

TENDER NO. TKZN 06/2020
TKZN SOCIAL MEDIA MANAGEMENT AGENCY

**TOURISM KZN INVITES ALL PROSPECTIVE BIDDERS
TO SUBMIT PROPOSALS FOR THE TKZN SOCIAL
MEDIA MANAGEMENT AGENCY FOR 12 MONTHS**

**PROPOSALS SHOULD BE DEPOSITED AT THE
TENDER BOX MARKED TENDER NO. TKZN 06/2020
SITUATED AT SECOND FLOOR, ITHALA TRADE
CENTRE, 29 CANAL QUAY ROAD, DURBAN, 4069**

OR, POSTED TO

**PROCUREMENT OFFICER
PO BOX 2516, DURBAN, 4000, SOUTH AFRICA**

**NB: ENVELOPES MUST BE CLEARLY MARKED WITH
THE TENDER NUMBER**

CLOSING DATE: 14 FEBRUARY 2020, 12H00

**NAME OF BIDDER _____
TOTAL PRICE (VAT INCLUSIVE) _____**

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2007 UNWTO Ulysses Award Recipient
UNWTO. Sbest Accredited DMO

Zulu Kingdom. Exceptional

Corporate Office: Ithala Trade Centre, 2nd and 3rd Floors, 29 Canal Quay (Signal) Road, Durban, 4001, GPS coordinates: -29.870129, 31.080016, Information Office: Shop 1A, uShaka Marine World
1 Bell Street, Durban, 4001, PO Box 2516, Durban, 4000, South Africa, Switchboard: +27 (0) 31 366 7500, Fax: +27 (0) 31 308 6693, King Shaka Airport Office: +27 (0) 32 436 0013 V&A Cape Town
Office: +27 (0) 21 418 1684. Customer Info Office: +27 (0) 11 390 1000. Customer Care: 0860 101 099. uShaka Marine World: +27 (0) 31 337 8099. Email: info@mkzulu.org.za. Web: www.mkzulu.org.za

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TERMS OF REFERENCE

TENDER NO.

TKZN 06/2020

SOCIAL MEDIA

MANAGEMENT AGENCY

FOR 12 MONTHS





Zulu Kingdom. Exceptional

BID DESCRIPTION	TKZN INTENDS TO APPOINT A SOCIAL MEDIA MANAGEMENT AGENCY TO PROVIDE SOCIAL MEDIA SERVICES FOR A PERIOD OF 1 YEAR	
BID NUMBER	TKZN NO: 06/2020	
NAME OF INSTITUTION	KWAZULU-NATAL TOURISM AUTHORITY	
THE PLACE WHERE GOODS WORKS OR SERVICES ARE REQUIRED	DURBAN	
BID OPENING	DATE: 17 January 2020	
COMPULSORY BRIEFING SESSION	DATE: 22 January 2020 TIME: 11H00	
BID CLOSING	DATE: 14 February 2020	TIME: 12H00
CONTACT DETAILS	POSTAL ADDRESS	P.O. BOX 2516, DURBAN ,4000
	PHYSICAL ADDRESS	THE BID BOX IS SITUATED AT: ITHALA TRADE CENTRE, 2ND FLOOR RECEPTION, 29 CANAL QUAY ROAD, DURBAN,
	TEL	Tel: +27 (31) 366 7500
	EMAIL	NicoletteN@zulu.org.za
	CONTACT PERSON	Nicolette Napier
WHERE BIDS CAN BE DOWNLOADED	1. www.zulu.org.za 2. www.etenders.gov.za	
WHERE BIDS SHOULD BE DELIVERED	THE BID BOX IS SITUATED AT: ITHALA TRADE CENTRE, 2ND FLOOR RECEPTION, 29 CANAL QUAY ROAD, DURBAN,	
SECTOR	PUBLIC ENTITY	
REGION	KWAZULU-NATAL	



TERMS OF REFERENCE:

Provision of strategic Social Media Marketing services for Tourism KwaZulu-Natal

1 BACKGROUND

1.1 About the authority

The KwaZulu-Natal Tourism Authority, trading as Tourism KwaZulu-Natal (TKZN) is a statutory body responsible for the development, promotion and marketing of tourism into and within the province. In order to achieve this mandate, TKZN needs to continuously increase the destination's profile and ensure brand awareness in all of the province's key source markets, through marketing, advertising and promotions.

TKZN has a 2014-20 corporate strategy (a detailed strategy document is available on the website). The Provincial Growth and Development Plan (PGDP) points to tourism as one of the key drivers of economic development for the country and the province as well as a priority sector for job creation. This principle stands out most significantly in three core business areas of TKZN, namely marketing, and tourism development and the Durban KZN Convention Bureau. For this strategic plan, in marketing KZN as a premier tourist destination domestically and internationally, TKZN focuses its energies on leveraging resources to grow tourist arrivals from markets with growth potential. The strategy focuses on:

- 1.1.1 The growing urban middle class in the hinterland of the country, who are "new tourists", and whose entry into this new lifestyle of taking tours to KZN needs to be facilitated; and
- 1.1.2 The growing tourist market from the external African markets generally and the southern African neighbouring countries specifically leveraging from the current direct air access as well as from the major emerging markets i.e. Brazil, Russia, China, and India (BRIC). With South Africa forming part of the international BRICS economic block, major new opportunities for tourism are expected to grow. The approach further supports the development of KZN's tourism product offering, championing the development of new products which allow for higher tourist volumes.

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1.1.3 Through this potential partnership, TKZN is anticipating the establishment of a viable relationship with an innovative agency which will support TKZN in making a quantum leap forward with the development and execution of a fully integrated marketing effort. TKZN is a high-performance marketing environment, and focuses its marketing on high return-on-investment activities in order to maximize budget effectiveness.

1.2 TKZN's Departments

As an entity mandated to drive tourism growth, TKZN executes a broad spectrum of segment-specific marketing activities and support activities in both domestic and international markets through the following strategic departments:

Department	Strategic Objectives	Key performance areas per each department
CEO's Office	To drive strategy and leadership to provide strategic direction, from a tourism perspective, to both internal and external stakeholders	1. To provide strategic direction to the organisation through an appropriate governance structures. 2. To undertake risk management in order to achieve the organisation's objectives 3. To present to stakeholders the state of tourism from a global, national and provincial perspective based on tourism intelligence gathered 4. To utilise national and provincial tourism co-ordinating structures to drive the provincial tourism agenda within the context of national and provincial mandate thus ensuring a synergistic approach in pursuit of the tourism activities
Marketing	To market and promote KZN in order to increase brand awareness, increase domestic and international tourist arrivals and achieve geographic spread.	1. To partner with tourism trade and strategic stakeholders domestically and internationally to grow arrivals into KwaZulu-Natal 2. To promote the destination through integrated marketing communication
Public Relations and Communication	To build a sustainable positive destination and corporate image, enhance stakeholder relations and promote service excellence within the KZN tourism sector.	1. To build key partnerships with local, national and international media for greater destination awareness in KZN's domestic and international markets 2. To build and maintain relations with tourism trade, internal stakeholders, media and other relevant industry role players 3. To support and leverage of strategic events and initiatives in KZN with the aim of increasing tourism numbers and geographic spread 4. To drive a service excellence campaign programme to encourage and recognize excellence in the KZN tourism sector

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Convention Bureau	To increase the level of business tourism flow to the city of Durban and the rest of the province of KwaZulu-Natal by identifying, bidding for and supporting bid event initiatives and promoting the business event venues and services of the province.	1. To increase business event tourism flow to Durban and KwaZulu-Natal 2. To provide support in the securing of business events and ensure the success of secured events 3. To drive transformation in business tourism
Tourism Information Services	To be the custodian of tourism intelligence in line with international best practice	1. To undertake research studies, produce the requisite reports and disseminate findings to internal and external stakeholders 2. To provide tourism information and marketing collateral through strategically positioned distribution points 3. To benchmark research and knowledge management against international best practice 4. To provide Information Communications Technology (ICT) services to ensure the efficient running of business systems
Tourism Development	To drive responsible and demand driven tourism development and champion the transformation of the tourism sector in KZN	1. To drive tourism destination development 2. To facilitate tourism investment 3. To contribute towards transformation of the tourism sector through enterprise development
Corporate Services	To create an enabling corporate environment for TKZN to optimally perform its duties.	1. To develop and implement a training plan to address strategic skills and competence gaps within the organization. 2. To ensure wellness of staff in the organization 3. To maintain staff turnover of less than 5%. 4. To review the organization's policies 5. To achieve zero irregular, unauthorized and fruitless and wasteful expenditure 6. To achieve legislative compliance 7. To achieve a clean audit opinion on financial statements

2 ABOUT THE BRAND

- 2.1 During this planning period the destination brand and logo will be monitored in terms of impact, relevance, stakeholder buy-in and distinctive positioning. Where necessary, the brand will be adapted to ensure optimal destination image projection and distinctive positioning.
- 2.2 TKZN will work in establishing brand synergy with strong private sector brands, which possess same brand values as those of the Zulu Kingdom brand, which in turn can help in growing destination awareness and tourist arrivals into the province.
- 2.3 Our destination brand key is as follows:



2.4 The destination brand is positioned as the EXCEPTIONAL – Zulu Kingdom.

2.5 Zulu Kingdom Brand Attributes:

After conducting an extensive brand insight activator, the following were identified as key unique selling propositions for the Zulu Kingdom brand:

- Wildlife;
- Heritage;
- Adventure;
- Trade Gateway;
- Zulu; and
- Beaches.

The golden thread that is a common characteristic in all KZN attributes is:

- Warmth;
- Fun; and
- Family-Orientation.

TERMS OF REFERENCE: SOCIAL MEDIA MANAGEMENT AGENCY

2.6 KZN MARKET SCOPE

Market	Geographic Scope				Target Segments	Core Experiences
Domestic	- KZN - Gauteng - Western Cape - Eastern Cape - Free State - Limpopo				- New Horizon families - High-life enthusiasts - Well-to-do Mzansi families - Spontaneous budget explorers - Seasoned leisure seekers	- Beaches - Natural beauty - Nightlife - Shopping - Heritage - Culture
SADC Rest of Africa	- Swaziland - Lesotho - Botswana - Mozambique - Zambia - Zimbabwe - Kenya - Nigeria - Angola				- Business professionals - Traders	- Shopping - Big cities - Beaches (not coastal markets) - Wildlife - Heritage
Europe Americas Asia	<u>Core</u>	<u>Opportunity</u>	<u>Investments</u>	<u>Strategic Hub</u>		
	- United Kingdom - USA - Germany	- France - Netherlands - Australia	- India - China - Brazil - Sweden - Eastern Europe (Russia)	Middle East (GCC countries)	- NSSA, Wanderlusts, Family explorers - New beach lovers	- Natural beauty - Wildlife - Culture - Visiting mountains - Beach - Adventure (USA wanderluster)

2.7 Overview of Domestic Leisure Segments

Table 2: Primary Purpose of Domestic Trips In SA (2013-2017)

	2013	2014	2015	2016	2017
VFR	72%	73%	71%	72%	65%
Holiday	12%	10%	11%	11%	23%
Business	6%	6%	9.8%	9%	8%
Medical	0.5%	0.5%	1.2%	1%	-
Religious	7.4%	7.4%	6.9%	7%	4%

Figure 2: Top 5 Domestic Source Markets for South Africa (2013-2017)

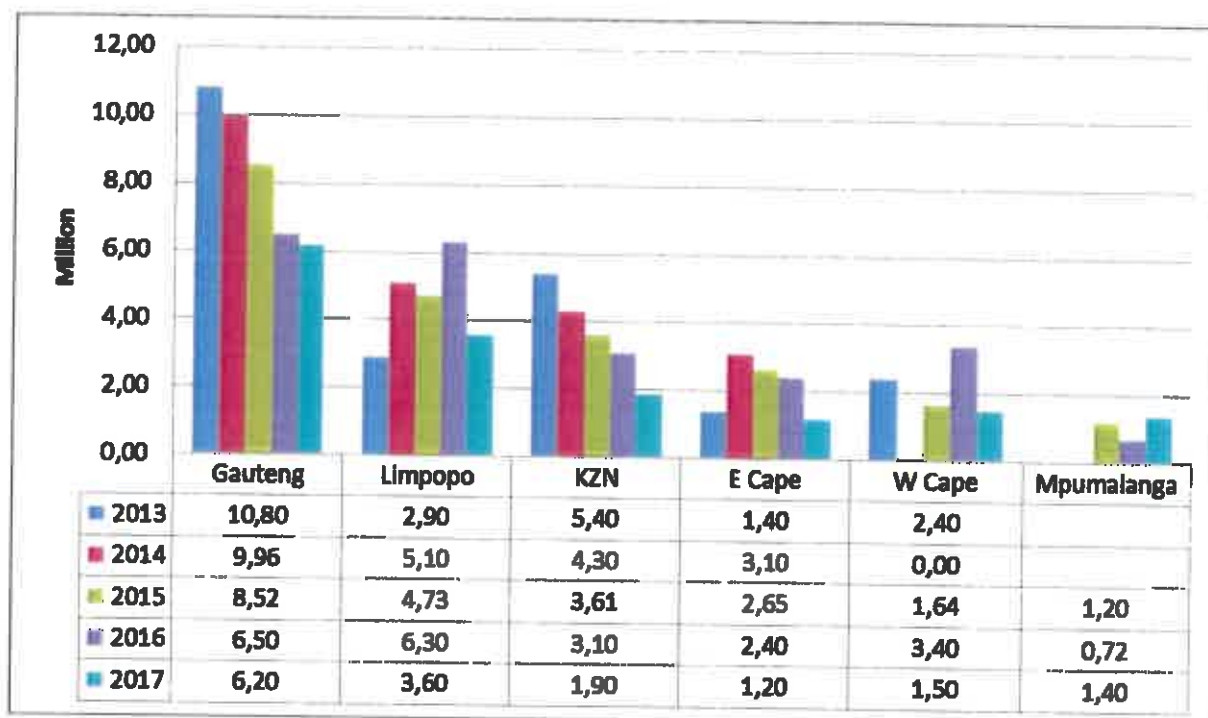


Table 3: Domestic Tourism In KZN (2013-2017)

	2013	2014	2015	2016	2017
No. of Trips	±7.1mn	±5.3mn	±4.98mn	±4.19mn	±2.5mn
Spend (per trip)	±R726	±R979	±R1 108	±R1 108	±R1 280
Avg. length of stay	4.1 nights* 8.22 nights#	4.2 nights* 8.02 nights#	4.8 nights* 8.02 nights#	4.5 nights* 8.02 nights#	4.1 nights
Spend: Direct Value	R6.6bn	R5.2bn	R5.5bn	±R4.6bn	±R3.2bn
Main source markets	Gauteng KZN	Gauteng KZN	Gauteng KZN	Gauteng KZN	Gauteng KZN

Source(s): *SAT, 2018 and #TKZN, 2017

2.8 Overview of the Business Tourism Segments

The Durban KZN Convention Bureau has been driving the Meetings, Incentives, Conferences and Exhibitions (MICE) market in support of the industry. The bureau was established to promote the meeting or business tourism services of KwaZulu-Natal. Key markets are as follows:

Meetings	This segment focuses on corporate meetings primarily promoting KZN as the preferred destination for staging events, places for product launches and meetings organised by global companies.
Incentives	This focuses mostly on incentive houses and corporate travel agencies.
Conferences	This segment focuses on global, regional and local associations. Associations with South African contacts and which are connected to South African areas of specialisation should be a key focus area.
Exhibitions	The segment also looks at national and International organisers of exhibitions focusing on hosting events or exhibitions in especially in KZN.

3 TKZN STRATEGIC OBJECTIVES

3.1 TKZN's primary objectives are to develop marketing programs/tools to increase destination awareness and conversion to choosing KZN as the tourism destination which will result in the following:

- Increased arrivals into the province;
- Increased tourist spend;
- Increased length of stay of visitors;
- Increased geographic spread of visitors;
- Improving seasonality patterns; and
- Contribute towards transformation.

4 SCOPE OF SERVICES - FUNCTIONALITY

4.1 As a destination, KZN has enjoyed a very high awareness in the domestic market but awareness still remains a barrier to entry for International markets.

4.2 Social media now plays an integral part in the consumer travel experience from how they research and plan their holiday, on-going engagement while they are on holiday and reviews after their travel. TKZN has seen the significance of social media in the consumer journey in the last few years and has established a presence on Facebook, Twitter, Instagram and YouTube.

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- 4.3 TKZN is seeking a social media marketing agency to help them radically transform their social media landscape, taking into account global trends into destination marketing social media management.
- 4.4 As the growing tool in destination marketing, the successful agency must have a proven track record in successfully driving transformative social media strategies and must help TKZN to continue their aggressive growth in social media as a platform for consumer engagement and outreach. The successful tenderer must not only be able to maintain growth of existing social media platforms, but must also identify new platforms and constantly be integrating social media with all activities of TKZN.
- 4.5 The successful tenderer must therefore identify how best to profile KZN as a preferred holiday destination locally and globally, outline a multi-year social-media communication strategy and establish a yearly social-media marketing plan with weekly content plans that aligns with the overall marketing plan in order to understand how to engage travellers online on behalf of TKZN.
- 4.6 TKZN maintains the following social media platforms:
- Facebook – <http://www.facebook.com/KZNTourism>
 - Twitter – <https://twitter.com/TourismKZN>
 - Pinterest - <http://pinterest.com/KZNTourism>
 - YouTube - <https://www.youtube.com/KZNTourism>
 - Instagram - http://www.instagram.com/Tourismkzn_offical
- 4.7 TKZN wishes to outsource to a credible service provider with vast experience in this area of business for a period of three years, to coordinate, manage, maintain and support these platforms and other social-media applications on behalf of TKZN and to also provide support on digital creative.
- 4.8 TKZN is therefore inviting proposals from reputable service providers in a bid to be appointed as a preferred social-media agency to TKZN to liaise and complement existing offline marketing, PR and media buying and events services in order to complete the 360° consumer engagement. The successful bidder will assist TKZN to achieve the following objectives:

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- Based on global and local best practice, develop a robust and effective social media and digital strategy to help drive awareness of the entity with both local and international markets.
- Ensure that the platforms are transformative, therefore sparking interest in the province, creating hype and talk-ability around the TKZN brand.
- Grow and nurture a relevant community on social media through campaigns and influencer engagement.
- Improve brand loyalty and engagement through relevant content.
- Improve lead generation through social media to the website.
- Drive peaks in activity through relevant online/social media campaigns.
- Implement "Always on" Advertising.

4.9 Desired deliverables on a monthly basis:

4.9.1 The following are required for content development and social media management for Facebook, Instagram, Twitter, Pinterest and YouTube. This includes community monitoring:

- **Instagram, Google Plus & Facebook** = at least 100 Posts as per project or campaign– This also includes adhoc content and posts
- **Twitter** = at least 100 Posts per Month – This also includes ad hoc content and posts
- **YouTube** = When provided (at least 4 videos per month) – This also includes adhoc content and video

4.9.2 The following are required for "Always-on" online advertising for promoting new events and deals on a regular basis. This is important in the growth of the social media reach

- **Google Advertising:**
 - Paid Searches (Google)
 - Display & YouTube Networks
 - Tracking
- **Social Media Advertising**
 - This is aimed at TKZN's community on Facebook, Instagram, Twitter, YouTube
- **Content development for the TKZN Blog**
- **Performance Reporting**

5 TECHNICAL COMPETENCIES AND CAPABILITIES:

- 5.1 Proven track record in developing sound and successful social and digital media strategies.
- 5.2 Ability to work with an existing supplier of TKZN's Website maintenance (this teamwork will ensure success of the project).
- 5.3 Creative design work of templates as briefed in on a regular basis.
- 5.4 Image manipulation using adobe Photoshop (minimal).
- 5.5 Development of daily content.
- 5.6 Creative writing skills.
- 5.7 In-depth social media activity analysis on a monthly basis.
- 5.8 Report generation monthly or as and when required by client.

6 PERIOD OF APPOINTMENT

- 6.1 The appointment of the successful bidder will be subject to the signing of a contract and service level agreement for a period of one (1) year.

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7 PRICING

7.1 Provide a complete, detailed pricing schedule as per the table below:

		HOURS	PRICE PER HOUR	PRICE FOR THE TOTAL NUMBER OF HOURS SPENT PER MONTH
1	Social Media Editorial Roadmap Development Content Development(Concept, design) Facebook/Google Plus (at least 100 posts each per month) Twitter (at least 100 posts per month) Instagram (at least 100 posts per month) YouTube (4 videos per month) Community Management Post Scheduling Listening Engagement Responding	398		
2	Blog Blog x 500 words (1 Per month) - Research, SEO, Writing & Design Upload to website	36		
3	Media Strategy Ads Copy, Design, Development & Optimisation	36		
4	Account Management per month • Account management and meetings (3 meetings per month)	30		
5	Travel and disbursements (fixed rate) – limited to 10% of retainer fee, payable on prior approval from TKZN		N/A	
			Subtotal	
		TOTAL 500 hours per month	Vat	
			Total including Vat	
Period		Price Per Month		Price Per Annum
Year 1 - Including Vat				
TOTAL BID PRICE				

7.2 The above are to be costed for invoicing on a monthly basis for the total of 1 year.

8 APPLICATION RULES

8.1 Pre-qualifying Criteria

In line with the PPPFA Regulations, 2017 sub reg.4 (1) the prerequisite criteria for this bid is that only companies which are B-BBEE Level 1 or 2 and/or;

- i. a tenderer subcontracting to a minimum of 30% to an EME or QSE which is at least 51% owned by Black people who are Women;
- ii. or tenderer subcontracting a minimum of 30% to an EME or QSE which is at least 51% owned by Black people who are Youth

Should bidders not meet the above criteria, they will be disqualified from the bidding process.

8.2 Expenses Incurred:

Neither Tourism KwaZulu-Natal nor any organ of state will be held liable for any expense incurred by the applicants.

8.3 Confidentiality:

The contents of the applications will be kept strictly confidential by the Authority and its advisors.

8.4 Number of Copies:

An original with three (3) paper copies of the application documents shall be submitted. The contents of the original document shall prevail in the event of any discrepancy.

8.5 Late and Incomplete applications:

Any application reaching the KwaZulu-Natal Tourism Authority later than the date and time given in 8.6 below will not be considered.

Bidders must provide all the information requested in the terms of reference.

8.6 Closing of submissions:

Applications must be submitted in a sealed envelope on which the tender number and the closing date are clearly indicated. The application must be placed in the tender box situated on the second (2nd) floor Ithala Trade Centre, 29 Canal Quay (29 Signal Road), Point, Durban.

The closing date and time for submissions is 14 February 2020 at 12h00 midday.

8.7 Project tender timeframes

	ACTION	DATE
Phase 1	Tender notices	17 January 2020
Phase 2	Compulsory briefing	22 January 2020 at 11h00
Phase 2	Submission of proposals	14 February 2020 at 12h00
Phase 3	Evaluation of Proposals	TBA
Phase 4	Visual and verbal Presentation of proposals	TBA
Phase 5	Adjudication of Proposals	TBA
Phase 6	Awarding of tender	TBA

Please note these dates are guidelines only and TKZN reserves the right to amend them.

8.8 Information Contained in this document:

The information/data provided in this document, together with any subsequent issue of addenda of information/data is given in good faith for the guidance of applicants. No warranties or representations are given regarding accuracy or completeness of such information.

8.9 Further information

The Tourism KwaZulu-Natal reserves the right to seek further information from the applicants, as it considers necessary.

9 EVALUATION METHOD

9.1 All proposals received will be evaluated by a panel on a basis of functionality and will then have their Bids scored for price and BBBEE Points.

9.2 Tender applications need to meet the following basic functionality evaluation criteria, which will be considered and applied during the adjudication process; the maximum weight of each criterion is indicated in bracket

- Credentials (25)
- Capabilities (30)
- Previous Experience (20)
- Client Service (20)
- Value Add (5)

9.3 For purposes of comparison and in order to ensure a meaningful evaluation, bidders are requested to furnish detailed information in substantiation of compliance to the evaluation criteria mentioned in paragraph 9.2.

9.4 A bidder that scores less than 70 points in respect of "functionality" will be regarded as submitting a non-responsive proposal and will therefore be disqualified.

9.5 Thereafter the 80/20 principle will apply in terms of the Preferential procurement policy framework act, 2000: Preferential procurement regulations, 2017. The goals for HDI are specified in the SBD 6.1 form.

9.6 An appointment will be made in terms of the procurement policy of the KwaZulu-Natal Tourism Authority.

9.7 It must be noted that in a case of a Joint Venture, the credentials of the lead company will be considered.

1

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• > 2 – 3 Accounts = 3 • > 3 – 4 Accounts = 4 • > 5 Accounts = 5			
Client service: Each of the head of creative, planning and strategy, and Accounts Management Level of experience of conducting similar work. Required evidence: CV of the team to be assigned to this account outlining relevant experience and understanding of the scope of work. • Accounts Manager • Creative Director • Strategist • PR and Communications Manager • Content Writer • 1 – 3 Years = 1 • > 3 - 5 Years = 2 • > 5 - 7 Years = 3 • > 7 - 10 Years = 4 • > 10 Years = 5	4 4 4 4 4		
Value Add: Any value added services to compliment the TKZN scope of services and leverage TKZN's annual budget;	5		
Total Score	100		

PRESENTATIONS

Companies scoring more that 70% for Evaluation Criteria will be required to make presentations to a panel from Tourism Kwazulu-Natal.

The presentations will carry a weighting of 30% towards the final score prior to price evaluation

10 PRICING AND SCORING

10.1 This process will only be relevant/applicable to agencies short-listed during phase 1 of the tender evaluation process, meaning agencies who achieved >80% and higher, and who will be invited by TKZN to do a compulsory presentation which is aimed at demonstrating their capabilities as per CLAUSE 5 (Scope of Services – Functionality).

10.2 All qualifying proposals will thereafter be evaluated on the 80/20-preference point system where price will be (80%) system for requirements with a Rand value equal to or above R 30, 000 and up to a Rand Value of R50 million inclusive of all applicable taxes.

10.3 The following formula will be used to calculate the points out of 80 for price.

$$P_s = 80 \left(1 - \frac{P_t - P_{min}}{P_{min}} \right)$$

P_s = Points scored for price of tender under consideration;
P_t = Price of tender under consideration; and
P_{min} = Price of lowest acceptable tender.

10.4 The following table must be used to calculate the score out of 20 for BBEE:

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

10.5 An appointment will be made in terms of procurement policy of the KwaZulu-Natal Tourism Authority.

10.6 Bidders who qualify as EMEs in terms of the B-BBEE Act must submit a certificate issued by an Accounting Officer as contemplated in the CCA or a Verification Agency accredited by SANAS or a Registered Auditor. Registered auditors do not need to meet the prerequisite for IRBA's approval for the purpose of conducting verification and issuing EMEs with B-BBEE Status Level Certificates.

10.7 Bidders other than EMEs must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.

10.8 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.

10.9 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.

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- 10.10 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- 10.11 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
- 10.12 person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.

11 INTELLECTUAL PROPERTY RIGHTS

- 11.1 It must be noted that KwaZulu-Natal Tourism Authority will have unlimited access to all documents and processes applied by the successful Tenderer during and after the completion of the project at hand.
- 11.2 An appointment will be made in terms of the procurement policy of Tourism KwaZulu-Natal.
- 11.3 Please note: No proposals will be accepted after the closing time.

12 INTELLECTUAL PROPERTY RIGHTS INDEMNITY

- 12.1 The Bidder undertakes to obtain the necessary consent proprietors or their licenses should the Bidder make use of the intellectual property of any other person.
- 12.2 The Bidder hereby indemnifies Tourism KwaZulu-Natal against any action, claim, damage or legal cost that may be instituted against Tourism KwaZulu-Natal on the ground of an alleged infringement of any copyright or other intellectual property right in connection with the work outlined with this bid.
- 12.3 The Bidder further indemnifies Tourism KwaZulu-Natal against any claim or action (including costs) caused by and/or arising from the failure to obtain such consent.
- 12.4 All original drawings and documents received from Tourism KwaZulu-Natal together with all other drawings, including photographic reductions and negatives thereof, computer programmes and other data prepared by the Bidder in connection with the work with prior approval and at the expense of Tourism KwaZulu-Natal, shall be lodged together with any software and/or intellectual property rights in relation thereto with Tourism KwaZulu-Natal and become the property of Tourism KwaZulu-Natal. Bidder shall not make any of the data, details, drawings or information available to any third party, for whatever reason, without prior written approval of Tourism KwaZulu-Natal and shall take the necessary steps to safeguard against this happening.

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12.5 Copyright of all documents prepared by the Bidder in terms of this bid shall be owned by TOURISM KWAZULU-NATAL but Tourism KwaZulu-Natal shall have unlimited access and free use of the material as and when required.

13 EXCLUSIONS

This to be excluded from the service provider cost as such will be provided for by TKZN:

- 13.1 Any costs relating to accommodation, meals and transport for the media and TKZN team.
- 13.2 Any costs pertaining to media buying.
- 13.3 Any costs pertaining to travel to meetings on behalf of Tourism KZN including mileage.

14 INFORMATION TO BE SUBMITTED BY APPLICANTS

- 14.1 Format of submission
- 14.2 The submission shall be completed in English, typed and bound
- 14.3 The submission shall be compiled as follows:

Section 1: Completed SBD documents

Section 11: Bid Proposal

Section 111:

- SBD 4, 6.1, 8 and 9
- Examples of projects of this nature. Letters of reference minimum three (5)
- Portfolio of Evidence
- Methodology
- CVs of Project Team
- Pricing Schedule
- BEE Certificate - BEE Policies/Programmes
- CSD Report

15 NON-APPOINTMENT

TKZN reserves its rights either NOT to make an appointment and/or appoint the bidder with the lowest price. TKZN also reserves its right to negotiate the final price of those bids deemed technical compliant.

For Technical Enquiries Contact: Ms. Nhlanhla Ngwenya
Email: nhlanhla@zulu.org.za

SUBMITTED BY : 
Nhlanhla Ngwenya
Communications Coordinator

DATE: 13-01-2020

SUPPORTED BY: 
Thulisile Galelekile
GM: Marketing

DATE: 13.01.2020

INVITATION TO BID (SBD 1)

INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF TOURISM KWAZULU NATAL

TENDER NO: TKZN 06/2020

CLOSING DATE: 14 FEBRUARY 2020

CLOSING TIME: 12:00

DESCRIPTION: SOCIAL MEDIA MANAGEMENT AGENCY FOR 12 MONTHS

The successful bidder will be required to fill in and sign a written Contract Form (SB7)

BID DOCUMENTS MAY BE POSTED TO: PROCUREMENT OFFICER, PO BOX 2516, DURBAN, 4000, SOUTH AFRICA

OR

DEPOSITED IN THE BID BOX SITUATED AT: SECOND FLOOR, TOURISM KWAZULU NATAL, ITHALA TRADE CENTRE ,
29 CANAL QUAY ROAD, 40 SIGNAL ROAD, DURBAN, 4000, SOUTH AFRICA

Bidders should ensure that bids are delivered timorously to the correct address. If the bid is late, it will not be accepted for consideration.

The bid box is generally open from 08h30 – 16h30 Monday to Friday.

ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS - PLUS THREE COPIES. =TOTAL (4 COPIES)

THE BID IS SUBJECT TO THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.

**THE FOLLOWING PARTICULARS MUST BE FURNISHED
(Failure to do so may result in your bid being disqualified)**

NAME OF BIDDER

POSTAL ADDRESS:

.....

STREET ADDRESS:

.....

TELEPHONE NUMBER:

CODE NUMBER:

CELL PHONE NUMBER:

.....

FACSIMILE NUMBER:

.....

VAT REGISTRATION NO.:

.....

HAS A TAX CLEARANCE CERTIFICATE BEEN SUBMITTED (SBD 2)?

☐ YES

☐ NO

SOCIAL MEDIA MANAGEMENT AGENCY FOR 12 MONTHS
TENDER NO. TKZN 06/2020

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS/SERVICES OFFERED? *If "yes" enclose proof.*

☐ YES

☐ NO

SIGNATURE OF BIDDER:

.....

DATE:

.....

CAPACITY UNDER WHICH THIS BID IS SIGNED:

.....

TOTAL BID PRICE (VAT INCLUSIVE).....TOTAL NUMBER

**TAX CLEARANCE
REQUIREMENTS/
CERTIFICATES
(SBD 2)**



PRICING SCHEDULE (SBD 3.3)



PRICING SCHEDULE
(Services)

NAME OF BIDDER: BID NO.: TKZN 06/2020

CLOSING TIME 12:00

CLOSING DATE: 14 FEBRUARY 2020

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

ITEM NO	DESCRIPTION	BID PRICE IN RSA CURRENCY **(ALL APPLICABLE TAXES INCLUDED)
------------	-------------	--

1. The accompanying information must be used for the formulation of proposals.

2. NB: PLEASE REFER TO THE TERMS OF REFERENCE

Please ensure that a firm price is quoted inclusive of all the tender requirements

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

R.....

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

_____	R_____	_____ days
_____	R_____	_____ days
_____	R_____	_____ days
_____	R_____	_____ days

4. Period required for commencement with project after acceptance of bid

.....

5. Estimated man-days for completion of project

.....

6. Are the rates quoted firm for the full period of contract?

*YES/NO

7. If not firm for the full period, provide details of the basis on which adjustments will be applied for, for example consumer price index.

.....

.....

.....

.....

*[TKZN SOCIAL MEDIA MANAGEMENT AGENCY]

**DECLARATION OF
INTEREST
(SBD 4)**



DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state¹, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes 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, shareholder²):

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 / persal numbers must be indicated in paragraph 3 below.

¹"State" means –

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

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

2.7 Are you or any person connected with the bidder presently employed by the state? YES / NO

2.7.1 If so, furnish the following particulars:

Name of person / director / trustee / shareholder/ member:

Name of state institution at which you or the person connected to the bidder is employed :

Position occupied in the state institution:

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

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

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

.....

.....

.....

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

2.8.1 If so, furnish particulars:

.....

.....

.....

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

[illegible]

YES/NO

```

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

```

YES/NO

[illegible][illegible]

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

May 2011

BBBEE VERIFICATION CERTIFICATES



**DECLARATION OF
BIDDER'S PAST SUPPLY
CHAIN MANAGEMENT
PRACTICES (SBD 8)**



DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

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

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

4.4.1	If so, furnish particulars:
-------	-----------------------------

SBD 8

CERTIFICATION

**I, THE UNDERSIGNED (FULL NAME).....
CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION
FORM IS TRUE AND CORRECT.**

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

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

J6365bW

**CERTIFICATE OF
INDEPENDENT BID
DETERMINATION
(SBD 9)**



CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Standard Bidding Document (SBD) must form part of all bids¹ invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).² Collusive bidding is a *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. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
 - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
- 4 This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

¹ Includes price quotations, advertised competitive bids, limited bids and proposals.

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

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

In response to the invitation for the bid made by:

(Name of Institution)

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

I certify, on behalf of: _____ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder

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 consortium³ will not be construed as collusive bidding.
7. In particular, 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 bid 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.

³ 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

Js914w 2

**PREFERENCE POINTS
CLAIM FORM IN TERMS
OF THE PREFERENTIAL
PROCUREMENT
REGULATIONS 2017
(SBD 6.1)**



PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017

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

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

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to all bids:

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and

1.2

- a) The value of this bid is estimated to not exceed R50 000 000 (all applicable taxes included) and therefore the80/20..... preference point system shall be applicable;

1.3 Points for this bid shall be awarded for:

- (a) Price; and
- (b) B-BBEE Status Level of Contributor.

1.4 The maximum points for this bid are allocated as follows:

	POINTS
PRICE	
B-BBEE STATUS LEVEL OF CONTRIBUTOR	
Total points for Price and B-BBEE must not exceed	100

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

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

2. DEFINITIONS

- (a) **"B-BBEE"** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (b) **"B-BBEE status level of contributor"** means the B-BBEE status of an entity in

terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

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

3. POINTS AWARDED FOR PRICE

3.1 THE 80/20 PREFERENCE POINT SYSTEMS

A maximum of 80 points is allocated for price on the following basis:
80/20

$$P_s = 80 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

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

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

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

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

7. SUB-CONTRACTING

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

(Tick applicable box)

YES	☐	NO	☐
-----	--------------------------	----	--------------------------

7.1.1 If yes, indicate:

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

(Tick applicable box)

YES	☐	NO	☐
-----	--------------------------	----	--------------------------

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

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

8. DECLARATION WITH REGARD TO COMPANY/FIRM

8.1 Name of company/firm:.....

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

8.6 COMPANY CLASSIFICATION

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

[TICK APPLICABLE BOX]

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

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

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –

(a) disqualify the person from the bidding process;

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

WITNESSES

1.

2.

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

DATE:

ADDRESS

.....

.....

GENERAL CONDITIONS OF CONTRACT



THE NATIONAL TREASURY

Republic of South Africa



GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT

July 2010

GOVERNMENT PROCUREMENT
GENERAL CONDITIONS OF CONTRACT
July 2010

NOTES

The purpose of this document is to:

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

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

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

TABLE OF CLAUSES

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

General Conditions of Contract

1. Definitions

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

RSA.

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

obligations of the supplier covered under the contract.

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

2. Application

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

3. General

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

4. Standards

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

5. Use of contract documents and information; inspection.

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

6. Patent rights

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

7. Performance security

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

8. Inspections, tests and analyses

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

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

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

9. Packing

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

10. Delivery and documents

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

11. Insurance

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

12. Transportation

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

13. Incidental services

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

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

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

14. Spare parts

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

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

15. Warranty

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

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

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

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

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

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

16. Payment

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

17. Prices

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

18. Contract amendments

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

19. Assignment

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

20. Subcontracts

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

21. Delays in the supplier's performance

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

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

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

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

22. Penalties

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

23. Termination for default

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

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

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

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

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

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

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

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

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

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

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

24. Anti-dumping and countervailing duties and rights

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

may be due to him

25. Force Majeure

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

26. Termination for insolvency

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

27. Settlement of Disputes

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

28. Limitation of liability

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

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

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

Js General Conditions of Contract (revised July 2010)