.5 Any restriction imposed on any person by the Accounting Officer / Authority will, at the discretion of the Accounting Officer / Authority, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Accounting Officer / Authority actively associated.

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

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

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

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

24. Anti-dumping and countervailing duties and rights

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

may be due to him

- 25. Force Majeure**
- 25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.
- 25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.
- 26. Termination for insolvency**
- 26.1 The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the purchaser.
- 27. Settlement of Disputes**
- 27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.
- 27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.
- 27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.
- 27.5 Notwithstanding any reference to mediation and/or court proceedings herein,
- (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
- (b) the purchaser shall pay the supplier any monies due the supplier.
- 28. Limitation of liability**
- 28.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6;
- (a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and

		(b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.
29. Governing language	29.1	The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.
30. Applicable law	30.1	The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.
31. Notices	31.1	Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice
	31.2	The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.
32. Taxes and duties	32.1	A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
	32.2	A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
	32.3	No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.
33. National Industrial Participation Programme (NIP)	33.1	The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.
34. Prohibition of Restrictive practices	34.1	In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).
	34.2	If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.

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

Js General Conditions of Contract (revised July 2010)