

**PART A  
INVITATION TO BID**

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE LIMPOPO PROVINCIAL TREASURY</b>					
BID NUMBER:	LPT 002/2023	CLOSING DATE:	23 JUNE 2023	CLOSING TIME:	11H00
DESCRIPTION	APPOINTMENT OF ENTITY TO RENDER MUNICIPAL FINANCE SUPPORT SERVICE FOR A PERIOD OF 12 MONTHS				
<b>BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)</b>					
ISMINI TOWERS TENDER BOX					
LIMPOPO PROVINCIAL TREASURY					
46 HANS VAN RENSBURG STREET					
POLOKWANE					
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>			<b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>		
CONTACT PERSON	MAPHANGA TH		CONTACT PERSON	TSHIRADO N	
TELEPHONE NUMBER	015 298 7055		TELEPHONE NUMBER	015 291 8400	
FACSIMILE NUMBER	015 298 7151		FACSIMILE NUMBER	015 298 7151	
E-MAIL ADDRESS	Maphangath@treasury.limpopo.gov.za		E-MAIL ADDRESS	Tshiradon@treasury.limpopo.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 THE QUESTIONNAIRE BELOW]	
<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 PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

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

SIGNATURE OF BIDDER: .....

CAPACITY UNDER WHICH THIS BID IS SIGNED: .....  
(Proof of authority must be submitted e.g. company resolution)

DATE: .....

**PRICING SCHEDULE – FIRM PRICES  
(PURCHASES)**

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

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

Name of bidder.....	Bid number: <b>LPT 002/2023</b>
Closing Time <b>11:00</b>	Closing date <b>23/06/2023</b>

OFFER TO BE VALID FOR **90** DAYS FROM THE CLOSING DATE OF BID.

ITEM NO.	QUANTITY	DESCRIPTION	BID PRICE IN RSA CURRENCY ** (ALL APPLICABLE TAXES INCLUDED)
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- Required by: .....
- At: .....
- Brand and model .....
- Country of origin .....
- Does the offer comply with the specification(s)? \*YES/NO
- If not to specification, indicate deviation(s) .....
- Period required for delivery .....
- \*Delivery: Firm/not firm
- Delivery basis .....

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

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

\*Delete if not applicable

LPT 002/2023

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## 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.

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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

<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

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**PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL  
PROCUREMENT REGULATIONS 2022**

This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for specific goals.

**NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022**

**1. GENERAL CONDITIONS**

- 1.1 The following preference point systems are applicable to invitations to tender:
- 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 To be completed by the organ of state**

- a) The applicable preference point system for this tender is the **80/20** preference point system.
- b) Either the **90/10 or 80/20 preference point system** will be applicable in this tender. The lowest/ highest acceptable tender will be used to determine the accurate system once tenders are received.

- 1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:

- (a) Price; and  
(b) Specific Goals.

**1.4 To be completed by the organ of state:**

The maximum points for this tender are allocated as follows:

	POINTS
<b>PRICE</b>	80
<b>SPECIFIC GOALS</b>	20
<b>Total points for Price and SPECIFIC GOALS</b>	<b>100</b>

- 1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean



that preference points for specific goals are not claimed.

- 1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

## 2. DEFINITIONS

- (a) “**tender**” means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- (b) “**price**” means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (c) “**rand value**” means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (d) “**tender for income-generating contracts**” means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
- (e) “**the Act**” means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

## 3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

### 3.1. POINTS AWARDED FOR PRICE

#### 3.1.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

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

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

Where

- Ps = Points scored for price of tender under consideration  
Pt = Price of tender under consideration  
Pmin = Price of lowest acceptable tender

3.2. **FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT**

3.2.1. **POINTS AWARDED FOR PRICE**

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

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

Where

- Ps = Points scored for price of tender under consideration  
Pt = Price of tender under consideration  
Pmax = Price of highest acceptable tender

**4. POINTS AWARDED FOR SPECIFIC GOALS**

4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:

4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—

- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
- (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,

then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

**Table 1: Specific goals for the tender and points claimed are indicated per the table below.**

*(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.*

*Note to tenderers: The tenderer must indicate how they claim points for each preference point system.)*

The specific goals allocated points in terms of this tender	Number of points allocated (90/10 system) (To be completed by the organ of state)	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (90/10 system) (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)
Black people ownership > 51%	N/A	7	N/A	
Woman ownership > 51%	N/A	7	N/A	
Persons with disabilities ownership > 51%	N/A	2	N/A	
Youth ownership > 51%	N/A	2	N/A	
Locality (Limpopo) – business / company based within a specific region (Limpopo)	N/A	2	N/A	

**DECLARATION WITH REGARD TO COMPANY/FIRM**

4.3. Name of company/firm.....

4.4. Company registration number: .....

4.5. TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
- One-person business/sole propriety
- Close corporation
- Public Company
- Personal Liability Company
- (Pty) Limited
- Non-Profit Company
- State Owned Company

[TICK APPLICABLE BOX]

4.6. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I 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 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
  - (a) disqualify the person from the tendering 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 tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted 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, if deemed necessary.

..... <b>SIGNATURE(S) OF TENDERER(S)</b>	
<b>SURNAME AND NAME:</b>	.....
<b>DATE:</b>	.....
<b>ADDRESS:</b>	..... ..... ..... .....



**LIMPOPO**

PROVINCIAL GOVERNMENT  
REPUBLIC OF SOUTH AFRICA

**PROVINCIAL TREASURY**  
**CONFIDENTIAL**

**TERMS OF REFERENCE**  
**FOR THE APPOINTMENT OF ENTITY TO RENDER MUNICIPAL FINANCE SUPPORT**  
**SERVICE FOR A PERIOD OF 12 MONTHS**

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Ismini Towers, 46 Hans Van Rensburg Street. POLOKWANE, 0700, Private Bag X9486, POLOKWANE, 0700  
Tel: (015) 298 7000, Fax: (015) 295 7010 Website: <http://www.limpopo.gov.za>

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### **1. INTRODUCTION**

- 1.1. The Limpopo Provincial Treasury (LPT) has been established according to section 17 of the Public Finance Management Act (PFMA) 1 of 1999 (as amended by Act 29 of 1999). Its functions and powers are provided in the Act under section 18 (1) and (2). LPT is directly responsible for implementing, managing, and overseeing the following legislation and the relevant regulations:
- a) Public Finance Management Act (PFMA) of 1999 (as amended by Act 29 of 1999);
  - b) Treasury Regulations as Amended;
  - c) Municipal Finance Management Act 56 of 2003 (MFMA);
  - d) Annual Division of Revenue Act (DoRA); and
  - e) Preferential Procurement Policy Framework Act (PPPFA);
  - f) Promotion of Access to Information Act 2 of 2000 (PAIA).
- 1.2. MFMA mandates LPT to support local government to execute its responsibilities. By law, local government is the sphere of government closest to people and is therefore constitutionally entrusted with the responsibility of providing basic services to the communities in a sustainable manner. These include matters listed on Part B of both Schedule 4 and 5 of the Constitution of the Republic of South Africa, 1996.
- 1.3. Considering current state of affairs in municipalities in the Province e.g. financial challenges such as unfunded budgets, poor cash flow management, failure to meet their financial obligations; inefficiencies in rendering services to the people; high level of vacancies at management levels in particular; inability to attract competent personnel; and unfavourable audit outcomes, there is a need to systematically support our municipalities through the provision of competences and capabilities to deliver on their legislative mandates
- 1.4. LPT requires qualified professional entity to be sourced within Municipal Finance and Governance to provide accounting and audit support services for selected municipalities.

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1.5. LPT intends to carry out a procurement exercise to solicit proposals from experienced professional accounting and audit entities. The entity selected will be required to provide their services through a dedicated team of qualified accountants, auditors and any other specific expertise that will be required.

**2. LEGAL MANDATES**

2.1 Chapter 7 of the Constitution provides for local government being the third sphere of government after national and provincial government, which must be established across the whole country.

2.2 Section 152 (1) of The Constitution clearly stipulates the objects of local government being: -

- a) To provide democratic and accountable government for local communities;
- b) To ensure provision of services to communities in a sustainable manner;
- c) To promote social and economic development;
- d) To promote safe and healthy environment; and
- e) To encourage involvement of communities and community organisations in matters of local government.

2.3 In pursuant of the objects and within context of co-operative government, both national and provincial governments in terms of section 154 (1) of the Constitution ***“must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions”***.

2.4 The support referred to in terms of section 154 (1) above is provided through a number of legislations and other means possible to establish and capacitate municipalities to render services to the communities.

2.5 Chapter 2 of MFMA provides for supervisory function over Local Government Finance Management in particular section 5 (3) – (8) which outlines general functions of provincial treasuries in supporting municipalities on budget preparations, budget implementation and assessments, and various other functions that provincial treasuries are expected to play in enhancing municipalities' performance.

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Furthermore, section 5 (3) of the MFMA provides for the provincial treasuries to resume the oversight responsibility of monitoring and supporting municipalities on financial management related matters.

2.6 Other key legislations relevant to these engagements, amongst others include: -

- Municipal Systems Act 32 of 2000;
- Municipal Structures Act 117 of 1998;
- Intergovernmental Relations Framework Act of 2006;
- Treasury Regulations;
- Division of Revenue Act; and
- The Government Immovable Asset Management Act 19 of 2007(GIAMA);
- MFMA circulars, etc.

### **3. OBJECTIVES**

The following are the objectives that this initiative seeks to achieve for a **12 month period**.

#### **3.1 Overall objective**

The overall objective of this initiative is the support and capacitate selected municipalities to improve their financial management and audit findings.

#### **3.2 Specific Objectives**

- To create conducive environment for development of credible Annual Financial Statements (AFS) in-house;
- To improve financial management and audit outcomes of targeted municipalities;
- To assess municipal financial and audit management capacity and on the job training conducted;
- To enhance municipal record keeping and effective transfer of skills to respective and relevant municipal officials;
- To provide capacity building and focused support to selected municipalities in resolving all root causes of audit findings from previous audit cycles.

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#### **4. SCOPE OF WORK**

The following are the specific matters the initiative seeks to primarily focus on for a 12 month period: -

- To build internal skills to prepare credible in-house AFS through practical skills transfer, coaching and support to selected municipalities;
- To improve audit outcomes of targeted municipalities by;
  - Building internal skills, in selected municipalities, to manage the finances and audit processes through development of procedure manuals and skills transfer and on-the-job training;
  - Building internal skills and providing support, to selected municipalities, for the development, implementation, monitoring and reporting of credible audit action plans, to resolve all audit findings from previous audit cycles;
  - Building internal asset management skills and providing support, to targeted municipalities, for the verification of municipal assets through coaching and on-the-job skills transfer. (This includes but not limited to acquisition, asset verification, and disposal of assets);
  - Improving internal record keeping processes, particularly for municipalities with limitations;
  - Assessing and providing support, to selected municipalities, to improve internal record keeping and accounting for water provision related transactions;
  - Reviewing all areas of reported non-compliance, in selected municipalities, with general legislative and other prescript compliance issues, including SCM, and strengthening the related internal control environments;
  - Reviewing and improving the processes and skills to manage debtors and creditors;

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- Reviewing and improving the processes and skills to management (recording, reporting, reduction and recovery) of Unauthorised, Irregular, Fruitless and Wasteful expenditure of selected municipalities;
- Support and capacitate targeted municipalities on cashflow management and ensure credibility and alignment cashflow statements with other systems;
- To assess the capacity of targeted municipalities in financial management and advice appropriately on steps to be taken to address identified weaknesses, if any, particularly in the financial management and audit environment.

### 5. CODE OF PROFESSIONAL ETHICS

The accounting and auditing entity is expected to apply and uphold the following principles of ethics:

- a) **Integrity** – to be straight forward and honest in all professional and business relationships
- b) **Objectivity** – to exercise professional or business judgement without being compromised by:
  - i. Bias;
  - ii. Conflict of interest; or
  - iii. Undue influence of, or undue reliance on, individuals, organisations, technology or other factors.
- c) **Professional Competence and Due Care** – to:
  - i. Attain and maintain professional knowledge and skill at the level required to ensure that a client or employing organisation receives competent professional service, based on current technical and professional standards and relevant legislation; and
  - ii. Act diligently and in accordance with applicable technical and professional standards;

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iii. Confidentiality – to respect the confidentiality of information acquired as a result of professional and business relationships and should not be used for any other purpose;

**d) Professional Behaviour – to:**

- i. Comply with relevant laws and regulations;
- ii. Behave in a manner consistent with the profession's responsibility to act in the public interest in all professional activities and business relationships.

**6. QUALIFICATIONS AND EXPERIENCE REQUIRED**

6.1. The following are the minimum expertise and capacity requirements;

- Necessary skill, knowledge, capacity and resources to meet the needs of LPT and to carry out the obligations;
- Knowledge and a comprehensive understanding of the local government sector; and demonstrate an understanding of local government legislations;
- Minimum category of personnel as listed under paragraph 6.2 of this ToRs; The engagement partner must be directly involved in every engagement review undertaken;
- Quality control unit responsible for ensuring that the reports are of appropriate quality;
- Demonstrate a clear accounting and audit approach and methodology;

6.2 Generally, two categories of experts will be required as follows:-

**a) Category 1 – The Entity**

- The entity must be **legally registered** with relevant professional bodies and in good standing with applicable legislations of the country;
- The entity must have relevant professional experience in local government accounting and audit environment.

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### **b) Category 2 – Team Members**

- Total number of five (5) qualified experts, possessing at a minimum a relevant NQF level 7 academic qualifications in any one or more of the following fields of accounting, informatics, finance, auditing, engineering or other relevant qualifications with a minimum of 5 years' experience at strategic / advisory level in local government. Affiliation to a relevant professional body will be an added advantage.
- The team should consist of at least one qualified and registered Accountant(Chartered Accountant, SA), one qualified and registered engineer and one team member with a degree and in Informatics. All members should have at least five (5) years relevant experience

6.3 The service provider must provide curriculum vitae and certified copies of academic qualifications and professional body registrations for each team member proposed to participate on the assignment.

## **7. EVALUATION PROCESS**

7.1 Bids will be evaluated in accordance with the prescripts of the Preferential Procurement Policy Framework Act 5 of 2000 (PPPFA) and Provincial Treasury Supply Chain Management policies.

7.2 Responsive bids will be evaluated on the 80/20 principle,

- Bidders are required to duly complete SBD 6.1 and attach proof/means of verification as required (Proof of Local Address), failure to complete and submit documentation will lead to non-allocation of preference points.
- Persons with disabilities ownership > 51%, are required (compulsory) to submit a medical certificate from a recognized Medical Practitioner, failure to submit the means of verification will lead to non-allocation of preference points.
- Bidders are urged to read and understand the contents of SBD 4 form and special attention on 2.3, failure to disclose the information will lead to disqualification.

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7.3 Evaluation of bids will be conducted in two (2) phases as follows:

**a) Phase 1 – Functionality**

Bidders will be evaluated according to 80/20 principle. Bidders that fail to meet the minimum threshold will not be considered further for evaluation on price and Preference points.

<b>Eligibility/qualification criteria</b>
The bidder must have the necessary skill, knowledge, capacity and resources to meet the needs of LPT and to carry out the intended obligations;
The bidder must have knowledge and a comprehensive understanding of the local government sector; and demonstrate an understanding of local government sector legislations and related regulations.
The bidder must have as a minimum the category of personnel as listed under paragraph 6.2 of this ToRs.
The bidder must adhere to professional and work ethics standards and ensure that the reports are of good quality;
The bidder must develop a clear support plan in line with the scope of work for implementation of the project;

The minimum qualifying score for functionality is 70%. All bidders that fail to achieve the minimum qualifying score on functionality shall not be considered for further evaluation.

<b>Technical/Functional Evaluation Criteria</b>	<b>MEANS OF VERIFICATION</b>	<b>Weight score</b>	<b>Scoring Criteria</b>
<b>Evaluation Criteria</b>			
1. The recommended bidder will be required to provide a	Support Plan/Methodology	<b>30</b>	<b>30 points</b>

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<p>support methodology and project plan for implementation.</p> <p>The project plan should cover various phases in accounting, engineering and informatics in line with the scope of work <b>outlined under item 4 above</b>. The proposed support methodology and project plan that details, amongst others, the monitoring, completeness and allocation of resources.</p>	<p>for 26 delegated municipalities in Limpopo Province:</p> <ul style="list-style-type: none"> <li>• Strategy to capacitate municipalities to prepare credible AFS in-house,</li> <li>• Strategy to improve audit Outcomes in municipalities</li> <li>• Strategy to improve Financial management in municipalities</li> </ul>		<ul style="list-style-type: none"> <li>• Strategy to capacitate municipalities to prepare credible AFS in-house = 15</li> <li>• Strategy to improve audit outcomes in municipalities = 10</li> <li>• Strategy to improve financial management in municipalities = 5</li> </ul>
<p>2. Entity previous experience within local government sector. (Provide nature of accounting, Engineering and Informatics);</p>	<ul style="list-style-type: none"> <li>• Entity profile,</li> <li>• Entity Registration certificate,</li> <li>• Tax clearance certificate,</li> <li>• Registration Certificate with</li> </ul>	<p><b>20</b></p>	<p>Relevant experience within local government sector</p> <p>20 points = at least 15 years</p> <p>15 points = 10 - 14 years</p>

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	<p>Professional body</p> <ul style="list-style-type: none"> <li>• Previous contracts,</li> <li>• References.</li> </ul>		<p>10 points = 5 - 9 years</p> <p>5 points = 2 - 4 years</p> <p>1 point = &lt; 2 year</p>
<p>3. Qualifications of all personnel that will be directly engaged in the execution of the project (refer to paragraph 6.2 of this ToRs).</p> <p>Five (5) Team Members: Qualifications</p> <ul style="list-style-type: none"> <li>a) Chartered Accountant (SA)</li> <li>b) Master's or equivalent</li> <li>c) Honors / professional qualification or equivalent</li> <li>d) Degree or equivalent</li> </ul>	<p>Attach Curriculum Vitae, certified and valid copies of professional qualifications of the team.</p>	<p><b>20</b></p>	<p>20 points = at least 1 of the members to be a registered Chartered Accountant, SA, and 1 of the team members have honours degrees in Accounting, 1 member as a registered Engineer</p> <p>1 member with at least a degree in Informatics, and 1 member with at least a degree in Accounting.</p> <p>10 points = at least 1 of the team members has honours degree in Accounting, 1 member has a degree in</p>

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			<p>Engineering and 1 member has a degree in Informatics and two members with degrees in Accounting,</p> <p>5 points = 3 team members have degrees in Accounting, 1 member has a degree in Engineering and 1 with a degree in Informatics.</p>
<p>4. Team Member: Experience of local government finance with at least 10 years.</p>	<p>Curriculum Vitae with contactable references</p>	<p style="text-align: center;"><b>10</b></p> <p>NB: Members to be scored individually and total points to be averaged</p>	<p>10 points = at least 9-10 years local government experience</p> <p>7 points = at least 6 - 8 years local government experience</p> <p>2 points = at least 5 years local government experience</p>

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			0 points = less than 5 years
5. Demonstration of offices infrastructure of the entity	<p>Signed lease agreement, copy of local municipal account for payment of services, Proof to Occupy.</p> <p>Branded office space,</p> <p>Office Furniture</p> <p>Electronic tools of trade e.g. Computers, Printers etc.</p>	<b>10</b>	<p>10 points = Existence offices (building), fully furnished (office tables and chairs, computers, printers, cabinets, and other relevant tools of trade) and branded.</p> <p>0 points = No office space</p>
6. Rand value of the bid/contract managed by the entity and at least five (5) contactable references	<p>Service Level Agreements, Confirmation letter from references,</p>	<b>10</b>	<p>10 points = 5 previous contracts managed by the entity and contactable references.</p> <p>7 points = 3 - 4 previous contracts managed by the entity and</p>

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			contactable references.  2 points = 1 - 3 previous contracts managed by the entity and contactable references.  0 points = 0 reference
<b>Total</b>		<b>100</b>	
<b>Threshold</b>		<b>70%</b>	

**b. Phase 2 – Specific goals and Pricing**

The value of this bid is estimated not to exceed R50 million (all applicable taxes included) and therefore the 80/20 point system shall be applicable in terms of the Preferential Procurement Regulations of 2022. Preference points shall be allocated as follows: -

<b>Folio No.</b>	<b>Criteria</b>	<b>Points</b>
7.1.	Price	80
7.2.	<b>Specific Goals (as per table below)</b>	<b>20</b>
<b>TOTAL</b>		<b>100</b>

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**8. DURATION OF THE PROJECT / CONTRACT**

- 8.1. The duration of the contract will run for a period not exceeding twelve (12) months and will commence as agreed in the Service Level Agreement (SLA) signed between LPT and the appointed service provider.
- 8.2. The contract may with the agreement of the service provider not exceeding an additional twelve (12) months,
- 8.3. No extension of the contract will be carried out without approval of LPT. Any amendment or deviation of the scope or these TOR's must be discussed with the Project Steering Committee and thereafter be reduced to writing and signed by both parties as an addendum to the SLA.
- 8.4. Work must be carried out as per the agreed work plan.

**9. CONTINUITY, PRESENCE AND PROFILES OF SENIOR STAFF IN THE PROJECT**

- 9.1 The service provider must submit the profiles/CVs of the selected team members and specialists for the project together with the bid documents.
- 9.2 The service provider must guarantee the presence of the senior in charge of fieldwork throughout the duration of the investigations.
- 9.3 If there are any changes in the appointed project team, proper hand over should be done to another well experienced team member, in consultation with LPT.
- 9.4 Any changes to the project team must not have any negative impact on the project.
- 9.5 LPT reserves the right to reject the proposed replacement and should an agreement not be reached the forensic investigation team must agree to the review of the contract.

**10. SPECIAL CONDITIONS OF CONTRACT**

**10.1. Bidder's own terms and conditions or qualifications of bid**

This document contains the terms and conditions of this bid, and bidders must not change/amend the TOR or come up with their own terms and conditions.

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**10.2 Reservation of Rights**

10.2.1. LPT reserves the right to –

- (a) invite bidders to make presentations regarding any aspect (s) of the bid;
- (b) request further information or document (s) from any bidder after closing date;
- (c) Communicate only with the shortlisted bidders as and when necessary;
- (d) Verify information and documentation of respective bidder from the National Treasury's Centralized Supplier Database (CSD) system, South African Revenue Services (SARS), Private Security Industry Regulatory Authority (PSIRA), Companies & Intellectual Property Commission (CIPC), National Treasury or any other relevant entity or visit the premises of the bidder at any time without notice. Any information received which does not correspond with the one provided in the bid document will render the bid null and void;
- (e) at any reasonable time, inspect the premises of the bidder;
- (f) negotiate the final price; and
- (g) award the bid to a bidder who did not score the highest points.

**10.3 Bid Acceptance**

The preferred bidder will be accepted subject to the condition that the preferred bidder signs a contract and service level agreement prepared by LPT within seven (7) days of the conditional award.

**10.4. Termination of Contract**

10.4.1 Bidders must acquaint themselves with the provisions of section 30 of the Public Service Act, 1994 (Proclamation 103 of 1994) and ensure that where applicable, natural persons who constitute the bidder comply with these laws. LPT reserves the right to disregard a bid or cancel the contract with the winning bidder if the bidder, –

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- (a) has failed to comply with any legal or policy requirement that the bidder must comply with in order to enter into a valid contract with LPT, including but not limited to any public servant constituting or in the employ of the winning bidder not having the necessary permissions or authorization in terms of the Public Service Act, or not having made the necessary financial disclosures to the employer or not having declared any or all interests in the bid documents;
- (b) has acted in a fraudulent manner or in bad faith or in any other unsatisfactory manner in obtaining any other contract with any other state institution, government department, provincial administration or public entity;
- (c) after notification that the bid has been conditionally accepted, either fails, refuses or neglects or causes undue delays in the signing of the contract and service level agreement; or
- (d) has entered into any arrangement or agreement with any other natural or corporate person, whether legally binding or not, must refrain from bidding for this contract.

10.4.2 LPT may immediately terminate the contract without any notice if any of the following circumstances occur or exist:

If the bidder –

- (a) commits an act of misconduct or technical incompetence;
- (b) commits or participates in any unlawful, dishonest or unethical act in the performance of its obligations under this contract; or
- (c) breaches this contract.

10.4.3 LPT may cancel the contract, if it is satisfied that any person (being an employee, partner, director or shareholder of the bidder or a person acting on behalf of the bidder), firm or company (The expression “person, firm or company” shall include an authorized employee or agent of such a person, firm or company):

- (a) is executing a contract with government unsatisfactorily;

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- (b) has offered, promised or given a bribe or other gift or remuneration to any officer or employee in the Public Service in connection with obtaining or executing a contract;
- (c) has acted in a fraudulent manner or in bad faith or in any other unsatisfactory manner in obtaining a contract with any government department, provincial administration, public body, company or person, or that he/she has managed his/her affairs in such a way that he/she has in consequence there-of been found guilty of a criminal offence;
- (d) has approached an officer or employee in the Public Service before or after bids have been called for, to influence the award of the contract in his/her favor;
- (e) has withdrawn or amended his/her bid after the time set for the receipt and opening of bids;
- (f) when advised that his/her bid has been conditionally accepted, has given notice of his/her inability to execute or sign the contract or to furnish any security required;
- (g) has disclosed to any other person, firm or company the exact or approximate amount of his/her proposed bid except where disclosure, in confidence, was necessary to obtain insurance premium quotations for the preparation of the bid;
  - i. LPT may, in addition to any other legal recourse which it may have, cancel the contract between LPT and such person, firm or company and /or resolve that no bid from such a person, firm or company will be favorably considered for a specific period.

**10.5 Conflict of Interests**

Bidders must not have or undertake duties or interests that create or might reasonably be anticipated to create an actual or perceived conflict with its duties and interests in executing the contract. Bidders must have internal control measures in place to identify potential conflicts and to bring them to the attention of LPT.

**10.6 Costs incurred by bidder.**

LPT will not be responsible for or pay any expenses or losses which may be incurred by the bidder in the preparation and submission of its bid.

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### **10.7 Bid binding**

All written information, warranties and representations made by or on behalf of the bidder before conclusion of the contract are binding upon the bidder and are deemed to have induced LPT to enter into this contract.

### **10.8 Liability**

The bidder is responsible and liable for-

- (a) the conduct, acts and omissions of the bidder and/or agents or representatives.
- (b) injury to any person, theft, loss, or damage suffered by LPT, which is occasioned by any unauthorized act, omission, negligence, breach of this contract or breach of any statutory duty by the bidder or its employees, agents or representatives of the bidder. Under such circumstances, the bidder must, at its own expense, make good the loss or damage on demand and on the terms of LPT.

### **10.9 Intellectual Property Rights**

(a) Copyright to all inventions and innovations developed using the products and methodologies offered by the bidder shall be vested in the Limpopo Provincial Administration in particular and in the State in general. Copyright, patent rights and all similar rights in any works or products created as a result of the execution of this bid and its assignments shall vest in and are hereby transferred to the LPT, unless the contrary is agreed to in the form of individual written agreements signed by the bidder and the Accounting Officer of LPT or his/her delegate. For this purpose, all works created in terms of this bid and its assignments shall be deemed to have been created under the direction and control of LPT.

(b) All data, data structures, forms and report formats designed or generated in the provision of training shall become the sole and exclusive property of LPT immediately upon acceptance of the service or service component. It is the responsibility of the service provider to hand back all data, data structures, forms and report formats to LPT at the end of the contract.

**10.10 Bidder conduct**

Bidders must –

- (a) use and adopt reasonable professional techniques and standards in providing the service;
- (b) monitor project implementation against set targets, costs and timeframes.
- (c) provide services with all due care, skill and diligence.
- (d) ensure continuity of services to LPT.
- (e) be able to execute the contract under the supervision of the appointed member(s) of the Project Steering Committee;
- (f) comply with all industry best practices and standards issued or published by any provincial or national governing body, council or organisation;
- (g) all reports issued by the service provider must be endorsed by the Project Steering Committee prior to submission to LPT;
- (h) ensure that senior personnel, its employees or engagement partners observe confidentiality and do not use any information obtained pursuant to this contract for any reason other than for the proper discharge of the bidder's obligations under this contract. The bidder must have systems in place to monitor compliance in this regard;
- (i) not in the process of fulfilling its obligations in terms of this contract, use any labour or intellectual capacity of any employee of the state, including employees of the LPT, for remunerative purposes, unless such employee has the necessary written authorization;
- (j) upon notice by LPT, revise or amend any report that the LPT is not satisfied with, within a time period specified by the LPT in that notice; and
- (k) immediately upon receipt of a notice from LPT, promptly replace or re-execute, at the LPT's option, any portion of the services which within a period as determined by the



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LPT, from the date upon which they are delivered to the LPT are found to be defective in design or suffer from any non-conformity with this agreement;

- (l) The bidder must further, at its expense ensure that every person involved in the execution of this contract and engagement partners are-
  - i. **Suitably qualified, properly skilled, experienced, trained and competent to render the Services.** LPT may interview any person appointed by the Service Provider to execute this contract to test their understanding of the key deliverables in terms of this contract; and
  - ii. Where applicable, registered with relevant professional bodies.
- (m) record their qualifications and professional experience in order for LPT to determine the suitability, qualifications and experience of the bidders to execute the key deliverables in terms of this bid. Senior key personnel must be in charge of fieldwork throughout the duration of the contract. Any changes to the appointed project team must be done through written approval of the **PSC(Project Steering Committee)**. LPT reserves the right to reject the proposed replacement. These changes to the project team should not have a negative impact on the project deliverables.
- (n) By bidding, the Service Provider is deemed to have satisfied itself regarding all conditions affecting this contract and must at all times comply with the manifest intent and obligations of this contract.

**11. BID PRICE**

11.1 Bid price must be in South African Rand including VAT, and any other additional cost.

11.2 Bidders must prepare a pricing schedule signed by the authorized signatory, indicating costs per activity (phase) and costs for the duration of the contract.

- i. A breakdown of the hourly tariff, (VAT inclusive) per resource (e.g., Director, Manager and other relevant level of expertise) as required for service rendered and an estimated percentage of disbursements (VAT inclusive) for the duration of the project. Refer to annexure A attached.

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- ii. Should there be a discrepancy between the prices in the schedule and the total price indicated on the bid form, LPT **will consider the total price on the bid form (SBD 3.1)**

11.3 Prices will remain firm for the duration of the contract and it is the responsibility of the bidder to consider all costs and all possible escalations when compiling bid prices except where additional travel may be required to engage other benchmark entities, these will be at the request and approval of LPT. Once the bid is awarded, no request for price escalation will be entertained, regardless of the reasons for such request.

11.4 Where possible, the hourly rates as laid down by the Auditor-General for any audit / forensic audit performed on behalf of government must be used as a guideline and should not be exceeded.

11.5 LPT shall not pay for any unproductive or duplicated time spent by the service provider on any assignment because of staff changes or redrafting of reports due to incorrect findings.

## **12. ACCEPTANCE OF BID**

### **12.1 Methodology**

The recommended bidder will be required to provide a project plan for implementation. The project plan should cover various phases in accounting and audit in line with the scope of work outlined under item 4 above and must have a minimum of the following:-

- a) Clear deliverables agreed with LPT in line with the scope of work,
- b) Projected timeline to complete specific activities including reporting milestones at key stages of the project over a period of two years.
- c) The project plan must also detail, amongst others, the methodology on the rollout, monitoring, completeness and allocation of resources,
- d) Contact person to liaise with LPT and the entity to facilitate the programme,
- e) Provide a schedule of meetings to give progress of the scope of work.

### **12.2 Professional Registration**

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Proof of professional registration of the entity and affiliation for team members must be submitted in the form of certified copies of the relevant registration documents.

**12.3 Screening and Vetting**

Acceptance of bid is subject to the condition that both the contracting entity and its audit team members be cleared by the appropriate authorities to the level of CONFIDENTIALITY/SECRET/TOP SECRET. Obtaining a positive recommendation is the responsibility of the LPT.

**12.4 Central Supplier Database registration**

The accounting/audit entity should be registered on the National Treasury central supplier database.

**12.5 Appointment**

Should the bid be accepted, LPT will issue a written letter of acceptance and in addition, a formal agreement will be entered between LPT and the appointed entity on the basis of an approved support plan for each phase of the assignment.

**12.6 Price**

- a) The financial proposal must provide a breakdown of total costs for each category / team member for the duration of contract (12 months).
- b) The entity should retain evidence of travel and accommodation expenses and other travel documents. Such documents may have to be presented to the LPT for verification.
- c) Transport costs are reimbursed in accordance with the rules applicable for service contracts.
- d) The financial proposal must be submitted in South African Rands.
- e) LPT reserves the right to negotiate hourly charge-out rates submitted by bidders.

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### **13. PAYMENT CONDITIONS**

#### **13.1. Invoices and payments**

13.1.1 The contract price is –

- (a) Payable in terms of the payment schedule at the completion of each phase, and upon satisfactory discharge of all obligations of the Service Provider and delivery of the services to LPT in terms of this contract. LPT will not make payment to the Service Provider in the event the Service Provider fails to satisfactorily perform any of its obligations in terms of this contract; and
- (b) Payment of service rendered shall be based on the number of hours worked and kilometers travelled. Payment in terms of travelling shall be based only on distance/ kilometers travelled between allocated works submitted as per the rates in the pricing schedule within the boundaries of Limpopo.
- (c) Fixed for the duration of the contract, and the Service Provider may under no circumstances approach or request the LPT for an increase in the contract price.

13.1.2 The Service Provider must submit an invoice for payment to be processed.

13.1.3 The Limpopo Provincial Treasury shall be responsible for effecting payments within thirty (30) days upon submission of invoice by the service provider and only after confirmation of the services rendered by the relevant Directorate.

13.1.4 No interest shall be payable in the event of a dispute nor accrue on any payments due during a period of dispute.

13.1.5 Payment is subject to the service provider meeting the deliverables as per the SLA.

13.1.6 No advance payments will be made for the execution of this project.

13.1.7 Payments will be made by an electronic transfer, into the Service Provider's Bank Account as appeared on the verified CSD report of that service provider and invoice.

**NB: The department reserves the right to negotiate the final price.**

**14. SUBMISSION OF DOCUMENTS, BRIEFING SESSION, AND CLOSING DATE**

- **Submission of documents**
  - Please note, it is mandatory that bid documents must be submitted in two envelopes marked as follows:
    - Envelope 01: Bid documents and Proposal (excluding pricing schedule (Annexure A) and SBD 3.1).
    - Envelope 02 Pricing Schedule (Annexure A), and SBD3.1 form clearly marked with name of company.
- **No briefing session will be held for this bid:**
- **Closing date of the bid is on the 23<sup>rd</sup> of June 2023 at 11h00**

**THE NATIONAL TREASURY**

**Republic of South Africa**



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**GOVERNMENT PROCUREMENT:  
GENERAL CONDITIONS OF CONTRACT**

**July 2010**

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

**NOTES**

The purpose of this document is to:

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

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

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

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## General Conditions of Contract

### 1. Definitions

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

RSA.

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

obligations of the supplier covered under the contract.

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

**2. Application**

2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.

2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.

2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

**3. General**

3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.

3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from [www.treasury.gov.za](http://www.treasury.gov.za)

**4. Standards**

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

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

5.1 The supplier shall not, without the purchaser's prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.

5.2 The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.

5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so required by the purchaser.

5.4 The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

**6. Patent rights**

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

**7. Performance security**

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

**8. Inspections, tests and analyses**

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

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

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

**9. Packing**

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

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

**10. Delivery and documents**

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

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

**11. Insurance**

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

**12. Transportation**

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

**13. Incidental services**

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

- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
- (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
- (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;

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

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

**14. Spare parts**

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

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

**15. Warranty**

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

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

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

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

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

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

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

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

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

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

**22. Penalties**

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

**23. Termination for default**

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

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

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

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

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



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

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

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

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

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

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

**24. Anti-dumping  
and countervailing  
duties and rights**

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

may be due to him

**25. Force Majeure**

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

**26. Termination for insolvency**

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

**27. Settlement of Disputes**

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

**28. Limitation of liability**

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

- (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.
- 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.