



MBD1

**PART A  
INVITATION TO BID**

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE MAKHADO LOCAL MUNICIPALITY					
BID NUMBER:	60/ 2022	CLOSING DATE:	19 SEPTEMBER 2022	CLOSING TIME:	12H00
DESCRIPTION	SALE OF COUNCIL LAND ERF 2553, LOUIS TRICHARDT EXTENSION 5				
THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (MBD7).					
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
POSTAL ADDRESS:					
PRIVATE BAG X 2596, MAKHADO, 0920					
STREET ADDRESS					
CIVIC CENTRE, 83 KROGH STREET, MAKHADO.0920					
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
TAX COMPLIANCE STATUS	TCS PIN:		OR	CSD No:	
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]	<input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		<input type="checkbox"/> Yes <input type="checkbox"/> No
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<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 ]
TOTAL NUMBER OF ITEMS OFFERED			TOTAL BID PRICE		R
SIGNATURE OF BIDDER	.....		DATE		
CAPACITY UNDER WHICH THIS BID IS SIGNED					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:			TECHNICAL INFORMATION MAY BE DIRECTED TO:		
DEPARTMENT	BUDGET AND TREASURY	CONTACT PERSON	MR RV PHALANNDWA		
CONTACT PERSON	MS P MUDAU	TELEPHONE NUMBER	015 519 3000		
TELEPHONE NUMBER	015 519 3044	FACSIMILE NUMBER	015 516 6145		
FACSIMILE NUMBER	015 516 6145	E-MAIL ADDRESS	Rudzanip@makhado.gov.za		
E-MAIL ADDRESS	phophimu@makhado.gov.za				

**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 ONLINE</b>	
1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.	
<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 VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.	
2.3 APPLICATION FOR THE TAX COMPLIANCE STATUS (TCS) CERTIFICATE OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.	
2.4 FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART B:3.	
2.5 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.	
2.6 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.	
2.7 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.	
<b>3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>	
3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?	<input type="checkbox"/> YES <input type="checkbox"/> NO
3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO
3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO
3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO
3.5. 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 ABOVE.</b>	

**NB: FAILURE TO PROVIDE ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.  
NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE.**

SIGNATURE OF BIDDER: .....

CAPACITY UNDER WHICH THIS BID IS SIGNED: .....

DATE: .....



# VHEMBE T.V.E.T. COLLEGE

Site no 203, Private Bag X2136, Sibasa, 0970, Limpopo  
• Tel: (015) 963 3156 / 963 3657 • Fax: (015) 963 3154 • E-mail: fetcol@mweb.co.za

## BID / TENDERS INVITATION

BIDS ARE INVITED FOR THE RENDERING OF THE FOLLOWING SERVICES AS INDICATED BELOW:

DESCRIPTION	VENUE	(TENDER) BID NO.	EVALUATION CRITERIA	CLOSING DATE AND TIME	POST DELIVERY TO	AMOUNT
<b>1. RE-Advert</b> <b>Establish of Electronics, Programming, Coding and Robotics</b> <b>Evaluation Criteria:</b> <ul style="list-style-type: none"> <li>• 80/20 scoring points</li> <li>• Valid Tax Clearance Certificate</li> <li>• CK (Certified)</li> <li>• Valid BEE Verification Certificate(Certified)</li> <li>• Proof of Residence of the Company OR Lease agreement</li> <li>• Compliance to Specification obtainable in the Tender Document</li> <li>• Presentation</li> <li>• Price</li> </ul>	Makwarela Campus	VTVT No 30/2021	80/20	19/09/2022 Time: 11h00	Vhembe TVET College, Central Office, Private Bag X2136 Sibasa 0970	R300.00

All Tender document will be obtained as from **6 September 2022, at** Central Office of Vhembe TVET College at Stand No 203, Unit A, Sibasa, Limpopo upon payment of non-refundable amount of **R300.00** deposited to **Vhembe FET Main Account at FNB: A/C No 62051338187**: Branch Code 269149 will be acceptable. No cash and bank guaranteed cheque will be allowed. **Ref number must be the name of the Company.** All bids will remain valid for a period of ninety (90) days after closing date, the time and date of opening tender boxes. Late submissions, telegraphic, telefax or e-mail transmission tender will not be accepted. Vhembe TVET College does not bind itself to accept the lowest or any bid and reserves the right to accept a tender as a whole or in part.

All tenders and supporting documents must be sealed in a cover clearly marked **“Tender Bid Name and Number as well as the station / Campus where it is required”** and must be deposited in the **Tender Box C** at Central Office, Site No 203, Sibasa, Limpopo, not later than **19 September 2022 at 11:00** for all the bids.

**NB: Those who previously purchase need not to pay again.** All enquires can be directed to +27 15 963 7000 OR by email to : tenders@vhembecollege.edu.za

BR Hlekane  
The Principal

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# MAKHADO LOCAL MUNICIPALITY

Tel: (015) 519 3000 Fax: (015) 516 1195 • 83 Krogh Street, Louis Trichardt • Private Bag X2596 Makhado 0920

## TENDER NOTICE

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All suitable service providers are hereby invited to bid for the below mentioned projects. Bidders are requested to bid as per specification attached to the bid documents that will be obtainable from **06 September 2022 at non-refundable amount of R600.00** per document at the Procurement Office No. B043 Ground Floor, 83 Krogh Street, Civic Center, Makhado or can be downloaded from e-tender portal for free <https://etenders.treasury.gov.za/content/advertised-tender> or [www.makhado.gov.za](http://www.makhado.gov.za).

BID NO:	DESCRIPTION	EVALUATION CRITERIA	COMPULSORY BRIEFING SESSION	SPECIAL REQUIREMENT	TECHNICAL ENQUIRIES	REFERENCE AND NOTICE NO.	CLOSING DATE AND TIME
60 of 2022	Sale of Council Land Erf2553, Louis Trichardt Extension 5 Size: 1,5027 ha	The highest offer will be considered Current Market value: R 660 000.00		Letter from the Bank or stamped Bank rating (Confirming financial position).	Acting director development and planning: Mr RV Phalanndwa or Mr ED Fungene at 0155193000	8/3/2/1904 Notice no: 113/2022	19 September 2022 at 12H00pm
61 of 2022	Supply and delivery of Jump stamper	80/20 preferential points			Acting director technical services : Mr MG Ralishuku or Ms M Ramaru at 0155193000	8/3/2/1905 Notice no: 114/2022	19 September 2022 at 12H00pm
62 of 2022	Supply, delivery of material, labour and construction of Ha- Mashau paypoint office, Guardroom and septic tank	80/20 score points	07 September 2022 at 10:00am At Mashau paypoint office, Mashau thondoni village	• CIDB grading 02GB or higher	Acting director technical services: Mr MG Ralishuku or Mr TP Mashau at 0155193000	8/3/2/1906 Notice no: 115/2022	23 September 2022 at 12H00pm
63 of 2022	Supply, delivery of material, labour and construction of Ha- Mudimeli paypoint office, Guardroom and septic tank	80/20 score points	08 September 2022 at 12:00pm At Mudimeli paypoint office, Mudimeli village	CIDB grading 02GB or higher	Acting director technical services: Mr MG Ralishuku or Mr TP Mashau at 0155193000	8/3/2/1907 Notice no: 116/2022	23 September 2022 at 12H00pm
64 of 2022	Supply, delivery of material, labour and construction of Tshiendeulu paypoint office, Guardroom and septic tank	80/20 score points	09 September 2022 at 12:00pm At Tshiendeulu pay point, Tshiendeulu village	CIDB grading 02GB or higher	Acting director technical services: Mr MG Ralishuku or Mr TP Mashau at 0155193000	8/3/2/1908 Notice no: 117/2022	23 September 2022 at 12H00pm
65 of 2022	Re-advertisement: Upgrading Of Dzanani Vehicle Testing Station From Grade “B” To “A” And Calibration	80/20 preferential points	12 September 2022 at 10:00am at Dzanani vehicle testing station, Dzanani region		Acting director Community services: Mr HJ Lukheli or Mr B Mokiri at 0155193000	8/3/2/1909 Notice no: 118/2022	23 September 2022 at 12H00pm
66 of 2022	Printing, Mail Processing And Posting Of Consumer Statements For The Period Of Three (03) Years	80/20 preferential points with functionality	12 September 2022 at 14:30pm at Council chamber, first floor, 83 Krogh street, Makhado.	Attach certified copy of PAMSS certificate.	Acting Chief financial officer: Mr NG Raliphada or Mr R Radzilani at 0155193000	8/3/2/1910 Notice no: 119/2022	03 October 2022 at 12H00pm

Completed bid documents signed by a duly authorized person, sealed in an envelope clearly marked **“As mentioned above”** must reach the undersigned by depositing it into the tender box at the foyer of the main entrance to the Civic Centre by not later than **“As mentioned above”** when all tenders received will be opened in public in the Council Chamber, Ground Floor, Civic Centre, No.83 Krogh Street, Makhado.

The Municipality is not bound to accept the lowest or any bid and reserves the right to accept any part of a bid. Bids must remain valid for a period of ninety (90) days after closing date of submission thereof. Submitted tenders will be evaluated as mentioned above table.

Bids which are late, incomplete, unsigned or submitted in pencil or by telegraph or facsimile or electronically by e-mail, or not having the following documents attached for evaluation or not complying with the tender specifications, will not be evaluated and will be disqualified:

- Valid Tax compliance status pin issued by SARS
- A copy of company registration documents CK
- Certified copy/copies of company owner(s) ID book(s), not older than three (03) months.
- Attach proof of payment for municipal rates not owing for more than (03) months or formal lease agreement for rental premises or letter from the traditional authority in cases of non-ratable areas. (Attach for both entity and directors of the company)
- Copy of central supplier database report.

- NB:**
- **Service provider must submit their certified BBBEE verification certificate from verification agency accredited by South African National Accreditation system (SANAS) or sworn affidavit.**
  - **All Service Provider doing business with Makhado municipality are required to register on the CSD (Central Supplier Database).**
  - **A copy of a certified copy will not be accepted.**

All procurement enquiries should be directed to Ms. P Mudau at tel no. (015) 519 3044/3024

Civic Centre  
83 Krogh Street  
Louis Trichardt

**MR KM NEMANAME**  
**ACTING MUNICIPAL MANAGER**



## SPECIFICATION AND CONDITIONS ASSOCIATED WITH THE PROPERTIES (ERF 2553 LOUIS TRICHARDT EXTENSION 5)

The Municipality will not offer discount and the bid will be awarded to the highest bidder provided that all information required have been submitted together with the bid document. **Bidders who offered lower than Market Value as mentioned below on table will not be considered.**

NO	DECSRIPTION	EXTENT/HA	MARKET VALUE	BIDDER'S OFFER
1	SALE OF COUNCIL LAND ERF2553, LOUIS TRICHARDT EXTENSION 5	1 5027 ha	R 660 000.00	R

**SIGNATURE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

The development of the properties will be subject to the Conditions which will be stipulated in the deed of sale agreement and Municipal Land Sale and Lease Policy, 2018, Council resolution and Municipality Land-Use Scheme. The properties must be developed within two years which is subject to an extension of one year.

In terms of the Makhado Land Use Scheme, 2009, the properties are zoned “Municipal” and the following uses are permitted:

Uses Permitted	Uses Permitted only with the Special Consent of Local Municipality (Clause 22)	Uses Permitted only with the Written Consent of the Local Municipality (Clause 23)	Parking Spaces
Dwelling Unit			1 covered and one dust free per dwelling unit
Aerodrome			
Agricultural Use			
Camping Site			
Cemetery			
Social Hall			6 per 100m <sup>2</sup> GLFA
Dumping Site			
Multi-Purpose Centre			6 per 100m <sup>2</sup> GLFA
Municipal Purposes			
Nature Conservation Purposes			

Parking			
Recreation			
Reservoir			
Sewerage Farm			
		Informal Business	
	Telecommunication Mast		
	Taxi Rank		

The Municipality want the properties to be utilised for Business purpose and the successfully Bidder will be allowed to rezone the property or properties to “Business 1”. In terms of the Makhado Land Use Scheme, 2009, uses permitted under “Business 1” are as follows:

<b>Uses Permitted</b>	<b>Uses Permitted only with the Special Consent of Local Municipality (Clause 22)</b>	<b>Uses Permitted only with the Written Consent of the Local Municipality (Clause 23)</b>	<b>Parking Spaces</b>
Dwelling Unit/s			As per Makhado Land Use Scheme, 2009
Flats			
Residential Building			
Hotel			
Multi-Purpose Centre			
Offices/Medical Consulting Rooms			
Parking Garage			
Institution			
Place of Instruction			
Place of Public Worship			
Social Hall			
Restaurant			
Shops			
Tavern			
Vehicle Sales Lot			
Fitness Centre			
		Bakery	
	Commercial Use		
	Conference Facility		
		Dry Cleaner	
	Filling Station		

		Funeral Parlour	
		Informal Business	
		Place of Amusement	
	Public Garage		
	Public Phone Shop		
		Service Industry	
	Telecommunication Mast		
	Wholesale Trade		

The successful bidder must also adhere to the conditions contained on the Deed of sale and the Title Deed. Bidder must provide the proposed land use as per uses provided on Business zone indicated on the table above.

**Definitions of some of the Primary and Secondary Rights are as follow:**

**“BAKERY”** – Means a building in which bread, rusks, biscuits, pies, pastries, confectionery and other baked products are produced in bulk for distribution to wholesalers and/or retailers, as well as such retail as may be approved by the local municipality”.

**“COMMERCIAL USE”** – Means uses such as distribution centres, wholesale trade, storage, warehouses, cartage and transport services, laboratories and computer centres and may include offices that are ancillary and subservient to the commercial use of the land”.

**“CONFERENCE FACILITY”** – Means a building designed for use or used as a temporary lecture hall, training facility, conducting of workshops, meetings, conferences, symposiums and related uses, but does not include “Institution” and “Place of Instruction”.

**“DWELLING UNIT”** – Means an interconnected suite of rooms which does not include more than one kitchen, designed for occupation and use by single family or extended family and which may include such outbuildings and domestic staff quarters as are ordinarily incidental thereto.

**“FLATS”** – Means a group of dwelling units contained within a building consisting of one or more floors with a communal entrance.

**“RESIDENTIAL BUILDING”** – Means a building, other than a “dwelling unit”, group housing, hotel, flat and institution, that is designed for and used as a boarding house, residential club, hostel, residential hotel or rooms to let. The rooms within or forming part of a residential building shall not include any kitchen of their own.

**“HOTEL”** – Means a facility offering transient lodging accommodation to the general public, and providing additional services, such as restaurants, meeting rooms, entertainment, recreational facilities, and in respect of which a hotel liquor licence has been, or is intended to be, issued under the Liquor Act, 1989 (Act No. 27 of 1989), as amended, but excludes any off-sales facility.

**“MULTI-PURPOSE CENTRE”** – Means a one-stop, integrated community development centre, where communities’ needs for access to information, services, resources and technology from government and non-government sources are addressed.

**“OFFICE”** – Means a building or part thereof, designed or used for administrative, professional and related purposes, including a bank, insurance company, building society, medical consulting rooms and related offices or rooms.

**“MEDICAL CONSULTING ROOMS”** – Means a building designed or adapted as professional rooms for medical practitioners including general practitioners, medical specialists, pathologists, radiologists, dentists, ophthalmologists and similar uses such as veterinary surgeons, and may include a dispensing chemist not exceeding 20m<sup>2</sup> but not uses included in the definition of “Institution”.

**“PARKING GARAGE”** – Means a building, structure or land exclusively used for parking of motor vehicles not intended for retail trade.

**“PLACE OF INSTRUCTION”** – Means a building designed for use as a school, college, technical, or academic institution, crèche, lecture hall, nursery school, after school care centre, or other educational centre and a hostel in connection therewith and includes a convent or monastery, a library, art gallery and a museum.

**“PLACE OF PUBLIC WORSHIP”** – Means land or a building designed for use for religious purposes such as a church, chapel, oratory, prayer house, mosque, synagogue or other place of public devotion, and includes a building designed to be used as a place of religious instruction.

**“RESTAURANT”** – Means a building or part of a building used for the preparation and sale of meals and refreshments, confectionery for consumption on the erf of the property and include entertainment subsidiary to the main use and can include a place of refreshment, as well as a drive-through restaurant.

**“SHOP”** – Means land used or a building designed or used for the purpose of carrying on retail trade and the necessary accompanying storage and packing and includes any accompanying uses on the same property appurtenant but ancillary to the retail trade being carried on. The following uses are not regarded as appurtenant to a shop: A noxious trade, drive-in-restaurant, place of refreshment, scrapyard, parking garage, public garage, vehicle workshop, filling station and warehouse.

**“SOCIAL HALL”** – Means a building designed for use, or used for cultural activities, social meetings, gatherings and recreational purposes, that is not profit seeking in its primary purpose, and includes a non-residential club but excludes a place of amusement.

**“TARVEN”** – Means land or a building designed for or a portion of a building used for the purposes of selling and serving liquor, other beverages and prepared food/snacks, to be consumed on the property.

**“VEHICLE SALES LOT”** – Means land used or a building designed or used for the display and sale of motor vehicles, which are roadworthy and of good outward appearance.

Enquires for the other definitions can also be done before submissions of Bid documents.

## PRICING SCHEDULE – NON-FIRM PRICES (PURCHASES)

**NOTE: PRICE ADJUSTMENTS WILL BE ALLOWED AT THE PERIODS AND TIMES SPECIFIED IN THE BIDDING DOCUMENTS.**

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

Name of Bidder.....	Bid .....
number.....	
Closing Time .....	Closing Date .....

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

ITEM NO.	QUANTITY	DESCRIPTION	BID PRICE IN RSA CURRENCY (INCLUDING VAT)
-------------	----------	-------------	--

- Required by: .....

- At: .....

- Brand and model .....

-

- Country of origin.....

- Does offer comply with specification?      \*YES/NO

- If not to specification, indicate deviation(s) .....

- Period required for delivery .....

- Delivery: \*Firm/not firm

\*Delete if not applicable



## PRICE ADJUSTMENTS

### A NON-FIRM PRICES SUBJECT TO ESCALATION

1. IN CASES OF CONTRACTS, NON FIRM PRICES WILL BE ADJUSTED (LOADED) WITH THE ASSESSED CONTRACT PRICE ADJUSTMENTS IMPLICIT IN NON FIRM PRICES WHEN CALCULATING THE COMPARATIVE PRICES

2. IN THIS CATEGORY PRICE ESCALATIONS WILL ONLY BE CONSIDERED IN TERMS OF THE FOLLOWING FORMULA:

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

Where:

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

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

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

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

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

FACTOR (D1, D2 etc. eg. Labour, transport etc.)	PERCENTAGE OF BID PRICE

**B PRICES SUBJECT TO RATE OF EXCHANGE VARIATIONS**

1. Please furnish full particulars of your financial institution, state the currencies used in the conversion of the prices of the items to South African currency, which portion of the price is subject to rate of exchange variations and the amounts remitted abroad.

PARTICULARS OF FINANCIAL INSTITUTION	ITEM NO	PRICE	CURRENCY	RATE	PORTION OF PRICE SUBJECT TO ROE	AMOUNT IN FOREIGN CURRENCY REMITTED ABROAD
				ZAR=		
				ZAR=		
				ZAR=		
				ZAR=		
				ZAR=		
				ZAR=		

2. Adjustments for rate of exchange variations during the contract period will be calculated by using the average monthly exchange rates as issued by your commercial bank for the periods indicated hereunder: (Proof from bank required)

AVERAGE MONTHLY EXCHANGE RATES FOR THE PERIOD:	DATE DOCUMENTATION MUST BE SUBMITTED TO THIS OFFICE	DATE FROM WHICH NEW CALCULATED PRICES WILL BECOME EFFECTIVE	DATE UNTIL WHICH NEW CALCULATED PRICE WILL BE EFFECTIVE

**DECLARATION OF INTEREST**

1. No bid will be accepted from persons in the service of the state\*.
2. Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to persons in service of the state, it is required that the bidder or their authorised representative declare their position in relation to the evaluating/adjudicating authority and/or take an oath declaring his/her interest.
3. In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.
  - 3.1 Full Name: .....
  - 3.2 Identity Number: .....
  - 3.3 Company Registration Number: .....
  - 3.4 Tax Reference Number: .....
  - 3.5 VAT Registration Number: .....
  - 3.6 Are you presently in the service of the state\* **YES / NO**
    - 3.6.1 If so, furnish particulars.  
.....  
.....
  - 3.7 Have you been in the service of the state for the past twelve months? **YES / NO**
    - 3.7.1 If so, furnish particulars.  
.....
  - 3.8 Do you, have any relationship (family, friend, other) with persons in the service of the state and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**
    - 3.8.1 If so, furnish particulars.  
.....  
.....

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\* MSCM Regulations: "in the service of the state" means to be –

- (a) a member of –
  - (i) any municipal council;
  - (ii) any provincial legislature; or
  - (iii) the national Assembly or the national Council of provinces;
- (b) a member of the board of directors of any municipal entity;
- (c) an official of any municipality or municipal entity;
- (d) an employee of 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);
- (e) a member of the accounting authority of any national or provincial public entity; or
- (f) an employee of Parliament or a provincial legislature.

3.9 Are you, aware of any relationship (family, friend, other) between a bidder and any persons in the service of the state who may be involved with the evaluation and or adjudication of this bid?

3.9.1 If so, furnish particulars YES / NO

.....  
.....

3.10 Are any of the company's directors, managers, principle shareholders or stakeholders in service of the state? YES / NO

3.10.1 If so, furnish particulars.

.....  
.....

3.11 Are any spouse, child or parent of the company's directors YES / NO

Managers, principle shareholders or stakeholders in service of the state

3.11.1 If so, furnish particulars.

.....  
.....

**CERTIFICATION**

I, THE UNDERSIGNED (NAME) ..... CERTIFY THAT THE INFORMATION  
FURNISHED ON THIS DECLARATION FORM IS CORRECT. I ACCEPT THAT THE STATE MAY ACT AGAINST ME SHOULD THIS  
DECLARATION PROVE TO BE FALSE.

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

## 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 systems are applicable to all bids:

- the 80/20 system for requirements with a Rand value of up to R1 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R1 000 000 (all applicable taxes included).

1.2 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.

1.3 Preference points for this bid shall be awarded for:

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

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

	POINTS
PRICE	80
B-BBEE STATUS LEVEL OF CONTRIBUTION	20
<b>Total points for Price and B-BBEE must not exceed</b>	<b>100</b>

1.5 Failure on the part of a bidder to 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 a sworn affidavit confirming annual turnover and level of black ownership in case of an EME and QSE 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) **“all applicable taxes”** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- (b) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (c) **“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;
- (d) **“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;
- (e) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003) as amended by Act No 46 of 2013;

- (f) **“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;
- (g) **“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;
- (h) **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;
- (i) **“EME”** means an Exempted Micro Enterprise as defines by Codes of Good Practice issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (j) **“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;
- (k) **“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;
- (l) **“non-firm prices”** means all prices other than “firm” prices;
- (m) **“person”** includes a juristic person;
- (n) **“QSE”** means a Qualifying Small Enterprise as defines by Codes of Good Practice issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 ( Act No. 53 of 2003);
- (o) **“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;
- (p) **“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;
- (q) **“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;
- (r) **“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
- (s) **“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:

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

Where

Ps = Points scored for comparative price of bid under consideration

Pt = Comparative price of bid under consideration

Pmin = 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	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

- 5.2 A bidder who qualifies as an EME in terms of the B-BBEE Act must submit a sworn affidavit confirming Annual Total Revenue and Level of Black Ownership.
- 5.3 A Bidder other than EME or QSE 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 1.4 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 a sworn affidavit.

**8. SUB-CONTRACTING**

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

(Tick applicable box)

YES		NO	
-----	--	----	--

8.1.1 If yes, indicate:

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

(Tick applicable box)

YES		NO	
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**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 MUNICIPAL INFORMATION**

**Municipality where business is situated:** .....

**Registered Account Number:** .....

**Stand Number:**.....

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

9.9 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-BBEE 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. ....

2. ....

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

DATE: .....

ADDRESS .....

.....

.....

## CONTRACT FORM - SALE OF GOODS/WORKS

**THIS FORM MUST BE FILLED IN DUPLICATE BY BOTH THE SUCCESSFUL BIDDER (PART 1) AND THE SELLER (PART 2). BOTH FORMS MUST BE SIGNED IN THE ORIGINAL SO THAT THE SUCCESSFUL BIDDER AND THE SELLER 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 purchase all or any of the goods and/or works described in the attached bidding documents from **MAKHADO LOCAL MUNICIPALITY** in accordance with the requirements stipulated in bid number: **60 of 2022** at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the seller 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)
    - Preference claims in terms of the Preferential Procurement Regulations 2001
    - Declaration of interest
    - 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) quoted cover all the goods and/or works specified in the bidding documents; that the price(s) cover all my obligations and I accept that any mistakes regarding price(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 undertake to make payment for the goods/works as specified in the bidding documents.
6. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
7. 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 - SALE OF GOODS/WORKS****PART 2 (TO BE FILLED IN BY THE SELLER)**

1. I **MK NEMANAME** in my capacity as **municipal manager** accept your bid under reference number 8/3/2/1904 dated.....for the purchase of goods/works indicated hereunder and/or further specified in the annexure(s).
2. I undertake to make the goods/works available in accordance with the terms and conditions of the contract.

ITEM NO.	DESCRIPTION	PRICE (VAT INCL)	POINTS CLAIMED FOR HDI'S	POINTS CLAIMED FOR RDP GOALS
01	SALE OF COUNCIL LAND ERF 2553, LOUIS TRICHARDT 5 Size :1.5027 ha			

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

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

NAME (PRINT) .....

SIGNATURE .....

OFFICIAL STAMP

WITNESSES

1. ....

2. ....

DATE .....

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

- 1 This Municipal Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by municipalities and municipal entities 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 rejected if that bidder, or any of its directors have:
  - a. abused the municipality's / municipal entity's supply chain management system or committed any improper conduct in relation to such system;
  - b. been convicted for fraud or corruption during the past five years;
  - c. willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
  - d. been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- 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 of law outside 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:		
<b>Item</b>	<b>Question</b>	<b>Yes</b>	<b>No</b>
4.4	Does the bidder or any of its directors owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		
4.5	Was any contract between the bidder and the municipality / municipal entity or any other 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"/>
4.7.1	If so, furnish particulars:		

### CERTIFICATION

I, THE UNDERSIGNED (FULL NAME) ..... CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM 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 Municipal Bidding Document (MBD) 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 *per se* prohibition meaning that it cannot be justified under any grounds.
  
- 3 Municipal Supply Regulation 38 (1) prescribes that a supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer, among others, to:
  - a. take all reasonable steps to prevent such abuse;
  - b. reject the bid of any bidder if that bidder or any of its directors has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system; and
  - c. cancel a contract awarded to a person if the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.
  
- 4 This MBD 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 (MBD 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 Municipality / Municipal Entity)

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

<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.**

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

Js9141w 4





# **THE NATIONAL TREASURY**

**Republic of South Africa**



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## **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.

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## **General Conditions of Contract**

### **1. Definitions**

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

RSA.

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

obligations of the supplier covered under the contract.

- 1.25 “Written” or “in writing” means handwritten in ink or any form of electronic or mechanical writing.

## **2. Application**

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

## **3. General**

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

## **4. Standards**

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

## **5. Use of 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.
<b>29. Governing language</b>	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.
<b>30. Applicable law</b>	30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.
<b>31. Notices</b>	<p>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</p> <p>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.</p>
<b>32. Taxes and duties</b>	<p>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.</p> <p>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.</p> <p>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.</p>
<b>33. National Industrial Participation Programme (NIP)</b>	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.
<b>34 Prohibition of Restrictive practices</b>	<p>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).</p> <p>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.</p>

- 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.