



human settlements

Department:
Human Settlements
North West Provincial Government
REPUBLIC OF SOUTH AFRICA

PLANNING & TECHNICAL SERVICES

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TERMS OF REFERENCE

**APPOINTMENT OF TURNKEY DEVELOPER FOR
THE DESIGN & INSTALLATION OF INTERNAL
SERVICES FOR 272 SITES IN TLHABOLOGANG
EXTENSION 8
DITSOBOTLA LOCAL MUNICIPALITY**

NGAKA MODIRI MOLEMA DISTRICT

BID NUMBER: DHS 06- 2019/20

**VALIDITY PERIOD: 90 DAYS COMMENCING FROM
BID CLOSING DATE.**



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Physical Address : 1st Floor West Wing,
University Drive, Garona Building,
Mmabatho.

ENQUIRIES

TECHNICAL

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Office: 018 388 5204

Email: muzi@nwpg.gov.za

SCM/ADMINISTRATIVE

Administrative enquiries:

Mr M Sebogodi

018 388 1478

SebogodiM@nwpg.gov.za

Contact: Mr A Mabogole

018 388 1618

AMabogole@nwpg.gov.za



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VRYBURG EXT 28 – 406 SITES

BID NUMBER: DHS 06- 2019/20

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1.0 PURPOSE

The North West Department of Local Government & Human Settlements seek to secure the services of a competent and reputable developer to design and install internal services (i.e potable water and sewer reticulation, roads, stormwater channels,) in Tlhabologang Extension 8 in Ngaka Modiri Molema Region for 272 stands as per the layout plan and MUST have the following key competences:

1. Engineering services designs

2. Construction and Construction Management

The appointment will be based on the Departmental Procurement Process which is transparent, competitive, fair and equitable and in line with the General Conditions of Contract (GCC) and the attached bid forms as well as other conditions which may be applicable.

2.0 SPECIFIC REQUIREMENTS

- **The Developer must be have at least a CIDB registration of 7CE**
- **The Developer must be registered with the NHBRC.** The appointed developer is expected to home enrol the project with NHBRC prior to the construction of units.

The awarded bidder will subcontract 30% of the project to designated groups within the area of works and therefore the bidder must abide to the below subcontracting requirements when submitting the bid document: -

- Submit together with a tender document a proof of subcontracting agreement/s. The nomination will be made by the bidder from the provided list by the Department of Human Settlements. Failure to submit this agreement/s by the closure of bid will lead to immediate disqualification.



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The bidders have to comply with the requirements of Local content to proceed to the next stage of evaluation. In order to comply with this requirement a bidder must complete and return Annexure C in line with the issued SBD 6.2 by the Department. The bidder will also safeguard annexure D and E, which are the informants of annexure C in case the Department requires them in future.

- The bidder must be CSD compliant.
- Bidders that are listed on the register of the restricted bidders by National Treasury will not be awarded.
- Bidders that are employed in public service will not be considered.

The services to be constructed should comply with the following manual

- **Red Book Human Settlements Volume 1 and 2**

3.0 PROJECT BACKGROUND

The Department appointed the Housing Development Agency (HDA) in the 2017/18 financial year for installation of 1528 serviced sites in Tlhabologang Extension 8. The project was successfully completed and handed over to the department in the 2019/20 financial year. According to the layout plan of the area, it consists of 1828 sites hence it is against this background that there is a need to complete the remaining stands.

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• Indirect costs: 272 stands @ R 6 910.30	R1 879 601.60
• Water reticulation (including meter): 272 stands @ R 4 140.10	R1 126 107.20
• Sanitation reticulation: 272 sites @ R7 210.40	R1 961 228.80
• Roads: 272 stands @ R 23 570.60	R6 411 203.20
• Stormwater: 272 stands @ R 4 153.80	R1 129 833.60
TOTAL PROJECT AMOUNT (272 SITES)	R12 507 974.40



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4.0 PROJECT SCOPE

The internal services designed and installed must be in accordance with the requirements of the National Housing Code and must comply with the vision of the Department of Local Government & Human Settlements in terms of settlement sustainability and compliance

with Breaking New Grounds (BNG) Principles and the services must be approved by the municipality prior to installation and handed over to the municipality on completion together with as built drawings

4.1 DETAILED PROJECT SCOPE

The design and construction of services shall be subject to the approval of the Local Authority and the Department of Human Settlements and it shall comprise of the following:

- **Roads**

Bus Routes: Gravel with stormwater control

Primary: Gravel with stormwater control

Secondary: Gravel with stormwater control

- **Stormwater Control**

Roadside channels with piped stormwater crossings, as required.

All stormwater channels to be concrete-lined where the grade exceeds 1 in 10.

- **Erosion Protection**

Erosion protection measures are to be provided at all stormwater discharge points and along stormwater channels/valley lines, as required.

- **Water Supply**

Individual connections to each site with a meter. The connection points must be clearly marked.



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- **Sanitation**

Sanitation shall comprise of

- * Water borne sewers to each site. The connections must be clearly marked

5.0 PROJECT OBJECTIVES

JB Marks Local Municipality adopted its Spatial Development Framework 2011-2012. The Comprehensive Town Planning Layout Plan should re-state the vision of the Department of Human Settlements contained in the Housing White Paper of 1994; "to promote the achievement of a non-racial, integrated society through the development of sustainable human settlement and quality housing." Therefore in order to achieve the vision the following objectives must be met:

- Accelerate the delivery of housing as a key strategy for poverty alleviation
- Utilize the provision of housing as a major job creation strategy;
- Combat crime, promote social cohesion and improve quality of life for the poor,
- Utilize housing as an instrument for the development of sustainable human settlement in support of spatial restructuring.

6.0 REPORTING REQUIREMENTS

The service provider is expected to furnish the Department with the following list of report during the implementation phase.

- **Design Reports**

The design reports must outline all the calculation and assumptions used to reach the desired solution.

- **Priced Bill of Quantities**

The priced bill of quantity to be evaluated and used as a measuring tool of work done.

- **Monthly Reports**

The developer must submit monthly progress reports to the Department of Human Settlements.

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- **Close-Out Report**

The developer must on completion of work and before the final account submit a close out report.

7.0 FAILURE TO COMPLETE WORKS ON TIME

If the Service Provider fails to deliver as agreed in the agreement the contract will be subject to review and that will lead to contract termination.

8.0. KNOWLEDGE AND EXPERTISE

The Developer must have a traceable record of success and timeous delivery of similar assignments of projects.

The Developer must have the capacity to provide a core team that will be responsible for the day to day project management at all levels and will have to be maintained for the duration of the contract.

The core team should be in a position to demonstrate their understanding and knowledge and expertise on civil and structural construction of projects of similar nature.

9.0 DEVELOPER SELECTION CRITERIA

The purpose of this set criterion is to eliminate developers with current running contracts and those who were previously contracted to the Department but were not performing satisfactorily. The selection criteria is based on the below evaluation criteria.

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10.0 EVALUATION CRITERIA

For purposes of comparison and in order to ensure meaningful evaluation, bidders are requested to furnish detailed information in substantiation of compliance to all the stages of evaluation.

STAGE1- COMPULSORY BIDDING REQUIREMENTS

Failure to comply with these requirements will lead to immediate disqualification

- The bidder must have National Home Builders Regulatory Council certificate (NHBRC) at the time of closure of bid.
- The bidder must have at least a CIDB registration of 7CE
- The bidder must submit proof of subcontracting agreement/s (nominated subcontractor/s) from the provided list by the Department of Human Settlements.

STAGE2- COMPLIANCE TO LOCAL CONTENT

Failure to comply with at this stage will lead to disqualification and the company will not progress to the functionality.

- The bidder must submit a completed Annexure C in line with the SBD 6.2 issued by the department.

NB: Please note that Annexure D and E are for your calculation process but keep it safe in case the Department requires you to avail them.

STAGE 3- FUNCTIONALITY

For a bid to be responsive the minimum points for functionality shall be **SIXTY POINTS** (60 Points). Any bid with less than sixty points will be disqualified and no further evaluation of the bid will be done.



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WEIGHTS AND VALUES FOR THE FUNCTIONALITY CRITERIA

1 = Poor

2 = Fair

3 = Good

4 = Very Good

5= Excellent

NO.	DESCRIPTION OF SPECIFIC COMPETENCIES	WEIGHTS
-----	--------------------------------------	---------

1. Qualification of key project team personnel involved on the project. Please attach copies of certificates and CVs.

20

- | | | |
|---|---|--|
| • Professional Civil/Structural Engineer, Quantity Surveyor, Architect and Construction Project Management. Registration Certificate(s) + CV(s) to be attached. | 5 | |
| • Professional Engineering Technician and Technologist Registration Certificate(s) + CV(s) to be attached. | 4 | |
| • Bachelor's Degree in the Built Environment + CV(s) attached. | 3 | |
| • Higher and/or National Diploma in the Built Environment + CV(s) attached. | 2 | |
| • CV(s) without any attachment of qualifications mentioned above. | 1 | |

All bidders must submit CV's, Qualification / Registration Certificates for the proposed professional teams to be deployed on the project. In the event that they outsource the service, they must also attach the same documentation and in all cases the relevant professionals must write a letter of consent with contact details for verification that they will be working on the project.

2. Proven track record on previous projects experience of a similar nature and value (Physical verification of completed projects may be conducted by the department)

20

- | | | |
|--|---|--|
| • 5 or more similar projects completed | 5 | |
| • 4 similar projects completed | 4 | |
| • 3 similar projects completed | 3 | |
| • 2 similar projects completed | 2 | |
| • 1 similar project completed | 1 | |

The bidder must submit all details of all projects with reference supplied for verification purposes



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3.	Detailed Work Programme And Delivery Schedule	20	
	Work breakdown structure, resource management plan and delivery schedule	5	
	Work breakdown structure and delivery schedule	3	
	Delivery schedule or no information	1	
4.	Approach, Methodology and Implementation Plan.		20
	Construction Process, Safety Requirements and application of SANS	5	
	Construction Process and Safety Requirements	3	
	Construction Process only or no information	1	
5.	Financial capacity: Companies will be verified on the level of financial ability to execute the project. Reviewed/Audited Statement of profit or loss for the past two financial years. Balance sheet/statement of financial position for the past two financial years.		20
Financially stable. (5)		Improved financial capacity. (4)	
TOTAL		POINTS	
100		FOR	
		FUNCTIONALITY	

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Therefore, only qualifying bids can be evaluated in terms of **80/20 preferential points system**.

It must be noted that there will be no competition in terms of price, because the price is regulated. Bidders will compete on BBBEE which constitute 20 per cent. If there is a tie the highest bidder on Functionality will be considered for award.

Emerging Micro Enterprise (EME's) and Qualifying Small Enterprise (QSE's) of BBBEE status level 1 and 2 must submit together with their bid a sworn affidavit signed by company representative and attested by the Commissioner of Oath and within the 12 months validity period of issue.

QSE's where ownership is below 51 per cent black owned must submit a valid original BBBEE certificate or certified copy **that is in line with 10.1.4 of the Implementation Guide of the Preferential Procurement Regulations of 2017.**

Calculation of points for B-BBEE Ratings

B-BBEE Status Level of Contributor	Number of points (80/20 system)
1	20
2	18
3	16
4	10
5	8
6	6
7	4
8	2
Non-compliant contributor	0

TOTAL POINTS FOR PRICE, B-BBEE STATUS LEVEL = 100

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STAGE 5-ADMINISTRATIVE REQUIREMENTS

COMPLETION OF SBD FORMS

Kindly receive attached the following bid documents for completion:

- SBD 1- Invitation to bid
- SBD 4- Declaration of interest with certified copies of Identity Documents of the Main Shareholders/ Directors of the company valid for 3 months.
- SBD 6.1 Preferential Points
- SBD 6.2 Local content – completion of annexure C
- SBD 8 – Declaration of Bidder's past Supply Chain Practices
- SBD 9 – Certificate of independent determination
- Common Law Contract (initialised each page)

SUBMISSION OF DOCUMENTS

Certified identity documents of company directors or shareholders

- Authority to sign on behalf of bidder
- Certificate or authority for Joint Ventures (where applicable)
- Joint venture agreement for Joint Ventures (where applicable)
- **Detailed company profile** (Include all projects with regard to alternative building methodology as well as low cost housing projects done by the company and indicate the contact details of a reference person on the project.)

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11.0 PROJECTS EXECUTION EXPERIENCE

Please complete the following table for any work carried out during the past 5 years of operation to show the companies record Town Planning experience and internal services. You will have to duplicate this sheet to supply information for all the projects that your organization has been involved in. (Current and completed)

PROJECT NAME	
SCOPE OF WORK	
CLIENT	
CONTACT PERSON AND DETAILS	
VALUE OF CONTRACT	
START DATE	
COMPLETION DATE	
ATTACH COMPLETION CERTIFICATE	

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12.0 TECHNICAL TEAM EXPERIENCE

Please complete the following table for any of the Professional Team Member who will be responsible for the project stating their responsibilities. You will have to duplicate this sheet to give details of all professional team member required for the implementation of the project.

NAME OF PROFESSIONAL	
PROFESSIONAL REGISTRATIONS	
REGISTRATION NUMBER	
BRIEF DESCRIPTION OF SPECIALIZATION AREAS	
RESPONSIBILITY ON THIS PROJECT	



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13.0 DETAILED IMPLEMENTATION PLAN

You are required to give a **detailed implementation plan** which will reflect that you have clearly understood the complexity of the task at hand clearly giving the **realistic time frames** for each activity and the resources allocated to ensure that each activity is achieved within the stipulated time frames.

This implementation plan will form an annexure to your contract and you will be required to implement the project according to this implementation plan

14.0 DELIVERY SCHEDULE

You are required to give a detailed delivery schedule for top structure and or services installation delivery as stated in the scope of works. This delivery schedule will be linked to your cash-flow projections.

This delivery schedule will form an annexure to your contract and you will be required to deliver the project according to this delivery schedule.

15.0 CASH FLOW PROJECTIONS

You are required to give detailed cash flow projection which is linked to the delivery schedule. This cash flow projection will form an annexure to the service level agreement and you will be required to spend according to your cash flow projections.

Recommended / Not Recommended

Chairperson DBSC.....Date:

Verified By:

Chairperson DBAC.....Date:

Approved / Not Approved

Accounting Officer:Date:

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] ☐ Yes ☐ No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT			[TICK APPLICABLE BOX] ☐ Yes ☐ 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?	☐ Yes ☐ No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?			☐ Yes ☐ No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]	
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS							
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?						☐ YES ☐ NO	
DOES THE ENTITY HAVE A BRANCH IN THE RSA?						☐ YES ☐ NO	
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?						☐ YES ☐ NO	
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?						☐ YES ☐ NO	
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?						☐ YES ☐ 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:

.....

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

.....

.....

.....

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

[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

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

Where

Ps = Points scored for price of bid under consideration

Pt = 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	☐	NO	☐
-----	--------------------------	----	--------------------------

- 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	☐	NO	☐
-----	--------------------------	----	--------------------------

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

Designated Group: An EME or QSE which is at last 51% owned by:	EME √	QSE √
Black people	☐	☐
Black people who are youth	☐	☐
Black people who are women	☐	☐

Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		
Black people who are military veterans		
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 CERTIFICATE FOR LOCAL PRODUCTION AND CONTENT FOR DESIGNATED SECTORS

This Standard Bidding Document (SBD) must form part of all bids invited. It contains general information and serves as a declaration form for local content (local production and local content are used interchangeably).

Before completing this declaration, bidders must study the General Conditions, Definitions, Directives applicable in respect of Local Content as prescribed in the Preferential Procurement Regulations, 2017, the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:2011 (Edition 1) and the Guidance on the Calculation of Local Content together with the Local Content Declaration Templates [Annex C (Local Content Declaration: Summary Schedule), D (Imported Content Declaration: Supporting Schedule to Annex C) and E (Local Content Declaration: Supporting Schedule to Annex C)].

1. General Conditions

- 1.1. Preferential Procurement Regulations, 2017 (Regulation 8) make provision for the promotion of local production and content.
- 1.2. Regulation 8.(2) prescribes that in the case of designated sectors, organs of state must advertise such tenders with the specific bidding condition that only locally produced or manufactured goods, with a stipulated minimum threshold for local production and content will be considered.
- 1.3. Where necessary, for tenders referred to in paragraph 1.2 above, a two stage bidding process may be followed, where the first stage involves a minimum threshold for local production and content and the second stage price and B-BBEE.
- 1.4. A person awarded a contract in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- 1.5. The local content (LC) expressed as a percentage of the bid price must be calculated in accordance with the SABS approved technical specification number SATS 1286: 2011 as follows:

$$LC = [1 - x / y] * 100$$

Where

x is the imported content in Rand

y is the bid price in Rand excluding value added tax (VAT)

Prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by South African Reserve Bank (SARB) on the date of advertisement of the bid as indicated in paragraph 3.1 below.

The SABS approved technical specification number SATS 1286:2011 is accessible on [http://www.thedti.gov.za/industrial development/ip.jsp](http://www.thedti.gov.za/industrial%20development/ip.jsp) at no cost.

1.6. A bid may be disqualified if this Declaration Certificate and the Annex C (Local Content Declaration: Summary Schedule) are not submitted as part of the bid documentation;

2. The stipulated minimum threshold(s) for local production and content (refer to Annex A of SATS 1286:2011) for this bid is/are as follows:

<u>Description of services, works or goods</u>	<u>Stipulated minimum threshold</u>
_____	_____ %
_____	_____ %
_____	_____ %

3. Does any portion of the goods or services offered have any imported content?

(Tick applicable box)

YES	☐	NO	☐
-----	--------------------------	----	--------------------------

3.1 If yes, the rate(s) of exchange to be used in this bid to calculate the local content as prescribed in paragraph 1.5 of the general conditions must be the rate(s) published by SARB for the specific currency on the date of advertisement of the bid.

The relevant rates of exchange information is accessible on www.resbank.co.za

Indicate the rate(s) of exchange against the appropriate currency in the table below (refer to Annex A of SATS 1286:2011):

Currency	Rates of exchange
US Dollar	
Pound Sterling	
Euro	
Yen	
Other	

NB: Bidders must submit proof of the SARB rate (s) of exchange used.

4. Where, after the award of a bid, challenges are experienced in meeting the stipulated minimum threshold for local content the dti must be informed accordingly in order for the dti to verify and in consultation with the AO/AA provide directives in this regard.

LOCAL CONTENT DECLARATION
(REFER TO ANNEX B OF SATS 1286:2011)

LOCAL CONTENT DECLARATION BY CHIEF FINANCIAL OFFICER OR OTHER LEGALLY RESPONSIBLE PERSON NOMINATED IN WRITING BY THE CHIEF EXECUTIVE OR SENIOR MEMBER/PERSON WITH MANAGEMENT RESPONSIBILITY (CLOSE CORPORATION, PARTNERSHIP OR INDIVIDUAL)

IN RESPECT OF BID NO.

ISSUED BY: (Procurement Authority / Name of Institution):
.....

NB

- 1 The obligation to complete, duly sign and submit this declaration cannot be transferred to an external authorized representative, auditor or any other third party acting on behalf of the bidder.
- 2 Guidance on the Calculation of Local Content together with Local Content Declaration Templates (Annex C, D and E) is accessible on http://www.thedti.gov.za/industrial_development/ip.jsp. Bidders should first complete Declaration D. After completing Declaration D, bidders should complete Declaration E and then consolidate the information on Declaration C. **Declaration C should be submitted with the bid documentation at the closing date and time of the bid in order to substantiate the declaration made in paragraph (c) below.** Declarations D and E should be kept by the bidders for verification purposes for a period of at least 5 years. The successful bidder is required to continuously update Declarations C, D and E with the actual values for the duration of the contract.

I, the undersigned, (full names),
do hereby declare, in my capacity as
of (name of bidder
entity), the following:

- (a) The facts contained herein are within my own personal knowledge.
- (b) I have satisfied myself that:
 - (i) the goods/services/works to be delivered in terms of the above-specified bid comply with the minimum local content requirements as specified in the bid, and as measured in terms of SATS 1286:2011; and
- (c) The local content percentage (%) indicated below has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 3.1 above and the information contained in Declaration D and E which has been consolidated in Declaration C:

Bid price, excluding VAT (y)	R
Imported content (x), as calculated in terms of SATS 1286:2011	R
Stipulated minimum threshold for local content (paragraph 3 above)	
Local content %, as calculated in terms of SATS 1286:2011	

If the bid is for more than one product, the local content percentages for each product contained in Declaration C shall be used instead of the table above.

The local content percentages for each product has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 3.1 above and the information contained in Declaration D and E.

- (d) I accept that the Procurement Authority / Institution has the right to request that the local content be verified in terms of the requirements of SATS 1286:2011.
- (e) I understand that the awarding of the bid is dependent on the accuracy of the information furnished in this application. I also understand that the submission of incorrect data, or data that are not verifiable as described in SATS 1286:2011, may result in the Procurement Authority / Institution imposing any or all of the remedies as provided for in Regulation 14 of the Preferential Procurement Regulations, 2017

promulgated under the Preferential Policy Framework Act (PPPFA), 2000 (Act No. 5 of 2000).

SIGNATURE: _____

WITNESS No. 1 _____

DATE: _____

WITNESS No. 2 _____

DATE: _____

INTERNAL SERVICES

Description of services, works or goods	Items	Stipulated minimum threshold
Plastic Pipes	Polyvinyl chloride (PVC) pipes	100%
	High density polyethylene (HDPE) pipes (Dolomite area only)	100%
	Polypropylene (PP) pipes	100%
	Glass reinforced plastic (GRP) pipes	100%
Residential water meters	Postpaid water meters	40%

BULK SERVICES

Description of services, works or goods	Items	Stipulated minimum threshold
Plastic Pipes	Polyvinyl chloride (PVC) pipes	100%
	High density polyethylene (HDPE) pipes (Dolomite area only)	100%
	Polypropylene (PP) pipes	100%
	Glass reinforced plastic (GRP) pipes	100%
Pumps, Medium Voltage (MV) Motors and Associated Accessories	Casting or Frame Fabrication	100%
	Fabrication and winding of the Rotor Core	100%
	Accessories	100%
	Assembly and testing of the fully-built unit	100%
	Total Minimum Local Minimum Content (per unit)	70%

Each individual Pumps or/ MV Motor, designated above, is subjected to the minimum 70% local content threshold.

Contact Us

The Industrial Procurement Unit is a unit within the dti that is responsible for the implementation and monitoring of the local content policy.

Helpline: 012 394 1435

For complaints and assistance, Please send an email to:
Email: localcontent@thedti.gov.za

For more information, please go to web link:

http://www.thedti.gov.za/industrial_development/ip.jsp

To get in contact with the Industrial Procurement team for enquires contact:

Dr Tebogo Makube

Phone: 012 394 3927

Email: TMakube@thedti.gov.za

Ms Cathrine Matidza

Phone: 012 394 5598

Email: CMatidza@thedti.gov.za



the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

LOCAL CONTENT AND PRODUCTION



the dti
Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

What is Designation?

The revised Preferential Procurement Policy Framework Act 2000 (PPPEA) regulations which came into effect on the 7 December 2011 empower the Department of Trade and Industry (the dti) to designate industries, sectors and sub-sectors for local production at a specified level of local content.

Preferential Procurement Regulations, 2011 States the following:

Paragraph 9. (1) Prescribes that "In the case of designated sectors, where in the award of bids local production and content is of critical importance, such bids must be advertised with the specific bidding condition that only locally produced goods, services or works or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered."

Paragraph 9. (2) Prescribes that "The National Treasury will issue instructions, circulars and guidelines to all organs of state, with specific reporting mechanisms to ensure compliance with sub-regulation (1)."

Paragraph 9. (3) prescribes that "Where there is no designated sector, an organ of state may include, as a specific tendering condition, that only locally produced services, works or goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered, on condition that such prescript and threshold(s) are in accordance with the specific directives issued for this purpose by the National Treasury in consultation with **the dti**."

NOTES

[illegible]

NOTES

[illegible]

List of applicable documents

1. SBD/MBD 6.2 downloadable on <http://www.treasury.gov.za/divisions/ocpo/sc/default.aspx>
2. SATS 1286:2011*
3. Guidance Document for the calculation of Local Content*
4. Annex C*
5. Annex D*
6. Annex E*

***Downloadable from the dti website:**

http://www.thedti.gov.za/industrial_development/ip.jsp

Industry/sector/sub-sector	Minimum threshold for local content
Buses (Bus Body)	80%
Textile, Clothing, Leather and Footwear	100%
Steel Power Pylons, Monopole Pylons, Steel Substation Structures, Powerline Hardware, Street Light Steel Poles, Steel Lattice Towers	100%
Canned / Processed Vegetables	80%
Pharmaceutical Products:	
• OSD Tender • Family Planning Tender	• 70% (volumes) • 50% value
Rail Rolling Stock	65%
Set Top Boxes (STB)	30%
Furniture Products:	
• Office Furniture • School Furniture • Base and Mattress	• 85% • 100% • 90%
Solar Water Heater Components	70%
Electrical and telecom cables	90%
Valves products and actuators	70%

[illegible]

[illegible]

Residential Electricity Meter:

- Working Vessels/Boats (All types):**

- ## Conveyance Pipes

Transformers and Shunt Reactors:

- Components and conversion activities
- 50% - 100%

Solar PV Components:

- 
the dti
Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

The following industries, sectors and sub-sectors have so far been designated for local production with minimum local content thresholds.

Two Way Radio Terminals and Associated Equipment:

Two-Way Radio Terminals and Associated Equipment:	
• Portable Radio • Mobile Radio • Repeater	• 60% • 60% • 60%
• Components	• 20% - 100%
Rail Signalling:	
• Components	• 65%
Wheeled Bins:	
Fire Fighting Vehicle	100%
• Crew Cabin • Super Structure • Assembly	• 30% • 100% • 100% • 100%

NOTES

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NOTES

5475-1296-2013

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Local Content Declaration – Supporting Schedule to Annex C

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SATS 1286:2011

Annex E

Local Content Declaration - Supporting Schedule to Annex C

(E1) Tender No.	
(E2) Tender description:	
(E3) Designated products:	
(E4) Tender Authority:	
(E5) Tendering Entity Name:	

Note: VAT to be excluded from all calculations

Local Products (Goods, Services and Works)		
Description of Items purchased	Local suppliers	Value
(E6)	(E7)	(E8)
(E9) Total local products (Goods, Services and Works)		

(E10) Manufacturing cost	(Tender's manpower cost)	
(E11) Factory overheads (rental, depreciation & amortisation, utility costs, consumables etc.)		
(E12) Non-manufacturing overheads such as: Marketing, insurance, financing interest etc.		

(E13) Total local content: _____

This table must correspond with Annex C - (C3)

Signature of tenderer from Annex B

Date: _____

Frequently Asked Questions:

Some of the questions that suppliers ask when completing SBD/MBD 6.2, Annexes C, D, and E include:

1. What is considered to be local content?

It is that portion of the product whose manufacturing processes take place within South Africa, from input materials, raw materials, and/or components that were sourced in South Africa.

- ## 2. What is local manufacturing?

The working and processing, including assembling or specific operation should happen within the borders of South Africa. There must be value addition to the required products.

3. Provide clarity on the statement "Contractors may not be allowed to sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the minimum threshold as stipulated in regulation 9 of the Preferential Procurement Regulations, 2011."

This means that contractors are to subcontract in such a way that their subcontractors also meet the stipulated minimum threshold and do not reduce it in their manufacturing processes.

4. With reference to LOCAL CONTENT DECLARATION form SBD/MBD 6.2, in particularly the table after C. Please advise whether it is correct to provide the averages of all requested items in the table.

LOCAL CONTENT DECLARATION

(AS PER ANNEX B OF SATS 1286:2011)

NOTES

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13. If all items have the same stipulated minimum thresholds, must they be completed for each item?

Each item must have its own local content percentage calculated as per the local content formula and each percentage must be completed for each item under C15 of Annex C as the evaluation is on an item basis.

14. Where do bidders get the stipulated minimum thresholds to complete Annex C?

The procuring entities should provide a list of all required items and their respective stipulated minimum thresholds under paragraph 3 of the SBD/MBD 6.2 document.

15. What process is followed to ensure compliance to the local content and production policy?

The SABS handles the post award verification stage to ensure compliance by suppliers and the Auditor General is to audit the 2014/15 expenditure within the designated sectors.

Bid price, excluding VAT (y)	Bidders to insert C20 value here as found on Annex C.
Imported content (x), as calculated in terms of SATS 1286:2011	Bidders to insert C19 value here as found on Annex C.
Stipulated minimum threshold for local content (paragraph 3 above)	Bidders to refer to paragraph 3 of SBD/MBD 6.2 as provided by the procuring entity.
Local content %, as calculated in terms of SATS 1286:2011	Bidders to refer to C25 as per their calculation for the average of all requested items.

Please note: Averages are to be provided in the table above if the procuring entity requested more than one item. If only one item is requested, bidders are to populate as per SBD/MBD 6.2 requirements.

5. Must Annexes D and E also be submitted at the closing date and time of the bid?

It is not compulsory or a requirement at the time of bidding but the Annexes may be requested at any point. One cannot complete Annex C before completing Annexes D and E. However, procuring entities may reserve the right to request that all Annexes be submitted at the closing date and time of bid.

6. What happens if Annex C is signed but not completed?

The local content percentages would not be declared, therefore making the bid non-responsive.

7. What is the turnaround time for authorization letters to be issued out?

Authorisation letters are issued out within 48 hours for the Textiles, Clothing, Leather and Footwear Sector, and must be attached to the bid document, where applicable, otherwise the bid will be deemed non-responsive.

8. Is an authorization letter the same as an exemption letter?

Authorisation letters are issued out in the Textile, Clothing, Leather and Footwear Sector only, and will be reflected under (C13) of Annex C.

Exemption letters may be issued out in the other designated sectors. Exempted imported value would be reflected under (C11) of Annex C.

9. What is the process followed for requesting an exemption letter/authorization letter?

The following information should be provided on the bidder's company letterhead when requesting an authorization letter.

Authorisation letter:

- Tendering Authority.
- Tender No.
- Tender Item specification and quantity.
- Closing date.
- Company Name.
- Company physical address.
- Full name of company representative.
- List of items/components for import authorization.
- Supporting letters from local sub-suppliers and manufacturers.

Forward the information to Mrs Patricia Khumalo and you may contact her on 012 394 1390, Email: KhumaloP@thedti.gov.za.

Exemption letter:

- In your request state the following information:
- Procuring entity/government department,
- Bid number,
- Closing date,
- Item(s) for which the exemption is being requested for,
- Description of the goods, services or works for which the requested exemption item will be used for (kindly attach specification for item),
- Reason for the request.

Attention to:

Dr Tebogo Makube
Chief Director: Industrial Procurement Unit
The Department of Trade and Industry
Private Bag X84, Pretoria, Gauteng, 0001
Email: TMakube@thedti.gov.za

10. How old must the supporting documents be?

Not older than 6 months, **subject to review.**

11. What is the validity period of the exemption letter and authorisation Letter?

The authorization letter and exemption letter are valid for the duration of the tender or quotation, as each letter is bid specific.

12. Who completes SBD/MBD 6.2 Annex C bidding company or sub-contractor?

It is the responsibility of the bidder to complete the Declaration Certificate for Local Production and Content SBD/MBD 6.2 together with the Annex C (Local Content Declaration: Summary Schedule), duly sign and submit at the closing date and time of this bid.

3. ANNEXURE C

3.1. Guidelines for completing Annexure C: Local Content Declaration – Summary Schedule

Note: The paragraph numbers correspond to the numbers in Annexure C.

C1. Tender Number

Supply the tender number that is specified on the specific tender documentation.

C2. Tender description

Supply the tender description that is specified on the specific tender documentation.

C3. Designated products

Supply the details of the products that are designated in terms of this tender (i.e. buses).

C4. Tender Authority

Supply the name of the tender authority.

C5. Tendering Entity name

Provide the tendering entity name (for example, Unibody Bus Builders (Pty) Ltd).

C6. Tender Exchange Rate

Provide the exchange rate used for this tender, as per the Standard Bidding Document (SBD) and Municipal Bidding Document (MBD) 6.2.

C7. Specified local content %

Provide the specified minimum local content requirement for the tender (i.e. 80%), as per the Standard Bidding Document (SBD) and Municipal Bidding Document (MDB) 6.2.

C8. Tender item number

Provide the tender item number(s) of the products that have a local content requirement as per the tender specification.

C9. List of items

Provide a list of the item(s) corresponding with the tender item number.
This may be a short description or a brand name.

Calculation of local content**C10. Tender price**

Provide the unit tender price of each item excluding VAT.

C11. Exempted imported content

Provide the ZAR value of the exempted imported content for each item, if applicable. These value(s) must correspond with the value(s) of column D16 on Annexure D.

C12. Tender value net of exempted imported content

Provide the net tender value of the item, if applicable, by deducting the exempted imported content (C11) from the tender price (C10).

C13. Imported value

Provide the ZAR value of the items' imported content.

C14. Local value

Provide the local value of the item by deducting the Imported value (C13) from the net tender value (C12).

C15. Local content percentage (per item)

Provide the local content percentage of the item(s) by dividing the local value (C14) by the net tender value (C12) as per the local content formula in SATS 1286.

Tender Summary**C16. Tender quantity**

Provide the tender quantity for each item number as per the tender specification.

C17. Total tender value

Provide the total tender value by multiplying the tender quantity (C16) by the tender price (C10).

C18. Total exempted imported content

Provide the total exempted imported content by multiplying the tender quantity (C16) by the exempted imported content (C11). These values must correspond with the values of column D18 on Annexure D.

C19. Total imported content

Provide the total imported content of each item by multiplying the tender quantity (C16) by the imported value (C13).

C20. Total tender value

Total tender value is the sum of the values in column C17.

C21. Total exempted imported content

Total exempted imported content is the sum of the values in column C18. This value must correspond with the value of D19 on Annexure D.

C22. Total tender value net of exempted imported content

The total tender value net of exempt imported content is the total tender value (C20) less the total exempted imported content (C21).

C23. Total imported content

Total imported content is the sum of the values in column C19. This value must correspond with the value of D53 on Annexure D.

C24. Total local content

Total local content is the total tender value net of exempted imported content (C22) less the total imported content (C23). This value must correspond with the value of E13 on Annexure E.

C25. Average local content percentage of tender

The average local content percentage of tender is calculated by dividing total local content (C24) by the total tender value net of exempted imported content (C22).

4. ANNEXURE D

4.1. Guidelines for completing Annexure D: "Imported Content Declaration – Supporting Schedule to Annexure C"

Note: The paragraph numbers correspond to the numbers in Annexure D.

D1. Tender number

Supply the tender number that is specified on the specific tender documentation.

D2. Tender description

Supply the tender description that is specified on the specific tender documentation.

D3. Designated products

Supply the details of the products that are designated in terms of this tender (i.e. buses).

D4. Tender authority

Supply the name of the tender authority.

D5. Tendering entity name

Provide the tendering entity name (i.e. Unibody Bus Builders (Pty) Ltd).

D6. Tender exchange rate

Provide the exchange rate used for this tender, as per the Standard Bidding Document (SBD) and Municipal Bidding Document (MBD) 6.2.

Table A. Exempted Imported Content

D7. Tender item number

Provide the tender item number(s) of the product(s) that have imported content.

D8. Description of imported content

Provide a list of the exempted imported product(s), if any, as specified in the tender.

D9. Local supplier

Provide the name of the local supplier(s) supplying the imported product(s).

D10. Overseas supplier

Provide the name(s) of the overseas supplier(s) supplying the exempted imported product(s).

D11. Imported value as per commercial invoice

Provide the foreign currency value of the exempted imported product(s) disclosed in the commercial invoice accepted by the South African Revenue Service (SARS).

D12. Tender exchange rate

Provide the exchange rate used for this tender as per the Standard Bidding Document (SBD) and Municipal Bidding Document (MBD) 6.2.

D13. Local value of imports

Convert the value of the exempted imported content as per commercial invoice (D11) into the ZAR value by using the tender exchange rate (D12) disclosed in the tender documentation.

D14. Freight costs to port of entry

Provide the freight costs to the South African Port of the exempted imported item.

D15. All locally incurred landing costs and duties

Provide all landing costs including customs and excise duty for the exempted imported product(s) as stipulated in the SATS 1286:2011.

D16. Total landed costs excl VAT

Provide the total landed costs (excluding VAT) for each item imported by adding the corresponding item values in columns D13, D14 and D15. These values must be transferred to column C11 on Annexure C.

D17. Tender quantity

Provide the tender quantity of the exempted imported products as per the tender specification.

D18. Exempted imported value

Provide the imported value for each of the exempted imported product(s) by multiplying the total landed cost (excl. VAT) (D16) by the

tender quantity (D17). The values in column D18 must correspond with the values of column C18 of Annexure C.

D19. Total exempted imported value

The total exempted imported value is the sum of the values in column D18. This total must correspond with the value of C21 on Annexure C.

Table B. Imported Directly By Tenderer

D20. Tender item numbers

Provide the tender item number(s) of the product(s) that have imported content.

D21. Description of Imported content:

Provide a list of the product(s) imported directly by tender as specified in the tender documentation.

D22. Unit of measure

Provide the unit of measure for the product(s) imported directly by the tenderer.

D23. Overseas supplier

Provide the name(s) of the overseas supplier(s) supplying the imported product(s).

D24. Imported value as per commercial invoice

Provide the foreign currency value of the product(s) imported directly by tenderer disclosed in the commercial invoice accepted by the South African Revenue Service (SARS).

D25. Tender rate of exchange

Provide the exchange rate used for this tender as per the Standard Bidding Document (SBD) and Municipal Bidding Document (MBD) 6.2.

D26. Local value of imports

Convert the value of the product(s) imported directly by the tenderer as per commercial invoice (D24) into the ZAR value by using the tender exchange rate (D25) disclosed in the tender documentation.

D27. Freight costs to port of entry

Provide the freight costs to the South African Port of the product(s) imported directly by the tenderer.

D28. All locally incurred landing costs and duties

Provide all landing costs including customs and excise duty for the product(s) imported directly by the tenderer as stipulated in the SATS 1286:2011.

D29. Total landed costs excl VAT

Provide the total landed costs (excluding VAT) for each item imported directly by the tenderer by adding the corresponding item values in columns D26, D27 and D28.

D30. Tender quantity

Provide the tender quantity of the product(s) imported directly by the tenderer as per the tender specification.

D31. Total imported value

Provide the total imported value for each of the product(s) imported directly by the tenderer by multiplying the total landed cost (excl. VAT) (D29) by the tender quantity (D30).

D32. Total imported value by tenderer

The total value of imports by the tenderer is the sum of the values in column D31.

Table C. Imported by Third Party and Supplied to the Tenderer**D33. Description of imported content**

Provide a list of the product(s) imported by the third party and supplied to the tenderer as specified in the tender documentation.

D34. Unit of measure

Provide the unit of measure for the product(s) imported by the third party and supplied to tenderer as disclosed in the commercial invoice.

D35. Local supplier

Provide the name of the local supplier(s) supplying the imported product(s).

D36. Overseas supplier

Provide the name(s) of the overseas supplier(s) supplying the imported products.

D37. Imported value as per commercial invoice

Provide the foreign currency value of the product(s) imported by the third party and supplied to the tenderer disclosed in the commercial invoice accepted by SARS.

D38. Tender rate of exchange

Provide the exchange rate used for this tender as per the Standard Bidding Document (SBD) and Municipal Bidding Document (MBD) 6.2.

D39. Local value of imports

Convert the value of the product(s) imported by the third party as per commercial invoice (D37) into the ZAR value by using the tender exchange rate (D38) disclosed in the tender documentation.

D40. Freight costs to port of entry

Provide the freight costs to the South African Port of the product(s) imported by third party and supplied to the tenderer.

D41. All locally incurred landing costs and duties

Provide all landing costs including customs and excise duty for the product(s) imported by third party and supplied to the tenderer as stipulated in the SATS 1286:2011.

D42. Total landed costs excluding VAT

Provide the total landed costs (excluding VAT) for each product imported by third party and supplied to the tenderer by adding the corresponding item values in columns D39, D40 and D41.

D43. Quantity imported

Provide the quantity of each product(s) imported by third party and supplied to the tenderer for the tender.

D44. Total imported value

Provide the total imported value of the product(s) imported by third party and supplied to the tenderer by multiplying the total landed cost (D42) by the quantity imported (D43).

D45. Total imported value by third party

The total imported value from the third party is the sum of the values in column D44.

Table D. Other Foreign Currency Payments**D46. Type of payment**

Provide the type of foreign currency payment. (i.e. royalty payment for use of patent, annual licence fee, etc).

D47. Local supplier making the payment

Provide the name of the local supplier making the payment.

D48. Overseas beneficiary

Provide the name of the overseas beneficiary.

D49. Foreign currency value paid

Provide the value of the listed payment(s) in their foreign currency.

D50. Tender rate of exchange

Provide the exchange rate used for this tender as per the Standard Bidding Document (SBD) and Municipal Bidding Document (MBD) 6.2.

D51. Local value of payments

Provide the local value of each payment by multiplying the foreign currency value paid (D49) by the tender rate of exchange (D50).

D52. Total of foreign currency payments declared by tenderer and/or third party

The total of foreign currency payments declared by tenderer and/or a third party is the sum of the values in column D51.

D53. Total of imported content and foreign currency payment

The total imported content and foreign currency payment is the sum of the values in column D32, D45 and D52. This value must correspond with the value of C23 on Annexure C.

(E1)	Tender No.	
(E2)	Tender description:	
(E3)	Designated products:	
(E4)	Tender Authority:	
(E5)	Tendering Entity name:	

Local Products (Goods, Services and Works)	Description of items purchased	Local suppliers	Value
	<i>(E6)</i>	<i>(E7)</i>	<i>(E8)</i>
<i>(E9) Total local products (Goods, Services and Works)</i>			

(E12) **Administration overheads and mark-up** (Marketing, insurance, financing, interest etc.)

This total must correspond with Annex C - C24

Date:

Note: VAT to be excluded from all calculations

(D1)	Tender No.		
(D2)	Tender description:		
(D3)	Designated Products:		
(D4)	Tender Authority:		
(D5)	Tendering Entity name:		
(D6)	Tender Exchange Rate:	Pula	

EU R 9.00

GBP R 12.00

A. Exempted imported content

[illegible]

(D19) Total exempt imported value

Summary

Tender Qty	Exempted imported value
(D17)	(D18)

This total must correspond with
Annex C - C21

B. Imported directly by the Tenderer

[illegible]

(D32) Total Imported value by tenderer

Summary

[illegible]

C. Imported by a 3rd party and supplied to the Tenderer

C. Imported by a 3rd party and supplied to the Tenderer				Calculation of imported content					
Description of Imported content	Unit of measure	Local supplier	Overseas Supplier	Foreign currency value as per Commercial Invoice	Tender Rate of Exchange	Local value of imports	Freight costs to port of entry	All locally incurred landing costs & duties	Total landed cost excl VAT
(D33)	(D34)	(D35)	(D36)	(D37)	(D38)	(D39)	(D40)	(D41)	(D42)
						(D45) Total Imported value			

(D45) Total imported value by 3rd party

Summary

[illegible]

D. Other foreign currency payments

[illegible]

(p52) Total of foreign currency payments declared by tenderer and/or 3rd party

(D53) Total of imported content & foreign currency payments - (D32), (D45) & (D52) above

Signature of tenderer from Annex B

Date:

This total must correspond with
Annex C - C23

Summary of payments

Local value of
payments

Local Content Declaration - Summary Schedule

	Tender No.
(C1)	Tender description:
(C2)	Designated product(s)
(C3)	Tender Authority:
(C4)	Tendering Entity name:
(C5)	Tender Exchange Rate:
(C6)	Specified local content %
(C7)	

[illegible]

GBP

(C7)	Specified local content %
------	---------------------------

Calculation of local content

Tender summary

[illegible]

Signature of tenderer from Annex B

Date: _____

	(C20) Total tender value	(C21) Total Exempt imported content	(C22) Total Tender value net of exempt imported content	(C23) Total imported content	(C24) Total local content	(C25) Average local content % of tender



Thank You

The dti Contacts (Local Content Office)-

- ✓ Ms Rendani Raluthaga, (012) 3941412, Email : RRaluthaga@thedti.gov.za
- ✓ Ms. Miyelani Masinga, (012) 394 1664, Email : MMasinga@thedti.gov.za
- ✓ Ms Mamosai Seleka, (012) 394 1213, E-mail: MSeleka@thedti.gov.za
- ✓ Mr Raphael Kitiaka, (012) 394 3500, Email : MRKitiaka@thedti.gov.za
- ✓ Ms Girlyl Mahlambi (012) 394 1394, Email : [GMahlambi @thedti.gov.za](mailto:GMahlambi@thedti.gov.za)

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 ☐	No ☐
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 ☐	No ☐
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 ☐	No ☐
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 ☐	No ☐
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 *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
 - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
 - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
- 4 This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

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

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

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Institution)

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

I certify, on behalf of: _____ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder

6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
 - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

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

SBD 9

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

SAMPLE FOR SUBCONTRACTING AGREEMENT, PLEASE ALIGN TO THE SCOPE OF WORK. YOU CAN EVEN DESIGN ONW TEMPLATE.

SUBCONTRACT AGREEMENT

This Agreement is made this _____ day of _____, 20____, between

_____ (Contractor) and
_____ (Subcontractor).

The work described in Section 1 below shall be performed in accordance with the prime contract between Contractor and _____ (Owner) and in accordance with all plans, specifications and other contract documents attached to or incorporated into the prime contract for the project known as:

The Construction Lender (if applicable)
is: _____

SECTION 1. SCOPE. Subcontractor agrees to furnish all labor, materials, equipment and other facilities required to complete the following work:

SECTION 2. PRICE AND PAYMENT. Contractor agrees to pay Subcontractor for the strict performance of his work the sum of: _____ (\$ _____) or as set out in Section 15 below, subject to adjustments for changes in the work as may be directed in writing by Contractor.

Payment shall be made in monthly progress payments of _____ percent (_____ %) of labor and material which have been incorporated into the work of improvement; progress payments to Subcontractor shall be made only with sums received by Contractor from Owner for work performed by Subcontractor as reflected in Contractor's applications for payment. Final payment of the balance owed to Subcontractor shall be due fourteen days after receipt by Contractor of final payment from Owner for Subcontractor's work. Subcontractor agrees to furnish, if and when required by Contractor, payroll affidavits, receipts, vouchers, releases of claims for labor, and material and agrees to furnish same from its subcontractors, suppliers and/or materialmen in form satisfactory to Contractor prior to receipt of any payment. Contractor may, at its option make any payment or portion thereof by joint check payable to Subcontractor and any of its subcontractors suppliers and/or materialmen.

If owner or other responsible party delays in making any payment to Contractor from which payment is Subcontractor is to be made, Contractor and its sureties shall have a reasonable time to make payment to Subcontractor. "Reasonable time" shall be determined according to the relevant circumstances, but in no event shall be less than the time Contractor, Contractor's sureties, and Subcontractor require to pursue to conclusion their legal remedies against

**SAMPLE FOR SUBCONTRACTING AGREEMENT, PLEASE ALIGN TO THE SCOPE OF WORK.
YOU CAN EVEN DESIGN ONW TEMPLATE.**

Owner or other responsible party to obtain payment, including (but not limited to) mechanics' lien remedies.

If the Subcontractor asserts a claim which involves, in whole or in part, acts or omissions which are the responsibility of the Owner or another party, including but not limited to claims for failure to pay, an extension of time, delay damages, or extra work, Contractor will present the Subcontractor's claim to the Owner or other responsible party. The Subcontractor shall cooperate fully with the Contractor in all steps taken in connection with prosecuting such a claim and shall hold harmless and reimburse the Contractor for all expense, including legal expense, incurred by Contractor which arise out of Contractor's submission of Subcontractor's claim to Owner or other responsible party. Subcontractor shall be bound by any adjudication or award in any action or proceeding resolving such a claim.

SECTION 3. ENTIRE AGREEMENT. This Agreement represents the entire agreement between Contractor and the Subcontractor and supersedes any prior written or oral representations. Subcontractor, its subcontractors, suppliers and/or materialmen are bound by the prime contract and any contract documents incorporated therein insofar as they relate in any way, directly or indirectly, to the work covered by this Agreement.

SECTION 4. TIME. Time is of the essence of this Agreement. Subcontractor shall provide Contractor with scheduling information in a form acceptable to Contractor and shall conform to Contractor's progress schedules, including any changes made by Contractor in the scheduling of work. Subcontractor shall coordinate its work with that of all other contractors, subcontractors, suppliers and/or materialmen so as not to delay or damage their performance.

SECTION 5. DELAY. Should Subcontractor delay Contractor, any other Subcontractor, or anyone else on the Project, Subcontractor will indemnify Contractor and hold Contractor harmless for any damages, claims, demands, liens, stop notices, lawsuits, attorneys' fees, and other costs or liabilities imposed on Contractor connected with said delay by Subcontractor.

SECTION 6 CHANGES IN WORK Subcontractor shall make no changes in the work covered by this Agreement without written direction from the Contractor Subcontractor shall not be compensated for any change which is made without such written direction No changes in the work covered by this Agreement shall exonerate any surety or any bond given in connection with this Agreement.

SECTION 7. CLAIMS. If any dispute shall arise between Contractor and Subcontractor regarding performance of the work, or any alleged change in the work, Subcontractor shall timely perform the disputed work and shall give written notice of a claim for additional compensation for the work prior to commencement of the disputed work Subcontractor's failure to give written notice prior to commencement constitutes an agreement by Subcontractor that it will receive no extra compensation for the disputed work.

SECTION 8 INSPECTION AND PROTECTION OF WORK Subcontractor shall make the work accessible at all reasonable times for inspection by the Contractor Subcontractor shall at the first opportunity inspect all material and equipment delivered to the job site by others to be used or incorporated in the Subcontractor's work and give prompt notice of any defect therein Subcontractor assumes full responsibility to protect the work done hereunder until final acceptance by the Architect Owner and Contractor.

**SAMPLE FOR SUBCONTRACTING AGREEMENT, PLEASE ALIGN TO THE SCOPE OF WORK.
YOU CAN EVEN DESIGN ONW TEMPLATE.**

SECTION 9. LABOR RELATIONS. Subcontractor shall maintain labor relations policies in conformity with the directions of the Contractor and shall be bound to and comply with all of the terms and conditions, including trust fund contributions, required by those labor agreements applicable to work performed under this Agreement to which the Contractor is bound. The specific agreements to which the Contractor is bound are listed in Section 16.

SECTION 10. TERMINATION. (i) Should Subcontractor fail to rectify any contractual deficiencies, including failure to pay its creditors, within three (3) working days from receipt of Contractor's written notice, Contractor shall have the right to take whatever steps it deems necessary to correct said deficiencies and charge the cost thereof to subcontractor, who shall be liable for the full cost of Contractor's corrective action, including overhead, profit and actual attorneys' fees. (ii) Contractor may at any time and for any reason terminate Subcontractor's services hereunder at Contractor's convenience. In the event of termination for convenience, Subcontractor shall recover only the actual cost of work completed to the date of termination, in approved units of work or percentage of completion, plus fifteen percent (15%) of the actual cost of the completed work for overhead and profit. Subcontractor shall not be entitled to any claim or lien against Contractor, Owner or anyone else for any additional compensation or damages in the event of such termination.

SECTION 11. INDEMNIFICATION. To the fullest extent permitted by law, Subcontractor shall indemnify and hold harmless Owner and Contractor and their agents and employees from claims, demands, causes of actions and liabilities of every kind and nature whatsoever arising out of or in connection with Subcontractor's operations performed under this Agreement. This indemnification shall extend to claims occurring after this Agreement is terminated as well as while it is in force. The indemnity shall apply regardless of any active and/or passive negligent act or omission of Owner or Contractor, or their agents or employees, but Subcontractor shall not be obligated to indemnify any party for claims arising from the sole negligence or willful misconduct of Owner or Contractor or their agent or employees or caused solely by the designs provided by such parties. The indemnity set forth in this Section shall not be limited by insurance requirements or by any other provision of this Agreement. All work covered by this Agreement done at the site or in preparing or delivering materials or equipment to the site shall be at the sole risk of Subcontractor until the completed work is accepted by Contractor.

SECTION 12. INSURANCE. Subcontractor shall, at its expense, procure and maintain insurance on all of its operations, with carriers acceptable to Contractor, and in amounts acceptable to Contractor and as required by the prime contract, including the following coverages:

12.1 Casualty Insurance

- a. Workers Compensation and Employer's Liability Insurance,
- b. Commercial General Liability Insurance (ISO Form CG 00 01) covering all operations and
- c. Automobile Liability Insurance, including coverage for all owned, hired and non-owned automobiles.

All insurance coverages shall be in amounts and for durations acceptable to Contractor and as required by the prime Contract. Subcontractor shall name Contractor as an additional insured under the General Liability policy using ISO Form CG 20 10 Subcontractor shall provide certificates of insurance to Contractor prior to commencement of the work. The certificates of insurance shall provide that there will be no

**SAMPLE FOR SUBCONTRACTING AGREEMENT, PLEASE ALIGN TO THE SCOPE OF WORK.
YOU CAN EVEN DESIGN ONW TEMPLATE.**

cancellation nor reduction of coverage without thirty (30) days prior written notice to Contractor The certificate shall reflect all limiting or exclusionary endorsements amending the required ISO Form CG 00 01 The use of such limiting or exclusionary endorsements will be subject to the approval of Contractor The failure of Contractor to enforce in a timely manner any of the provisions of this Section 12 shall not act as a waiver to enforcement of any of these provisions at a later date in the performance of this Agreement.

12.2 Property Insurance

All work covered by this Agreement done at the site, or in preparing or delivering materials or equipment to the site, shall be at the sole risk of Subcontractor until the completed work is accepted by Contractor.

12.2.1 Waiver of Subrogation. Contractor and Subcontractor waive all rights against each other and against all other subcontractors and Owner for loss or damage to the extent reimbursed by any property or equipment insurance applicable to the work, except such rights as they may have to the proceeds of such insurance. If any applicable policies of insurance referred to in this Section require an endorsement or consent of the insurance company to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed or obtain such consent.

12.2.2 Builder's Risk. "All risk" Builder's Risk insurance (excluding the hazards of earthquake and flood) is normally purchased by Owner and such insurance provides property insurance coverage for both Contractor and Subcontractor including loss or damage to Subcontractor's work. It is the responsibility of Subcontractor to ensure his work is protected by such Builder's Risk insurance prior to the execution of this subcontract. If Builder's Risk coverage is not provided, Subcontractor shall obtain such coverage at his own expense. Subcontractor is also responsible for any deductible amounts incorporated into any property insurance policies.

SECTION 13. DISPUTE RESOLUTION. Any dispute resolution procedure in the prime contract shall be deemed incorporated in this Agreement, and shall apply to any disputes arising hereunder, except disputes not involving the acts, omissions or otherwise the responsibility of the Owner under the prime contract, those which have been waived by the making or acceptance of final payment, and questions regarding the licensure of the subcontractor. Subject to compliance with all applicable laws including but not limited to those relating to false claims dispute and claim certifications and cost and pricing data requirements Contractor's sole obligation is to present any timely-filed claims by Subcontractor to the Owner under such procedure and, subject to the other provisions of this Agreement, to pay to Subcontractor the proportionate part of any sums paid by the Owner to which Subcontractor is entitled. For disputes not involving the acts, omissions or otherwise the responsibility of the Owner under the prime contract, the parties hereto shall submit any and all disputes arising under or relating to the terms and conditions of the Subcontract to arbitration in accordance with the Construction Industry Rules of the American Arbitration Association. No demand in arbitration shall be made after the date when the institution of legal or equitable proceedings based on such dispute would be barred by the applicable statute of limitations. In any dispute resolution between the parties, the prevailing party shall be entitled in addition to any other relief granted to recover its costs of participation including

**SAMPLE FOR SUBCONTRACTING AGREEMENT, PLEASE ALIGN TO THE SCOPE OF WORK.
YOU CAN EVEN DESIGN ONW TEMPLATE.**

attorneys
and experts fees An award rendered by an arbitrator(s) shall be final and judgment may be entered
upon it in
accordance with applicable law in any court havmg jurisdiction.

SECTION 14 WARRANTY Subcontractor warrants to Owner and Contractor that all materials and
equipment
furnished shall be new unless otherwise specified and that all work under this Agreement will be
performed in a good
and workmanlike maimer, shall be of good quality, free from faults and defects and in conformance
with the Contract
Documents All work not conforming to these requirements including substitutions not properly
approved and authorized, may be considered defective The warranty provided in this section 14 shall
be in addition to and not in limitation of any other warranty or remedy required by law or by the
Contract Documents.

SECTION 15 SPECIAL PROVISIONS (Includingmg unit pricing if applicable)

SECTION 16. LABOR AGREEMENTS. The Contractor is signatory to the following labor agreements
covering
work on this project:

Contractors are required bylaw to be licensed and regulated by the Contractors State License Board
which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent
act or omission is filed within four years of the date of the alleged violation A complaint regarding a
latent act or omission pertaining to structural defects must be filed within 10 years of the date of the
alleged violation Any questions concerning a contractor may be referred to the Registrar, Contractors
State License Board, P0 Box 26000 Sacramento California 95826.

Dated: _____

Dated: _____

CONTRACTOR:

SUBCONTRACTOR:

THE NATIONAL TREASURY

Republic of South Africa



GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT

July 2010

GOVERNMENT PROCUREMENT
GENERAL CONDITIONS OF CONTRACT
July 2010

NOTES

The purpose of this document is to:

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

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

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

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General Conditions of Contract

1. Definitions

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

RSA.

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

obligations of the supplier covered under the contract.

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

2. Application

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

3. General

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

4. Standards

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

5. Use of contract documents and information; inspection.

- 5.1 The supplier shall not, without the purchaser’s prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 5.2 The supplier shall not, without the purchaser’s prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.
- 5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier’s performance under the contract if so required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier’s records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

6. Patent rights

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

7. Performance security

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

8. Inspections, tests and analyses

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

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

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

9. Packing

- 9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.
- 9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in SCC, and in any subsequent instructions ordered by the purchaser.

10. Delivery and documents

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

11. Insurance

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

12. Transportation

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

13. Incidental services

- 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:
- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
 - (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
 - (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;

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

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

14. Spare parts

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

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

15. Warranty

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

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

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

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

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

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

- | | |
|---|---|
| 16. Payment | <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 contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.</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</p> |

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

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

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

22. Penalties

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

23. Termination for default

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

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

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

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

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

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

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

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

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

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

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

24. Anti-dumping and countervailing duties and rights

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

may be due to him

25. Force Majeure

- 25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.
- 25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

26. Termination for insolvency

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

27. Settlement of Disputes

- 27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.
- 27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.
- 27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.
- 27.5 Notwithstanding any reference to mediation and/or court proceedings herein,
- (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
 - (b) the purchaser shall pay the supplier any monies due the supplier.

28. Limitation of liability

- 28.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6;
- (a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and

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

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

Js General Conditions of Contract (revised July 2010)

NHBC Reg	Name	Registration Status	Account Status	Region	Street		Postal Code	E-Mail	Phone
3000233020	Lebo Claude Nine Nine (Pty) Ltd	Registered	Current	Northwest		Blydeville - Lichtenburg	2740	ngcangcelal@gmail.com	+27 (659580621)
3000237234	L Mothusi Trading & Logistics (Pty) Ltd	Registered	Current	Northwest		Blydeville Ext 3 - Lichtenburg	2740	goiemana8@gmail.com	+27 (794855700)
3000193573	Fana Logistics & Projects (Pty) Ltd	Registered	Current	Northwest	2450 Extension 3	Blydeville-Lichtenburg	2780	daphneym321@gmail.com	+27 (732949650)
3000238958	R I Mogopudi Holding (Pty) Ltd	Registered	Current	Northwest	60 D Moagi Street	Boikhutso - Lichtenburg	2740	mogopudi60@gmail.com	+27 (794806007)
3000233055	Tshepo E Ntle Hardware Co-operative Limi	Registered	Current	Northwest	352 Mosala	Boikhutso - Lichtenburg	2740	tshepoentleco.op@gmail.com	+27 (836028479)
3000233775	Nokhuzola Trading Enterprise & Projects	Registered	Current	Northwest	3227 Mothwanye	Boikhutso Lichtenburg	2740	thabomoselane83@gmail.com	+27 (528529795)
80552581	Shumosky Business Solutions & Training	Registered	Current	Northwest	656 Madito	Boikhutso Location - Lichtenburg	2740	nandimas@gmail.com	+27 (762811242)
3000205279	ADG Business Venture (Pty) Ltd	Registered	Current	Northwest	17 Seventh Avenue	Burgersdrop - Lichtenburg	2740	adg07713@gmail.com	+27 (765206680)
188648211	Gaomoti Enterprise Trading CC	Registered	Current	Northwest	589 Zone 3	Itsoseng - Lichtenburg	2744	gaomoti2010@yahoo.com	+27 (784951009)
88614021	Tshegofelo Trading CC	Registered	Current	Northwest	3483 ZONE 2 Ext	Itsoseng-Lichtenburg	2744	tshegofelo@gmail.com	+27 (737682307)
25302	Ditsobotla Local Municipality	Registered	Current	Northwest	PO Box 7	Lichtenburg	2740		
3000206581	Fortress Enterprise (Pty) Ltd	Registered	Current	Northwest	54 Bantjies Street	Lichtenburg	2740	mrmrsenokwane@gmail.com	+27 (722230224)
6280	Jors Swanepoel Eiendomme	Registered	Current	Northwest	33 Greeff	Lichtenburg	2740	ougat@telkomsa.net	+27 (186320524)
3000232959	R and K Trading Enterprise (Pty) Ltd	Registered	Current	Northwest	91 First	Lichtenburg	2740	rb1molefe@gmail.com	+27 (824586216)
189052170	Retla Fihla Trading And Projects CC	Registered	Current	Northwest	14 Burger Street	Ward 7 - Lichtenburg	2740	thabomodiakgotla195@gmail.com	+27 (721010441)