



LIMPOPO
PROVINCIAL GOVERNMENT
REPUBLIC OF SOUTH AFRICA

DEPARTMENT OF SPORT, ARTS AND CULTURE: HEAD OFFICE

TERMS OF REFERENCE NUMBER: DSAC2022/23-B4

REQUEST FOR BIDS FOR THE APPOINTMENT OF BOOKSELLERS AND /OR PUBLISHERS TO SUPPLY AND DELIVER LIBRARY MATERIALS TO LIMPOPO DEPARTMENT OF SPORT, ARTS AND CULTURE FOR A PERIOD OF THREE YEARS.

CLOSING DATE: 17TH FEBRUARY 2023
CLOSING TIME: 11H00AM
BID VALIDITY PERIOD: 120 DAYS

TENDER BOX ADDRESS:

**21 BICCARD STREET
OLYMPIC TOWERS
POLOKWANE
0699**

Appointment of Booksellers and / or publishers to supply and deliver library materials to Limpopo Department of Sport, Arts and Culture at District Libraries

1. INTRODUCTION

1.1 The Limpopo Department of Sport, Arts and Culture is looking for suitably qualified and experienced service providers in the areas of supply and delivery of library materials.

2. BACKGROUND

2.1 Limpopo Department of Sport, Arts and Culture has been mandated to provide library and information services to libraries in Limpopo. The geographical location of the libraries is urban and rural. The Department has an obligation to provide library materials to libraries in the Province. The service providers appointed for this contract, will be expected to deliver library materials at District Libraries as per the table below. The department is intending to appoint a panel of suppliers to a maximum of eight Booksellers and /or Publishers.

| Item No | District Library | Physical Address |
|---------|------------------|---|
| 1 | Capricorn | 62 Rissik street Polokwane 0700 |
| 2 | Waterberg | Cnr Leyds & Thabo Mbeki street Modimolle, 0510 |
| 3 | Vhembe | Makwarela Government Offices. Makwarela |
| 4 | Giyani | Giyani road, Giyani D |
| 5 | Tzaneen | 1 Denne Street Arborpark Tzaneen |
| 6 | Sekhukhune | Lebowakgomo Government Complex. Next to Education Department. Lebowakgomo |

2.2 Upon appointment of booksellers and/ or publishers, book fair will be held where Booksellers and /or publishers will display their library material. The Book Fair will be held in Polokwane. A list of Library materials can be used in case where a Book Fair cannot be held. Booksellers and /or publishers are required to provide Book lists, price lists as per the excel template below during Book Fair. Successful Booksellers and /or publishers will be expected to e-mail lists of library materials five days prior to Book Fair. The lists should be as per the service requirements and scope of work, and the prescribed template below. The lists of Library materials must strictly be in alphabetical order. "A", "the", 'n and "die" should not be considered. Successful Booksellers and /or publishers will also be expected to bring the lists and physical library materials on the day of the Book Fair. Library officials will select library materials during the Book Fair according to their needs.

Excel Spreadsheet

| ITEM NO. | ISBN | TITLE | YEAR OF PUBLICATION | PUBLISHER | VOLUMES | QUANTITY | UNIT PRICE VAT INCLUDED | GRAND TOTAL VAT INCLUDED |
|----------|------|-------|---------------------|-----------|---------|----------|----------------------------|--------------------------|
| | | | | | | | | |

3. PURPOSE OF THIS REQUEST FOR PROPOSAL (RFP)

3.1 The purpose is to appoint booksellers and /or publishers to supply and deliver library materials to all district libraries namely, Capricorn, Giyani, Tzaneen, Waterberg, Sekhukhune, and Vhembe.

4. DEFINITIONS

DSAC means the organ of state, Limpopo Department of Sport, Arts and Culture that is requiring the provision of library materials.

TOR means Terms of References

VAT means Value Added Tax.

Service provider means person or persons, partnership, Successful bidder or firm who herewith submits a valid bid for the provision of library materials to the Department of Sport, Arts and Culture.

Library Materials means books, videos, toys, charts, audio-visuals.

5. LEGISLATIVE FRAMEWORK OF THE BID

5.1. Tax Legislation

Bidder(s) must be compliant when submitting a proposal to DSAC and remain compliant for the entire contract term with all applicable tax legislation, including but not limited to the Income Tax Act, 1962 (Act No. 58 of 1962) and Value Added Tax Act, 1991 (Act No. 89 of 1991).

5.2. Procurement Legislation

DSAC has a detailed evaluation methodology premised on Treasury Regulation 16A3 promulgated under Section 76 of the Public Finance Management Act, 1999 (Act, No. 1 of 1999), the Preferential Procurement Policy Framework Act 2000 (Act, No.5 of 2000) and Preferential Procurement Policy Regulation of 2022

5.3. Technical Legislation and/or Standards

Bidder(s) should be cognisant of the legislation and/or standards specifically applicable to the services. It is the service provider's responsibility to ensure that they always use updated National Treasury Prescripts when procuring services for DSAC.

6. COMPULSORY BRIEFING SESSION

6.1 There will be compulsory briefing session for this bid.



7. TIMELINE OF THE BID PROCESS

- 7.1 The period of validity of bid and the withdrawal of offers, after the closing date and time is 120 days. The project timeframes of this bid are set out below:

Advertisement of bid on tender portal / tender bulletin

27th January 2023

Compulsory briefing session

6th February 2023

Bid closing date

17th February 2023 at 11h00am

Compulsory Briefing Venue

21 Biccard Street, Olympic Towers Building
Department of Sport, Arts and Culture
Polokwane
0699

Notice to bidder(s)

- DSAC will endeavour to inform bidders of the progress until conclusion of the bid.
- All dates and times in this bid are South African standard time.
- Any time or date in this bid is subject to change at DSAC's discretion. The establishment of a time or date in this bid does not create an obligation on the part of DSAC to take any action, or create any right in any way for any bidder to demand that any action be taken on the date established. The bidder accepts that, if DSAC extends the deadline for bid submission (the Closing Date) for any reason, the requirements of this bid otherwise apply equally to the extended deadline.

8. CONTACT AND COMMUNICATION

- 8.1 A nominated official of the bidder(s) can make enquiries in writing, to the specified person, Mr L Mabasa via email address mabasal@sac.limpopo.gov.za and Ms M Maake via email address maakem@sac.limpopo.gov.za. Bidder(s) must reduce all telephonic enquiries to writing and send to the above email address.
- 8.2 The delegated office of DSAC may communicate with Bidder(s) where clarity is sought in the bid proposal.

- 8.3 Any communication with an official or a person acting in an advisory capacity for DSAC in respect of the bid between the closing date and the award of the bid by the Bidder(s) is discouraged.
- 8.4 All communication between the Bidder(s) and DSAC must be done in writing.
- 8.5 Whilst all due care has been taken in the preparation of this bid, DSAC makes no representations or warranties that the content of the bid or any information communicated to or provided to Bidder(s) during the bidding process is, or will be, accurate, current or complete. DSAC, and its employees and advisors will not be liable with respect to any information communicated which may not be accurate, current or complete.
- 8.6 If Bidder(s) finds or reasonably believes it has found any discrepancy, ambiguity, error or inconsistency in this bid or any other information provided by DSAC (other than minor clerical matters), the Bidder(s) must promptly notify DSAC in writing of such discrepancy, ambiguity, error or inconsistency in order to afford DSAC an opportunity to consider what corrective action is necessary (if any).
- 8.7 Any actual discrepancy, ambiguity, error or inconsistency in the bid or any other information provided by DSAC will, if possible, be corrected and provided to all Bidder(s) without attribution to the Bidder(s) who provided the written notice.
- 8.8 All persons (including Bidder(s)) obtaining or receiving the bid and any other information in connection with the Bid or the Bidding process must keep the contents of the Bid and other such information confidential, and not disclose or use the information except as required for the purpose of developing a proposal in response to this Bid.

9. LATE BIDS

- 9.1 Bids received after the closing date and time, at the address indicated in the bid documents, will not be accepted for consideration and where practicable, will be returned unopened to the Bidder(s).

10. COUNTER CONDITIONS

- 10.1 Bidders' attention is drawn to the fact that amendments to any of the Bid Conditions or setting of counter conditions by Bidders or qualifying any Bid Conditions may result in the invalidation of such bids.

11. FRONTING

- 11.1 Government supports the spirit of broad based black economic empowerment and recognizes that real empowerment can only be achieved through individuals and businesses conducting themselves in accordance with the Constitution and in an honest, fair, equitable, transparent and legally compliant manner. Against this background the Government condemn any form of fronting.
- 11.2 The Government, in ensuring that Bidders conduct themselves in an honest manner will, as part of the bid evaluation processes, conduct or initiate the necessary enquiries/investigations to determine the accuracy of the representation made in bid documents. Should any of the fronting indicators as contained in the Guidelines on Complex Structures and Transactions and Fronting, issued by the Department of Trade and Industry, be established during such enquiry / investigation, the onus will be on the

Bidder / contractor to prove that fronting does not exist. Failure to do so within a period of 14 days from date of notification may invalidate the bid / contract and may also result in the restriction of the Bidder /contractor to conduct business with the public sector for a period not exceeding ten years, in addition to any other remedies DSAC may have against the Bidder / contractor concerned.

12. SUPPLIER DUE DILIGENCE

- 12.1 DSAC reserves the right to conduct supplier due diligence prior to final award or at any time during the contract period. This may include site visits.

13. SUBMISSION OF PROPOSALS

- 13.1 Bid documents must be placed in the tender box on the aforesaid address on or before the closing date and time.
- 13.2 Bid documents will only be considered if received by DSAC before the closing date and time, regardless of the method used to send or deliver such documents to DSAC.
- 13.3 The bidder(s) are required to submit one (1) original bid document in a clearly marked sealed envelope.
- 13.4 Bidder(s) are requested to initial each page of the bid document and the attachments.

14. DURATION OF THE CONTRACT

- 14.1 The successful bidder(s) will be appointed for a period of (3) three years.

15. Service Requirements

The successful bidder(s) will be required to provide but not limited to the following:

- 15.1 Supply and delivery of library materials within four (4) months upon the receipt of an order.
- 15.1.1 Packaging should be according to the list which should be alphabetical according to title. "A", "the", "n and "die" should not be considered.
- 15.2 Library materials will be delivered at district libraries.

16. SCOPE OF WORK

16.1 Library Books

- 16.1.1 Provide library books covering fiction and non-fiction published within a three-year period to date, all ages, and different languages
- 16.2 Toys
- 16.2.1 Educational toys
- 16.3 Charts
- 16.3.1 Fiction and non-fiction different languages, and all ages.
- 16.4 Audio and Audio-visuals
- 16.4.1 Fiction and non-fiction different languages, and all ages.

17. EVALUATION AND SELECTION CRITERIA

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

Administrative Compliance (Phase 1)
Functionality Compliance (Phase 2)

Bidders must submit all documents as outlined in Table 1 below. Only bidder(s) that comply with all these criteria will proceed to Phase 2.

17.1. Phase 1: Administrative Compliance and Mandatory Requirements.

Bidder(s) must submit the documents listed in Table 1 below. All bid 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 will be disqualified for non-submission of any of the documents.

Phase 1: Table 1: ADMINISTRATIVE BID DOCUMENTS THAT MUST BE COMPLETED, SIGNED AND SUBMITTED

| Document that must be submitted | Non-submission and compliance may result in disqualification |
|--|--|
| Invitation to Bid – SBD 1 | Complete, sign and initial each page of the document |
| Declaration of Interest – SBD 4 | Complete, sign and initial each page of the document. Bidders must take note that non-disclosure in terms of paragraph 2 of the SBD 4 may result in the disqualifications of the bid. Where shareholders or directors have interest in any other company, declare by indicating their MAAA numbers |
| General Conditions of Contract | Initial each page of the document |

| Document that must be submitted | Non-submission and compliance will result in disqualification |
|---|--|
| Registration on Central Supplier Database (CSD) | The Booksellers and /or Publishers must be registered as a service provider on the Central Supplier Database (CSD). If you are not registered proceed to complete the registration of your company prior to submitting your proposal. Visit https://secure.csd.gov.za/ to obtain your vendor number. Attach CSD report. |
| Tax compliant | To be verified on National Treasury's Central Supplier Database. Attach SARS Pin |

Phase 2: Technical Evaluation Criteria (Functionality)

Bids must meet the minimum eligibility criteria in respect of functionality of 70 out of 100 points that will be awarded for functionality. The department will appoint a database of a maximum of eight Booksellers and /or Publishers from the highest points.

Any bid that does not meet the minimum eligibility threshold will be automatically disqualified.



The functionality criteria together with the maximum points to be awarded are set out below:

The weight that will be allocated to each functionality criteria is as follows

1 = poor, 2 = average, 3 = good, 4 = very good, and 5 = excellent (0 = non-compliance)

| NO | EVALUATION CRITERIA | GUIDELINES FOR APPLICATION | WEIGHT | BIDDER SCORE | |
|---|--|--|-------------|--------------|----|
| 1 | Project Implementation Plan | <i>Timelines from order to delivery. (if not the manufacturer please attach confirmation from the manufacturer)</i> | (20) | | |
| | | • Excellent: less than a month | 20 | | |
| | | • Very good: 1 – 2 months | 16 | | |
| | | • Good: 3 – 4 months | 12 | | |
| | | • Average: 5 – 6 months | 8 | | |
| | | • Poor: 7 – 8 months | 4 | | |
| | | • Nothing provided | 0 | | |
| 2 | Capability and ability to execute the contract | <i>The service provider must provide detailed, comprehensive, proposed solution that includes but not limited to the following: (if not the manufacturer please attach confirmation from the manufacturer)</i> | (30) | | |
| | | • <i>Building Infrastructure (Storage of library materials)</i> | | | |
| | | • <i>Machinery & Equipment (Shelves, telephones)</i> | | | |
| | | • <i>Staff</i> | | | |
| | | • <i>Delivery Vehicles</i> | | | |
| | | • <i>Packaging materials</i> | | | |
| | | • Excellent: All five points above are detailed. | | | 30 |
| | | • Very good: Four points above are detailed | | | 24 |
| • Good: Three points above are detailed | 18 | | | | |
| • Average: Two points above are detailed | 12 | | | | |
| • Poor: One point above are detailed | 6 | | | | |
| • Nothing provided | 0 | | | | |
| 3 | Proven Track Record in providing this service with References on your client's letterheads signed by authorized persons. | <i>Must indicate - Number of beneficiaries serviced (Projects completed successfully)</i> | (40) | | |
| | | • Excellent : 5 References | 40 | | |
| | | • Very good: 4 References | 32 | | |
| | | • Good: 3 References | 24 | | |
| | | • Average: 2 References | 16 | | |
| | | • Poor: 1 References | 8 | | |
| | | • Nothing provided | 0 | | |

| | | | | |
|---|---|--|------|--|
| 4 | Publishers Association of South Africa and /or Booksellers Association of South Africa registration certificate | Attach a valid proof of registration certificate | (10) | |
| | | • Attached | 10 | |
| | | • Not attached | 0 | |

TOTAL

100%

18. RESERVATION OF RIGHTS

18.1 The Department reserves the right to award the contract in part or in whole.

19. SPECIAL CONDITIONS OF CONTRACT

- 19.1 The Department will utilise the approved panel to source quotations.
- 19.2 Where library materials are unique and provided by one supplier appointment will be made per supplier.
- 19.3 80/20 preference points system will be used to evaluate library materials which are provided by more than one supplier. Evaluation of library materials will be done per item using MS-Excel.

20. NEGOTIATIONS

- 20.1 The department reserves the right to enter into negotiations with the successful bidder(s) with regard to pricing.

21. GENERAL CONDITIONS OF CONTRACT

Any award made to a bidder(s) under this bid is conditional, amongst others, upon –

- 21.1 The bidder(s) accepting the terms and conditions contained in the General Conditions of Contract as the minimum terms and conditions upon which DSAC is prepared to enter into a contract with the successful Bidder.
- 21.2 The bidder submitting the General Conditions of Contract to DSAC together with its bid, duly signed by an authorised representative of the bidder.

22. TERMINATION OR CANCELLATION OF CONTRACT

DSAC reserves the right to terminate or cancel the contract based on the following:

- 22.1 Non delivery of library materials within a stipulated delivery time frame upon the receipt of an order.
- 22.2 Non remedial actions for delivery of incorrect items within 14 days after notice to the service provider.

23. CONTRACT PRICE

- 23.1 All prices must be VAT inclusive and must be quoted in South African Rand (ZAR).
- 23.2 Quoted prices must be all costs inclusive and firm for the duration of the contract.

24. DSAC REQUIRES BIDDER(S) TO DECLARE

In the Bidder's Technical response, bidder(s) are required to declare the following:

Confirm that the bidder(s) is to: –

- 24.1 Act honestly, fairly, and with due skill, care and diligence, in the interests of DSAC;
- 24.2 Have and employ effectively the resources, procedures and appropriate technological systems for the proper performance of the services;
- 24.3 Act with circumspection and treat DSAC fairly in a situation of conflicting interests; YES / NO
- 24.4 Comply with all applicable statutory or common law requirements applicable to the conduct of business;
- 24.5 Make adequate disclosures of relevant material information including disclosures of actual or potential own interests, in relation to dealings with DSAC;
- 24.6 Avoidance of fraudulent and misleading advertising, canvassing and marketing;
- 24.7 To conduct their business activities with transparency and consistently uphold the interests and needs of DSAC as a client before any other consideration; and
- 24.8 To ensure that any information acquired by the bidder(s) from DSAC will not be used or disclosed unless the written consent of the client has been obtained to do so.

25. CONFLICT OF INTEREST, CORRUPTION AND FRAUD

DSAC reserves its right to disqualify any bidder who either itself or any of whose members (save for such members who hold a minority interest in the bidder through shares listed on any recognised stock exchange), indirect members (being any person or entity who indirectly holds at least a 15% interest in the bidder other than in the context of shares listed on a recognised stock exchange), directors or members of senior management, whether in respect of DSAC or any other government organ or entity and whether from the Republic of South Africa or otherwise ("Government Entity")

- 25.1 engages in any collusive bidding, anti-competitive conduct, or any other similar conduct, including but not limited to any collusion with any other bidder in respect of the subject matter of this bid;
- 25.2 seeks any assistance, other than assistance officially provided by a Government Entity, from any employee, advisor or other representative of a Government Entity in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to a Government Entity;
- 25.3 makes or offers any gift, gratuity, anything of value or other inducement, whether lawful or unlawful, to any of DSAC's officers, directors, employees, advisors or other representatives;
- 25.4 makes or offers any gift, gratuity, anything of any value or other inducement, to any Government Entity's officers, directors, employees, advisors or other representatives in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to a Government Entity;



- 25.5 accepts anything of value or an inducement that would or may provide financial gain, advantage or benefit in relation to procurement or services provided or to be provided to a Government Entity;
- 25.6 pays or agrees to pay to any person any fee, commission, percentage, brokerage fee, gift or any other consideration, that is contingent upon or results from, the award of any bid, contract, right or entitlement which is in any way related to procurement or the rendering of any services to a Government Entity;
- 25.7 has in the past engaged in any matter referred to above; or
- 25.8 has been found guilty in a court of law on charges of fraud and/or forgery, regardless of whether or not a prison term was imposed and despite such bidder, member or director's name not specifically appearing on the List of Tender Defaulters kept at National Treasury.

26. MISREPRESENTATION DURING THE LIFECYCLE OF THE CONTRACT

- 26.1 The bidder should note that the terms of its bid will be incorporated in the proposed contract by reference and that DSAC relies upon the bidder's bid as a material representation in making an award to a successful bidder and in concluding an agreement with the bidder.
- 26.2 It follows therefore that misrepresentations in a bid may give rise to service termination and a claim by DSAC against the bidder notwithstanding the conclusion of the Service Level Agreement between DSAC and the bidder for the provision of the Service in question. In the event of a conflict between the bidder's proposal and the Service Level Agreement concluded between the parties, the Service Level Agreement will prevail.

27. PREPARATION COSTS

- 27.1 The Bidder will bear all its costs in preparing, submitting, and presenting any response or bid and all other costs incurred by it throughout the bid process. Furthermore, no statement in this bid will be construed as placing DSAC, its employees or agents under any obligation whatsoever, including in respect of costs, expenses or losses incurred by the bidder(s) in the preparation of their response to this bid.

28. INDEMNITY

- 28.1 If a bidder breaches the conditions of this bid and, as a result of that breach, DSAC incurs costs or damages (including, without limitation, the cost of any investigations, procedural impairment, repetition of all or part of the bid process and/or enforcement of intellectual property rights or confidentiality obligations), then the bidder indemnifies and holds DSAC harmless from any and all such costs which DSAC may incur and for any damages or losses DSAC may suffer.

29. PRECEDENCE

- 29.1 This document will prevail over any information provided during any briefing session whether oral or written, unless such written information provided, expressly amends this document by reference.

30. LIMITATION OF LIABILITY

- 30.1 A bidder participates in this bid process entirely at its own risk and cost. DSAC shall not be liable to compensate a bidder on any grounds whatsoever for any costs incurred or any damages suffered as a result of the Bidder's participation in this Bid process.

31. TAX COMPLIANCE

- 31.1 No bid shall be awarded to a bidder who is not tax compliant. DSAC reserves the right to withdraw an award made, or cancel a contract concluded with a successful bidder in the event that it is established that such bidder was in fact not tax compliant at the time of the award, or has submitted a fraudulent Tax Clearance Certificate to DSAC, or whose verification against the Central Supplier Database (CSD) proves non-compliant. DSAC further reserves the right to cancel a contract with a successful bidder in the event that such bidder does not remain tax compliant for the full term of the contract.

32. NATIONAL TREASURY'S REGISTER OF TENDER DEFAULTERS

- 32.1 No bid shall be awarded to a bidder whose name (or any of its members, directors, partners, or trustees) appear on the Register of Tender Defaulters kept by National Treasury, or who have been placed on National Treasury's List of Restricted Suppliers. DSAC reserves the right to withdraw an award, or cancel a contract concluded with a Bidder should it be established, at any time, that a bidder has been blacklisted with National Treasury by another government institution.

33. GOVERNING LAW

- 33.1 South African law governs this bid and the bid response process. The bidder agrees to submit to the exclusive jurisdiction of the South African courts in any dispute of any kind that may arise out of or in connection with the subject matter of this bid, the bid itself and all processes associated with the bid.

34. RESPONSIBILITY FOR SUB-CONTRACTORS AND BIDDER'S PERSONNEL

- 34.1 A bidder is responsible for ensuring that its personnel (including agents, officers, directors, employees, advisors, and other representatives), its sub-contractors (if any) and personnel of its sub-contractors comply with all terms and conditions of this bid. In the event that DSAC allows a bidder to make use of sub-contractors, such sub-contractors will at all times remain the responsibility of the bidder and DSAC will not under any circumstances be liable for any losses or damages incurred by or caused by such sub-contractors.

35. CONFIDENTIALITY

- 35.1 Except as may be required by operation of law, by a court or by a regulatory authority having appropriate jurisdiction, no information contained in or relating to this bid or a bidder's response(s) will be disclosed by any bidder or other person not officially involved with DSAC's examination and evaluation of a bid.



- 35.2 No part of the bid may be distributed, reproduced, stored, or transmitted, in any form or by any means, electronic, photocopying, recording or otherwise, in whole or in part except for the purpose of preparing a bid. This bid and any other documents supplied by DSAC remain proprietary to DSAC and must be promptly returned to DSAC upon request together with all copies, electronic versions, excerpts or summaries thereof or work derived there from.
- 35.3 Throughout this bid process and thereafter, bidder(s) must secure DSAC's written approval prior to the release of any information that pertains to (i) the potential work or activities to which this bid relates; or (ii) the process which follows this bid. Failure to adhere to this requirement may result in disqualification from the bid process and civil action.
- 35.4 No confidential information relating to the process of evaluating or adjudicating bids or appointing a bidder will be disclosed to a bidder or any other person not officially involved with such process.

36. DSAC PROPRIETARY INFORMATION

- 36.1 Bidder will on their bid cover letter make declaration that they did not have access to any DSAC proprietary information or any other matter that may have unfairly placed that bidder in a preferential position in relation to any of the other bidder(s).

**PART A
INVITATION TO BID**

SBD1

| | | | |
|---|--|--|--|
| YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY) | | | |
| BID NUMBER: | DSAC2022/23-B4 | CLOSING DATE: 17 TH FEBRUARY 2023 | CLOSING TIME: 11H00AM |
| DESCRIPTION | REQUEST FOR THE APPOINTMENT OF BOOKSELLERS AND /OR PUBLISHERS TO SUPPLY AND DELIVER LIBRARY MATERIALS TO LIMPOPO DEPARTMENT OF SPORT, ARTS AND CULTURE FOR A PERIOD OF THREE YEARS TO LIMPOPO DEPARTMENT OF SPORT, ARTS AND CULTURE FOR A PERIOD OF THREE YEARS | | |
| BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS) | | | |
| 21 BICCARD STREET, OLYMPIC TOWERS BUIDLING | | | |
| DEPARTMENT OF SPORT, ARTS AND CULTURE | | | |
| POLOKWANE, 0699 | | | |
| BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO | | TECHNICAL ENQUIRIES MAY BE DIRECTED TO: | |
| CONTACT PERSON | MABASA L | CONTACT PERSON | MAAKE MORONGWA |
| TELEPHONE NUMBER | 015 284 4093 | TELEPHONE NUMBER | 015 284 4036 |
| FACSIMILE NUMBER | N/A | FACSIMILE NUMBER | N/A |
| E-MAIL ADDRESS | mabasal@sac.limpopo.gov.za | E-MAIL ADDRESS | maakem@sac.limpopo.gov.za |
| SUPPLIER INFORMATION | | | |
| NAME OF BIDDER | | | |
| POSTAL ADDRESS | | | |
| STREET ADDRESS | | | |
| TELEPHONE NUMBER | CODE | NUMBER | |
| CELLPHONE NUMBER | | | |
| FACSIMILE NUMBER | CODE | NUMBER | |
| E-MAIL ADDRESS | | | |
| VAT REGISTRATION NUMBER | | | |
| SUPPLIER COMPLIANCE STATUS | TAX COMPLIANCE SYSTEM PIN: | OR | CENTRAL SUPPLIER DATABASE No: |
| B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE | [TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No | | B-BBEE STATUS LEVEL SWORN AFFIDAVIT [TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No |
| [A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE] | | | |
| ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED? | <input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF] | ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED? | <input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW] |
| QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS | | | |
| IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? | | | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| DOES THE ENTITY HAVE A BRANCH IN THE RSA? | | | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? | | | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? | | | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? | | | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW. | | | |

**PART B
TERMS AND CONDITIONS FOR BIDDING**

SBD1

1. BID SUBMISSION:

- 1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
- 1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED– (NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.
- 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
- 1.4. THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).

2. TAX COMPLIANCE REQUIREMENTS

- 2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
- 2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
- 2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
- 2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
- 2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED; EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
- 2.6 WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
- 2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

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

SIGNATURE OF BIDDER:

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

DATE:

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 interest¹ 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 State institution |
|-----------|-----------------|---------------------------|
| | | |
| | | |
| | | |
| | | |
| | | |

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

¹ 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.

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 consortium² 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 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

² 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.

**GOVERNMENT PROCUREMENT
GENERAL CONDITIONS OF CONTRACT**

NOTES

The purpose of this document is to:

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

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

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

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General Conditions of Contract

1. Definitions

1. The following terms shall be interpreted as indicated:
 - 1.1 "Closing time" means the date and hour specified in the bidding documents for the receipt of bids.
 - 1.2 "Contract" means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
 - 1.3 "Contract price" means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
 - 1.4 "Corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.
 - 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
 - 1.6 "Country of origin" means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
 - 1.7 "Day" means calendar day.
 - 1.8 "Delivery" means delivery in compliance of the conditions of the contract or order.
 - 1.9 "Delivery ex stock" means immediate delivery directly from stock actually on hand.
 - 1.10 "Delivery into consignees store or to his site" means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
 - 1.11 "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.
 - 1.12 "Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable.

Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.

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

- 2. Application**
- 2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
- 2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.
- 2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.
- 3. General**
- 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.
- 3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from www.treasury.gov.za
- 4. Standards**
- 4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.
- 5. Use of contract documents and information; inspection.**
- 5.1 The supplier shall not, without the purchaser's prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 5.2 The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.
- 5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.
- 6. Patent rights**
- 6.1 The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof by the purchaser.
- 7. Performance security**
- 7.1 Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.

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

**8. Inspections,
tests and
analyses**

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

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

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

9. Packing

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

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

10. Delivery and documents

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

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

11. Insurance

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

12. Transportation

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

13. Incidental services

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

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

- (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.

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

14. Spare parts

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

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

15. Warranty

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

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

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

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

15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

- 16. Payment**
- 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.