



**DESCRIPTION:** TENDER FOR THE APPOINTMENT OF A PANEL OF VARIOUS ACCREDITED TRAINING PROVIDERS TO NYDA BENEFICIARIES FOR A PERIOD OF THREE (3) YEARS

**TENDER NUMBER:** RFP2021/09/NYDA

**NATIONAL YOUTH DEVELOPMENT AGENCY (NYDA)**

**54 MAXWELL DRIVE**

**WOODMEAD**

**2191**

Contact Name: Mr. Mlungisi Xulu

Email: [tenders@nyda.gov.za](mailto:tenders@nyda.gov.za)

**Name of Tenderer:**

.....  
.....

**This tender closes at 11:00 am on the 10<sup>th</sup> of February 2022 at the offices of the NYDA Head Office, 54 MAXWELL DRIVE, WOODMEAD, 2191**

**LATE SUBMISSIONS WILL NOT BE ACCEPTED BY THE NYDA**

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**A. TENDER NOTICE AND INVITATION TO TENDER**

**TENDER FOR APPOINTMENT OF A PANEL OF VARIOUS ACCREDITED TRAINING PROVIDERS TO NYDA BENEFICIARIES FOR A PERIOD OF THREE (3) YEARS - RFP2021/09/NYDA**

The National Youth Development Agency invites service providers for the appointment of a panel of various accredited training providers to NYDA beneficiaries for a period of three (3) years. Tender documents are available for downloading on the NYDA website [www.nyda.gov.za](http://www.nyda.gov.za).

**Evaluation Method:** two (2) stage evaluation (1. Administrative Compliance; 2. Functionality).

**A compulsory briefing session will be held on the 18<sup>th</sup> of January 2022 @ 11:00am via Microsoft TeamViewer ([link](#)). Prospective bidders are advised to download Microsoft TeamViewer prior to the time of the meeting. Bidders should forward an email to [tenders@nyda.gov.za](mailto:tenders@nyda.gov.za) to be invited to the briefing session.**

Queries relating to the issue of these documents or technical enquiries may be addressed to Mr. Mlungisi Xulu, e-mail: [tenders@nyda.gov.za](mailto:tenders@nyda.gov.za) on or before the 20<sup>th</sup> of January 2022 @ 16h00

Tenders may only be submitted on the tender documentation that is issued by NYDA **written in black ink**. The retying of the tender document is not permitted. The tenders must be inserted into the Tender Box available at the Reception Area of NYDA Head Office, 54 Maxwell Drive, Woodmead, by **11:00 am on the 10<sup>th</sup> of February 2022**. Telegraphic, telephonic, telex, facsimile, e-mail and late tenders will not be accepted.

**NB: NYDA reserves the right to cancel this tender without prior notice and not to appoint any service provider.**

**PART A  
INVITATION TO BID**

**SBD 1**

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NATIONAL YOUTH DEVELOPMENT AGENCY)</b>				
BID NUMBER:	RFP2021/09/NYDA		CLOSING DATE:	10 February 2022
DESCRIPTION	TENDER FOR APPOINTMENT OF A PANEL OF VARIOUS ACCREDITED TRAINING PROVIDERS TO NYDA BENEFICIARIES FOR A PERIOD OF THREE (3) YEARS.			
<b>BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)</b>				
NATIONAL YOUTH DEVELOPMENT AGENCY HEAD OFFICE				
54 MAXWELL DRIVE				
WOODMEAD				
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>			<b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>	
CONTACT PERSON	<b>Mlungisi Xulu</b>		CONTACT PERSON	<b>Mlungisi Xulu</b>
TELEPHONE NUMBER			TELEPHONE NUMBER	
FACSIMILE NUMBER			FACSIMILE NUMBER	
E-MAIL ADDRESS	<a href="mailto:tenders@nyda.gov.za">tenders@nyda.gov.za</a>		E-MAIL ADDRESS	<a href="mailto:tenders@nyda.gov.za">tenders@nyda.gov.za</a>
<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		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER PART THE QUESTION 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	
<b>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.</b>				

**PART B**  
**TERMS AND CONDITIONS FOR BIDDING**

**1. BID SUBMISSION:**

- 1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
- 1.2. **ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED—(NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.**
- 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
- 1.4. **THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).**

**2. TAX COMPLIANCE REQUIREMENTS**

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

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

SIGNATURE OF BIDDER: .....

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

DATE: .....

## **B. NYDA BACKGROUND AND INTRODUCTION**

The National Youth Development Agency (NYDA) is a South African based agency established primarily to tackle challenges that the nation's youth are faced with. The NYDA was established by an Act of parliament, act no 54 of 2008. The institution was established to be a single, unitary structure, established to address youth development issues at National, Provincial and Local government level. The existence of the NYDA should be located within the broad context of South Africa's development dynamics. Like many developing countries, South Africa has a large population of youth, those between the ages 14-35; represent 42% of the total population. Given the youthful nature of the South African population much of the socio-economic challenges faced by the nation, i.e. poverty, inequality and joblessness, poor health etc, are borne by the youth. The gravity of challenges South Africa is faced with, require multi – pronged efforts, that simultaneously promote the development of sustainable livelihoods, reduce poverty, inequality and prioritise the development of policies which create an enabling environment for youth development.

The NYDA plays a lead role in ensuring that all major stakeholder's, i.e., government, private sector and civil society, prioritise youth development and contribute towards identifying and implementing lasting solutions which address youth development challenges. Furthermore, the NYDA designs and implements programmes aimed at improving lives and opportunities available to youth. These programmes could be clustered as follows:

At an individual level (Micro level), the NYDA provides direct services to youth in the form of information provision, mentorship, skills development & training, entrepreneurial development & support, health awareness programmes and involvement in youth initiatives. At a community level (Meso Level), the NYDA encourages young people to be catalysts for change in their communities through involvement in community development activities, social cohesion activities and national youth service programmes and dialogue.

At a Provincial and National level (Macro Level), through its policy development, partnerships and research programmes, the NYDA facilitates the participation of youth in developing key policy inputs, which shape the socio-economic landscape of South Africa.

The National Youth Development Agency derives its mandate from the legislative frameworks, including the NYDA Act (54 of 2008), the National Youth Policy (2009-2020) and the draft Integrated Youth Development Strategy as adopted by the Youth Convention of 2006. The NYDA activities could be summarized as follows:

- a) Lobby and advocate for integration and mainstreaming of youth development in all spheres of government, private sector and civil society
- b) Initiate, implement, facilitate and coordinate youth development programmes
- c) Monitor and evaluate youth development intervention across the board and mobilise youth for active participation in civil society engagements

## C. TENDER DATA AND CONDITIONS OF TENDER

The Conditions of Tender are the General Conditions of Contact issued by the National Treasury. The purpose of the Conditions is to:

- ✓ Draw special attention to certain general conditions applicable to government bids, contracts and orders; and
- ✓ To ensure that bidders are familiar regarding the rights and obligations of all parties involved in doing business with government.

The Standard Conditions of Tender make several references to the Tender Data which specifically applies to this tender. The Tender Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the Standard Conditions of Tender. Each item of Tender Data given below is cross-referenced to the relevant clause in the standard Conditions of Tender.

Clause Number	Clause Heading	Data / Wording
1.1	<b>The Employer is:</b>	<b>The Employer is:</b> National Youth Development Agency (NYDA) <b>54 MAXWELL DRIVE, WOODMEAD, 2191</b>
1.2	<b>Employer's Agent is:</b>	<b>Mr. Mlungisi Xulu</b> <b>54 MAXWELL DRIVE, WOODMEAD, 2191</b> E-mail: <a href="mailto:tenders@nyda.gov.za">tenders@nyda.gov.za</a>
1.3	<b>Eligibility</b>	<p><b>Bidders who do not meet the requirements below will be immediately disqualified from the bidding process.</b></p> <p>The National Youth Development Agency reserves the right to reject bids which are non-responsive, including, without limitation, bids which contain the following defects:</p> <ul style="list-style-type: none"> <li>(a) Late or incomplete bids.</li> <li>(b) Failure to conform to the rules or requirements contained in the Tender, including the proposal format.</li> <li>(c) Proof of collusion among Bidders, in which case all proposals involved in the collusive action will be rejected; and</li> <li>(d) Noncompliance with applicable law, unauthorized additions or deletions, conditional bids, incomplete bids, or irregularities of any kind which may tend to make the bid incomplete, indefinite or ambiguous as to its meaning.</li> </ul> <p>Joint Ventures / Consortiums are eligible to submit tenders provided that:</p> <ul style="list-style-type: none"> <li>(e) Where bids are consortia / Joint ventures / S-contractors are involved, each party must submit a separate TCS certificate / Pin / CSD number.</li> <li>(f) A Joint Venture Agreement is signed by the JV Partners and attached to this tender document.</li> <li>(g) A Joint Venture / Consortium must also submit a Joint Venture BBBEE Rating Certificate.</li> </ul>
1.4	<b>Clarification Meeting</b>	A compulsory briefing session will be held on the 18 <sup>th</sup> of January 2021 @ 11:00am via Microsoft TeamViewer ( <a href="#">link</a> ). Prospective bidders are advised to download

		Microsoft TeamViewer prior to the time of the meeting. Bidders should forward an email to <a href="mailto:tenders@nyda.gov.za">tenders@nyda.gov.za</a> to be invited to the briefing session.
1.5	<b>Returnable Documents</b>	Tenderers to submit fully completed and signed returnable documents as stipulated. Tenders must only be submitted on the original tender documentation that is issued by NYDA <b>written in black ink</b> . This tender document may not be retyped or reproduced
1.6	<b>Number of copies of tender offers to be submitted to the Employer</b>	The tender document shall be submitted as an original <b>written in black ink</b> and three (3) copied versions of the original. No documents are to be typed/retyped or reproduced. Any tender documents that are retyped or reproduced will be disqualified.
1.7	<b>Sealing and Delivery of tender offers</b>	<p>The NYDA's address for delivery of tender offers and identification details to be shown on each tender offer package are:</p> <p><b>Location of tender box:</b></p> <p><b>National Youth Development Agency (NYDA) Head Office, 54 MAXWELL DRIVE, WOODMEAD, 2191</b></p> <p><b>Identification details:</b></p> <p>TENDER FOR APPOINTMENT OF A PANEL OF VARIOUS ACCREDITED TRAINING PROVIDERS TO NYDA BENEFICIARIES FOR A PERIOD OF THREE (3) YEARS - RFP2021/09/NYDA</p>
1.8	<b>Closing time of tender offers</b>	The closing time for submission of proposals is <b>11:00am on the 10<sup>th</sup> of February 2022</b> as stated on SBD 1 form (Invitation to tender).
1.9	<b>Tender offer validity</b>	The tender offer validity period is 120 days
1.10	<b>Two-Envelope System</b>	A two-envelope system <b>will not</b> be followed.

#### D. PROCUREMENT TIMELINES

PROCUREMENT TIMELINE	DATE	TIME
RFP release date	13 December 2021	08h00 to 16h00
Compulsory briefing	18 January 2022	11h00
Written questions of clarification – closing date	20 January 2022	16h00
Written response to all clarifications	22 January 2022	16h00
Closing date	10 February 2022	11h00
Completion of bid evaluations	18 February 2022*	
Anticipated letter of Award	22 February 2022*	
Commencement Date	Immediately	

**\*Indicative dates**

**E. TERMS OF REFERENCE FOR THE APPOINTMENT OF A PANEL OF VARIOUS ACCREDITED TRAINING PROVIDERS TO NYDA BENEFICIARIES FOR A PERIOD OF THREE (3) YEARS.**

**1. PURPOSE OF THIS TENDER**

The purpose of this document is to request for tender for appointment of a panel of various accredited training service providers for NYDA beneficiaries to provide training for a period of three (3) years.

**2. THE SCOPE OF WORK**

2.1. National Youth Development Agency (NYDA) requires a panel of various accredited training service providers to train NYDA beneficiaries in skills programmes and full qualifications for funded NYDA training programmes. The required accredited training interventions includes learnerships, skills programmes and apprenticeship accredited by SETA (Sector Education and Training Authorities) and Quality Council for Trades and Occupations (QCTO)

**DESCRIPTION**

**Health Services and Community development (SETAs)**

<b>Qualification</b>
Perform basic life support and first aid procedures
community Health Work
Early Childhood Development

**Information Technology and Computer Sciences**

<b>Qualification</b>
International Computer Driver's License (ICDL)
Graphic Design
Information Technology: Systems Development
Demonstrate basic knowledge of computers

**Business Management**

<b>Qualification</b>
New Venture Creation (SMME)
New Venture Creation

**Construction**

<b>Qualification</b>
Construction: Roadworks
Electrical engineering
Building and Civil construction

<b>Qualification</b>
Construction plumbing
Construction Plant Operations

### **Transport, Operations and Logistics**

<b>Qualification</b>
Professional driving
Machine Operations
Forklift operator

### **Manufacturing and Assembly**

<b>Qualification</b>
Clothing Manufacturing Processes
Control pests, diseases and weed
Furniture Making: Wood
Fruit and Vegetables Processing

### **Wholesale and retail**

<b>Qualification</b>
Wholesale and retail operations

### **Agriculture and Forestry**

<b>Qualification</b>
Animal Production
Plant Production
Horticulture
Landscaping
Mixed farming systems
Farming
Forestry: Silviculture

### **Financial and Insurance services**

<b>Qualification</b>
Short Term Insurance
Long term insurance
Banking

## **Hospitality and Tourism**

<b>Qualification</b>
Tourism Guiding
Nature Conservation: Resource Guardianship
Food preparation and cooking
Food and Beverage Handling Processes
Bread and Flour Confectionery Baking

## **Manufacturing, Engineering**

<b>Qualification</b>
Automotive maintenance and repair
Welding Application and Practice
Automotive Body Repair
Engineering Fabrication
Domestic Appliance Repair
Air-conditioning, Refrigeration and Ventilation
Mechanical Engineering: Fitting
Mechanical Engineering:

## **Beauty and Personal Care Services**

<b>Qualification</b>
Customer Service
Hairdressing
Beauty and Nail Technology

## **Artisan Trades (QCTO Trades)**

Artisan Trade	Specialization
Brickmaker	Construction
Carpenter	Construction
Plumber	Construction
Electrician	Construction & Engineering
Millwright	Electro Mechanics
Chef	Food processing
Boilermaker	Mechanical
Diesel Mechanic	Mechanical
Fitter	Mechanical
Fitter and Turner	Mechanical
Motor Mechanics	Mechanical

Panel beater	Mechanical
Welder	Arc Welder

### 3. **Proposal requirements**

Each bidder must submit a Technical Proposal. The technical Proposal must be clear and concise, comprehensive, and directly address the specifics of the proposed scope of work. The Service Provider will, demonstrate their experience in providing similar services on existing and prior assignments. This Technical Proposal must provide detailed information on the following:

#### 3.1. **Company experience**

The Service Provider should clearly state the experience in a manner that demonstrates its capability to complete the service required. The Service Provider must provide at least four (4) signed contactable reference letters on a letterhead from existing/previous clients within past 5 years from different clients whom we may contact for references. The reference letter must include company name, contact details, contract value, a brief description of the services that you provided and the level of satisfaction.

#### 3.2. **Accreditation**

Prospective training providers must attach valid accreditation by relevant SETA and ICDL of the training programme(s) they are bidding for.

#### 3.3. **Capacity to implement the training you are bidding for.**

3.3.1. The bidder must demonstrate capacity for each training programme they are bidding for in terms of the following minimum human resource required:

- **Facilitator**
  - Attach CV of facilitator with at least 3 years of facilitating experience
  - Attach the contract between training provider and facilitator
  - The facilitator must have a relevant post matric qualification
- **Assessor**
  - Attach the contract between training provider and Assessor
  - Attach proof of registration as an assessor with relevant SETA
  - Attach CV of an assessor with at least 5 years of experience
- **Moderator**
  - Attach the contract between training provider and moderator
  - Attach proof of registration as moderator with relevant SETA
  - Attach CV of moderator with at least 5 years of experience

- Training venues that can accommodate up 100 young people

#### **3.4. An outline of the training strategy**

- Implementation plan
- Learner attendance management methods, reporting methods to the seta NYDA and the SETA.
- Learners exit strategy which shows available opportunities that can be accessed by young people after training. This could be:
  - Employment opportunities,
  - Further education opportunities
  - How they will be assisted to start own business/cooperatives.

#### **3.5. SPECIFIC DELIVERABLES**

The potential training provider must comply with the following requirements to be considered.

- Must be accredited for the qualification, the company is applying for.
- Must have capacity to train, assess, internally moderate and upload learner achievements.
- Must have adequate staff compliments to ensure skills transfer.
- Assume full responsibility and accountability for the implementation and success of this learning intervention.
- Must build partnerships and provide support to relevant employers and ensure that learners receive appropriate workplace experience and relevant evidence is collected throughout the duration of the learning intervention
- Having training facilities that caters for individuals living with disability

#### **3.6. The bidder must indicate the training programmes they are bidding for below by marking Yes or No and must attach a proof of accreditation for each training program marked YES. Should bidders fail to indicate Yes/No or otherwise, NYDA will assume that the bidder is not bidding for the relevant training programme.**

Qualification	Intervention type	Mark: Yes/No	NQF Level(s)	Accredited training Centre location(s)	Accreditation expiry date	Number of facilitators	Number of Assessors	Number of Moderators
Health services and community development (SETA)	Learnership							
	Skills programme							
	Apprenticeship							
Information Technology and Computer services	Learnership							
	Skills programme							
	Apprenticeship							
Business Management	Learnership							
	Skills programme							
	Apprenticeship							
Construction	Learnership							
	Skills programme							
	Apprenticeship							
Transport, operations and logistics	Learnership							
	Skills programme							
	Apprenticeship							

Qualification	Intervention type	Mark: Yes/No	NQF Level(s)	Accredited training Centre location(s)	Accreditation expiry date	Number of facilitators	Number of Assessors	Number of Moderators
Manufacturing and Assembly	Learnership							
	Skills programme							
	Apprenticeship							
Wholesale and retail	Learnership							
	Skills programme							
	Apprenticeship							
Agriculture and Forestry	Learnership							
	Skills programme							
	Apprenticeship							
Financial and Insurance services	Learnership							
	Skills programme							
	Apprenticeship							
Hospitality and Tourism	Learnership							
	Skills programme							
	Apprenticeship							

Qualification	Intervention type	Mark: Yes/No	NQF Level(s)	Accredited training Centre location(s)	Accreditation expiry date	Number of facilitators	Number Assessors	Number of Moderators
Manufacturing and engineering	Learnership							
	Skills programme							
	Apprenticeship							
Beauty and Personal care services	Learnership							
	Skills programme							
	Apprenticeship							
Artisan trades (QCTO Trades)	Learnership							
	Skills programme							
	Apprenticeship							
	Learnership							
	Skills programme							
	Apprenticeship							
	Learnership							
	Skills programme							
	Apprenticeship							

## **4 SUBMISSION REQUIREMENTS**

**4.1** Tenders that are faxed, sent via telex, and/ or electronic mail delivery will not be accepted.

**4.2** One hardcopy must be the original submission, clearly marked "Original" and three (3) copied versions of the original. All submissions must be delivered in individual envelopes.

**4.3** Each individual envelope must be clearly marked with the following information:

**4.3.1** Appointment of a panel of various accredited training providers to train NYDA beneficiaries for a period of three (3) years.

**4.3.2** Tender number: **RFP2021/09/NYDA**

**4.3.3** **Original** or copy 1 or copy 2 etc.

**4.4** Bidders should take particular care to ensure that there are no discrepancies between all submissions to the NYDA. NYDA reserves the right to reject any tender if there are discrepancies.

**4.5** All tenders received by NYDA will become the property of the NYDA and will not be returned to the service provider.

**4.6** The tender must be inserted into the Tender Box available at the Reception Area of NYDA Head Office, 54 Maxwell Drive, Woodmead by 11:00 am on the date of closing of the Tender.

**4.7** Unsuccessful bidders will be informed in writing when the process is concluded.

**4.8** A tender will be considered late if received after the specified date and time. Service providers are therefore strongly advised to ensure that Tenders be despatched allowing enough time for any unforeseen events that delay.

## **5 ENQUIRIES/COMMUNICATION**

### **5.1 Contact person for enquiries regarding the completion and submission of the tender document:**

Mr Mlungisi Xulu  
Supply Chain Management  
Email: [tenders@nyda.gov.za](mailto:tenders@nyda.gov.za)

All clarifications or enquiries must be made in writing and received by the NYDA by 20 January 2022 before 16h00. Telephonic requests for clarification will not be accepted.

## **6 TENDER EVALUATION/ADJUDICATION**

The tender will be evaluated in two (2) phases:

**a. Compliance/eligibility.**

**b. Technical/Functionality.**

Bidders that obtain a minimum threshold of 60 out of 100 points to be considered responsive in terms of the functionality.

### **6.1 COMPLIANCE/ELIGIBILITY EVALUATION**

**Bidders who do not meet the requirements below will be immediately disqualified. Bids will only be compliant if bidder has submitted the following documents:**

NO	DESCRIPTION
1	A proof of registration as a vendor on the National Treasury Central Supply Database (CSD), which can be found at <a href="https://secure.csd.gov.za/">https://secure.csd.gov.za/</a> in compliance with National Treasury compliance paragraph 4.2 with instruction note 4a of 2016/2017
2	A proof that the bidder is in good standing with SARS. Such information will be verified through Central Supply Database (CSD) or using SARS e-filing pin in National Treasury compliance with instruction note 9 of 2017/2018 <b>prior</b> to the award of the bid.

NO	DESCRIPTION
3	A proof of company registration (CIPC documents)
4	SBD1 – A fully completed and duly signed Invitation to bid
5	SBD 4 – A fully completed and duly signed declaration of Interest. Should a conflict of interest be declared or identified, the bid would be declared non- responsive. NB Bidder must ensure all pages are complete and all questions answered, you are to indicate not applicable (N/A) where appropriate.
6	SBD 8- A fully completed and duly signed declaration of bidders past supply chain management practices. Should the bidder be found to have abused the supply chain management system, the bid would be declared non- responsive.
7	SBD 9 – A fully completed and duly signed certificate of independent bid determination. Should the agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding, the bid would be declared non- responsive.
8	Bidder must submit a valid accreditation by relevant SETA or ICDL accreditation for ICDL training programme they are bidding for. If the bidder is bidding for various training programmes, the bidder must submit relevant accreditation for each training programme.
9	Bidder must indicate the training program they are bidding for in 3.6 above by marking YES or NO.
10	The bidder attended the compulsory briefing session held via Microsoft TeamViewer.
11	A submission of one hard copy of the original submission, clearly marked "Original" and three (3) copied versions of the original. <b>NB: four (4) documents in total.</b>

## 6.2 TECHNICAL/FUNCTIONALITY EVALUATION

The evaluation of the functionality of the proposals will be evaluated as per the criteria contained in the table below:

Category	Sub criteria	Total score	Score	Form of Evidence
<b>Provision of at least four (4) signed positive testimonial letters from existing/previous clients (within past 5 years) where the relevant training was provided which the NYDA may contact for references.</b> The signed letters <b>must include:</b> a brief description of the services that you provided, client name, contact details, value of the project and the level of satisfaction.				
This criterion covers positive testimonial letters from current or previous clients within the previous 5 years	Four positive testimonial letters	30	30	Signed Positive testimonial letters on the client letter head with contact details
	Three positive testimonial letters		20	
	Two positive testimonial letters		10	
	No or one testimonial letter provided		0	
<b>Capacity to implement the project (if the bidder is bidding for various training programmes, they must submit a CV of a Facilitator, Assessor and Moderator for each training programme they are bidding for)</b>				
<b>Facilitator</b> NB: No points will be allocated to the facilitator without proof of qualification attached	More than 5 years' experience as a Facilitator	20	20	Detailed CV of the facilitator and proof of relevant post matric qualification
	3 to 5 years' experience as a Facilitator		15	
	Less than 3 years of experience a facilitator		0	
<b>Assessor</b> NB: No points will be allocated to the	More than 7 years' experience as an Assessor	20	20	Detailed CV and proof of valid Assessor registration
	5 to 7 years' experience as an Assessor		15	

Category	Sub criteria	Total score	Score	Form of Evidence
Assessor without valid registration attached	Less than 5 years of experience as an Assessor		0	
<b>Moderator.</b> NB: No points will be allocated to the Moderator without valid registration attached	More than 7 years' experience as a Moderator	20	20	Detailed CV and proof of valid Moderator registration
	5 to 7 years' experience as a Moderator		15	
	Less than 5 years of experience as a Moderator		0	
<b>Preferential points for Youth owned companies</b>				
This sub-criterion covers youth owned companies	100% youth owned company	10	10	CIPC documents or CSD report
	At least 51% youth owned company		5	
	At least 30% youth owned company		3	
	Less than 30% youth owned company		0	
<b>TOTAL POINTS</b>		<b>100</b>		

**NB:** Any proposal not meeting a minimum threshold of 60 points on functionality will not be considered for further evaluation.

### 6.3 PRICE

**6.3.1** The NYDA implements training programmes funded by different SETAs and government departments. Each funder has its own budget structure for skills programme, learnership or an apprenticeship.

**6.3.2** From the panel training providers, will be appointed through competitive process where they will submit quotations and considering the following criteria:

- 6.3.2.1.1 The training provider has valid accreditation during the training period
- 6.3.2.1.2 The training provider's office footprint
- 6.3.2.1.3 Training provider's capacity to train learners
- 6.3.2.1.4 Confirmation of a training Centre readiness by NYDA

## 7 SPECIAL CONDITIONS

- 7.1** NYDA reserves the right to withdraw or amend terms of reference/specifications by notice in writing by advertising in the media in which the tender was originally advertised prior to the closing date.
- 7.2** NYDA reserves the right not to award any of the tenders submitted.
- 7.3** The cost of preparing the tenders will not be reimbursed.
- 7.4** Shortlisted bidders may be invited for presentations.
- 7.5** Successful bidder will be required to sign a confidentiality/non-disclosure agreement.
- 7.6** NYDA reserves the right NOT to appoint any Service Provider or to withdraw this request for bids.
- 7.7** NYDA reserves the right to withdraw the awarding of the bid if the organisation and the successful bidder are unable to agree on the terms and conditions of the agreement within 60 calendar days of the awarding of this bid.
- 7.8** All contracts entered by the organisation are subject to the attached general conditions of contract.

## 8 REVIEW PROCESS

- 8.1** In order to evaluate and adjudicate tenders effectively, it is imperative that bidders submit responsive tenders. To ensure a tender will be regarded as responsive it is imperative to comply with all conditions pertaining to the tender and to complete all the mandatory fields and questionnaires.
- 8.2** All tenders duly lodged as per the tender requirements will be evaluated in accordance with the stipulated evaluation criteria.
- 8.3** NYDA may require presentations from short-listed bidders as part of the tender process.

## 9 REASONS FOR REJECTION

- 9.1** Bidders shall not contact NYDA on any matter pertaining to the tender from the time the tender is closed to the time the tender has been adjudicated. The results of all tenders will be published by the NYDA. Any effort by a bidder to influence the tender evaluation, tender comparisons or tender award decisions in any matter, may result in rejection of the tender concerned.
- 9.2** **NYDA** shall reject a tender if the bidder has committed a proven corrupt or fraudulent act in competing for a particular contract.
- 9.3** **NYDA** reserves the right to contact references during the evaluation and adjudication process. Any effort by a bidder to influence the evaluation, comparisons or award decisions in any manner, may result in rejection of the quote/proposal concerned.

## **DECLARATION OF INTEREST SBD 4**

1. Any legal person, including persons employed by the state<sup>1</sup>, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-
  - the bidder is employed by the state; and/or
  - the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

2. **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

- 2.1 Full Name of bidder or his or her representative:  
.....
- 2.2 Identity Number: .....
- 2.3 Position occupied in the Company (director, trustee, shareholder<sup>2</sup>):  
.....
- 2.4 Company Registration Number: .....
- 2.5 Tax Reference Number: .....
- 2.6 VAT Registration Number: .....
- 2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / personal numbers must be indicated in paragraph 3 below.

<sup>1</sup> "State" means –

- (a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999).
- (b) any municipality or municipal entity.
- (c) provincial legislature.
- (d) national Assembly or the national Council of provinces; or
- (e) Parliament.

<sup>2</sup>" Shareholder" means a person who owns shares in the company and is actively involved in the management of the enterprise or business and exercises control over the enterprise.

- 2.7 Are you or any person connected with the bidder presently employed by the state.

**YES / NO**

- 2.7.1 If so, furnish the following particulars:

Name of person / director / trustee / shareholder/ member.....  
Name of state institution at which you or the person  
connected to the bidder is employed: .....  
Position occupied in the state institution: .....

Any other particulars:  
.....  
.....  
.....

2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector? **YES / NO**

2.7.2.1 If yes, did you attach proof of such authority to the bid document?  
(Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.)

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

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

2.8.1 If so, furnish particulars:  
.....  
.....  
.....

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

2.9.1 If so, furnish particulars.  
.....  
.....  
.....

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

2.10.1 If so, furnish particulars.  
.....  
.....

2.11 Do you or any of the directors / trustees / shareholders / members **YES/NO**

of the company have any interest in any other related companies whether or not they are bidding for this contract?

2.11.1 If so, furnish particulars:

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

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

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

**4 DECLARATION**

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

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 3 ABOVE IS CORRECT.  
I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN  
TERMS OF PARAGRAPH 23 OF THE GENERAL CONDITIONS OF CONTRACT  
SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of bidder

## 7 PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017 - SBD 6.1

This preference form must form part of all bids invited. It contains general information and serves as a claim form for preference points for Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution

**NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.**

---

### 1. GENERAL CONDITIONS

- 1.1 The following preference point systems are applicable to all bids:
  - the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- 1.2
  - a) The value of this bid is estimated to not exceed R50 000 000 (all applicable taxes included) and therefore the ..... preference point system shall be applicable; or
  - b) 80/20 preference point system will be applicable to this tender.
- 1.3 Points for this bid shall be awarded for:
  - (a) Price; and
  - (b) B-BBEE Status Level of Contributor.
- 1.4 The maximum points for this bid are allocated as follows:

	POINTS
<b>PRICE</b>	80
<b>B-BBEE STATUS LEVEL OF CONTRIBUTOR</b>	20
<b>Total points for Price and B-BBEE must not exceed</b>	<b>100</b>

- 1.5 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.
- 1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.

### 2. DEFINITIONS

- (a) "**B-BBEE**" means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act.
- (b) "**B-BBEE status level of contributor**" means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act.
- (c) "**bid**" means a written offer in a prescribed or stipulated form in response to an

invitation by an organ of state for the provision of goods or services, through price quotations, advertised competitive bidding processes or proposals.

- (d) "**Broad-Based Black Economic Empowerment Act**" means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003).
- (e) "**EME**" means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act.
- (f) "**functionality**" means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.
- (g) "**prices**" includes all applicable taxes less all unconditional discounts.
- (h) "**Proof of B-BBEE status level of contributor**" means:
  - 1) B-BBEE Status level certificate issued by an authorized body or person.
  - 2) An affidavit as prescribed by the B-BBEE Codes of Good Practice.
  - 3) Any other requirement prescribed in terms of the B-BBEE Act.
- (i) "**QSE**" means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act.
- (j) "**Rand value**" means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes.

### **3. POINTS AWARDED FOR PRICE**

#### **3.1 THE 80/20 PREFERENCE POINT SYSTEMS**

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

#### **80/20**

$$Ps = 80 \left( 1 - \frac{Pt - P_{\min}}{P_{\min}} \right)$$

Where

Ps = Points scored for price of bid under consideration

Pt = Price of bid under consideration

Pmin = Price of lowest acceptable bid

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

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

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

## 5. BID DECLARATION

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

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

6.1 B-BBEE Status Level of Contributor: = ..... (maximum of 10 or 20 points)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

## 7. SUB-CONTRACTING

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

*(Tick applicable box)*

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

7.1.1 If yes, indicate:

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

*(Tick applicable box)*

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

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

<b>Designated Group: An EME or QSE which is at last 51% owned by:</b>	<b>EME ✓</b>	<b>QSE ✓</b>
<b>Black people</b>		
<b>Black people who are youth</b>		
<b>Black people who are women</b>		
<b>Black people with disabilities</b>		
<b>Black people living in rural or underdeveloped areas or townships</b>		
<b>Cooperative owned by black people</b>		
<b>Black people who are military veterans</b>		
<b>OR</b>		
<b>Any EME</b>		
<b>Any QSE</b>		

#### **8. DECLARATION WITH REGARD TO COMPANY/FIRM**

8.1 Name of company/firm.....

8.2 VAT registration number.....

8.3 Company registration number.....

##### **8.4 TYPE OF COMPANY/ FIRM**

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

[TICK APPLICABLE BOX]

##### **8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES**

.....  
.....

##### **8.6 COMPANY CLASSIFICATION**

- Manufacturer
- Supplier
- Professional service provider
- Other service providers, e.g., transporter, etc.

[TICK APPLICABLE BOX]

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

8.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificates, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct.
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form.
- iii) In the event of a contract being awarded as a result of points claimed as

shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct.

iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –

- (a) disqualify the person from the bidding process.
- (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct.
- (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation.
- (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
- (e) forward the matter for criminal prosecution.

**WITNESSES**

- 1. .....
- 2. .....

.....  
**SIGNATURE(S) OF BIDDERS(S)**

DATE: .....

ADDRESS .....

.....

.....

**9 DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES - SBD8**

- 1 This Standard Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by institutions in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
- 3 The bid of any bidder may be disregarded if that bidder, or any of its directors have-
  - a. abused the institution's supply chain management system.
  - b. committed fraud or any other improper conduct in relation to such system; or
  - c. failed to perform on any previous contract.

**4 In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

Item	Question	Yes	No
4.1	<p>Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?</p> <p>(Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</p> <p><b>The Database of Restricted Suppliers now resides on the National Treasury's website(<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) and can be accessed by clicking on its link at the bottom of the home page.</b></p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	<p>Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?</p> <p><b>The Register for Tender Defaulters can be accessed on the National Treasury's website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) by clicking on its link at the bottom of the home page.</b></p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
4.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		

**CERTIFICATION – SBD8**

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

**CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS TRUE AND CORRECT.**

**I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION MAY BE TAKEN AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.**

.....

**Signature**

.....

**Date**

.....

**Position**

.....

**Name of Bidder**

## 10 CERTIFICATE OF INDEPENDENT BID DETERMINATION - SBD 9

- 1 This Standard Bidding Document (SBD) must form part of all bids<sup>1</sup> invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).<sup>2</sup> Collusive bidding is a *per se* prohibition meaning that it cannot be justified under any grounds.
- 3 Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
  - a. disregards the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
  - b. cancels a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
- 4 This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

<sup>1</sup> Includes price quotations, advertised competitive bids, limited bids and proposals.

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

**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

I, the undersigned, in submitting the accompanying bid:

---

(Bid Number and Description)

in response to the invitation for the bid made by:

---

(Name of Institution)

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

I certify, on behalf of: \_\_\_\_\_ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate.
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect.
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder.
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder.
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether affiliated with the bidder, who:
  - (a) has been requested to submit a bid in response to this bid invitation.
  - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
  - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium<sup>3</sup> will not be construed as collusive bidding.
7. Without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:

- (a) prices.
- (b) geographical area where product or service will be rendered (market allocation)
- (c) methods, factors or formulas used to calculate prices.
- (d) the intention or decision to submit or not to submit, a bid.
- (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
- (f) bidding with the intention not to win the bid.

8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bids invitation relates.

9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

**<sup>3</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.**

10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

**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 about the rights and obligations of all parties involved in doing business with government.

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

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

## TABLE OF CLAUSES

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

## **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 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 anything 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 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 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 ancillaries 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 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.

**4. Use of -  
consent,  
contract  
plan,  
documents and  
the  
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, drawing, pattern, sample, or information furnished by or on behalf of 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.

**5. Patent -  
claims  
rights**

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

**6. Performance -  
award,  
security**

**7.1** Within thirty (30) days of receipt of the notification of contract 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.

**7. 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 analysed 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 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' 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 - accordance documents**

**10.1** Delivery of the goods shall be made by the supplier in 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.

## **11. Insurance -**

**10.2** Documents to be submitted by the supplier are specified in SCC.  
**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 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 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 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 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 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 fulfilment 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, except for any price adjustments authorized in SCC or in the purchaser's request for bid validity extension.

**3. Contract –  
be  
Amendments  
concerned.**

**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 contract 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 –**

**21.1** Delivery of the goods and performance of services shall be made by

## **supplier's performance**

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 cancelling 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 – of 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 like 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 –  
or  
and countervailing  
amount of a  
duties and rights**

**24.1** When, after the date of bid, provisional payments are required, antidumping or countervailing duties are imposed, or the 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 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 –  
the  
Disputes  
contract,**

**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 –  
the  
of liability**

**28.1** Except in cases of criminal negligence or wilful misconduct, and in 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 –  
other  
language**

**29.1** The contract shall be written in English. All correspondence and 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  
(NIP) Programme**

**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.

**General Conditions of Contract (revised February 2008)**