

## REQUEST FOR WEBTENDER:

Quotation Number:	ERW201907/002		
Description:	RENDERING OF CLEANING AND HYGEINE SERVICES FOR 4 MONTHS PENDING FINALISATION OF THE FORMAL BID PROCESS		
CIDB Requirement	N/A	DTI provision (refer MBD 6.2 form)	N/A
Bid Closing Date:	Thursday, 11 July 2019		
Compulsory Briefing Session:	Thursday, 04/07/2019 @ 10:00am - Welcome center (Main Gate)		
Plant/Site Address:	ERWAT HEAD OFFICE, HARTEBEESTFONTEIN OFFICE PARK, R25 BAPSFONTEIN ROAD, KEMPTON PARK		
Contact Person	C KEARNS		
Contact Number	011 929 7000	e-mail	Chantel.kearns@erwat.co.za
Bidders prices must be valid for a period of 30 days from closing	Only firm prices will be accepted		
Non-firm prices	N/A		

Accredited and experienced Service providers are hereby invited for the rendering of cleaning and Hygiene services for a period of 4 months pending finalisation of the formal tender process.

### SCOPE OF WORK

The successful bidder will be required to supply, deliver and install the items as per the pricing schedule and item list. ERWAT wishes to rent the items and not purchase it and pricing must therefore provide for the renting of items, refilling of units, maintenance on items, labour, cleaning materials, tools, equipment, staff and travelling.

These units must be maintained as set out in the pricing schedule taking the following into account:

- Liquid Soap Dispensers, air fresheners, auto genitors for urinals are to be refilled (minimum once a month).
- Paper towels (folded and rolls) and toilet paper holders to be filled weekly and keys to be left with contact persons as set out in the schedule to refill as and when required.
- Extra paper towels and soap refills to be provided for use as and when required. ERWAT will supply its own toilet paper.
- Wall mounted Paper bins and She-bins to be emptied strictly once a week before weekends/public holidays.
- Hygienic wipe dispensers and refills and she-pockets to be checked fortnightly and supplied once a month.
- Air towels to be mounted to walls at specified areas that will be shown out by the departmental representatives.
- All units to be checked on monthly basis for good working order and be replaced should it be required within 1 day from notice by the department's representative.

### Installation, cleaning and maintenance:

- Bidders will be required to install units where the current units will be removed. Bidders are required to use the marks where the current units are set up that of the current service provider (where practically possible). If this is not possible, the marks must be made neat.
- No once-off installation fee will be applicable and thus the rental per unit rate will apply for this period.

- The cleaning of main entrance, 4 x reception areas, offices, boardrooms, bathrooms, kitchens, passages, stairs and other areas as may be requested.
- Thus bidders will be required to supply staff, their PPE, cleaning materials/tools, the hygiene units and refills.
- Currently three ladies are rendering the cleaning services on a rotational basis at the Head office site.
- Bidders are required to adhere to all related legislated provisions including the Occupational Health and Safety Act, transport, storage and use of hazardous/cleaning materials. All staff must be appropriately dressed with the required PPE on site.
- Bidders will be required to visit the Security section for gate passes for the duration of the contract period and will be required to adhere to all ERWAT's rules, regulations and other applicable legislated provisions.
- It is estimated that the following number of units are on site that are affected:
  - 36 basins
  - 28 toilets
  - 13 urinals
  - A list of offices, kitchens, conference rooms, bathrooms, etc. is available to bidders on request.

## **SPECIFICATIONS OF UNITS**

### **Auto Janitors for Urinals:**

- 260 x 80 x 120 mm
- Continuous metered pump dosing
- Lockable unit to prevent pilferage

### **Liquid Soap dispensers:**

- Cartridge system, Hidden locking system
- Pink Hand Soap for all washing applications
- Antibacterial soap for hand washing applications at clinics.
- Sateen
- Min Height: 210 mm x Depth: 80 mm x Width: 130 mm

### **Waste Disposal Bin**

- Min Height: 600 mm x Depth: 380 mm x Width: 240 mm
- Wall mounted
- Easy to clean and make provision line with plastic bag
- Sateen
- Open top

### **Paper Towel Cormatic Dispenser (roll unit)**

- Minimum: 475 mm H x 235 mm D x 410 mm W
- Consumption controlled
- Hands-to-paper operation
- Sateen lockable dispenser
- 210 meter roll
- High quality
- 545 sheets
- GSM of 45

### SHE-Bins

- Min Height: 550 mm x Depth: 200 mm x Width: 250 mm (to fit next to toilet seats) in confined space
- Capacity: 23 Litres
- Have a central opening for disposal
- To be fully lined
- Reversible cover
- Sateen

### SHE Pockets:

- Disposal plastic pockets (50 per pack) to be placed on toilet bowl cover.

### Sanitary Hygiene Wipes Dispenser:

- Min Height: 310 mm x Depth: 60 mm x Width: 160 mm
- Fluid formula to be Alcohol free, fragrance free (non-allergenic)
- Wipes to be biodegradable and flushable

### Toilet Roll Holder

- Take 3 toilet rolls
- Sateen
- Min height: 360 mm x depth: 130 mm x Width: 125 mm
- Central shaft with secure lock to keep rolls in place to prevent pilferage.

### Air Freshener Units

- Min Height: 360 mm x Depth: 65 mm x Width: 140 mm
- Dual programming
- Super fine odour neutralizing fragrances
- Min 3000 metered sprays per refill
- LED warns of low battery and refill (Batteries to be included)

### **CONTRACT PERIOD:**

This is a short term project estimated for **4 months** pending the finalisation of the formal tender process for a period of 36 months. This contract will thus end once the new tender is awarded. It is estimated that this contract will commence on 01 August 2019 and end 30 November 2019.

### **GUARANTEE:**

Prospective Bidder(s) should state the Guarantee period that their product carries and the type of Guarantee, if applicable.

### **STATED QUANTITIES:**

Please note that all quantities stated in the Schedule of rates of this bid document are estimated quantities.

Due to the nature of this commodity, the bid document will only reflect a quantity of 1 (One) next to each line item. This quantity of 1 (One) is not an indication that the municipality only intends to buy one of each product or make use of a service once.

However the quantity of 1 (One) is not an indication that the municipality is under any obligation to procure all of the indicated products or services stated in the Schedule of rates during the duration of the contract.

The identified quantities are to assist the Bidder(s) with the pricing of the items.

## **DELIVERY POINT**

ERWAT, HARTEBEESTFONTEIN OFFICE PARK, R25 BAPSFONTEIN ROAD, KEMPTON PARK INCLUDING THE HEAD OFFICE AND LABORATORY.

## **AWARD OF BID:**

ERWAT reserves the right to accept any bid or part thereof, to award the bid to more than one bidder and does not bind itself to accept the lowest or any bid and not to consider any bid not suitably endorsed or comprehensively completed.

## **GENERAL CONDITIONS OF CONTRACT**

Bidders and ERWAT will enter into National Treasury GCC contract attached hereto for ease of reference.

## **EVALUATION CRITERIA** followed to evaluate quotations:

This bid is estimated to not exceed R200 000 for the 4 month period and thus the following Preference points system (PPS) as included in the Preferential Procurement Policy Framework Act, Regulations of 2017 will apply:

PPS	Contract value	Formula	Additional Considerations
80/20	Equal to or above R 30 000.00 and up to R 200 000	$Ps = 80(1 - (Pt - P_{min}) / P)$ <p>Where Ps = Points scored for price of bid under consideration. Pt = Rand value of bid under consideration. P min = Rand value of lowest acceptable bid.</p>	<ul style="list-style-type: none"><li>• Bidders may be subjected to a pre-compliance stage and functionality scoring and only bidders who score the stipulate minimum points will be illegible to proceed to PPPFA evaluation.</li><li>• Maximum of 20 points may be awarded for BEE level. Bidders are required to tick the relevant box in the table below to claim their points according to their BEE level.</li><li>• Above points must be added to points scored for price.</li><li>• Only bidder scoring the highest points will be selected for award.</li></ul>

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

Failure on the part of a bidder to submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System (SANAS), or a Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA) or a sworn affidavit confirming annual turnover and level of black ownership in case of an EME and QSE together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

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.

**QUOTATION REQUIREMENTS:**

Kindly complete the pricing schedule in full.

Attach all supporting documents relating to this bid including the following:

- MBD 4 – Declaration of Interest
- Tax clearance pin
- Latest rates and taxes account – not older than three months (not 90+ in arrears)
- If no rates and taxes account due to a lease agreement, kindly attach the latest signed lease agreement.
- Valid BEE certificate.

Kindly note that the units indicated may differ as per the pricing schedule and thus the rate will apply.

## **PRICING SCHEDULE:**

Kindly note that the units indicated may differ as per the pricing schedule and thus the rate will apply.

BOQ - RENDERING OF CLEANING AND HYGIENE SERVICES FOR A PERIOD OF FOUR MONTHS						
Pricing instructions: the once off installation fees of the units to rent must be included in the monthly rental fee. No once off insallation fees will not be payable.						
PRODUCT/SERVICE	UNIT OF MEASURE	NO OF UNITS	FREQUENCY	RENTAL RATE PER MONTH INCLUDING THE REFILS	TOTAL	BIDDERS NOTES
Auto Janitors for Urinals	EACH	13	once off	R	R	
Air Freshener Units Battery operated including batteries	EACH	21	once off	R	R	
Sanitary Hygiene Wipes Dispenser	EACH	36	once off	R	R	
Wall mounted Waste Disposal Bin	EACH	21	once off	R	R	
Liquid Soap dispensers	EACH	20	once off	R	R	
Hand lotion dispenser	EACH	40	once off	R	R	
Paper Towel Cormatic Dispenser (roll unit)	EACH	23	once off	R	R	
Seat Sanitiser Dispenser	EACH	25	once off	R	R	
SHE-Bins	EACH	16	once off	R	R	
Toilet Roll Holder	UNIT	25	once off	R	R	
Auto Janitors for Urinals refill	UNIT	13	once a month	R	R	
Paper Towel replacement (to fit dispenser)	EACH	30	Every 14 days	R	R	
Liquid soap refill	EACH	45	every 3 weeks	R	R	
Hand lotion refill	EACH	40	once a month	R	R	
Seat Sanitiser refill	EACH	25	once a month	R	R	
Sanitary hygiene wipes refill	EACH	36	once a month	R	R	
SHE Pockets	PACK OF 50	16	once a month	R	R	
Air freshner refill	250ML	24	every 30 days	R	R	
Removal and cleaning of wall mounted Waste Disposal Bin including bag replacement	EACH	21	once a week	R	R	
Removal and cleaning of she bins including bag replacement	EACH	16	once a week before weekends/public holidays	R	R	
				SUB-TOTAL	R	
				15% VAT	R	
				TOTAL	R	

BOQ - RENDERING OF CLEANING AND HYGIENE SERVICES FOR A PERIOD OF FOUR MONTHS				
GENERAL CLEANING SERVICES				
* Pricing instructions: Bidders fee to cover labour, transport, PPE, cleaning materials, chemicals, tools and equipment and all costs associated with these works				
PRODUCT/SERVICE	UNIT OF MEASURE	FREQUENCY	RATE PER MONTH*	BIDDERS NOTES
CLEANING OF 4 X RECEPTION AREAS, OFFICES, BOARDROOMS, PASSAGES AND STAIRS	PER DAY	Daily - rotational	R	
CLEANING OF GLASS PANELS/DOORS	PER DAY	Daily - rotational	R	
CLEANING OF KITCHENS	PER DAY	Daily - rotational	R	
CLEANING OF BATHROOMS	PER DAY	Daily - rotational	R	
It is estimated that 3 staff members will suffice.	15%		SUB-TOTAL	
			VAT	
			TOTAL	

**PLEASE NOTE THAT FAILURE TO MEET ANY OR ALL OF THESE REQUIREMENTS WILL LEAD TO DISQUALIFICATION**

- Valid Certified copy or original BBBEE Compliance Certificate to verify the above claimed points;
- Valid Tax Clearance Pin issued by SARS on e-filing Bidders are required to submit their SARS pin and certificate as prescribed by SARS effective from 01 April 2016. Please visit [www.sars.gov.za](http://www.sars.gov.za) or ERWAT Website: [www.ewat.co.za/procurement](http://www.ewat.co.za/procurement) for more information;
- Copy of Latest Municipal Account (not older than three months from date of closing);
- Declaration of Interest – MBD 4.2 (Download form ERWAT website/Procurement/Service Provider Registration).
- Bidders must be registered with National Treasury's Centralised Supplier Database (CSD) and can visit [www.csd.org.za](http://www.csd.org.za) for more information and registration procedures.
- CSD Registration Number: MAAA**\_\_\_\_\_
- Valid Construction Industry Development Board Registration (CIDB): **Valid CRS number:** \_\_\_\_\_

**GENERAL NOTES**

**SUBMISSION OF BIDS:**

**WEB TENDER BOXES SUBMISSION SITUATED AT ERWAT HEAD OFFICE:**

Completed tenders / quotations must be in a **sealed envelope** clearly marked with **bid number and description** may be hand delivered and deposited in the stipulated **TENDER BOX** (marked Monday, Tuesday, Wednesday, Thursday, Friday) at ERWAT Head Office, Hartbeestfontein Office Park, Bapsfontein Road, Kempton Park. No faxed bids/proposals shall be accepted. In the event of uncertainty, kindly visit the receptionist situated at the FOYER of the main building for clarity.

Please note that bids not received on the specific time and date will be marked as late bids/proposals and such bids/proposals will, in terms of the Supply Chain Management Policy of ERWAT, not be considered by ERWAT as valid bids/proposals.

Complete quotations with supporting documents must be sealed and externally endorsed with **BID NUMBER** and marked with the full **DESCRIPTION** and placed in the relevant Bid Box as stipulated in the advertisement and/or bidding document.

**Bidders may attend the web-tender opening sessions in the event of submitting a tender in the web-tender boxes.**

## **ELECTRONIC SUBMISSIONS:**

- Bidders may submit their web-bids via e-mail: [webtenders@erwat.co.za](mailto:webtenders@erwat.co.za) in a PDF format only.
- Bidders must complete the SUBJECT BOX with the relevant web-tender number and full description as advertised.
- Failure to include this may render your bid invalid.
- *Please note that bids submitted electronically must be in the above e-mail address on or before 12:00 of the stipulated closing date. No electronic submissions received after 12:00:00 will be considered for recording and or evaluation.*
- Bidders may submit documents and attachments up to 10MB.
- Bidders will be required to compress their file to a **compact PDF format**.
- In the event that larger files are sent to the e-mail address, it will be received in ERWAT's Mimecast site.
- Bidders must please note that the Mimecast does not accept zipped files, only PDF files.
- In the event that bidders are required to submit samples, it is advised that they submit electronically and submit in the tender boxes and attend the opening session.

**PLEASE NOTE: MIMECAST ONLY RETAINS THE MAILS RECEIVED WITH ATTACHMENTS LARGER THAN 10MB FOR 3 DAYS. PLEASE ENSURE THAT YOUR SUBMISSION FALLS WITHIN ACCESS TO SUCH WITHIN THIS TIMEFRAME.**

**NB. In the event that an electronic version and a hard copy is delivered for a respective bid, the signed hard copy submitted in the tender box will prevail and the electronic copy will be disregarded.**

Please note that the web-tender boxes will be opened first and recorded in the web-tender register on the date and time stipulated in the advertisement and or bid documents. The relevant buyer responsible for the placement of the ad on the web-tender folder will directly thereafter peruse the web-tender e-mail and download the relevant web-tender, print and record such in the same register.

ERWAT will access the e-mail thread from the individual e-mail responses received for audit trail that will be attached to the relevant bidder's response received.



**GENERAL CONDITIONS OF CONTRACT**

**THE NATIONAL TREASURY**

**Republic of South Africa**



**GOVERNMENT PROCUREMENT:**

**GENERAL CONDITIONS OF CONTRACT**

July 2010

## 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 analyses
9. Packing
10. Delivery and documents
11. Insurance
12. Transportation
13. Incidental Services
14. Spare parts
15. Warranty
16. Payment
17. Prices
18. Variation orders
19. Assignment
20. Subcontracts
21. Delays in the supplier's performance
22. Penalties
23. Termination for default
24. Anti-dumping and countervailing duties and rights
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. Transfer of contracts
34. Amendments of contracts
35. Prohibition of restrictive practices

## **GENERAL CONDITIONS OF CONTRACT**

### **1. Definitions**

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 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 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 goods are so delivered and a valid receipt is obtained.
- 1.11 "Dumping" occurs when a private enterprise abroad markets 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 goods 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 "Supplier" means the successful bidder who is awarded the contract to maintain and administer the required and specified service(s) to the State.
- 1.26 "Tort" means in breach of contract.
- 1.27 "Turnkey" means a procurement process where one service provider assumes total responsibility for all aspects of the project and delivers the full end product / service required by the contract.
- 1.28 "Written" or "in writing" means hand-written 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 (excluding professional services related to the building and construction industry), 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 goods, 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 Invitations to bid are usually published in locally distributed news media and on the municipality/municipal entity website.

#### **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.
- 6.2 When a supplier developed documentation / projects for the municipality/ municipal entity, the intellectual, copy and patent rights or ownership of such documents or projects will vest in the municipality / municipal entity.

#### **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. Another form of acceptable to the purchaser; or
  - b) a cashiers' 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.

#### **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 goods to be produced or services to be rendered should at any stage be subject to inspections, tests and analyses, the bidder or contractor's premises shall be open, at all reasonable hours, for inspection by a representative of the purchaser or organization acting on behalf of the purchaser.
- 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 goods 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 goods or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such goods or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Goods and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be ejected.
- 8.7 Any contract goods 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 goods 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 goods, which do comply with the requirements of the contract. Failing such removal, the rejected goods shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute goods forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected goods, purchase such goods 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 22 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 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, and in any subsequent instructions ordered by the purchaser.

## **10. Delivery and documents**

- 10.1 Delivery of the goods and arrangements for shipping and clearance obligations, shall be made by the supplier in accordance with the terms specified in the contract.

## **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.

## **12. Transportation**

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

### **13. Incidental Services**

- 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any:
- (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, 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 is 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.
- 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 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, 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.

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.

## **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 or in the purchaser's request for bid validity extension, as the case may be.

## **18. Variation Orders**

18.1 In cases where the estimated value of the envisaged changes in purchase does not vary more than 15% of the total value of the original contract, the contractor may be instructed to deliver the goods or render the services as such. In cases of measurable quantities, the contractor may be approached to reduce the unit price, and such offers may be accepted provided that there is no escalation in price.

## **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 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 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 goods are required, or the supplier's services are not readily available.

21.4 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 22.2 without the application of penalties.

- 21.5 Upon any delay beyond the delivery period in the case of a goods contract, the purchaser shall, without cancelling the contract, be entitled to purchase goods 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;
  - (a) if the supplier fails to perform any other obligation(s) under the contract; or
  - (c) if the supplier, in the judgement 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 supplier as having no objection and proceed with the restriction.
- 23.5 Any restriction imposed on any person by the purchaser will, at the discretion of the purchaser, 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 purchaser 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 supplier to the purchaser or the purchaser may deduct such amounts from moneys (if any) which may otherwise be due to the supplier in regard to goods 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 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 for goods delivered and / or services rendered according to the prescripts of the contract.

## **28. Limitation of Liability**

28.1 Except in cases of criminal negligence or wilful 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.

## **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 SARS must have certified that the tax matters of the preferred bidder are in order.

32.4 No contract shall be concluded with any bidder whose municipal rates and taxes and municipal services charges are in arrears.

## **33. Transfer of contracts**

33.1 The contractor shall not abandon, transfer, cede assign or sublet a contract or part thereof without the written permission of the purchaser.

**34. Amendment of contracts**

- 34.1 No agreement to amend or vary a contract or order or the conditions, stipulations or provisions thereof shall be valid and of any force unless such agreement to amend or vary is entered into in writing and signed by the contracting parties. Any waiver of the requirement that the agreement to amend or vary shall be in writing, shall also be in writing.

**35. Prohibition of restrictive practices**

- 35.1 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.
- 35.2 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 section 59 of the Competition Act No 89 Of 1998.
- 35.3 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.