



LIMPOPO
PROVINCIAL GOVERNMENT
REPUBLIC OF SOUTH AFRICA

SBD1

DEPARTMENT OF
CO-OPERATIVE GOVERNANCE,
HUMAN SETTLEMENTS & TRADITIONAL AFFAIRS
PART A: INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)					
BID NUMBER:	COGHSTA B13 / 2021/22 FY	CLOSING DATE:	18 JANUARY 2022	CLOSING TIME:	11H00
DESCRIPTION	APPOINTMENT OF PRINCIPAL AGENT TO MANAGE THE CONSTRUCTION OF BULK SERVICES, CONSTRUCTION OF 514 UNITS AND ENGINEERING SERVICES AT MARAPONG EXTENSION 6 (MARAPONG CRU PROJECT) IN LEPHALALE WITHIN LIMPOPO PROVINCE FOR A PERIOD OF 12 MONTHS				
BID RESPONSE DOCUMENTS MUST BE DEPOSITED IN THE QUOTATION BOX SITUATED AT (STREET ADDRESS)					
MUST BE DEPOSITED IN THE TENDER BOX: HENSA TOWERS NO. 20 RABE STREET					
CORNER LANDROS MARE AND RABE STREET					
POLOKWANE					
0700					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
Contact person	Masanya JT	Contact person	Mogotsi K.P		
Telephone number	015 294 2290	Telephone number	015 284 5471		
Facsimile number	N/A	Facsimile number	N/A		
E-mail address	masenyajt@coghsta.limpopo.gov.za	E-mail address	mogotsikp@coghsta.limpopo.gov.za		
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.					

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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 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:

.....

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PRICING SCHEDULE
(Professional Services)

SBD 3.3

NAME OF BIDDER:	BID NO.: COGHSTA B13 2021/22FY
CLOSING TIME 11:00	CLOSING DATE: 18 JANUARY 2022

OFFER TO BE VALID FOR ...**270**...DAYS FROM THE CLOSING DATE OF BID.

ITEM NO	DESCRIPTION	BID PRICE IN RSA CURRENCY ** (ALL APPLICABLE TAXES INCLUDED)
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1. The accompanying information must be used for the formulation of proposals.

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

R.....

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

4. PERSON AND POSITION

HOURLY RATE

DAILY RATE

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

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R.....

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R.....

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R.....

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R.....

.....

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

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

R.....

..... days

R.....

..... days

R.....

..... days

R.....

..... days

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

DESCRIPTION OF EXPENSE TO BE INCURRED

RATE

QUANTITY

AMOUNT

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

.....

.....

R.....

.....

.....

R.....

.....

.....

R.....

.....

.....

R.....

TOTAL: R.....

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

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Bid No.:

Name of Bidder:

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

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

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

*[DELETE IF NOT APPLICABLE]

Any enquiries regarding bidding procedures may be directed to the –

(INSERT NAME AND ADDRESS OF DEPARTMENT/ENTITY)

Tel:

Or for technical information –

(INSERT NAME OF CONTACT PERSON): **Mogotsi K**
Tel: 015 284 5471

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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 an advertised competitive bid, a limited bid, a proposal or written price quotation). 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, member):

.....

- 2.4 Registration number of company, enterprise, close corporation, partnership agreement or trust:

.....

- 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:

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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 attach proof of such authority to the bid document? **YES / NO**

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

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

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

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

2.8.1 If so, furnish particulars:

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

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

2.9.1 If so, furnish particulars.

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

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

2.10.1 If so, furnish particulars.

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

2.11 Do you or any of the directors / trustees / shareholders / members of the company have any interest in any other related companies whether or not they are bidding for this contract? **YES/NO**

2.11.1 If so, furnish particulars:

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

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

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

4 DECLARATION

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

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

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of bidder

**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 not exceed R50 000 000 (all applicable taxes included) and therefore the 80/20 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	80
B-BBEE STATUS LEVEL OF CONTRIBUTOR	20
Total points for Price and B-BBEE must not exceed	100

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

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

2. DEFINITIONS

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

3. POINTS AWARDED FOR PRICE

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

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

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

Where

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

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

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

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

5. BID DECLARATION

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

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

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

7. SUB-CONTRACTING

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

(Tick applicable box)

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

- 7.1.1 If yes, indicate:

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

(Tick applicable box)

YES		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 least 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 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

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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



LIMPOPO

PROVINCIAL GOVERNMENT
REPUBLIC OF SOUTH AFRICA

DEPARTMENT OF
CO-OPERATIVE GOVERNANCE,
HUMAN SETTLEMENTS & TRADITIONAL AFFAIRS

TERMS OF REFERENCE

FOR

**THE APPOINTMENT OF PRINCIPAL
AGENT TO MANAGE THE CONSTRUCTION
THE BULK SERVICES, CONSTRUCTION
OF 514 UNITS AND ENGINEERING
SERVICES AT MARAPONG EXTENSION 6
(MARAPONG CRU PROJECT) IN
LEPHALALE WITHIN LIMPOPO PROVINCE
FOR A PERIOD OF 12 MONTHS**

TERMS OF REFERENCE FOR THE APPOINTMENT OF PRINCIPAL AGENT TO MANAGE THE CONSTRUCTION THE BULK SERVICES,
CONSTRUCTION OF 514 UNITS AND ENGINEERING SERVICES AT MARAPONG EXTENSION 6 (MARAPONG CRU PROJECT) IN
LEPHALALE WITHIN LIMPOPO PROVINCE FOR A PERIOD OF 12 MONTHS.

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Initials of HOD NR

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**TERMS OF REFERENCE FOR THE APPOINTMENT OF PRINCIPAL AGENT TO
MANAGE THE CONSTRUCTION THE BULK SERVICES, CONSTRUCTION OF 514
UNITS AND ENGINEERING SERVICES AT MARAPONG EXTENSION 6
(MARAPONG CRU PROJECT) IN LEPHALALE WITHIN LIMPOPO PROVINCE FOR
A PERIOD OF 12 MONTHS**

1. PURPOSE

The Limpopo Dept. of Cooperative Governance, Human Settlements and Traditional Affairs requests proposals for the appointment of Principal Agent to manage the construction the bulk services, construction of 514 units and engineering services at Marapong Extension 6 (Marapong CRU project) in Lephalale within Limpopo Province for a period of 12 months.

2. BACKGROUND

The Marapong Community Residential Unit (CRU) is a housing project developed on two erven (no.4182 and no.4183 with a combined size of 7.9ha) located in Marapong Extension 6 which falls under the administration of Lephalale Local Municipality in the Waterberg District. Marapong is located 19km west-north-west of Lephalale, near Matimba Power Station.

Lephalale CRU project is developed at the former Marapong Hostel (which has since been demolished) in Lephalale Municipality, Waterberg District. The project will deliver 514 Community residential Units (CRU), which include 8 disabled units, 6 live work units and a community Centre as well as engineering services.

The initial site hand over took place in December 2016 and the Principal Agent in the project was appointed up to final completion stage, however in 2017, the contract of the Principal Agent lapsed before the construction could be completed. Subsequently the second Principal Agent was appointed via the Housing Development Agency from June 2019 until January 2020.

The third Principal Agent was appointed in May 2020 for a period of six months which has since lapsed in October 2020. The current Principal Agent was appointed in April 2021.

It is expected that the time period required for the construction the bulk services, construction of 514 units and engineering services, will be 12 months (Excluding builders break). The Principal Agent will be required to be on site for this period.

The value of work certified to date puts physical progress at 49%. The Project Status in terms of work in progress up to various stages is summarised as follow:

- 34 units are complete and awaiting bulk services connections for final Commissioning and handover.
- 165 units are roofed (internal finishes underway)
- 37 units are at Wall plate ready for roofing
- 70 units awaiting floor slabs
- 56 units are untouched.

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- Excavations and pipe installations have started for servicing the units with water and sanitation.
- The percentage physical progress is at 49 percent.
- The total expenditure is R 162,892,022.72 on a total budget of R 306, 564 793.80. This translates to 53.13 % of the project value.

3. SCOPE OF WORK / TASK

The PA shall co-ordinate efforts across the various functional areas involved and integrates the planning and control of costs, schedules, and work tasks. He has authority to instruct the Contractor, and generally to apply his managerial and engineering judgement. Briefly, his duties and responsibilities as outlined in the JBCC contract are as follows:

- To act as stated in the JBCC principal agreement and in a spirit of mutual trust and co-operation;
- To communicate in a form which can be read, copied and recorded;
- To reply to a communication within the period of reply;
- To reply to a communication submitted or re-submitted for acceptance;
- To give instructions resolving ambiguities or inconsistencies in the works information;
- To accept the contractor's programme within 2 weeks of submission or to give reasons for non-acceptance;
- To certify Works Completion within 7 days of completion;
- To assess and value the amount due for payment at each assessment date. The progress payments shall be based on predetermined milestone measures.
- To issue payment certificates to the employer and to the contractor;
- To refer any Variation Order (VO) with a cost implication to the Employer for approval prior to issue.
- To assess variation orders (VO) and notify the contractor of any assessments made on a variation order within the period allowed to the contractor for his quotation
- To implement VO's by notifying the contractor of accepted quotations or his own assessments.
- To accept policies and certificates of insurance submitted by the contractor or to give reasons for non-acceptance.
- Check that the works are constructed in accordance with the contract works information (In these circumstances it is necessary for a resident engineer or clerk of works to carry out the Site Supervisor role).

The scope of works includes management of the construction of 514 housing units, installation of internal services (water, sewer electricity) to the units, site works (including paving, parking bays etc.) and bulk supply lines for both water and sanitation from the main connection points/sources to the site. The designs were completed and will be made available.

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3.1 The following stages for the above professional team shall be applicable:

3.1.1 Stage 1 – Concept & Initiation Design Development

Completed by the previous professionals. Documents are available in pdf format and will be handed over to the successful bidder.

3.1.2 Stage 2 – Preliminary Design Development

Completed by the previous professionals, documents are available in pdf format and will be handed over to the successful bidder.

3.1.3 Stage 3 – Final Design Development

Completed by the previous professionals and approved for development by local authority, documents are available in pdf format and will be handed over. Reviews might be required as project is implemented and the bidders must allow for this in their cost estimates.

3.1.4 Stage 4 – Documentation and Procurement

Completed by the previous professionals, documents are available in pdf format and will be handed over. Review of the documentation may be required as the project is implemented and the bidders must allow for this in their cost estimates.

3.1.5 Stage 5 – Contract Administration and Inspection

Stage required in full up to final completion stage as per the JBCC Edition 4.1 of 2005.

3.1.6 Stage 6 – Close-Out

The Stage is required in full as per the JBCC Edition 4.1 of 2005 including final account. Bidders must provide the cost breakdown for close-out and completion stages.

The above services required from the professional team shall be in line with the following guidelines:

- a. The Guideline for Services and Processes of Estimating Fees for Persons Registered in terms of the Engineering Profession Act, 2000 (Act No. 46 of 2000), published under Government Gazette No. 38324, 12 December 2014, Board Notice 151 of 2014.
- b. Professional Fees Guideline in respect of services provided by person(s) registered in terms of the Architectural Profession Act, 2000 (Act No.44 of 2000).

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- c. Guideline tariff of professional fees in respect of services Rendered by persons registered in terms of the quantity Surveying profession act 2000 (act no 49 of 2000) In addition to the above scope, the consulting firm/entity is also required to manage Health and Safety (OHS) in the project in line with the relevant legislations and to ensure that a team of competent personnel is assembled for compliance purposes. The firm should also provide an environmental specialist to ensure compliance with legislation.

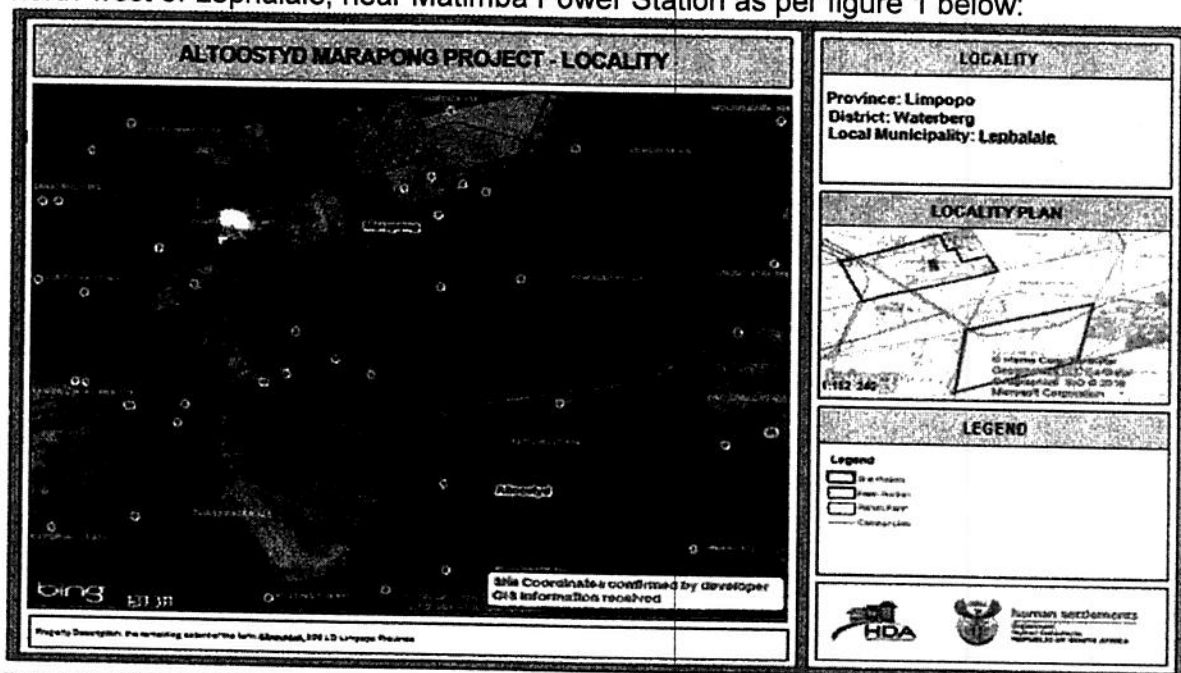
N.B: The successful bidder shall be required to review and adopt the available documentation including designs completed by other professionals.

4. Other duties related to the project shall include:

- The Principal Agent will conduct contract administration amongst other duties, Construction supervision, monitoring, certification and controlling projects to ensure that performance is in line with the project objectives and ensuring that schedule, quality, cost, scope and compliance targets are met by the contractor.
- Level 3 Full time Monitoring services will be required.
- Setting out of works: The Civil engineer should arrange for setting out of all pegs for e.g. Stand boundaries, services, road centerline pegs etc. by a capable and qualified surveyor prior to handing the site over to the contractor.
- Occupational and Safety officer as per the Act.
- Regular and appropriate reporting and communications to the Department at required intervals during the execution of projects, managing the project payment processes to minimize delays.

5. LOCATION OF THE PROJECTS

The project is located in Marapong Extension 6 which falls under the administration of Lephalale Local Municipality in the Waterberg District. Marapong is located 19km west-north-west of Lephalale, near Matimba Power Station as per figure 1 below:



TERMS OF REFERENCE FOR THE APPOINTMENT OF PRINCIPAL AGENT TO MANAGE THE CONSTRUCTION THE BULK SERVICES CONSTRUCTION OF 514 UNITS AND ENGINEERING SERVICES AT MARAPONG EXTENSION 6 (MARAPONG CRU PROJECT) IN LEPHALALE WITHIN LIMPOPO PROVINCE FOR A PERIOD OF 12 MONTHS.

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6. DURATION

The anticipated timeframe for the services of the Principal Agent is **12 months (Excluding builders break)** from date of appointment.

7. TEAM COMPOSITION

The service provider is expected to assemble a team with the following expertise

- Architect, Quantity Surveyor, Civil Engineering/structural and Electrical Engineering and a Professional Construction Project Manager, Environmental Consultant and Health and Safety Consultant.

NOTE: Technical team shall comprise of individual professional representative.

8. PROFESIONAL INDEMNITY INSURANCE

Upon appointment, all service providers will be required to furnish the department with a Professional Indemnity Insurance amounting to **10 000 000.00** from accredited financial institution. Such insurance must be submitted within 14 working days after receipt of the official appointment letter.

9. EVALUATION

This Bid will be evaluated in terms of the Preferential Procurement Policy Framework Act 2000 (Act No. 5 of 2000) and related regulations.

The bid will be evaluated in three phases namely:

Phase 1: Administrative Compliance and Bid Conditions

Phase 2: Technical Evaluation (Functionality)

Phase 3: Price and B-BBEE Status of Level of Contributor.

The Department reserves the right to accept all, some, or none of the bids submitted – either wholly or in part.

9.1 Phase 1: Administrative Compliance and Bid Conditions

The following returnable documents and requirements should be adhered to and be provided in the proposals; failure to comply will result in an offer being disregarded and not considered for further consideration.

- 9.1.1 In bids where Consortia / Joint Ventures / Sub-contractors are involved, each party must submit separate required documents, any other clearance or registration forms.
- 9.1.2 Copies of Company registration documents must be submitted.
- 9.1.3 Price Proposals / Cost breakdown to be submitted in the company letterhead and should be VAT inclusive where applicable.
- 9.1.4 CVs and Original certified copies of qualifications of Owners and Directors including original certified ID copies. All certified copies not older than six (6) months.

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- 9.1.5 CVs and Original certified copies of qualifications for Technical Team (**Professional Quantity Surveyor, Professional Engineer/Technologist/ Technician, Professional Engineer/Technologist/Technician, Professional Architect/Senior Architectural Technologist, Professional Construction Project Manager, Environmental Specialist or Manager and Health & Safety Officer**). All certified copies should not be older than six (6) months.
- 9.1.6 It is the bidder's responsibility to have foreign qualifications evaluated by the South African Qualification Authority (SAQA) and **submit proof of SAQA accreditation.**
- 9.1.7 Proof of registration with **SACQSP for Quantity Surveyor**. All certified copies should not be older than six (6) months.
- 9.1.8 Proof of registration with **ECSA for Electrical Engineer**. All certified copies should not be older than six (6) months.
- 9.1.9 Proof of registration with **ECSA for Civil or Structural Engineer**. All certified copies should not be older than six (6) months.
- 9.1.10 Proof of registration with **SACAP for Professional Architect/Senior Architectural Technologist required**. All certified copies should not be older than six (6) months.
- 9.1.11 Proof of registration with **SACPCMP for Professional Construction Project Manager**. All certified copies should not be older than six (6) months.
- 9.1.12 Completed and signed Compulsory Standard Bid Documents (SBD1, SBD4, SBD8 and SBD9) which form part of the tender document.
- 9.1.13 Submission of the SBD 3.3 form is not mandatory, as price is a subsidy quantum set by National Department of Human Settlement.
- 9.1.14 SBD 6.1 is not mandatory, but failure by the bidder to fully complete will result in zero BBBEE points.
- 9.1.15 Closing time for all bids is 11h00 a.m. Bids received after the specified closing time on the closing date shall be regarded as late and will not be accepted.
- 9.1.16 Proposals submitted through e-mail or fax will not be considered.
- 9.1.17 Each bid should be lodged in a sealed separate envelope with the name and address of the bidder, bid number and closing date.
- 9.1.18 Make use of the prescribed bid documents. Do not retype or copy.
- 9.1.19 The use of tippex is prohibited.
- 9.1.20 No amendments without initializing will be accepted.
- 9.1.21 The department will not enter into a contract with service providers who are not registered on the Centralized Supplier Database (CSD).
- 9.1.22 Entities and Directors who are listed in the National Treasury register of defaulters and restricted Suppliers will be disqualified
- 9.1.23 Deviation from Specifications/Terms of Reference is not permitted.

NOTE:

- Technical team shall comprise of individual professional representative as per table below under 4.2 - Phase 2: Technical Evaluation (Functionality)
- All qualification must be in line with the table below under 4.2 - Phase 2: Technical Evaluation (Functionality)
- Submit original certified copies not older than six months.

TERMS OF REFERENCE FOR THE APPOINTMENT OF PRINCIPAL AGENT TO MANAGE THE CONSTRUCTION THE BULK SERVICE, CONSTRUCTION OF 514 UNITS AND ENGINEERING SERVICES AT MARAPONG EXTENSION 6 (MARAPONG CRU PROJECT) IN LEPHALALE WITHIN LIMPOPO PROVINCE FOR A PERIOD OF 12 MONTHS.

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9.2 Phase 2 : Technical Evaluation (Functionality)

100% (80 points) will be allocated for technical requirements in accordance with the following rating scale:

1 = Poor, 2 = Average, 3 = Good, 4 = Very Good, 5 = Excellent

With regard to functionality the following criteria will be applicable and the maximum weight of each criterion is indicated hereunder:

Criteria A: Tenderer's experience		Points
Approach and Methodology: • Technical approach in management and understanding of the scope of work as indicated (5 points) • Project management process (5 points) • Work breakdown (2 points) • Quality control (3 points)		15
Project completed (attach appointment letters with verifiable references and completion certificates that indicate the start and completion dates for work done to date of this submission)	Number of projects completed of similar nature (Building projects) with verifiable references, appointment letters and completion certificates: Rating scale 5 (Excellent), 5 projects and above completed = 10 points Rating scale 4 (very good), up to 4 projects completed = 08 points Rating scale 3 (good), up to 3 projects completed = 06 points Rating scale 2 (average), up to 2 projects completed = 04 points Rating scale 1 (poor), 1 project completed = 02 points	10
Project completed (attach appointment letters with verifiable references and completion certificates that indicate the start and completion dates for work done to date of this submission)	Number of projects completed of similar nature (Engineering services projects) with verifiable references, appointment letters and completion certificates: Rating scale 5 (Excellent), 5 projects and above completed = 10 points Rating scale 4 (very good), up to 4 projects completed = 08 points Rating scale 3 (good), up to 3 projects completed = 06 points Rating scale 2 (average), up to 2 projects completed = 04 points Rating scale 1 (poor), 1 project completed = 02 points	10

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Criteria B: Experience of technical project team post professional registration			
Criteria	Qualifications	Relevant Work Experience	Points
Quantity Surveyor	Minimum Degree/B Tech in Quantity Surveying (Proof of registration with SACQSP as professional Quantity Surveyor required) CVs and certified copies of original qualification(s) must be submitted	<u>Experience as Quantity Surveyor</u> Rating scale 5 (5 years and above = 5 points) Rating scale 4 (4 but less than 5 year = 4 points) Rating scale 3 (3 but less than 4 years = 3 points) Rating scale 2 (2 but less than 3 years = 2 points) Rating scale 1 (1 but less than 2 years = 1 point)	5
Electrical Engineer	Minimum Degree/B Tech in Electrical Engineering (Proof of registration with ECSA as professional engineer / technologist / technician required) CVs and certified copies of original qualification(s) must be submitted	<u>Experience as Electrical Engineer</u> Rating scale 5 (5 years and above = 5 points) Rating scale 4 (4 but less than 5 year = 4 points) Rating scale 3 (3 but less than 4 years = 3 points) Rating scale 2 (2 but less than 3 years = 2 points) Rating scale 1 (1 but less than 2 years = 1 point)	5
Civil / Structural Engineer	Minimum Degree/B Tech in Civil Engineering (Proof of registration with ECSA as professional engineer / technologist / technician required) CVs and certified copies of original qualification(s) must be submitted	<u>Experience as Civil / Structural Engineer</u> Rating scale 5 (5 years and above = 5 points) Rating scale 4 (4 but less than 5 year = 4 points) Rating scale 3 (3 but less than 4 years = 3 points) Rating scale 2 (2 but less than 3 years = 2 points) Rating scale 1 (1 but less than 2 years = 1 point)	5

TERMS OF REFERENCE FOR THE APPOINTMENT OF PRINCIPAL AGENT TO MANAGE THE CONSTRUCTION THE BULK SERVICES, CONSTRUCTION OF 514 UNITS AND ENGINEERING SERVICES AT MARAPONG EXTENSION 6 (MARAPONG CRU PROJECT) IN LEPHALALE WITHIN LIMPOPO PROVINCE FOR A PERIOD OF 12 MONTHS.

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Architect	Minimum Degree/B-Tech in Architecture (Proof of registration with SACAP as professional architect / senior architectural technologist required) CVs and certified copies of original qualification(s) must be submitted	<u>Experience as Architect</u> Rating scale 5 (5 years and above = 5 points) Rating scale 4 (4 but less than 5 year = 4 points) Rating scale 3 (3 but less than 4 years = 3 points) Rating scale 2 (2 but less than 3 years = 2 points) Rating scale 1 (1 but less than 2 years = 1 point)	5
Professional Construction Project Manager	Minimum National Diploma in either Construction Project Management or relevant qualification within the Built Environment (Architecture, Quantity Surveying, or Civil Engineering) (Proof of registration with SACPCMP as professional construction project manager) CVs and original certified copies of qualifications must be submitted	<u>Experience as Construction Project Manager</u> Rating scale 5 (5 years and above = 05 points) Rating scale 4 (4 but less than 5 year = 04 points) Rating scale 3 (3 but less than 4 years = 03 points) Rating scale 2 (2 but less than 3 years = 02 points) Rating scale 1 (1 but less than 2 years = 01 point)	5

TERMS OF REFERENCE FOR THE APPOINTMENT OF PRINCIPAL AGENT TO MANAGE THE CONSTRUCTION THE BULK SERVICES, CONSTRUCTION OF 514 UNITS AND ENGINEERING SERVICES AT MARAPONG EXTENSION 6 (MARAPONG CRU PROJECT) IN LEPHALALE WITHIN LIMPOPO PROVINCE FOR A PERIOD OF 12 MONTHS.

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Environmental Consultant	Minimum National Diploma in Environmental Science/Management CVs and original certified copies of qualifications must be submitted	<u>Experience as an Environmental Specialist/Manager</u> Rating scale 5 (5 years and above = 05 points) Rating scale 4 (4 but less than 5 year = 04 points) Rating scale 3 (3 but less than 4 years = 03 points) Rating scale 2 (2 but less than 3 years = 02 points) Rating scale 1 (1 but less than 2 years = 01 point)	5
Health and Safety Consultant	Minimum 3 years National Diploma in Health and Safety or Safety Management CVs and original certified copies of qualifications must be submitted	<u>Experience as a Health and Safety Officer</u> Rating scale 5 (5 years and above = 05 points) Rating scale 4 (4 but less than 5 year = 04 points) Rating scale 3 (3 but less than 4 years = 03 points) Rating scale 2 (2 but less than 3 years = 02 points) Rating scale 1 (1 but less than 2 years = 01 point)	5
Criteria D: Implementation plan			
Implementation plan specifying: • Clear work breakdown structure(4 points), • Specific activities resource allocation (4 points) • Timelines (2 points)			10
GRAND TOTAL			80

IMPORTANT NOTE:

A bid which scores less than sixty percent (60% or 48 points) in respect of the requirements in Technical or Functionality Evaluation will be deemed to be non-responsive.

TERMS OF REFERENCE FOR THE APPOINTMENT OF PRINCIPAL AGENT TO MANAGE THE CONSTRUCTION THE BULK SERVICES, CONSTRUCTION OF 514 UNITS AND ENGINEERING SERVICES AT MARAPONG EXTENSION 6 (MARAPONG CRU PROJECT) IN LEPHALALE WITHIN LIMPOPO PROVINCE FOR A PERIOD OF 12 MONTHS.

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9.3 Phase 3: Price and B-BBEE Status of Level of Contributor

9.3.1 Price

Price will be allocated 80 points even though the subsidy quantum/unit price of a low-cost house is the same.

9.3.2 BBEE Status of Level of Contributor

BBBEE Status Level will be allocated 20 points

In terms of the Preferential Procurement Regulations of 2017, the 80/20 preference points system is applicable for the acquisition of goods or services for rand value from R30 000 to R50 million.

The 20 points will be awarded to a tenderer for attaining the B-BBEE status level of contributor in accordance with the table below:

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

The points scored by a tenderer in respect of the B-BBEE status level of contribution will be added to the points scored by the said tenderer for price.

10. SUBMISSION PROCEDURE

Proposal submitted through e-mail or fax will not be considered.

All bids must be submitted in the Bid Box @ 20 Rabe Street, Cnr Landdros Mare & Rabe Streets, Polokwane addressed to:

The Chief Director

Supply Chain Management

Department of Co-operative Governance, Human Settlements & Traditional Affairs

Private Bag X9485

Polokwane

0700

TERMS OF REFERENCE FOR THE APPOINTMENT OF PRINCIPAL AGENT TO MANAGE THE CONSTRUCTION THE BULK SERVICE, CONSTRUCTION OF 514 UNITS AND ENGINEERING SERVICES AT MARAPONG EXTENSION 6 (MARAPONG CRU PROJECT) IN LEPHALALE WITHIN LIMPOPO PROVINCE FOR A PERIOD OF 12 MONTHS.

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Initials of HOD AR

11. ADDITIONAL INFORMATION

Should additional information or clarification be required regarding the specification before the closing date of the tender, contact may be made by telephone or email, with the following officials:

NAME	TELEPHONE	EMAIL ADDRESS
Technical Enquiries		
Mogotsi K	015 284 5471	MogotsiKP@coghsta.limpopo.gov.za
Maisela ND	015 284 1841	MaiselaND@coghsta.limpopo.gov.za
Lamola RM	015 284 5111	LamolaMR@coghsta.limpopo.gov.za
Mpyatona S	015 284 5128	MpyatonaS@coghsta.limpopo.gov.za
Administrative Enquiries		
Mokalapa MJ	015 294 2278	MokalapaMJ@coghsta.limpopo.gov.za
Masenya JT	015 294 2310	MasenyaJT@coghsta.limpopo.gov.za
Masemola SS	015 294 2024	MasemolaSS@coghsta.limpopo.gov.za

DBSC SIGNATURES

Chairperson : 

Deputy Chairperson : 

Member : 

HOD : 

TERMS OF REFERENCE FOR THE APPOINTMENT OF PRINCIPAL AGENT TO MANAGE THE CONSTRUCTION THE BULK SERVICES, CONSTRUCTION OF 514 UNITS AND ENGINEERING SERVICES AT MARAPONG EXTENSION 6 (MARAPONG CRU PROJECT) IN LEPHALELE WITHIN LIMPOPO PROVINCE FOR A PERIOD OF 12 MONTHS.

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THE NATIONAL TREASURY

Republic of South Africa



GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT

July 2010

GOVERNMENT PROCUREMENT
GENERAL CONDITIONS OF CONTRACT
July 2010

NOTES

The purpose of this document is to:

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

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

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

TABLE OF CLAUSES

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

General Conditions of Contract

1. Definitions

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

RSA.

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

obligations of the supplier covered under the contract.

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

2. Application

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

3. General

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

4. Standards

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

5. Use of contract documents and information; inspection.

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

6. Patent rights

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

7. Performance security

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

8. Inspections, tests and analyses

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

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

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

9. Packing

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

10. Delivery and documents

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

11. Insurance

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

12. Transportation

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

13. Incidental services

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

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

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

14. Spare parts

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

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

15. Warranty

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

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

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

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

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

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

16. Payment

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

17. Prices

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

18. Contract amendments

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

19. Assignment

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

20. Subcontracts

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

21. Delays in the supplier's performance

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

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

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

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

22. Penalties

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

23. Termination for default

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

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

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

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

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

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

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

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

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

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

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

24. Anti-dumping and countervailing duties and rights

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

may be due to him

25. Force Majeure

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

26. Termination for insolvency

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

27. Settlement of Disputes

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

28. Limitation of liability

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

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

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

Js General Conditions of Contract (revised July 2010)