



cooperative governance

Department:
Cooperative Governance
REPUBLIC OF SOUTH AFRICA



Municipal Infrastructure Support Agent (MISA)

Cooperative Governance & Traditional Affairs (CoGTA)

REPUBLIC OF SOUTH AFRICA

REQUEST FOR PROPOSALS (RFP)

APPOINTMENT OF A SERVICE PROVIDER TO DESIGN, LAYOUT AND PRINT PLANNING AND REPORTING DOCUMENTS FOR THE MUNICIPAL INFRASTRUCTURE SUPPORT AGENT

March 2021

Beneficiary	Municipal Infrastructure Support Agent
Contact Person	Ms. Lumka Tyikwe: 012 848 5300 Lumka.Tyikwe@misa.gov.za
Postal Address	1303 Heuwel Avenue, Riverside Office Park, Letaba House, Centurion 0046
Project Name	Appointment of a service provider to provide the design, layout and printing of MISA Planning and Reporting Documents for a period of 36 months.
Reference No.	MISA/ESS/DLP/002/2021
Closing Date and time	07 June 2021 @11:00am

End User: 
1

TABLE OF CONTENTS

	Page
1. Invitation	3
2. MISA Information	3
3. Background	4
4. Objectives	5
5. Duration	6
6. Scope of work	6
7. Experience and Competency	9
7.1. Experience and Competency	9
7.2. Printing Facilities	10
8. Proposal Format	10
9. Project Deliverables	10
10. Reporting and Performance Evaluation	12
11. Evaluation of Proposals	13
11.3.1. Stage 1: Pre-Qualification	13
11.3.2. Stage 2: Evaluation on Functionality	14
11.3.3. Stage 3: Price and BBEEE	15
12. Costing and Payment	16
13. MISA's Rights	17
14. General	18
15. Monitoring and Evaluation	19
16. Briefing Session	19
17. Submission of Proposals	19
18. Period for Acceptance of Proposals	19
19. Modification, Withdrawal, Mistakes, and Minor Informalities	20
20. Communication with MISA Officials	20
21. Confidentiality	20
22. Questions and requests for Clarifications	20

1. INVITATION

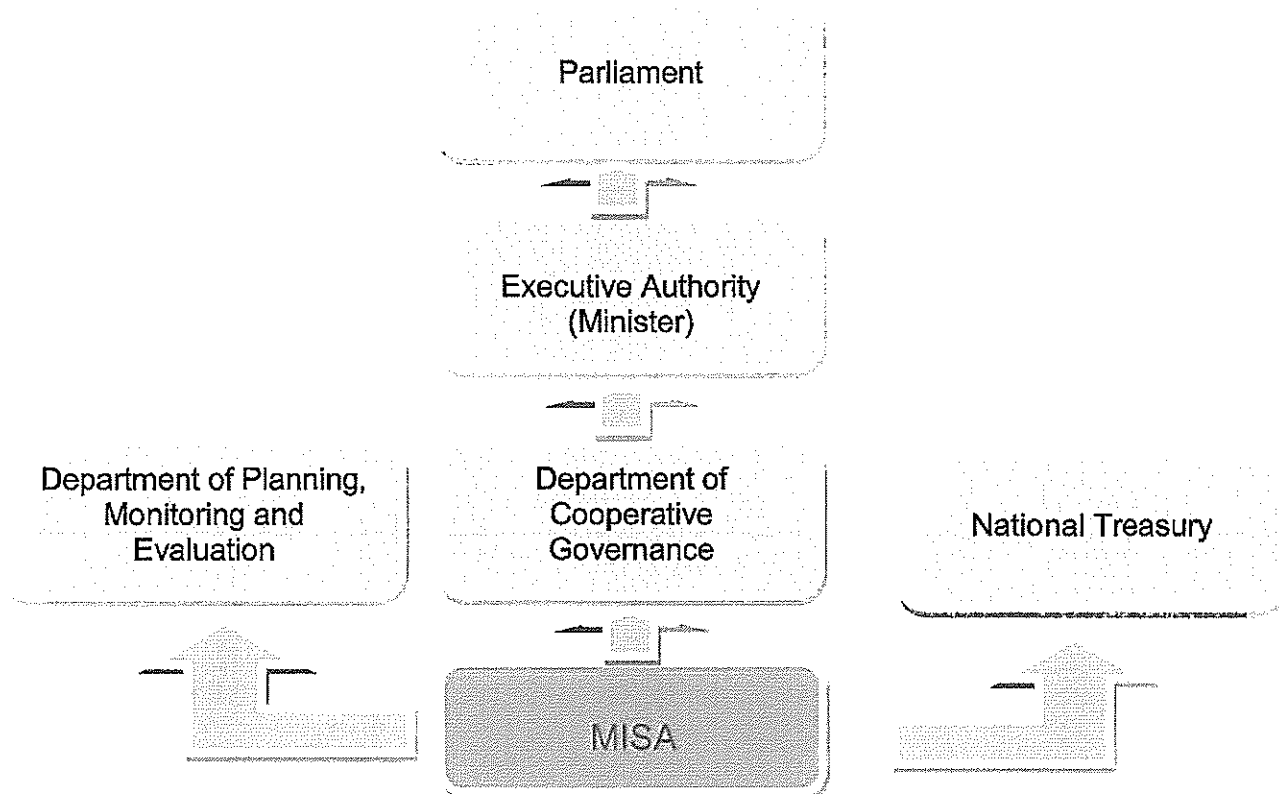
- 1.1. The purpose of this request for proposals (RFP) is the appointment of a service provider to provide the design, layout and printing of MISA's Strategic Plans, Annual Performance Plans, Annual Report and other related documents (herein under referred to as the "planning and reporting documents").

2. MISA INFORMATION

- 2.1. Municipal Infrastructure Support Agent (MISA) was established as a government component accountable to the Executive Authority of Cooperative Governance and Traditional Affairs (COGTA).
- 2.2. MISA is a special purpose vehicle whose primary mandate is to coordinate and provide technical support to municipalities to facilitate sustainable municipal infrastructure provisioning and management.
- 2.3. MISA's primary function is to support municipalities in infrastructure planning, development and management, operations and maintenance as well as building technical capacity for effective delivery and management of municipal infrastructure. The functions of MISA as outlined in the operational notice includes:
- To support municipalities to conduct effective infrastructure planning to achieve sustainable service delivery.
 - To support and assist municipalities with the implementation of infrastructure projects as determined by the municipal Integrated Development Plans (IDPs);
 - To support and assist municipalities with the operation and maintenance of municipal infrastructure.
 - To build the capacity of municipalities to undertake effective planning, delivery, operations, and maintenance of municipal infrastructure; and
 - Any functions that may be deemed ancillary to those listed above.
- 2.4. MISA is required, in terms of its mandate and the provisions of the Public Finance Management Act, Act 1 of 1999 (as amended), to submit strategic plans, annual performance plans and annual performance reports. These planning and reporting documents must be submitted to:
- The Executive Authority.
 - The Department of Cooperative Governance.
 - National Treasury.

- Department of Planning, Monitoring and Evaluation; and
- Parliament.

2.5. MISA reporting requirements are depicted in the Figure below:



3. BACKGROUND

- 3.1 MISA as a government component is required to produce on an annual basis both planning and reporting documents as per the legislative and policy prescripts of National Treasury and the Department of Planning, Monitoring and Evaluation, respectively.
- 3.2 MISA is therefore required to report and undertake planning as a public entity within specific timelines as stipulated within the above legislative and policy prescripts.
- 3.3 The process of producing these documents invariably culminate in the tabling of printed copies in Parliament. MISA appoints a service provider to provide the design, layout and printing as and when it is required to produce and table a specific document.
- 3.4 The appointment of a service provider over a period of 36 months allows MISA to enter into a contract with a capable service provider that will be able to provide high quality services in terms of innovation and creativity necessary for modern design

and layout of our planning and reporting documents.

- 3.5 The service provider will be evaluated on an annual basis, with feedback provided to the service provider to ensure that the high performance standards in terms of producing these planning and reporting documents are maintained and consistent adherence to agreed performance measures by the service provider.

4. OBJECTIVES

- 4.1 The objective of this tender is for MISA to appoint and build a relationship with a capable service provider that will be able to provide services in terms of innovation and creativity such as modern design and layout of our planning and reporting documents. This will also allow MISA to continually receive printed documents of high quality over the period of the contract.
- 4.2 The service provider will be required to maintain high standards of quality when designing, layout and printing MISA's planning and reporting documents.
- 4.3 The appointment of the service provider services will be utilized by MISA for a period of 36 months.
- 4.4 The appointed service provider will be evaluated on an annual basis against the following broad performance criteria:
- 4.4.1. Adherence to predetermined timelines for the delivery of the final product;
 - 4.4.2. Quality of the design, layout and printing of the planning and reporting documents;
 - 4.4.3. Responsiveness to the requirements communicated through feedback based on the client's review of work done;
 - 4.4.4. Provision of services in compliance with clearly stated specifications; and
 - 4.4.5. Added value of the contract, in terms of innovation and creativity from the service provider such as modern design and layout of our planning and reporting documents.
- 4.5 A detailed performance evaluation matrix will be signed by both parties as an addendum to the contract to be entered with the appointed service provider.

5 DURATION

- 5.1 MISA would like to appoint a service provider to provide the design, layout and printing of MISA planning and reporting documents for a period of thirty-six (36) months from the appointment date.

6 SCOPE OF WORK

- 6.1. The appointed service provider must be able to performance design, layout, printing services and delivery of the required planning and reporting documents.
- 6.2. The nature of the content of these planning and reporting documents will be as follows:
- 6.2.1. Strategic and Annual Performance Plan

Strategic Plans (SPs)

Purpose

A Strategic Plan sets out an institution's policy priorities, programmes and project plans for a five-year period, as approved by its executive authority, within the scope of available resources. SPs institutionalise the priorities set out in the NDP; the MTSF; Spatial Development Plans (SDPs); provincial, sector and local government priorities; and any other government medium and long term plans. The five-year SP, which is aligned with the planning cycle, gives the institution's impact statement, intended outcomes, related outcome indicators and five-year targets for the outcomes. The SP informs the APP of the institution, whose strategic focus must be linked to the allocated budget based on its mandate.

Focus

SPs focuses on strategic outcomes oriented goals for the institution as a whole, and objectives for each of its main service-delivery areas aligned to its budget programmes and, where relevant, also its budget sub-programmes.

Timeframe

SPs should cover a period of at least five years, ideally from the first planning cycle following an election, linked to the identified outcomes of the Presidency.

Linked to

SPs should take into consideration the MTSF, the provincial growth and development strategies, IDPs of municipalities, Performance Agreements between the President and Ministers and Service Delivery Agreements entered into in

terms of the broad strategic outcomes and any other relevant long term government plans.

Annual Performance Plans (APPs)

Purpose

The APP must describe the institution's intended outputs that will enable it to achieve the outcomes and impact statements in the SP. The outputs must inform the budget and must include the audited performance of the past three planning years, the estimated performance for the current year and forward projections for the medium term period. The annual performance planning process is informed by the strategic planning process.

Focus

APPs sets out output indicators, outputs and targets for budget programmes, and sub-programmes where relevant, to facilitate the institutions realising its goals and objectives set out in the Strategic Plan. Where appropriate, the plan should include a quarterly breakdown of performance targets for the upcoming financial year

Timeframe

APPs covers the upcoming financial year and the MTEF period.

Linked to

APPs should be linked to the Strategic Plan, the budget and the MTEF, and should be informed by any updates to government's long term plans, the MTSP, Government Implementation Action, provincial growth and development strategies and local government IDPs, Performance Agreements between the President and Ministers, Service Delivery Agreements and any other relevant long term government plans.

Planning Timelines for the development of Strategic and Annual Performance Plans

Process	April	October	January	March
Planning	*Strategic Plan (SP)	Draft SP submitted to DPME for comments	SP receive back from DPME with comments	SP tabled at Parliament
	Annual Performance Plan (APP)	Draft APP submitted to DPME for comments	APP receive back from DPME with comments	APP tabled at Parliament

*Strategic Plan (SP) is government's five plan and is only developed after every five years.

Source Documents use in the development of the above planning documents:

- National Development Plan (NDP) 2030
- Medium Term Strategic Framework (MTSF) 2019 – 2024
- Revised Framework for Strategic and Annual Performance Plans
- National Treasury Guidelines

6.2.2. Annual Performance Report

Purpose

The Annual Report provides information on the performance of the institutions in the preceding financial year for the purposes of oversight.

Focus

The Annual Report looks at the institution's performance relative to the targets set in the Annual Performance Plan and provides the audited annual financial statements. It reveals how the budget was implemented and the state of the institution's financial management systems, and should include relevant background statistics and administrative data series.

Timeframe

The timeframes are set out in the PFMA and the Treasury Regulations.

Linked to

The Annual Report should be linked to the implementation of the Annual Performance Plan and budget. All in-year reports assist in the drawing up of the Annual Report, which should be subjected to an annual review and oversight process.

Timelines for the development of Annual Performance Reports (APR)

Process	April	May	July	September
Reporting	Annual Performance Report (APR) process start	Draft APR with draft Annual Financial Statements (AFS) submitted to AGSA for auditing.	Audited APR with AFS receive from AGSA.	Audited APR with AFS tabled at Parliament

Source Documents use in the development of the Annual Performance Report:

- Framework for Managing Programme Performance Information (FMPPi)
- National Treasury Guidelines

- 6.3. The appointed service provider will be furnished with a copy of both the National Treasury Guidelines and the Revised Framework for Strategic and Annual Performance Plans by National Treasury and DPME respectively, for producing annual reports and annual performance plans for Public Entities.
- 6.4. The service provider should be able to provide the design, layout, printing services and delivery of MISA's planning and reporting documents when required to do so.
- 6.5. The physical address for the delivery of printed planning and reporting documents will be MISA Head Office, which is 1303 Heuwel Road, Centurion, Pretoria, Gauteng, 0046.
- 6.6. The quantity of in respect to each document to be delivered at the above address will be 165 copies, together with 6 CD's of our annual reports and 165 copies, together with 6 CD's of our annual performance plans, at the tabling of these documents in Parliament at their respective timelines. The 6 CD's must come with MISA logos printed on them and with the reports loaded onto them. Pictures to be included within our planning and reporting documents should be of high quality.
- 6.7. The service provider is expected to provide the required quantity and quality of planning and reporting documents in accordance with MISA's requirements and specifications to be issued at each point of task assignment.

7 EXPERIENCE AND COMPETENCY

7.1. Experience and Competency

- 7.1.1. The service provider must have a minimum of five (05) years' experience in providing professional design, layout, and printing services.
- 7.1.2. The service provider must have at least three different contactable references with reference letters on the client's letterheads confirming that the service provider had previously completed similar assignments successfully.
- 7.1.3. The service provider should at least provide three samples of previous annual reports or annual performance plans or documents of a similar nature either for the public and/or private sector or public and/or private sector financial entity produced and printed by the supplier as evidence of the suppliers experience as per MISA's specifications.
- 7.1.4. The service provider must submit the CV's of at least two graphic designers of which one of them will be the project leader in terms of the design and layout of the annual reports, strategic plans and annual performance plans.

7.2. Printing Facilities

- 7.2.1. The service provider must within 3 working days after receiving approval of the document prepared for printing from MISA commence with the printing process and ensure that the printed documents are delivered within five (5) days upon starting the printing process.

8 PROPOSAL FORMAT

A detailed proposal in response to these Terms of Reference must be submitted.

The proposal should contain all the information required to evaluate the bid against the requirements stipulated in this Terms of Reference. The following must be attached to the proposal as annexures:

- 8.1. A Company profile.
- 8.2. Three samples of previous Annual Reports and/or Annual Performance Plans and/or other reports produced for a public/private sector and/or public/private sector financial entity.
- 8.3. Three reference letters on the client's letterheads confirming previously completed similar assignments.
- 8.4. The CV's of the two graphic designers of which one will be the project leader in terms of the design and layout of the annual reports and annual performance plans.

9 PROJECT DELIVERABLES

- 9.1. A brief will be provided 6 weeks before expected assignment delivery. Have to accept those brief, with formal costing and then agree on commencement date. A quote to be provided on the brief will be required.
- 9.2. The specifications in the table below in terms of the design, layout, printing and delivery of the required planning and reporting documents are general specifications which should be adhered to at all times by the service provider.

Requirement	Specifications
Format	A4 – Portrait or Landscape
Pages	120 double sided sheets/240 pages (estimated)
Number of Copies	165 hardcopies and 6 CDs twice per year
Binding	Perfect binding to be used
Delivery of Documents	165 hardcopies and 6 soft copies to be delivered to MISA Head Office in Centurion (Pretoria) twice per year.

Documents to be printed over the 36 months period.	
Document	Specifications/Quantity
2021/22 Financial Year	
APR	165 copies [120 double sided sheets/240 pages (estimated)]
APP	165 copies [120 double sided sheets/240 pages (estimated)]
AOP	100 copies [75 double sided sheets/150 pages (estimated)]
TOTAL	430 copies
2022/23 Financial Year	
APR	165 copies [120 double sided sheets/240 pages (estimated)]
APP	165 copies [120 double sided sheets/240 pages (estimated)]
AOP	100 copies [75 double sided sheets/150 pages (estimated)]
Mid-term Assessment Report	165 copies [150 double sided sheets/300 pages (estimated)]
TOTAL	595 copies
2023/24 Financial Year	
APR	165 copies [120 double sided sheets/240 pages (estimated)]
APP	165 copies [120 double sided sheets/240 pages (estimated)]
AOP	100 copies [75 double side sheets/150 pages (estimated)]
TOTAL	430 copies
OVERALL TOTAL	1 455 copies over 36 months

- 9.3. Detailed specifications will be issued to the appointed service provider every time a new task is assigned.
- 9.4. Under normal circumstances, the service provider must be able to deliver within twelve (12) days from the time of request.

- 9.5. Regarding emergency requests, the service provider should be able to deliver within seven (7) days from the time of request. Under unforeseen circumstances, MISA will negotiate with the service provider.
- 9.6. Service provider to ensure that least the graphic designer to be present at all times from the time of request until the final product has been signed off.
- 9.7. All reporting and planning documents should be of the highest quality and acceptable to MISA.
- 9.8. Bidders are expected to indicate their rates as per the table below.

Document	Design and Layout	Printing price per Page	Total Annual Price. Incl. VAT	Total price for the period of 36 months
Annual Performance Report	R	R	R	R
Annual Performance Plan	R	R	R	R
Annual Operational Plan	R	R	R	R
Mid-term Assessment Report*	R	R	R	N/A

***The Mid-term Assessment report is only required for the 2022/23 Financial Year**

10 REPORTING AND PERFORMANCE EVALUATION

- 10.1. The appointed service provider will be reporting to the Project Manager nominated by MISA or his/her delegate.
- 10.2. The appointed service provider will be required to nominate a person from its organisation that will be the contact person in terms of providing regular feedback to MISA from the initial design stage until the documents have been printed and delivered.
- 10.3. MISA will design an evaluation matrix, which will be used in evaluating the service provider on an annual basis. Feedback sessions will then be arranged with the service provider in terms of which areas that requires improvement are identified and improvement plan agreed upon. The evaluation metrics document will be attached as an addendum to the contract to be signed by the successful service provider. It will form an integral part of the contract which means by signing the contract the appointed service provider would agree to be evaluated against the criteria set out in the performance evaluation metrics document.

11 EVALUATION OF PROPOSALS

- 11.1. Proposals will be screened to ensure responsiveness to the requirements of the Request for Proposal (RFP). MISA may reject any proposal as non-responsive that does not provide evidence of the specified mandatory requirements. MISA reserves the right to request additional information and clarification during the evaluation and selection process from any or all bidders regarding their proposals.
- 11.2. To evaluate and adjudicate tenders effectively, it is imperative that bidders submit responsive bids.
- 11.3. Bids will be evaluated in three (03) stages, which are Pre-Compliance, Functionality Evaluation and Price and BBBEE.

11.3.1. Stage 1 – Pre-Compliance

Mandatory documents (without which the bid will be considered non-responsive).

1. Three samples of previous Annual Reports and/or Annual Performance Plans for a public sector and/or public sector financial entity produced.
2. Three reference letters on the client's letterheads confirming previously completed similar assignments, indicating the period when these services were rendered.
3. The CV's (inclusive of certified qualifications) of the two graphic designers of which one will be the project leader in terms of the design and layout of the annual reports and annual performance plans, with 3 or more years of experience each.
4. Completed and appropriately signed SBD forms: SBD 1, SBD 3.1, SBD 4, SBD 6.1, SBD 8 and SBD 9.
5. A copy of the General Conditions of Contract initialled in every page.

N.B Failure to comply with the above requirements will disqualify the bid.

11.3.2. Non-Mandatory documents (required but should not be considered non-responsive in absence of any)

1. CSD Registration Report.
2. BBBEE certificate (certified copy).
3. SARS Pin.

Other Documents

Bidders must ensure that they are registered on the CSD before they submit bid proposals.

11.3.3. Stage 2 – Functionality Evaluation

The following criteria and weights will be applied when bids are assessed in terms of functionality:

Criteria	Weight	Value Score												
<p>1. Tender's experience in design, layout and printing reporting and planning documents in both public and private sector: <u>= 25 points</u></p> <p><5 years = 0</p> <p>≥5 years < 6years = 10</p> <p>6≥ years < 8 years = 15</p> <p>8≥ years < 10 years = 20</p> <p>≥10 years = 25</p>														
<p>2. 2 X Graphic Designer experience in providing design and layout services of reporting and planning documents within the public and private sector (CV must be submitted with relevant experience) <u>= 30 points</u></p> <p>Graphic Designer 1</p> <table><tr><td>< 3 years</td><td>= 0</td></tr><tr><td>≥3 years < 7 years</td><td>= 10</td></tr><tr><td>≥7 Years</td><td>= 15</td></tr></table> <p>Graphic Designer 2</p> <table><tr><td>< 3 years</td><td>= 0</td></tr><tr><td>≥3 years < 7 years</td><td>= 10</td></tr><tr><td>≥7 Years</td><td>= 15</td></tr></table>	< 3 years	= 0	≥3 years < 7 years	= 10	≥7 Years	= 15	< 3 years	= 0	≥3 years < 7 years	= 10	≥7 Years	= 15		
< 3 years	= 0													
≥3 years < 7 years	= 10													
≥7 Years	= 15													
< 3 years	= 0													
≥3 years < 7 years	= 10													
≥7 Years	= 15													
<p>3. 2 X Graphic Designer qualifications <u>= 20 points</u></p> <p>Graphic Designer 1</p> <table><tr><td>National Diploma Graphic Design</td><td>= 5</td></tr><tr><td>B Tech</td><td>= 7.5</td></tr><tr><td>Honours Degree</td><td>= 10</td></tr></table>	National Diploma Graphic Design	= 5	B Tech	= 7.5	Honours Degree	= 10								
National Diploma Graphic Design	= 5													
B Tech	= 7.5													
Honours Degree	= 10													

Criteria	Weight	Value Score						
<p>Graphic Designer 2</p> <table><tr><td>National Diploma Graphic Design</td><td>= 5</td></tr><tr><td>B Tech</td><td>= 7.5</td></tr><tr><td>Honours Degree</td><td>= 10</td></tr></table> <p>4. Number of clients who design layout, printing and delivery of reporting and planning documents was rendered within the public and private sector.</p> <p>Minimum of 3 letters on a client letterhead. <u>= 15 points</u></p> <p>3 letters = 5</p> <p>4 letters = 10</p> <p>5 letters and more = 15</p> <p>5. Delivery methodology and approach <u>= 10 points</u></p> <p>Delivery within 7 days = 10</p> <p>Delivery within 12 days = 5</p> <p>Delivery after 12 days = 0</p>	National Diploma Graphic Design	= 5	B Tech	= 7.5	Honours Degree	= 10		
National Diploma Graphic Design	= 5							
B Tech	= 7.5							
Honours Degree	= 10							
<u>TOTAL</u>		<u>100 Points</u>						
<u>Minimum Threshold</u>		<u>70 Pts</u>						

11.3.3. Stage 3 - Price and BBEE

Points for B-BBEE Status Level of Contribution (P_p)

Maximum of **20 points** are allocated for Preferential Procurement Goal. Preference point 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 point (80/20 system)
1	20
2	18

B-BBEE Status Level of Contributor	Number of point (80/20 system)
3	16
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

Points for Bid Price (P_s)

Maximum of 80 points are allocated to Bid Price on the following basis:

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

Where,

P_s = Points scored for comparative price of the Bid under consideration

P_t = Comparative price of the Bid under consideration

P_{\min} = Comparative price of lowest qualified Bid

A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract.

12 COSTING AND PAYMENT

12.1. Bidders are not required to submit any price quotations for this bid.

12.2. Successful bidders will be approached to quote as and when the need arises.

12.3. The bidder will provide pricing as per the specifications provided.

- 12.4. All prices must be inclusive of VAT (if VAT registered), delivery as well as all deliverables indicated in this ToR.
- 12.5. MISA does not pay any amount in advance. Only original signed invoices must be submitted for payments. The service provider will be paid within 30 days after the services have been fully rendered to the satisfaction of MISA and approval of the invoice. Payment is done by means of electronic transfer directly into the service provider's bank account.

13 MISA's RIGHTS

13.1. MISA reserves the right;

- 13.1.1. To cancel this solicitation in whole or in part, at its sole discretion, at any time before the Agreement is fully executed.
- 13.1.2. To modify or cancel in whole or in part this RFP, to reject any and all proposals, to accept the proposal it considers most favorable to MISA's interests at its sole discretion, and to waive irregularities or informalities in any proposal or in the proposal procedures.
- 13.1.3. To reject all proposals and seek new proposals when MISA considers such a procedure to be in its best interest. If there is any evidence indicating that two (02) or more bidders are in collusion to restrict competition or are otherwise engaged in anti-competitive practices, the proposals of all such bidders shall be rejected, and such evidence may be a cause for disqualification of the participants in any future solicitations issued by MISA.
- 13.1.4. To hold negotiations with any tenderer or qualified company, or to request best and final offers if it is in the best interest of MISA to do so. However, MISA may make an award without conducting any negotiations; therefore, proposers are encouraged to submit their best proposal at the outset.
- 13.2. This RFP does not commit MISA to award an Agreement, to pay any costs incurred by bidders in the preparation of their proposals submitted in response to this RFP, or to procure or contract for services.
- 13.3. Appointment will be subject to the outcome of the vetting process on the recommended bidder.

14 GENERAL

14.1. The Service Provider undertakes to:

- 14.1.1. Conduct business in a courteous and professional manner.
- 14.1.2. Provide the necessary documentation as requested prior to the awarding of the contract.
- 14.1.3. Comply with all relevant employment legislation and applicable bargaining council agreements, including UIF, PAYE, etc. (where applicable)
- 14.1.4. Manage internal disputes among his/her staff in such a way that MISA is not affected by those disputes.
- 14.1.5. Comply with the MISA security and emergency policies, procedures and regulations at MISA premises.
- 14.1.6. Ensure that all staff working on this project are adequately trained prior to the commencement of the project.
- 14.1.7. Ensure that MISA is informed of any changes in staff related to the execution of the project. For security reasons, MISA reserves the right to vet all persons working on this project.

14.2. MISA undertakes to:

- 14.2.1. Manage the contract in a professional manner.
- 14.2.2. Provide appropriate information as and when required and only in situations where it is required by the service provider to fulfil their duties.
- 14.2.3. Not accept any responsibility for any damages suffered by the service provider or their staff for the duration of the project.
- 14.2.4. Not tolerate any unfair labour practices between the service provider and their staff that happen during the execution of the project activities.
- 14.2.5. Not accept any responsibility for accounts/expenses incurred by the service provider that was not agreed upon by the contracting parties.

15 MONITORING AND EVALUATION

- 15.1. MISA or its nominee reserves the right to monitor and evaluate the progress and outcome of this intervention as well as other services provided by the selected service provider; MISA or its nominee reserves the right to replace the service provider if the quality of service rendered is being compromised.

16 SUBMISSION OF PROPOSALS

- 16.1. The Tender Documents will be made available on www.etenders.gov.za and will be uploaded on the e-Tender Portal. The Tender Documents are not for sale and will also not be emailed to bidders. The Tender Documents must reach the offices of the MISA before **07 June 2021** and must be enclosed in a sealed envelope which must be clearly inscribed on the outside:

17.1 BID REFERENCE NUMBER: MISA/ESS/DLP/002/2021

17.2 CLOSING DATE & TIME: 07 June 2021 @11:00AM

Tender documents are to be submitted to MISA Reception and deposited in the tender box. (At MISA Offices, 1303 Heuwel Road, Riverside Office Park, Letaba House, Centurion, 0046).

18. PERIOD FOR ACCEPTANCE OF PROPOSALS

- 18.1. To allow for adequate evaluation, MISA requires a response to this solicitation to be valid and irrevocable for 90 days after submittal date and time.
- 18.2. No bidder may withdraw a proposal within 90 days after the proposal due date. A mistake on the part of the bidder in preparing the proposal confers no right for the withdrawal of the proposal after it has been opened.
- 18.3. Should there be valid reasons why the Agreement cannot be awarded within the specified period; the time may be extended by mutual agreement between MISA and the bidder(s).

19. MODIFICATION, WITHDRAWAL, MISTAKES, AND MINOR INFORMALITIES

- 19.1. Proposals may be modified or withdrawn prior to the established due date via email or mail request. Please refer to section 22, "Questions and Requests for Clarifications" for contact information

20. COMMUNICATION WITH MISA OFFICIALS

- 20.1. Bidders and their representatives may not communicate with MISA officials except in writing and if the communication is made public.
- 20.2. Bidders and their representatives must communicate in the manner set forth in this RFP. There shall be no communication with MISA officials except as may be reasonably necessary to carry out the procedures specified in this RFP.
- 20.3. Nothing herein prohibits bidders and their representatives from making oral statements or presentations in public to one or more MISA officials during a public meeting.

21. CONFIDENTIALITY

- 21.1. All responses to this RFP become property of MISA and will be kept confidential until a recommendation for award of a contract has been announced. Thereafter, submittals are subject to public inspection and disclosure in accordance with the provisions of applicable legislation.

22 QUESTIONS AND REQUESTS FOR CLARIFICATIONS

- 22.1. Bidders must carefully examine the bid documents and in the event of doubt of anything contained in the documents.
- For SCM queries please contact the following person:
Ms. L. Tyikwe
Tel: (012) 848 5325
E-mail: lumka.tyikwe@misa.gov.za

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)							
BID NUMBER:		CLOSING DATE:		CLOSING TIME:			
DESCRIPTION							
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)							
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO				TECHNICAL ENQUIRIES MAY BE DIRECTED TO:			
CONTACT PERSON				CONTACT PERSON			
TELEPHONE NUMBER				TELEPHONE NUMBER			
FACSIMILE NUMBER				FACSIMILE NUMBER			
E-MAIL ADDRESS				E-MAIL ADDRESS			
SUPPLIER INFORMATION							
NAME OF BIDDER							
POSTAL ADDRESS							
STREET ADDRESS							
TELEPHONE NUMBER		CODE			NUMBER		
CELLPHONE NUMBER							
FACSIMILE NUMBER		CODE			NUMBER		
E-MAIL ADDRESS							
VAT REGISTRATION NUMBER							
SUPPLIER COMPLIANCE STATUS		TAX COMPLIANCE SYSTEM PIN:			OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE		TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No	
[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 THE QUESTIONNAIRE BELOW]	
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS							
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?				<input type="checkbox"/> YES <input type="checkbox"/> NO			
DOES THE ENTITY HAVE A BRANCH IN THE RSA?				<input type="checkbox"/> YES <input type="checkbox"/> NO			
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?				<input type="checkbox"/> YES <input type="checkbox"/> NO			
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?				<input type="checkbox"/> YES <input type="checkbox"/> NO			
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?				<input type="checkbox"/> YES <input type="checkbox"/> NO			
IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.							

PART B TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:
1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED--(NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.
1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
1.4. THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).
2. TAX COMPLIANCE REQUIREMENTS
2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
2.6 WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

NB: FAILURE TO PROVIDE / OR COMPLY WITH ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.

SIGNATURE OF BIDDER:

.....

CAPACITY UNDER WHICH THIS BID IS SIGNED:

(Proof of authority must be submitted e.g. company resolution)

.....

DATE:

.....

PRICING SCHEDULE – FIRM PRICES (PURCHASES)

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

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

Name of bidder.....	Bid number.....
Closing Time 11:00	Closing date.....

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

BID PRICE IN RSA CURRENCY

** (ALL APPLICABLE TAXES INCLUDED)

Item No.	Item Description	QTY	Unit Price	Total Price (vat exclusive)	Total Price (vat inclusive)

- Required by:
- At:
- Brand and model
- Country of origin
- Does the offer comply with the specification(s)? *YES/NO
- If not to specification, indicate deviation(s)
- Period required for delivery
*Delivery: Firm/not firm
- Method of Delivery

Note: All delivery costs must be included in the bid price, for delivery at the prescribed destination.

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

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

YES/NO

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

YES/NO

[illegible][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 2017

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

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

1. GENERAL CONDITIONS

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

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

1.2

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

1.3 Points for this bid shall be awarded for:

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

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

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

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

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

2. DEFINITIONS

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

3. POINTS AWARDED FOR PRICE

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

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

80/20

or

90/10

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

Where

P_s = Points scored for price of bid under consideration

P_t = Price of bid under consideration

P_{\min} = Price of lowest acceptable bid

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

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

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

5. BID DECLARATION

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

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

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

7. SUB-CONTRACTING

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

(Tick applicable box)

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

7.1.1 If yes, indicate:

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

(Tick applicable box)

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

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

Designated Group: An EME or QSE which is at last 51% owned by:	EME √	QSE √
Black people	<input type="checkbox"/>	<input type="checkbox"/>
Black people who are youth	<input type="checkbox"/>	<input type="checkbox"/>
Black people who are women	<input type="checkbox"/>	<input type="checkbox"/>
Black people with disabilities	<input type="checkbox"/>	<input type="checkbox"/>
Black people living in rural or underdeveloped areas or townships	<input type="checkbox"/>	<input type="checkbox"/>
Cooperative owned by black people	<input type="checkbox"/>	<input type="checkbox"/>

Black people who are military veterans		
OR		
Any EME		
Any QSE		

8. DECLARATION WITH REGARD TO COMPANY/FIRM

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

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

- ☐ Partnership/Joint Venture / Consortium
 - ☐ One person business/sole propriety
 - ☐ Close corporation
 - ☐ Company
 - ☐ (Pty) Limited
- [TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

.....

.....

.....

.....

8.6 COMPANY CLASSIFICATION

- ☐ Manufacturer
 - ☐ Supplier
 - ☐ Professional service provider
 - ☐ Other service providers, e.g. transporter, etc.
- [TICK APPLICABLE BOX]

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

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

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a

fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –

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

WITNESSES

1.

2.

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

DATE:

ADDRESS

.....

.....

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

Js365bW

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 *per 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

GOVERNMENT PROCUREMENT
GENERAL CONDITIONS OF CONTRACT

NOTES

The purpose of this document is to:

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

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

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

TABLE OF CLAUSES

1. Definitions
2. Application
3. General
4. Standards
5. Use of contract documents and information: inspection
6. Patent rights
7. Performance security
8. Inspections, tests and analysis
9. Packing
10. Delivery and documents
11. Insurance
12. Transportation
13. Incidental services
14. Spare parts
15. Warranty
16. Payment
17. Prices
18. Contract amendments
19. Assignment
20. Subcontracts
21. Delays in the supplier's performance
22. Penalties
23. Termination for default
24. Dumping and countervailing duties
25. Force Majeure
26. Termination for insolvency
27. Settlement of disputes
28. Limitation of liability
29. Governing language
30. Applicable law
31. Notices
32. Taxes and duties
33. National Industrial Participation Programme (NIPP)

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 consignee's 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 markets its goods on its 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 | <p>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.</p> <p>2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.</p> <p>2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.</p> |
| 3. General | <p>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.</p> <p>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</p> |
| 4. Standards | <p>4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.</p> |
| 5. Use of contract documents and information; inspection. | <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> |
| 6. Patent rights | <p>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.</p> |
| 7. Performance security | <p>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.</p> |

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

**8. Inspections,
tests and
analyses**

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

supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.

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

9. Packing

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

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

10. Delivery and documents

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

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

11. Insurance

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

12. Transportation

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

13. Incidental services

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

- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
- (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
- (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
- (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and

- (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.
- 13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.
- 14. Spare parts
 - 14.1 As specified in SCC, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:
 - (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and
 - (b) in the event of termination of production of the spare parts:
 - (i) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
 - (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.
- 15. Warranty
 - 15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.
 - 15.2 This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in SCC.
 - 15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.
 - 15.4 Upon receipt of such notice, the supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.
 - 15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

- | | |
|------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 16. Payment | <p>16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.</p> <p>16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.</p> <p>16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.</p> <p>16.4 Payment will be made in Rand unless otherwise stipulated in SCC.</p> |
| 17. Prices | <p>17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized in SCC or in the purchaser's request for bid validity extension, as the case may be.</p> |
| 18. Contract amendments | <p>18.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.</p> |
| 19. Assignment | <p>19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.</p> |
| 20. Subcontracts | <p>20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contract if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.</p> |
| 21. Delays in the supplier's performance | <p>21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.</p> <p>21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.</p> <p>21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.</p> <p>21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the 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.</p> |

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.