

EQUITY

Please attach Valid B-BBEE Certificate

Values of following items dependent on most recent Financial Statement

Item	Value / Number
Total number of full time Employees	
Total Annual Turnover	R
Total Gross Asset Value	R

The following table must be completed to establish whether a business can be classified as an SMME in terms of the National Small Business Act 102 of 1996.

Select the Sector and tick the appropriate blocks in Column 2, 3 and 4 next to your chosen sector

SMME table Column 1 Sectors in accordance with the standard Industrial Council	Column 2 (tick applicable) Total full time paid employees				Column 3 (tick applicable) Total Annual turnover (millions)				Column 4 (tick applicable) Total Gross asset value (property excluded) (millions)			
	Medium	Small	Very Small	Micro	Medium	Small	Very Small	Micro	Medium	Small	Very Small	Micro
	Agriculture	100	50	10	5	4m	2m	0.4m	0.15m	4m	2m	0.4m
Catering, Accommodation & other trade	100	50	10	5	10m	5m	1m	0.15m	2m	1m	0.2m	0.1m
Community, Social and Personal	100	50	10	5	10m	5m	1m	0.15m	5m	2.5m	0.5m	0.1m
Construction	200	50	20	5	20m	5m	2m	0.15m	4m	1m	0.4m	0.1m
Electricity, Gas and Water	200	50	20	5	40m	10m	4m	0.15m	15m	3.75m	1.5m	0.1m
Finance and Business Services	100	50	10	5	20m	10m	2m	0.15m	4m	2m	0.4m	0.1m
Manufacturing	200	50	20	5	40m	10m	4m	0.15m	15m	3.75m	1.5	0.1m
Mining and Quarrying	200	50	20	5	30m	7.5m	3m	0.15m	18m	4.5m	1.8m	0.1m
Other Trade	100	50	10	5	10m	5m	1m	0.15m	2m	1m	0.2m	0.1m
Retail, Motor Trade and Repair Services	100	50	10	5	30m	15m	3m	0.15m	5m	2.5m	0.5m	0.1m
Transport, Storage and Communications	100	50	10	5	20m	10m	2m	0.15m	5m	2.5m	0.5m	0.1m
Wholesale Trade, Commercial Agents, and Allied Services	100	50	10	5	50m	25m	5m	0.15m	8m	4m	0.5m	0.1m

For official use only Summary of results	SMME Status as per above (<input checked="" type="checkbox"/> appropriate block)
Column 2	medium <input type="checkbox"/> small <input type="checkbox"/> very small <input type="checkbox"/> micro <input type="checkbox"/>
Column 3	medium <input type="checkbox"/> small <input type="checkbox"/> very small <input type="checkbox"/> micro <input type="checkbox"/>
Column 4	medium <input type="checkbox"/> small <input type="checkbox"/> very small <input type="checkbox"/> micro <input type="checkbox"/>

SMME FINAL RESULT	<input checked="" type="checkbox"/>
Micro	
Very Small	
Small	
Medium	
Large	

Locality	<input checked="" type="checkbox"/>
Rural Area	

CONFLICT OF INTEREST: Declaration - SBD 4

Are you or any person connected with your company currently working as an employee in any organ of state? If "YES", furnish the following particulars: Yes No

- Name of person/director/shareholder/member
- Name of institution to which the person is connected
- Name of state institution to which the person is connected
- Position occupied in the state institution
- Any other particulars

Have you or your spouse, or any of the company's directors/shareholders/members/partners or their spouses conducted business with the state or any organ of the state for the previous 12 months? Yes No

If "YES", furnish particulars:

--

Do you, or any person connected with your company have any close relationship (family, friend, other) with a person employed by the state or an organ of state? Yes No

If "YES", furnish particulars:

--

Do you, or any person connected with your company have any close relationship (family, friend, other) with any official working in our establishment? Yes No

If "Yes", furnish particulars:

--

Are your company currently servicing on any structures of our establishment? Yes No

If "Yes", furnish particulars:

--

Is there any other relevant information that you would like to disclose? Yes No

If "Yes", furnish particulars:

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Declaration

Verification of information supplied, including information relating to preferences that the Applicant or Business may apply for:

I/we, the undersigned, who warrants that I/we are duly authorised to do so on behalf of the supplier, certifies that the information supplied in terms of this document including the Annexure(s) with additional information, is correct and accurate and acknowledges that:

1. The supplier will be required to furnish documentary proof of the information relating to preferences, if requested to do so.
2. If the information supplied is found to be incorrect, then DIRCO may, in addition to any remedies it may have:
 - (i) Disqualify the supplier/contractor for a particular bid/contract/project it may be considered for, or which had been awarded to the supplier/contractor;
 - (ii) Recover from the supplier/contractor all costs, losses or damages incurred or sustained by DIRCO as a result of breach of contract;
 - (iii) Cancel the contract and claim any damages which DIRCO may suffer by favourable arrangements after such cancellation and/or;
 - (iv) De-register the supplier, registered on the Supplier Database.
3. A registered supplier **MUST** notify Supply Chain Management Office of any changes to information supplied on this form. Failure to do so may result in such supplier being removed from the Supplier database and / or the cancellation of contracts awarded to the supplier, on the basis of misrepresentation.

Signed on this _____ day of _____ 20__ at _____

Signature of Authorised Representative

Name in Block Letters

Commissioner of Oaths

Business Address _____

Capacity _____

Area _____

Commissioner of Oath: Signature

Commissioner of Oath: Full Name

ANNEXURE 1 - Required Documentation Checklist

Please ensure that all listed documentation below is attached (where applicable) to the registration form.

All documentation is to be provided in its original format and/or certified.

Please ✓ submitted do

Document Name **Attach**

Original Valid Tax Clearance Certificate / VAT Registration

Certified Copy of Company Registration Certificate (CK/CM Agreement)

Certified copy of the Valid B-BBEE Certificate

Certified Copies of Director's ID documents

Certified Copies of Compliant Accreditation Certificates (for Training as commodity)

ICT - Sita

PSETA - Public Sector Education and Training Authority

SETA - Sector Education and Training Authority

Verification Letter of Bank (completed by bank) / Bank Stamp / Cancelled Cheque

Any relevant independent agency ratings / industrial endorsement

Valid Health Certificate (for Catering as Commodity)

Proof of Disability (Doctor's Letter)

Proof of Ownership/Shareholding Certificate

Company Profile (maximum of 3 pages)

Other (please specify): _____

For official use only

Captured by: _____

Date: _____

New

Update

Status: **Approved** **Declined** **Awaiting Approval**

Done VAT Checked:

Yes

No

Reason if "No": _____

Send Summary Report

Yes

No

Reason if "No": _____

ANNEXURE 2 - Commodity list

**DIRCO
SUPPLY CHAIN MANAGEMENT DATABASE COMMODITY LIST**

Please indicate with ✓

Please note: only **5** commodities will be registered

Construction

Electrical Appliances	Autoclaves		
Plumbing	Concrete Works		
Airconditioning Systems	General Building Works		
Pumping Installations			

Services

Accommodation	Food & Beverage	Publishers
Arts & Craft	Garden Services	Radio Publicity/TV Publicity
Advertising Placement	Graphic Designs	Removal Companies
Adverts on Radio and TV	Groceries	Restaurants
Audivisual and Communication	Health and Wellness	Sound and Stages
Video and photographic	Interior Decorating	Safety & Security Services
Auto Repairs & Services	IT Services	Security & Access Control, Security Studies
Cameras (for access cards)	Language Translators & Trainers	Security (Touches, Lawyards access cards)
Carpet Cleaning	Liquor Store	GPS (Just on spec)
Catering Services *1	Laundry Service/Dry Cleaning	Teambuilding Services
Cleaning Equipment/Materials	Locksmith Services	Training Providers
Cleaning Services	Luggage Bags & Conference bags etc	Transport
Computer Supplies/Services	Marketing Materials (Pen, bags, note pads, pencils, files ect)	Travel Agencies
Conference Facilities	Media Liason	Uniforms
Corporate Gifts/Corporate Clothing	Malling/Courier Service	Universities
Courier Services	Magazines & Newspapers	Venues (Team Building)
Crockery,Cutlery & Glassware	Newspaper delivery	Window Cleaning
Cultural Activities	Office Equipment	Wine Distributors
Design & Printing (e.g. brochures, business cards, pamphlets)	Office Fumiture Installation	Water Dispensars
Dry Cleaning	Office Plants & Maintenance	Telephone& Data Line Maintenance
Engraving Service	Posters, banner & flags	Training & Development
Event Management	Photocopier	Upholsterers
Exibitions	Printing/Photography/Graphic Design	Web pages & Design
Entertainment	Pest Removal Services	Wind Socks for the Aerodome
Florist	Promotional Material	
Framework Services		
Furniture		

Professional Services

Teachers	Architects	
Training Providers *2	Risk Management, Monitoring and Evaluation	
Labour Relations (Disciplinary Hearings)	Life-Skills and Ethical Conduct	
Human Resource Management	Contract Management	
Recruitment and Selection	Team Building	
Public Accounting, Expenditure, Revenue Management	Translation Services	
PFMA *4&*5	Training Modules	
Project Management	Economic Diplomacy, Public Diplomacy, Research, Teamwork, Domestic and Foreign Policy and Project Management	
Supply Chain Management		
Conflict, Stress, Diversity Change Management		
Presentation and Facilitation Skills		
Occupational Health and Safety		
Report Writing		

Wholesalers/Traders

Book Stores	Groceries	Supply Plants, Flowers and Seeds
Computer Equipment/Software	IT Hardware and Software *3	Stationery
Computer Consumables (inc cartridges for printers and copiers ect.)	Linen Pillows & Blankets	Toiletpaper unwrapped
Electrical Supplies & Equipment	Office Equipment	Vehicles and Equipment
Computer Hardware	Office Consumables	
Furniture	Protective Clothing/Uniforms	

Summary: Core Business

In your own words, please state your core business:

1

2

Trade Name (= sole supplier of specific brand name)

Fill the specific brand names that the company own or solely distribute, which you wish to register:

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ANNEXURE 3 - General information & Definitions

HDI Ownership Status: Please read notes below very carefully

Instructions and Definitions:

Legislation:

- Procedures are set out in the **Accounting Officers Procurement Procedures (AOPP)**, as referred to in the **Public Finance Management Act, 1999 (Act 1 of 1999)(PFMA)**, to give all prospective suppliers an equal opportunity to submit quotations to a State Department.

Terminology:

- **Commodities:**
The commodities the company wishes to be registered for as a supplier. Please define your **PRINCIPAL BUSINESS** to a maximum of 5 commodities.
- **Trade Names:**
The trade names that the company own or distribute, which you wish to be registered for.
- **Owned:**
Having all the customary elements of ownership, including the right of decision-making and sharing all the risks and profits commensurate with the degree of ownership interests as demonstrated by an examination rather than the form of ownership arrangements.
- **Historically Disadvantaged Individuals (HDI):**
For the purpose of registering as a supplier for the Department, the refutable presumption shall be made that SA citizens who fall into population groups that had no franchise in national elections prior to the introduction of the 1983 and 1993 constitution are Historically Disadvantaged Individuals. It is incumbent on individuals to demonstrate their claims to fall into such population groups on the basis of identification and association with and recognition by the members of such a group.
- **Women:**
A female person who is a SA citizen.
- **Disability:**
In respect of a person, a permanent of physical, intellectual, or sensory function, which result in restricted, or lack of, ability to perform an activity in the manner, or within the considered normal for a human being.
- **Establishment of HDI / Women Equity Ownership in a enterprise:**
Equity ownership shall be equated to the percentage of an enterprise which is owned by individuals, or in the case of a company, the percentage shares that are owned by individuals who are actively involved in the management and daily business operations of the enterprise and exercise control over the enterprise, commensurate with their degree of ownership.
- **Fronting:**
Companies with no Black Economic Empowerment (BEE) status illegally claiming to be headed by previously disadvantaged individuals* and claim false BEE credentials in order to win tenders/contracts.

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 (NIP) Programme** 33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.
- 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)