



## government communications

Department:  
Government Communication and Information System  
REPUBLIC OF SOUTH AFRICA

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### To all Bidders

#### ADDENDUM: ESTABLISHMENT OF A PANEL OF STATIC BILLBOARD BIDDERS AND AGENCIES

1. Kindly note that paragraph 3.1.6 & 4.1.1.4 have been revised to provide more clarity on the requirement.

*In the initial specifications it read as follows: For third party agents the agreement/contract has to explicitly state that they have legal rights to the static Billboards.*

*It has been revised to the following: For third party agents the agreement/contract has to explicitly state that they have legal rights to the static Billboards. The sites which have been given to the third party agent must be listed on the contract/agreement or attached to the contract as an annexure to the main agreement. The annexure with the list of sites must be signed by both parties.*

2. Paragraph 6.1.13 has been revised as follows.

*In the initial specifications it read as follows: Shortlisted bidder (s) will be required to prove financial security.*

*It has been revised to the following: Shortlisted bidder (s) might be required to prove financial security.*

3. On Table 1 which are the pre –qualification requirements, under approvals/contracts/agreements additional information has been provided to provide bidders with more clarity on the requirements.

*In the initial specifications it read as follows:*

Approvals/contracts/agreements	YES	Submission of the valid approvals/contracts/agreements as per paragraph 3.1.5. Contracts/agreements for the purpose of this bid must reflect the following information:
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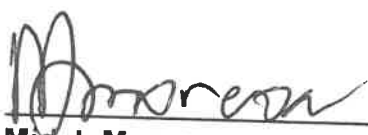
Regeringskommunikasie • Dikgokahano tsa Mmušo • Ditlhaelelano tsa Puso • Dikgokaganyo tsa Mmušo • Ezokuxhumana kukat-lulumeni •  
EzoNxibelelwano lukaRhulumente • Tekuchumana Tahulumende • zokuThintana kukaRhulumente • Vuhlanganisi byo Mfumo • Vhudavhidzani ha Muvhuso

		<ul style="list-style-type: none"> <li>• Name of the owner/ landlord and the agencies</li> <li>• Start and end date of the contract</li> <li>• List of sites and their geographical locations</li> <li>• Signatures of all relevant parties</li> <li>• For roadside static billboards, Leases with municipalities and landlords are required.</li> <li>• Municipal approvals must be on the municipality letterhead</li> <li>• Dated</li> <li>• signed by Municipal Official</li> </ul> <p>Non-submission of the approvals/contracts/agreements will result in the bidder's site/s not being considered</p>
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It has been revised to the following:

<b>Approvals/contracts/agreements</b>	<b>YES</b>	<p>Submission of the valid approvals/contracts/agreements as per <b>paragraph 3.1.5.</b></p> <p>1.Contracts/agreements for the purpose of this bid must reflect the following information:</p> <ul style="list-style-type: none"> <li>• Name of the owner/ landlord and the agency</li> <li>• Duration of the contract</li> <li>• Signatures of all relevant parties</li> <li>• The site names and their geographical locations must be embedded in the contract or attached as an annexure to the contract.</li> <li>• The Annexure must be signed by all the relevant parties</li> </ul>
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	<p>2. For static billboards, approvals from municipalities and leases with landlords are required.</p> <ul style="list-style-type: none"> <li>• Municipal approvals must be on the municipality letterhead</li> <li>• They must be dated</li> <li>• signed by the Municipal Official</li> <li>• All conditions which are set out by the municipality in the approval must be met</li> </ul> <p>Non-submission of the approvals/contracts/agreements will result in the bidder's site/s not being considered</p>
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**Mideah Moreroa**

**Director: Supply Chain Management**

**Date: 28 October 2022**



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## **ESTABLISHMENT OF A PANEL OF STATIC BILLBOARD BIDDERS AND AGENCIES**

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**RFB 005/2022/2023**

**Closing date and time: 14 November 2022 @ 11:00**

**Bid Validity Period: 120 days**

**TENDER BOX ADDRESS:**

Reception

Tshedimosetso House

1035 Francis Baard Street

C/o Francis Baard and Festival Street

Hatfield

0002

## **ESTABLISHMENT OF A PANEL OF STATIC BILLBOARDS BIDDERS AND AGENCIES**

### **1. BACKGROUND**

- 1.1 The Government Communication and Information System (GCIS) is responsible for the co-ordination of government's communication system and assisting national government and provincial departments with planning, implementation and management of communication campaigns including media buying, production and marketing services.
- 1.2 GCIS mandate is to deliver effective strategic government communication; set and influence adherence to standards and coherence of message and proactively communicate with the public about government policies, plans, programmes and achievements.
- 1.3 Given the nature of GCIS mandate of government communication, the communication conditions most of the time warrants that the department must have the ability to communicate in real time to establish command and control in order to maintain event situational awareness as well as to operate overall within a broad range of incidents.
- 1.4 To ensure effective and efficient coordination of these communication activities the GCIS seeks to establish a panel of experienced industry registered agencies / Bidders to provide digital static billboards for advertising.
- 1.5 Prospective bidders that have the competency, capacity and capability to provide the service as per the expectations of GCIS outlined under task directive below, are thus invited to tender for inclusion in the panel.

### **2. TASK DIRECTIVE**

- 2.1 Invitation to bid for the provision of static billboards for the purposes of advertising for a **period of 36 months**.
- 2.2 In setting up the panel, GCIS will procure media space directly from the Bidders and from third party agents with valid legal rights to the static Billboards. Prospective bidders will be evaluated on the elements described below.

### **3. REQUIREMENTS OF THE TENDER**

- 3.1 The department would like to appoint experienced industry Bidders or third party agents to provide static billboards for the purpose of advertising. Prospective bidders must:
  - 3.1.1 Have proven experience in providing the Out of Home service.
  - 3.1.2 Provide detailed information in relation to the service currently being rendered.
  - 3.1.3 Provide a rental rate card per site. The rate cards must cover the entire duration of the contract indicating the annual increase per site.
  - 3.1.4 Provide detailed information on the risks associated with the usage of Static Billboard, the mitigation plans the prospective bidder have in place as well as the prospective bidders monitoring mechanisms.
  - 3.1.5 Provide valid contracts, Municipal approvals and lease agreements with the landlord, municipality, owner and associations signed by both parties. The contract/agreement must contain the following:
    - 3.1.5.1 Name of the owner/ landlord and the agencies.
    - 3.1.5.2 Duration of the contract
    - 3.1.5.3 List of sites and their geographical locations.
    - 3.1.5.4 Signatures of all relevant parties.
    - 3.1.5.5 Leases with municipalities, landlords, owners and associations are required.
  - 3.1.6 For third party agents the agreement/contract has to explicitly state that they have legal rights to the static Billboards. The sites which have been given to the third party agent must be listed on the contract/agreement or attached to the contract as an annexure to the main agreement. The annexure must be signed by both parties.
  - 3.1.7 It is the responsibility of the Prospective bidder(s) to ensure they are indeed the owner or have valid legal rights to the site/inventory, which they are submitting as part of this bid.
  - 3.1.8 Bidders must be registered on the National Treasury Central Supplier Database
  - 3.1.9 It is a requirement that government departments pay its creditors/suppliers within 30 days of receipt of an accurate invoice.
  - 3.1.10 Based on paragraph 3.1.9, it is therefore a requirement for this tender that potential suppliers must have an invoice system that is easily readable and understandable.
  - 3.1.11 Potential suppliers must in their proposals indicate and describe the invoicing system that they are utilizing for invoicing.
  - 3.1.12 The invoices for services rendered must be submitted monthly after the service rendered.
  - 3.1.13 The invoices submitted must be error free.

3.1.14 The invoices issued by the potential supplier must contain the requirements that constitute a valid invoice as per SARS requirements. The invoice must reflect the following:

3.1.14.1 The word "Invoice" or Tax Invoice";

3.1.14.2 Letterheads / logo of the prospective supplier;

3.1.14.3 Company registration number of the prospective supplier;

3.1.14.4 VAT registration number, only if the prospective supplier is registered for VAT;

3.1.14.5 Name and address of the prospective supplier;

3.1.14.6 Unique invoice number;

3.1.14.7 Description of the service rendered;

3.1.14.8 An amount charged for the service rendered. The amount must be inclusive of VAT if the supplier is VAT registered;

3.1.14.9 Date stated of the invoice;

3.1.14.10 Contacts and email address of the prospective supplier; and

3.1.14.11 Details of the department / institution the invoice is addressed or issued to.

3.1.15 The invoice issued by the potential supplier must be accompanied by supporting documents in relation to the campaign flighted: dated pictures and showing of actual time of the photo being taken

#### **4. SERVICES REQUIRED BY THE DEPARTMENT**

##### **4.1 Appointment of Bidders and third party agents with valid legal rights for the provision of Static billboards for the purposes of advertising.**

4.1.1 GCIS would like to appoint prospective bidders for the provision of static billboards throughout the country.

4.1.1.1 The prospective bidders must provide a detailed list of all their static billboards

4.1.1.2 The prospective bidder must indicate the estimated reach of each site (traffic count) in the inventory/sites they are managing.

4.1.1.3 Municipal Approvals/Agreements/contracts from the owners/third party must be submitted with the proposal. The agreements must be referenced to the detailed list of

the static billboards and also be in sequence as per the detailed list of the static billboards provided by the prospective bidder.

- 4.1.1.4 For third party agents the agreement/contract has to explicitly state that they have legal rights to the static Billboards. The sites which have been given to the third party agent must be listed on the contract/agreement or attached to the contract as an annexure to the main agreement. The annexure must be signed by both parties.
- 4.1.1.5 All Approvals/agreements/contracts must be valid on submission of the tender documents.
- 4.1.1.6 Site/s submitted without approvals/agreements/contracts will not be considered as offered by the prospective bidder.
- 4.1.1.7 Prospective bidders who provide details of the inventory of the static billboards without submitting approvals/agreements/contracts will not be considered for inclusion in the panel. It is therefore critical that the prospective bidder, in providing a detailed list of the static billboards, ensure that this detail is reference in sequence to the approvals/agreements/contracts.

## **5. SPECIAL CONDITIONS OF THE TENDER**

- 5.1 For the purpose of this tender, layout or design will not be required.
- 5.2 GCIS will not be liable for any damage that may arise to the billboard. It is the sole responsibility of the prospective bidder to ensure that any screens that are utilized for government adverts are in line with the requirements as specified by the relevant legislations.
- 5.3 It is the sole responsibility of prospective bidder to inform GCIS of any contracts between the prospective bidder, the municipality, landlord, owners or association that may terminate pre-maturely. Should this not happen, all transactions processed will be regarded as fraud by GCIS. GCIS reserves the right to terminate the contract with the bidder.
- 5.4 Request of contracts by GCIS between the Bidder and its agencies, landlords, owners, municipalities and associations is for administrative purposes **only** and does not indicate the transfer of any rights or liability to GCIS.
- 5.5 The Bidder shall also indemnify GCIS against all actions, proceedings, claims, costs and demands for any injury, death or for damage or loss of property, lawsuits, etc. instituted by employees / agents of the agency or its third party suppliers which may be made against GCIS in connection with adverts placed.
- 5.6 The Bidder will not be allowed to change/ rotate the positioning of any advert without prior approval of GCIS. Should the Bidder present the proposal to rotate/ change the identified sites, the Bidder must explicitly indicate the benefits for the department and

why the proposal was not made originally when placement was done. Should the sites be rotated/ changed without the knowledge of GCIS, this will be regarded as a breach of contract.

- 5.7 Request for payments will be processed once confirmation of placement according to the approved schedule has been received by GCIS.

## **6. CONDITIONS OF TENDER**

### **6.1 Panel Membership**

- 6.1.1 The panel will be constituted for a duration of 36 months (3 Year Service Level Agreement (SLA) will be signed with each successful bidder appointed to the Panel.
- 6.1.2 Supplier Performance Management is viewed by the GCIS as a critical component in ensuring value for money and ensuring good supplier relations between the GCIS and all its suppliers. Upon receipt of written notification of an award, the Prospective Bidders will be required to sign a Service Level Agreement (SLA) with the GCIS. The SLA will form an integral part of the supply agreement. The SLA will also serve as a tool to measure, monitor and assess the supplier's performance level and ensure effective delivery of service, quality and value-add to GCIS business.
- 6.1.3 Only Bidders that comply with the requirements will be considered for evaluations.
- 6.1.4 Bidders who do not score 50% or more on functionality evaluation will not be appointed to the Panel.
- 6.1.5 The services will be required on a needs basis. Therefore, this implies that the department is not in a position to guarantee any work in terms of this Panel.
- 6.1.6 GCIS will choose the most effective sites in terms of impact and reach for a campaign based on the target market, objectives and available budget for a specific campaign. The location, size and reach of the sites will be considered when choosing the sites. Once that is done a request for a quotation will be sent to the owners of those specific sites.
- 6.1.7 Bidders may not cede or assign any part of the appointment to the Panel, nor sub contract part of the work assigned to them without the prior written authorization from the GCIS.

- 6.1.8 Failure to comply with any condition of these Terms of Reference will invalidate the respective proposal.
- 6.1.9 Bidders must declare possible conflict of interest with the GCIS prior to the proposed appointment as per the Standard Bidding Document 4 (SBD 4)
- 6.1.10 In the event that any conflict of interest is discovered during the Panel appointment, the GCIS reserves the right to cancel the agreement;
- 6.1.11 The GCIS reserves the right to cancel the appointment of a Bidders and remove such Bidders from its panel if such Bidders do not meet the standards agreed upon and/or expected. Bidders will be given a written warning after the first service delivery failure, and will be removed from the Panel, after the second service delivery failure
- 6.1.12 Should a bidder's contract expire before the end of the duration of this tender, bidders would be allowed to provide renewed contracts for that specific site?
- 6.1.13 Shortlisted bidder(s) might be required to prove financial security.

## **7. DOCUMENTS TO BE SUBMITTED**

***It needs to be noted that bidders are required to provide proposals that are correctly indexed and numbered for ease of reference.***

- 7.1 The following must be included in the proposal:
- 7.1.1 A company profile and a detailed proposal outlining the bidder's:
- 7.1.1.1 Experience
  - 7.1.1.2 Detailed list of the Sites/inventory that is owned by the prospective bidder or sites which the prospective bidder have valid legal rights to sell indicating;
    - geographical locations of the static billboards
    - routes
    - demographical breakdown of the platform's audience
    - Estimated number of audiences that each billboard reaches where available.
  - 7.1.1.3 Past clients
    - Provide signed reference letters from 3 previous clients on Letterheads of the work done within the last 2 years.
  - 7.1.1.3.1 Resources
    - Staff who will deal with GCIS and their respective experience
    - Awards (if any).

- 7.1.2 Should the owner of site/s relinquish their right to a third party, the owner cannot submit a proposal for the same site/s they have relinquished the rights for. Should this be the case; the GCIS will disregard the proposal of the owner and consider that of a third party.
- 7.1.3 Valid approvals/agreements/contracts as per paragraph 3.1.5
- 7.1.4 Bidder(s) must submit proof that they are registered on the National Treasury Central Supplier Database (CSD).
- 7.1.5 In addition, bidders must submit one case study of a successful campaign they have implemented. The case study must include the following:
  - 7.1.5.1 Name of the client company / organization
  - 7.1.5.2 Name of the campaign
  - 7.1.5.3 Objectives of the campaign
  - 7.1.5.4 Target market for the campaign
  - 7.1.5.5 Duration of the campaign
  - 7.1.5.6 Budget allocated for the campaign
  - 7.1.5.7 How was the campaign monitored?
  - 7.1.5.8 Challenges and how they were resolved if any
  - 7.1.5.9 Effectiveness/ reach of the campaign and how was this measured
- 7.1.6 The case study must be saved onto a memory stick and be submitted with the bid proposal. Bid documents and memory stick must be placed in a secured envelope. The bid number and the name of the bidding agency should be written on the front of the envelope. The envelope is to be deposited inside the tender box at the reception of the GCIS' head office.
- 7.1.7 Proposals are to be submitted with one original copy. The prospective bidder should number the pages and check the numbers of the pages to satisfy themselves that no pages are missing or duplicated. No liability will be accepted by GCIS about anything arising from the fact that pages are missing or duplicated. The prospective bidder is responsible for all the cost that they shall incur related to the preparation and submission of the bid documents.
- 7.1.8 Wherein there is a Joint Venture an agreement must be submitted and it must contain the following:
  - 7.1.8.1 Name of the two parties.
  - 7.1.8.2 Duration of the contract

- 7.1.8.3 List of sites and their geographical locations The site names and their geographical locations must be embedded in the contract or attached as an annexure to the contract. The Annexure must be signed by all the relevant parties
- 7.1.8.4 Original leases, council approvals or landlord contracts
- 7.1.8.5 Signatures of all relevant parties.
- 7.1.8.6 If there is joint venture suppliers must submit one combined BBEE certificate.

7.1.9 All the documentation submitted in response to this bid must be in English.

7.1.10 In order to promote/advance transformation within the sector only bidders with the following BBEE status level will be considered; Bidders with a BBEE status level 1& 2, Exempted Micro Enterprises (EME) and Qualifying Small Enterprise (QSE) with BBEE level 1 & 2. Non-submission of a **Sworn Affidavit as prescribed by the B-BBEE Code of Good Practice or a B-BBEE Certificate issued by an authorized body or person** will lead to a disqualification of the proposal.

## 7.2 Mandatory Standard Bidding Documents

7.2.1 Standard bidding documents (SBD forms) are mandatory documents. This **RFB for the establishment of a panel of static billboards bidders and agencies includes the following standard bidding documents (SBD) listed below. These documents must be fully and accurately completed and signed by the duly authorised representative of the prospective bidder. These documents must be submitted with the proposal.**

- 7.2.1.1 Invitation to Bid – SBD 1;
- 7.2.1.2 Declaration of Interest – SBD 4;
- 7.2.1.3 Preference Points Claim Form – SBD 6.1;
- 7.2.1.4 Contract Form- Rendering of Services – SBD 7.2
- 7.2.1.5 General Conditions of the contract (GCC) – to be initialled on every page

## 8. EVALUATION AND SELECTION CRITERIA

GCIS has set minimum standards (Gates) that a bidder needs to meet in order to be evaluated and selected as a successful bidder. The minimum standards consist of the following:

<b>Pre-qualification Criteria (Gate 0)</b>	<b>Technical Evaluation Criteria (Gate 1)</b>
<p>Bidders must submit all documents as per table 1 below.</p> <p>Only bidders that comply with ALL these criteria will proceed to Gate 1.</p>	<p>Bidder(s) are required to achieve a minimum functionality score of 50%. Bidders that scored 50% or more will be added on the panel for out of home Bidders and agencies</p>

#### Gate 1: Pre-qualification Criteria

Without limiting the generality of GCIS' other critical requirements for this Bid, Bidder(s) must submit the documents listed in Table 1 below. All documents must be completed and signed by the duly authorised representative of the prospective bidder(s). During this phase Bidders' response will be evaluated based on compliance with the listed administration and mandatory bid requirements. The bidder(s) proposal may be disqualified for non-submission of any of the documents.

**Table 1: Documents that must be submitted for pre-qualification**

<b>Documents that must be submitted</b>	<b>Non-submission may result in disqualification</b>	
<b>Submission of Case study and Sample</b>	<b>YES</b>	Bidders must submit 1 case study and 1 sample of work done. Bidders that fail to submit 1 case study and 1 sample of work done will not be considered for evaluation.
<b>Only bidders with BBBEE status level 1&amp; 2, Exempted Micro Enterprises (EME) and Qualifying Small Enterprise (QSE) with BBBEE level 1 &amp; 2 will be considered.</b>	<b>YES</b>	In order to promote/advance transformation within the sector only bidders with the following BBBEE status level will be considered; Bidders with a BBBEE status level 1& 2, Exempted Micro Enterprises (EME) and Qualifying Small Enterprise (QSE) with BBBEE level 1 & 2.
<b>Approvals/contracts/agreements</b>	<b>YES</b>	<p>Submission of the valid approvals/contracts/agreements as per <b>paragraph 3.1.5.</b></p> <p>1.Contracts/agreements for the purpose of this bid must reflect the following information:</p>

		<ul style="list-style-type: none"> <li>• Name of the owner/ landlord and the agency</li> <li>• Duration of the contract</li> <li>• Signatures of all relevant parties</li> <li>• The site names and their geographical locations must be embedded in the contract or attached as an annexure to the contract.</li> <li>• The Annexure must be signed by all the relevant parties</li> </ul> <p>2. For static billboards, approvals from municipalities and leases with landlords are required.</p> <ul style="list-style-type: none"> <li>• Municipal approvals must be on the municipality letterhead</li> <li>• They must be dated</li> <li>• signed by the Municipal Official</li> <li>• All conditions which are set out by the municipality in the approval must be met</li> </ul> <p>Non-submission of the approvals/contracts/agreements will result in the bidder's site/s not being considered</p>
Registration on Central Supplier Database (CSD)	YES	<ul style="list-style-type: none"> <li>• The bidder must be registered as a service provider on the Central Supplier Database (CSD).</li> <li>• If you are not registered proceed to complete the CSD registration of your company prior to submitting your proposal to this bid; To register visit: <a href="https://secure.csd.gov.za/">https://secure.csd.gov.za/</a></li> <li>• Submit proof of registration.</li> </ul> <p><b><i>Bidders who are not registered on the CSD will not be considered for this panel.</i></b></p>

## Gate 1: Technical Evaluation Criteria

Only Bidders that have met the Pre-Qualification Criteria in (Gate 0) will be evaluated in Gate 1 for functionality. The submission **must** clearly address the criteria in the table below as the following criteria will be used in the evaluation process:

ASPECT	COMMENT	SCORE
1. Experience, skills, credentials, capacity	<p>Describe the experience the company has in the Out of Home Field.</p> <ul style="list-style-type: none"> <li>State number of years the company has been in operation in the field</li> </ul> <p>Less than 1 year = 1 point  Between 1 – 2 years = 2 points  Between 2 – 3 years = 3 points  Between 3 – 4 years = 4 points  more than 4 years = 5 points</p> <ul style="list-style-type: none"> <li>List the names of the people who will work on the GCIS account and highlight their individual experience with regards to media buying and the implementation of Out of home campaigns</li> </ul> <p>Less than 1 year = 1 point  Between 1 – 2 years = 2 points  Between 2 – 3 years = 3 points  Between 3 – 4 years = 4 points  more than 4 years = 5 points</p> <ul style="list-style-type: none"> <li>List campaigns which the company has implemented outlining duration of the campaign and the budget allocated to that campaign.</li> </ul>	<p><b>(20)</b></p> <p><b>5 points</b></p> <p><b>5 points</b></p> <p><b>10 points</b></p>
2. Evaluation of the Case Study	<p>The case study must include the following:</p> <ol style="list-style-type: none"> <li>Name of the client</li> <li>Name of the campaign</li> <li>Objectives of the campaign</li> <li>Target market for the campaign</li> </ol>	<p><b>(40) points</b></p> <p><b>10 points</b></p>

	<p>5. Duration of the campaign (Start and End date)</p> <p>6. Budget allocated for the campaign</p> <p>7. Pictures as proof of the sites / platforms used for the campaign</p> <p>8. How the campaign was monitored highlighting the methodology used?</p> <p>9. Provide challenges which were faced by out of home service providers for campaigns and how were these resolved?</p> <ul style="list-style-type: none"> <li>1 - 2 challenges and resolutions <b>3 points</b></li> <li>2 - 4 challenges and resolutions <b>5 points</b></li> </ul> <p>10.State how the agency evaluated the effectiveness of this campaign?</p> <p>11.Provide a post campaign report of this campaign</p> <p><i>Note that the campaign used for the case study has to be a campaign implemented by one of the clients who have provided a written reference.</i></p>	<p>5 points</p> <p>5 points</p> <p>10 points</p> <p>10 points</p>
3. Contactable references (written confirmation letters on a letterhead)	<ul style="list-style-type: none"> <li>Provide a minimum of 3 contactable clients that the supplier has done work for within the last 2 years. (Provide signed reference letters from 3 previous clients on letterheads)</li> </ul> <p>3 references = 3 points</p> <p>4 references = 4 points</p> <p>5 and above = 5 points</p>	<b>5 points</b>
<b>TOTAL</b>		<b>65</b>

The proposal will be evaluated in terms of the Preferential Procurement Policy Framework Act (Act 5 of 2000) and Preferential Procurement Regulations (April 2017) on the basis of functionality. A bidder that scores 50% or more for functionality will be added on the panel for out of home Bidders and agencies (**Static Billboards**)

GOVERNMENT COMMUNICATION AND INFORMATION SYSTEM will assess the functionality of each proposal taking into account the following criteria:

FUNCTIONALITY	WEIGHT	VALUE
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Values: 0 = Non-submission, 1 = Poor; 2 = Average; 3 = Acceptable; 4 = Very good; 5 = Excellent

The percentage for functionality will be calculated as follows:

$$\frac{A}{B} \times 100$$

Where:

A = total score of the bidder

B = maximum score, i.e. 325

## **9. BID VALIDITY PERIOD**

- 9.1 Responses to this bid received from prospective bidders will be valid for a period of 120 days counted from the closing date of the bid.

## **10. TERMS AND CONDITIONS OF BID**

### **10.1 GCIS' Rights**

- 10.1.1 The GCIS is entitled to amend any bid conditions, validity period, specifications, or extend the closing date of the bid before the closing date. All Bidders, to whom the bid documents have been issued and where the GCIS have record of such Bidders, may be advised in writing of such amendments in good time.
- 10.1.2 The GCIS reserves the right to extend the scope of work relating to this tender to include any of its Subsidiaries if required. The implications of such scope changes will be subject to negotiations between the GCIS and the Successful Bidder(s).
- 10.1.3 The GCIS reserves the right to conduct site visits at the Bidder(s) corporate offices and / or at client sites if so required.

### **10.2 Undertakings by the Bidders**

- 10.2.1 The Bidders hereby offers to render all or any of the services described in the attached documents to the GCIS on the terms and conditions and in accordance with the

specifications stipulated on this Bid documents (and which shall be taken as part of, and incorporated into, this Proposal).

- 10.2.2 Bids submitted by Companies must be signed by a person or persons duly authorized thereto by a resolution of a Board of Directors, a copy of which Resolution, duly certified be submitted with the Bid.
- 10.2.3 The GCIS is not bound to accept any of the proposals submitted and reserves the right to call for best and final offers from shortlisted bidders before final selection. The GCIS also reserves the right to call for interviews with short-listed bidders before final selection.
- 10.2.4 The Bidders hereby agrees that the offer herein shall remain binding upon him/her and receptive for acceptance by the GCIS during the validity period indicated and calculated from the closing hour and date of the Bid; this offer and its acceptance shall be subject to the terms and conditions contained in this Bid document.
- 10.2.5 The Bidder(s) furthermore confirm that he/she has satisfied himself/herself as to the correctness and validity of his/her Bid response that the price(s) and rate(s) quoted cover all the work/item(s) specified in the Bid response documents and that the price(s) and rate(s) cover all his/her obligations under a resulting contract and that he/she accepts that any mistakes regarding price(s) and calculations will be at his/her risk.
- 10.2.6 The Bidders hereby accepts full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on him/her under this agreement as the Principal/s liable for the due fulfilment of this contract.
- 10.2.7 No material or information derived from the provision of the services under the contract may be used for any purposes other than those of the GCIS, except where authorized in writing to do so. All information will be held strictly confidential. The successful Bidders will be required to sign a confidentiality agreement with the GCIS.

Copyright of all documents and electronic aids, software programs prepared or developed in terms of the appointment shall remain the property of the GCIS.

- 10.2.8 The GCIS reserves the right to amend, modify or withdraw these Terms of Reference document or amend, modify or terminate any of the procedures or requirements set out herein at any time and from time to time, without prior notice except where required by law, and without liability to compensate or reimburse any Bidder(s). Any Briefing Notes which may be issued by the GCIS to the Bidder(s) should be considered as part of these Terms of Reference. Furthermore, in the event that negotiations between

the GCIS and the Preferred Bidder(s) fail with regard to the conclusion of an SLA, the GCIS reserves its right not to appoint the Preferred Bidder(s) without incurring any liability to compensate or reimburse the Preferred Bidder(s).

- 10.2.9 Neither the GCIS nor any of its respective, officers, or employees may make any representation or warranty, expressed or implied in these Terms of Reference document, and nothing contained herein is, or shall be relied upon as, a promise or representation, whether as to the past or the future.
- 10.2.10 A proposal submitted by a company, close corporation or other legal person must be accompanied by a resolution or agreement of the directors or members and be signed by a duly authorized person.
- 10.2.11 A Proposal submitted by a partnership must be accompanied by a written partnership agreement.
- 10.2.12 Bidders may ask for clarification on these Terms of Reference before the deadline for the submission of bids. Any request for clarification must be submitted by email to the GCIS. Copies of questions and answers will be emailed to all bidders that register at the briefing session, without revealing the identity of the source of the questions.
- 10.2.13 Bidders may not contact the GCIS on any matter pertaining to their bid from the time when bids are submitted to the time the contract is awarded. Any effort by bidders to influence bid evaluation, bid comparisons or award decisions in any manner, may result in rejection of the bid concerned.
- 10.2.14 Bid submission requirements must be completed in sections and appendices provided in the bid document.
- 10.2.15 By submitting the tender documents, the bidder agree and consent in terms of section 11(1) of the Protection of Personal Information Act, 2013 (POPIA), to your personal information which you provide to the GCIS being processed by the GCIS and its employees, agents, Cabinet committees, National Treasury, Auditor-General of South Africa and sub-contractors for procurement purposes, in accordance with the POPIA.

## **11. SECURITY CLEARANCE**

- 11.1 The GCIS reserves the right to subject the preferred Bidders to security vetting prior to the contract being awarded.

## **12. BRIEFING SESSION**

- 12.1 Bidders are invited to a **compulsory briefing session** to be held **at the GCIS Head Office, Tshedimosetso house, 1035 Francis Baard Street, Hatfield**. The briefing will be conducted over two sessions. The dates and times are as follows:  
21 October 2022: 10h00-11h00  
21 October 2022: 12h00-13h00

#### **CLOSING DATE FOR THE TENDER**

- 12.2 The closing date for tender submissions is on and all agencies who are interested in this opportunity must submit their proposals no later than this date and time.
- 12.3 If a courier service company is being used for delivery of the bid document, the bid description must be endorsed on the delivery note/courier packaging and the courier must ensure that documents are placed / deposited into the bid box. **The GCIS will not be held responsible for any delays where bid documents are handed to the GCIS Receptionist.**
- 12.4 No bid received by telegram, telex, email, facsimile or similar medium will be considered.
- 12.5 Where a bid document is not inside the bid box at the time of the bid closing, such a bid document will be regarded as a late bid. **Bid proposals received after the closing date/time will not be evaluated.**
- 12.6 The documentation must be handed in at the below address not later than 11h00 on the closing date of 14 November 2022

#### **The Tender Box**

**Government Communication and Information System**

**Tshedimotsetso House**

**1035 Frances Baard Street (cnr Frances Baard and Festival Streets)**

**Pretoria**

**0001**

#### **13. CONTACT PERSONS FOR TECHNICAL ENQUIRIES**

Faith Maseko

E-mail: [faiths@gcis.gov.za](mailto:faiths@gcis.gov.za)

Tel: 012 473 0084

#### **PROCUREMENT ENQUIRIES**

Namane Mahlaba  
Tel: 012 473 0194  
Email: [namane@gcis.gov.za](mailto:namane@gcis.gov.za)

Lebogang Molayi  
Tel: 012 473 0143  
Email: [lebogangm@gcis.gov.za](mailto:lebogangm@gcis.gov.za)

Approved

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Ms. Regomoditswe Mavimbela  
DDG: Content Processing and Dissemination  
Date:

## PART A INVITATION TO BID

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)</b>					
BID NUMBER:	RFB 005/2022-2023	CLOSING DATE: 14 NOVEMBER 2022	Validity Period: 120 Days	CLOSING TIME:	11:00
DESCRIPTION	ESTABLISHMENT OF A PANEL OF STATIC BILLBOARD BIDDERS AND AGENCIES				
BID RESPONSE DOCUMENTS MUST BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
GCIS					
1035 TSHEDIMOSETSO HOUSE					
C/O FRANCIS BAARD AND FESTIVAL STREET					
HATFIELD					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	NAMANE MAHLABA/ LEBOGANG MOLAYI		CONTACT PERSON	FAITH MASEKO	
TELEPHONE NUMBER	012 473 0093/0143		TELEPHONE NUMBER	012 473 0084	
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS	namane@gcis.gov.za/lebogangm@gcis.gov.za/		E-MAIL ADDRESS	faiths@gcis.gov.za	
<b>SUPPLIER INFORMATION</b>					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX]  <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX]  <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES &amp; QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]</b>					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?		<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER PART B:3 ]
<b>QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE A BRANCH IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM					

PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.

## PART B TERMS AND CONDITIONS FOR BIDDING

<b>1. BID SUBMISSION:</b>
1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2. 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).
<b>2. TAX COMPLIANCE REQUIREMENTS</b>
2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO 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:

**BID VALIDITY PERIOD: 120 DAYS**

## BIDDER'S DISCLOSURE

### 1. PURPOSE OF THE FORM

Any person (natural or juristic) may make an offer or offers in terms of this invitation to bid. In line with the principles of transparency, accountability, impartiality, and ethics as enshrined in the Constitution of the Republic of South Africa and further expressed in various pieces of legislation, it is required for the bidder to make this declaration in respect of the details required hereunder.

Where a person/s are listed in the Register for Tender Defaulters and / or the List of Restricted Suppliers, that person will automatically be disqualified from the bid process.

### 2. Bidder's declaration

- 2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest<sup>1</sup> in the enterprise, employed by the state? **YES/NO**

- 2.1.1 If so, furnish particulars of the names, individual identity numbers, and, if applicable, state employee numbers of sole proprietor/ directors / trustees / shareholders / members/ partners or any person having a controlling interest in the enterprise, in table below.

Full Name	Identity Number	Name of institution	State

- 2.2 Do you, or any person connected with the bidder, have a relationship

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<sup>1</sup> the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.

with any person who is employed by the procuring institution? **YES/NO**

2.2.1 If so, furnish particulars:

.....  
 .....

2.3 Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract? **YES/NO**

2.3.1 If so, furnish particulars:

.....  
 .....

### 3 DECLARATION

I, \_\_\_\_\_ the \_\_\_\_\_ undersigned,  
 (name)..... in  
 submitting the accompanying bid, do hereby make the following  
 statements that I certify to be true and complete in every respect:

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium<sup>2</sup> will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 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.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring

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<sup>2</sup> Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.

- 3.6 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.

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 and 3 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM 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
<b>Total points for Price and B-BBEE must not exceed</b>	<b>100</b>

1.5 Failure on the part of a bidder to submit 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.



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

**80/20**

or

**90/10**

$$Ps = 80 \left( 1 + \frac{Pt - P_{max}}{P_{max}} \right) \text{ or } Ps = 90 \left( 1 + \frac{Pt - P_{max}}{P_{max}} \right)$$

Where

Ps = Points scored for price of bid under consideration

Pt = Price of bid under consideration

Pmax = Price of highest acceptable bid

## 5. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

- 5.1 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

## 6. BID DECLARATION

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

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

- 7.1 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.

## 8. SUB-CONTRACTING

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

(Tick applicable box)

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

- 8.1.1 If yes, indicate:

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

**9. DECLARATION WITH REGARD TO COMPANY/FIRM**

9.1 Name of company/firm:.....

9.2 VAT registration number:.....

9.3 Company registration number:.....

**9.4 TYPE OF COMPANY/ FIRM**

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

[TICK APPLICABLE BOX]

**9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES**

.....

.....

.....

.....

**9.6 COMPANY CLASSIFICATION**

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

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

9.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of 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 .....

.....

.....

## CONTRACT FORM - RENDERING OF SERVICES

**THIS FORM MUST BE FILLED IN DUPLICATE BY BOTH THE SERVICE PROVIDER (PART 1) AND THE PURCHASER (PART 2). BOTH FORMS MUST BE SIGNED IN THE ORIGINAL SO THAT THE SERVICE PROVIDER AND THE PURCHASER WOULD BE IN POSSESSION OF ORIGINALLY SIGNED CONTRACTS FOR THEIR RESPECTIVE RECORDS.**

### PART 1 (TO BE FILLED IN BY THE SERVICE PROVIDER)

1. I hereby undertake to render services described in the attached bidding documents to (name of the institution)..... in accordance with the requirements and task directives / proposals specifications stipulated in Bid Number..... at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the Purchaser during the validity period indicated and calculated from the closing date of the bid .
2. The following documents shall be deemed to form and be read and construed as part of this agreement:
  - (i) Request for Quotation documents, viz
    - Invitation to quote
    - Tax clearance certificate
    - Pricing schedule(s)
    - Filled in task directive/proposal
    - Preference Certificates in terms of the Preferential Procurement Regulations 2001
    - Declaration of interest
    - Special Conditions of Contract;
  - (ii) General Conditions of Contract; and
  - (iii) Other (specify)
3. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the services specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfilment of this contract.
5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
6. I confirm that I am duly authorised to sign this contract.

NAME (PRINT) .....

CAPACITY .....

SIGNATURE .....

NAME OF FIRM .....

DATE .....

#### WITNESSES

1 .....

2 .....

DATE: .....

# **THE NATIONAL TREASURY**

**Republic of South Africa**



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## **GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT**

**July 2010**

**GOVERNMENT PROCUREMENT**  
**GENERAL CONDITIONS OF CONTRACT**  
**July 2010**

**NOTES**

The purpose of this document is to:

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

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

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

## 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](http://www.treasury.gov.za)

**4. Standards**

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

**5. Use of contract documents and information; inspection.**

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

**6. Patent rights**

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

**7. Performance security**

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

**8. Inspections, tests and analyses**

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

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

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

## **9. Packing**

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

## **10. Delivery and documents**

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

## **11. Insurance**

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

## **12. Transportation**

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

## **13. Incidental services**

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

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

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

#### **14. Spare parts**

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

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

#### **15. Warranty**

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

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

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

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

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

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

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| <b>16. Payment</b>                              | <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>   |
| <b>17. Prices</b>                               | <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>  |
| <b>18. Contract amendments</b>                  | <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>   |
| <b>19. Assignment</b>                           | <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>   |
| <b>20. Subcontracts</b>                         | <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>   |
| <b>21. Delays in the supplier's performance</b> | <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.
<b>29. Governing language</b>	29.1	The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.
<b>30. Applicable law</b>	30.1	The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.
<b>31. Notices</b>	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.
<b>32. Taxes and duties</b>	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.
<b>33. National Industrial Participation Programme (NIP)</b>	33.1	The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.
<b>34. Prohibition of Restrictive practices</b>	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.