



NORTH WEST HOUSING
CORPORATION

**APPOINTMENT OF TURNKEY DEVELOPER TO DEVELOP
STUDENT ACCOMMODATION ON BEHALF OF NORTH-WEST
HOUSING CORPORATION (NWHC) IN RUSTENBUG.**

TENDER NUMBER: NWHC 14/2023

CLOSING DATE: 15 APRIL 2024

CLOSING TIME: 11H00

NAME OF BIDDER :

CONTACT PERSON :

ADDRESS OF BIDDER:

.....

TEL NUMBER : (.....)

EMAIL :

CSD NUMBER :

BBBEE LEVEL :

ISSUED BY:
SUPPLY CHAIN MANAGEMENT
NORTH WEST HOUSING CORPORATION
23 FIRST STREET
SEGARONA BUILDING
INDUSTRIAL SITE, MAFIKENG
2745
TEL: [018] 110 0761



NORTH WEST HOUSING
CORPORATION

INVITATION TO BID

NWHC 14/2023: APPOINTMENT OF TURNKEY DEVELOPER TO DEVELOP STUDENT ACCOMMODATION ON BEHALF OF NORTH-WEST HOUSING CORPORATION (NWHC) IN RUSTENBURG.

1. Service providers are hereby invited to submit proposals of Turnkey developer to develop student accommodation on behalf of North-west Housing Corporation (NWHC) in Rustenburg.
2. The conditions contained in the General Conditions of Contract (GCC) and the attached bid forms, as well as any other condition accompanying this invitation are applicable.
3. The bidder proposal must be clearly outlined, specified and terms must not conflict with those contained in the General Conditions of Contract.
4. All the documents accompanying this invitation must be completed and signed in ink where applicable by a duly authorised official, be sealed in an envelope or suitable cover marked **NWHC 14/2023** and be deposited / placed in a bid box at North-West Housing Corporation Head Office, Segarona Building, No.23 First Street, Industrial Site, Mafikeng.
5. This tender will close on **MONDAY, 15th APRIL 2024 at 11H00.**
6. All enquiries pertaining specifications / SCM related can be directed to Mr L. Makwati at (018) 110 5029 or Ms Grace Moshoeu (018) 018 381 5029 (Technical).
7. **Bid documents can be downloaded from E-tender portal publication (www.etenders.gov.za) or www.nwhc.co.za**
8. Faxed, emailed bids will not be considered, only hand delivered bids will be accepted.
9. **NWHC** reserves the right to award any proposal in whole or in part to one or more service providers and does not bind itself to award the lowest bidder.

10. CONDITIONS TO BID:

This bid is used under the condition that the bidder should at any stage during the production or execution or on completion of the bid be subjected to inspection. The premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by the representative of NWHC or organization acting on behalf of NWHC. The bidder shall provide, if required, all required facilities for inspections, tests, and analysis of the available apparatus, which may be required for the purpose of such inspection, test and analysis free of charge unless otherwise specified. The bidder also agrees that the financial standing may be examined as part of the inspection.

The bid will be awarded subject to the parties signing a Service Level Agreement (SLA).

11. MANDATORY REQUIREMENTS

- 11.1. All bidders must actively be registered on the National Treasury Central Supplier Database (CSD).
- 11.2. All Bidders employed by the state are not allowed to participate on this bid.
- 11.3. All bidders who are restricted in terms of the National Treasury list are not allowed to participate in this bid.

12. SUBMISSION OF BIDS

Bidders must submit the bid in hard copy format (original documents) to 23 First Street, Industrial Site, Mafikeng, 2745 before the closing date and time. All the relevant forms attached to this bid document must be completed and signed in ink where applicable by a duly authorized official.

The Hard copy of the bid response will serve as the legal bid document. Late bids will not be considered. Please note that bids are late if they are received at the address given in the bid document after bid closing date and time.

13. LATE BIDS

Bids received after the closing date and time, at the address indicated above will not be accepted for consideration.

14. BID VALIDITY PERIOD

Bids will be valid for a period of 90 days from the closing date.

15. VALUE ADDED TAX (VAT)

All bids' prices must be quoted in South African currency and must be VAT inclusive where applicable. All bidding vendors must have a VALID bank account.

16. TAX CLEARANCE REQUIREMENTS

The Central Supplier Database (CSD) and the Tax compliance Pin are the only two methods approved of verifying the tax compliance status of the bidder therefore only the CSD and the tax compliance pin will be accepted for this bid.

17. COMPANY REGISTRATION DOCUMENTS

A copy of registration certificate, where applicable, indicating names and percentages of shareholders and shareholding (equity) respectively, must be attached.

18. IDENTITY DOCUMENTS

Recently certified (not older than three months) copies of Identity Document for all shareholders must be included.

19. JOINT VENTURE

In the event of a joint venture both entities must submit valid Tax clearance certificate, company registration where applicable and certified copies of Identity Documents. A joint venture agreement endorsed by both parties and attested by the Commissioner of Oath must also be attached. Bidders are required to submit a consolidated

B-BBEE status level verification certificate in the joint venture not being scored for B-BBEE status level.

20. BID ENQUIRIES

Supply Chain Management Enquiries

Mr F L Makwati

(018) 381 5029

flmakwati@nwhc.co.za

Technical Enquiries

Ms. Grace Moshoeu

(018) 381 5029

gmoshoeu@nwhc.co.za

STATUTORY NON-TECHNICAL MANDATORY REQUIREMENTS

- Company Registration Documents (CIPC)
- List of all shareholders / directors with Original certified copies of their IDs (no older than 6 months from the tender closing date)
- Companies must be registered on the CSD (Attach Proof of Central Supplier Database (CSD) registration)
- Duly completed and signed SBD 1 Invitation to bid
- Duly completed and signed SBD 4 Bidder's Disclosure
- Duly completed and signed SBD 6.1 Specific goals.
- Joint Venture Agreement signed by all parties (where JV is in use) and submit copies of company documentation for each party.
- Tax Compliance Status Letter with a unique pin.
- Attach B-BBEE certificate or affidavit B-BBE certificate (B-BBEE Status Level of Contribution. Certified copy of a B-BBEE certificate issued by a SANAS accredited agency or a sworn affidavit in the prescribed format by the National Treasury for EMEs and QSEs or BBEE certificate issued by the Companies and Intellectual Property Commission will be accepted. Service Providers that fail to submit BBEE credentials shall NOT be allocated preference points in line with the PPPF-Act regulations of 2017).
- Audited annual financial statements for the last Three (3) financial years.

PLEASE ENSURE THAT THE FOLLOWING DOCUMENTS ARE COMPLETED AND SIGNED:

- SBD 1: Invitation of bid.
- Terms of Reference.
- SBD 2: Tax clearance requirements.
- SBD 4: Declaration of Interest.
- SBD 6.1 Specific Goals.
- General Conditions of Contract

NB: SHOULD ALL DOCUMENTS STATED ABOVE NOT BE ATTACHED, FULLY COMPLETED AND DULY SIGNED BY A DESIGNATED PERSON, YOUR BID WILL BE DECLARED INVALID.

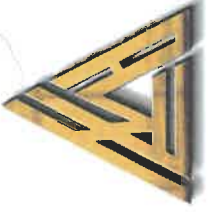


**NORTH WEST HOUSING
CORPORATION**

INVITATION TO BID

BID NUMBER	BID DESCRIPTION	BID DOCUMENT OBTAINABLE FROM	EVALUATION CRITERIA	CLOSING DATE AND TIME	ENQUIRY
NWHC 14/2023	APPOINTMENT OF TURNKEY DEVELOPER TO DEVELOP STUDENT ACCOMMODATION ON BEHALF OF NORTH-WEST HOUSING CORPORATION (NWHC) IN RUSTENBUG.	E-Tender portal and NWHC website – www.nwhc.co.za Bid documents will be available on Friday, 22 March 2024	Functionality as specified in the bid document. 80/20 scoring will be applicable. 80 – Specific goals 20 – Preferential Points	Friday, 15th April 2024 at 11H00 NWHC Head Office, Segarona Building, No.23 First Street, Industrial site, Mafikeng	Scope/Terms of reference: Mr. Grace Moshoeu gmoshoeu@nwhc.co.za 018 381 5029 Supply Chain Enquiries: Mr Lethogonolo Makwati fmakwati@nwhc.co.za 018 381 5029 / 072 951 7481

Bid documents can be downloaded from National Treasury's E-Tender Publication Portal and NWHC website, www.nwhc.co.za



NORTH WEST HOUSING
CORPORATION

Completed Original bid documents must be sealed and marked with the relevant bid/proposal document number and description thereof and must be hand delivered or couriered and dropped in the Tender box at the address indicated under the above closing date and venue.

The North-West Housing Corporation does not bind itself to accept the lowest or any other bid in a whole or part.

If you do not hear from NWHC within 90 days of the closing date, you must regard your offer as unsuccessful.

Service providers are requested to register on the Central Supplier Database <https://secure.csd.gov.za/>, which can be accessed on the National Treasury website to conduct business with them.

No Faxed or emailed bids will be accepted.

Late bids will not be accepted.

Approved

Mr S. E. Mogodiri

Chief Executive-Officer (CEO)

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE NORTH-WEST HOUSING CORPORATION					
BID NUMBER:	NWHC 14 / 2023	CLOSING DATE:	15th APRIL 2024	CLOSING TIME:	11H00
DESCRIPTION	APPOINTMENT OF A TURNKEY DEVELOPER TO DEVELOP STUDENT ACCOMMODATION ON BEHALF OF NORTH-WEST HOUSING CORPORATION (NWHC) IN RUSTENBUG.				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
NO.23 FIRST STREET, SEGARONA BUILDING					
INDUSTRIAL SITE					
MAFIKENG					
2745					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	LETLHOGONOLO MAKWATI		CONTACT PERSON	GRACE MOSHOEU	
TELEPHONE NUMBER	018 381 5029		TELEPHONE NUMBER	018 381 5029	
FACSIMILE NUMBER	N/A		FACSIMILE NUMBER		
E-MAIL ADDRESS	fmakwati@nwhc.co.za		E-MAIL ADDRESS	tgmoshoeu@nwhc.co.za	
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	[TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	[TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No	
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]	
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE A BRANCH IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.					

**PART B
TERMS AND CONDITIONS FOR BIDDING**

1. BID SUBMISSION:
1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED– (NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.
1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
1.4. THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).
2. TAX COMPLIANCE REQUIREMENTS
2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER’S PROFILE AND TAX STATUS.
2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED; EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
2.6 WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE.”

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

SIGNATURE OF BIDDER:

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

DATE:

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

Any person (natural or juristic) may make an offer or offers in terms of this invitation to bid. In line with the principles of transparency, accountability, impartiality, and ethics as enshrined in the Constitution of the Republic of South Africa and further expressed in various pieces of legislation, it is required for the bidder to make this declaration in respect of the details required hereunder.

Where a person/s are listed in the Register for Tender Defaulters and / or the List of Restricted Suppliers, that person will automatically be disqualified from the bid process.

2. Bidder's declaration

2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest¹ in the enterprise, employed by the state? **YES/NO**

2.1.1 If so, furnish particulars of the names, individual identity numbers, and, if applicable, state employee numbers of sole proprietor/ directors / trustees / shareholders / members/ partners or any person having a controlling interest in the enterprise, in table below.

Full Name	Identity Number	Name of State institution

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

¹ the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.

with any person who is employed by the procuring institution? YES/NO

2.2.1 If so, furnish particulars:

.....
.....

2.3 Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract? YES/NO

2.3.1 If so, furnish particulars:

.....
.....

3 DECLARATION

I, _____ the _____ undersigned, (name)..... in submitting the accompanying bid, do hereby make the following statements that I certify to be true and complete in every respect:

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium² will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring

² Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.

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

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 and 3 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature Date

.....
Position Name of bidder

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for specific goals.

NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022

1. GENERAL CONDITIONS

- 1.1 The following preference point systems are applicable to invitations to tender:
- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
 - the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.2 To be completed by the organ of state

- a) The applicable preference point system for this tender is the **80/20** preference point system.

1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:

- (a) Price; and
- (b) Specific Goals.

1.4 To be completed by the organ of state:

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	
SPECIFIC GOALS	
Total points for Price and SPECIFIC GOALS	100

1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.

1.6 The organ of state reserves the right to require of a tenderer, either before a tender is

adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

2. DEFINITIONS

- (a) **“tender”** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- (b) **“price”** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (c) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (d) **“tender for income-generating contracts”** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
- (e) **“the Act”** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

3.1.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

A maximum of 80 or 90 points is allocated for price on the following basis:

$$\begin{array}{ccc} \mathbf{80/20} & \mathbf{or} & \mathbf{90/10} \\ \\ \mathbf{Ps} = \mathbf{80} \left(\mathbf{1} - \frac{\mathbf{Pt} - \mathbf{Pmin}}{\mathbf{Pmin}} \right) & \mathbf{or} & \mathbf{Ps} = \mathbf{90} \left(\mathbf{1} - \frac{\mathbf{Pt} - \mathbf{Pmin}}{\mathbf{Pmin}} \right) \end{array}$$

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

3.2. FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT

3.2.1. POINTS AWARDED FOR PRICE

A maximum of 80 or 90 points is allocated for price on the following basis:

$$Ps = 80 \left(1 + \frac{Pt - Pmax}{Pmax} \right) \text{ or } Ps = 90 \left(1 + \frac{Pt - Pmax}{Pmax} \right)$$

Where

- Ps = Points scored for price of tender under consideration
Pt = Price of tender under consideration
Pmax = Price of highest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

- 4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:
- 4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—
- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
 - (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,
- then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

Table 1: Specific goals for the tender and points claimed are indicated per the table below.

(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.)

Note to tenderers: The tenderer must indicate how they claim points for each preference point system.)

The specific goals allocated points in terms of this tender	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (To be completed by the tenderer)
Enterprises owned by black people (must be included as a specific goal)	<p>Maximum 8 points</p> <ul style="list-style-type: none"> ○ 100% Black ownership – 8 points ○ Less than 100% and above 51% Black ownership – 4 points ○ Less than 51% Black ownership – 0 points <p>Proof of ownership must be verified by either one of the following documents: CIPC Certificate, Valid B-BBEE Certificate & CSD report</p>	
Enterprise owned by women, youth, or military veterans, people living with disabilities.	<p>Maximum 8 points</p> <p>BLACK WOMEN OWNED ENTERPRISE</p> <ul style="list-style-type: none"> ○ 100% Black women enterprise – 4 points ○ Less than 30% Black women enterprise – 0 points <p>BLACK YOUTH and MILITARY VETERAN ENTERPRISE</p> <ul style="list-style-type: none"> ○ 100% Black youth - 2 points ○ Military Veteran enterprise – 1 point ○ Less than 100% Black youth and Military Veteran enterprise – 0 point <p>DISABILITY OWNED ENTERPRISE</p> <ul style="list-style-type: none"> ○ 20% or more enterprise with disability – 1 point 	

	<ul style="list-style-type: none"> ○ Less than 20% enterprise with disability - 0 point <p style="text-align: center;">Proof of points claimed must be verified by the following documents: CIPC Certificate, ID Document, CSD report, Medical report by the medical practitioner for disability, Military Force Number</p>	
Enterprise location	<p>Maximum 4 Points</p> <ul style="list-style-type: none"> - Within North-West Province - 4 points Outside North West Province - 2 points 	

DECLARATION WITH REGARD TO COMPANY/FIRM

4.3. Name of company/firm.....

4.4. Company registration number:

4.5. TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
 - One-person business/sole propriety
 - Close corporation
 - Public Company
 - Personal Liability Company
 - (Pty) Limited
 - Non-Profit Company
 - State Owned Company
- [TICK APPLICABLE BOX]

4.6. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;

- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
 - (a) disqualify the person from the tendering process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution, if deemed necessary.

<p>.....</p> <p>SIGNATURE(S) OF TENDERER(S)</p>
<p>SURNAME AND NAME:</p>
<p>DATE:</p>
<p>ADDRESS:</p> <p>.....</p> <p>.....</p> <p>.....</p>



NORTH WEST HOUSING
CORPORATION

OFFICE OF THE CEO

TERMS OF REFERENCES

**NWHC 14/2023: APPOINTMENT OF
TURNKEY DEVELOPER TO DEVELOP
STUDENT ACCOMMODATION ON
BEHALF OF NORTH-WEST HOUSING
CORPORATION IN RUSTENBURG.**

HEAD OFFICE:

● No. 23 First Street, Segarona Building,
Industrial Site, Mahikeng, 2745

☎ Tel: 018 381 5029 / 0647

☎ Fax: 018 381 5847

✉ Email: Info@nwhc.co.za

● www.nwhc.co.za

BACKGROUND

The North-West Housing Corporation (NWHC) has identified a shortage in the provision of adequate student accommodation in RUSTENBURG. As a result, the NWHC has engaged with various Stakeholder within the Tertiary Education Value Chain on how to best address the challenges as experienced by Students studying in RUSTENBURG. As part of the engagements, the NWHC alluded to them intend to address the pressing need for additional student accommodation facilities by assisting Government in providing purpose-built student accommodation. This is aligned to the NWHC mandate as derived from the North-West Housing Corporation Act No 24 of 1982, as amended.

The proposed development aims to construct new student accommodation with a yield of 2 000 Beds over a period of three years from the date of signed SLA. Furthermore, the newly constructed Student Accommodation, including provision of Ancillary Services, will be aligned to the Policy on Minimum Norms and Standards for Student Housing at Public Universities in South Africa.

OBJECTIVES

The primary objective of this project is to provide quality student accommodation to meet the increasing demand for the TVET COLLEGES IN RUSTENBURG Campuses. The accommodation should meet the minimum norms and standards set by the South African government and provide a safe, secure, and conducive living environment for students. Specific objectives include:

- Identifying and securing Suitable Land within 3 KM radius from the Campuses.
- Construction of a minimum of 2,000 beds within a three-year period.
- Provision of ancillary services is essential for student welfare and convenience.
- Adherence to the Policy on Minimum Norms and Standards for Student Housing at Public Universities in South Africa.

SCOPE OF WORK

The scope of work for the construction of new student accommodation and provision of ancillary services shall include, but not limited to:

- Site identification, acquisition, and preparation.
- Design, Finance, Build, Operate, and Transfer (DFBOT) of student accommodation units.
- Construction of residential units, common areas, and amenities.
- Installation of necessary infrastructure (e.g., utilities, security systems).
- Compliance with local building regulations and safety standards.

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- Furnishing and equipping of accommodation units.
- Implementation of sustainable and eco-friendly practices where feasible.

DELIVERABLES

The Turnkey Developer shall deliver the following:

- Detailed project plan and timeline.
- Architectural designs and engineering drawings.
- Completed construction of student accommodation units and ancillary facilities.
- Furnished and equipped accommodation units ready for occupancy.
- Documentation of compliance with relevant regulations and standards.
- Handover of completed project to the Client.

ROLES AND RESPONSIBILITIES

The Implementing Agent – North-West Housing Corporation:

- Provide oversight and project management throughout the construction process.
- Ensure adherence to the Policy on Minimum Norms and Standards for Student Housing.
- Coordinate with relevant stakeholders and authorities.

Turnkey Developer –

- Design, develop, and construct student accommodation units and ancillary facilities.
- Procure necessary materials, equipment, and services.
- Employ qualified personnel and subcontractors as required.
- Maintain project schedule and budget.

TIMELINE

The project shall commence upon signing of this agreement and is expected to be completed within three years from the commencement date. A detailed project timeline shall be provided by the Turnkey Developer within 30 days of contract signing.

BUDGET AND PAYMENT SCHEDULE

The budget for the project shall be agreed upon separately and detailed in a financial agreement between the Implementing Agent and the appointed Turnkey Developer. The budget should include all costs associated with the design, construction, and provision of ancillary services

COMMERCIAL AND STRUCTURE

The Developer shall be responsible for the Design, Finance, Build, Operate, and Transfer (DFBOT) of the student accommodation project. This entails the following:

- **Design:** The Developer shall be responsible for the design of the student accommodation units and ancillary services in accordance with the requirements outlined in this TOR and the Policy on Minimum Norms and Standards for Student Housing.
- **Finance:** The Developer shall secure financing for the project, including the construction costs and operational expenses.
- **Build:** The Developer shall oversee the construction of the student accommodation units and ancillary services, ensuring adherence to the approved design, budget, and timeline.
- **Operate:** Upon completion of construction, the Developer shall be responsible for the operation and management of the student accommodation for a specified period, ensuring the provision of services and maintenance of facilities.
- **Transfer:** At the end of the agreed-upon operational period, ownership and management of the student accommodation shall be transferred to the NWHC.

FUNDING

The funding for this project will be divided as follows:

- The NWHC will be responsible for sourcing funding for the Bulk Civil Services and Electrical Infrastructure.
- The Developer will be responsible for raising funding for the Top structure.

REPORTING AND COMMUNICATION

Regular progress reports shall be submitted by the Turnkey Developer to the Implementing Agent, detailing milestones achieved, challenges encountered, and any necessary adjustments to the project plan. Meetings shall be scheduled as needed to discuss project updates and address any concerns.

AMENDMENTS AND TRAINING

Any amendments to this agreement shall be made in writing and agreed upon by both parties. Either party may terminate this agreement in accordance with the terms specified herein.

DISPUTE RESOLUTION

In the event of any disputes arising from this agreement, both parties agree to attempt to resolve the matter amicably through negotiation. If a resolution cannot be reached, the matter will be referred to arbitration.

CONFIDENTIALITY

All information exchanged between the parties shall be treated as confidential and shall not be disclosed to third parties without prior written consent.

GOVERNING LAW

This agreement shall be governed by and construed in accordance with the laws of South Africa.

1. EVALUATION PROCESS

Bids proposal will be evaluated in accordance with the 80/20 preference point system as contemplated in the Preferential Procurement Regulation of 2022, and all bid offers received shall be evaluated based on the following criteria:

- 1. Administrative Compliance**
- 2. Functionality**
- 3. Specific Goals**

1.1. Evaluation Stage One: Administrative Compliance/ Responsiveness

Responses will be checked to verify the following and non-compliance may disqualify the bid:

1.1.1. RESPONSIVENESS CRITERIA

All respondents who submit must FULLY submit and satisfy the following to be responsive:

- 1.1.1.1. Fully completed Bid Document
- 1.1.1.2. Completed and Signed SBD forms.
- 1.1.1.3. Submission of Original Valid Tax Clearance Certificate (TCC)
- 1.1.1.4. Certified copies of ID(s) of Directors or main shareholders.
- 1.1.1.5. Company Profile
- 1.1.1.6. CVs of all personnel that will form part of the service provider indicating relevant experience.
- 1.1.1.7. Copies of Qualification
- 1.1.1.8. Proof of relevant company experience
- 1.1.1.9. CSD Full Report
- 1.1.1.10. Proof of Indemnity insurance of R5 000 0000

NB: Any bidder that does not comply with ANY of the above-mentioned criteria will be eliminated from the evaluation process.

1.2. Evaluation Stage Two: Functionality criteria

The following criteria will be used for evaluating all bids/ proposals for functionality and bidders are expected to obtain a minimum of 70 out of 100 points to proceed/qualify for further evaluation. Failure to obtain the prescribed 70 points will automatically disqualify the bidder from proceeding to the next evaluation stage. Below is a table that shows how the 100 points of functionality will be allocated.

CRITERIA	MEANS OF VERIFICATION	POINTS
Qualifications and Competence of the key staff (CVs, Qualifications, professional registrations, and project team organogram to be submitted). At least one professional must be submitted for each category to claim points.	Bachelor's degree qualification and professional registration (e.g. Pr Eng, Pr Tech Eng)	(20)
	Diploma qualification and professional registration (e.g. Pr Techni)	10
	Certificate	0
Years of experience of Key Staff to be assigned on projects (Years of experience after qualification).	15 Years +	(15)
	10 to 15 Years	10
	5 to 9 years	7
	3 to 4 Years	0
Company Experience	Greater than 7 projects	(15)
	5 to 7 projects	10

	3 to 4 projects	7
	1 to 2 projects	0
Company Organizational management Structure and Quality Management Structure.	Submission of company organizational management and quality management structure.	15
	Submission of one structure	10
Company Registration with regulatory and relevant Professional Body	E.g. Consulting Engineers South Africa (CESA), CIDB, NHBRC etc.	15
	Submission of any two	10
	Submission of any one	5
Maximum Scoring for Functionality		80
Sub-Minimum Scoring for functionality		70

1.3. Evaluation Stage Three: Specific Goals (20)

Bids will be evaluated applying the 80/20 preference points system in accordance with the PPPFA Regulations of 2022, where points are awarded to bidders based on Price (80) and Specific Goals (20), using the following formula to calculate points for price:

Table 1 – Price and Specific Goals

CRITERIA	SUB-CRITERIA	WEIGHTING/POINTS
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Price	Detailed Funding Proposals	80
Specific Goals	Specific Goals Contributor	20
TOTAL		100

- The Proposal will be evaluated as per the latest PPPFA regulations.

1.4. IDENTIFICATION OF PREFERENCE POINT SYSTEM

1.4.1. 80/20 PREFERENCE POINT SYSTEM FOR ACQUISITION OF GOODS OR SERVICES WITH A RAND VALUE EQUAL TO OR BELOW R50 MILLION

- 1.4.1.1. The following formula must be used to calculate the points out of 80 for price in respect of an invitation for tender with a Rand value greater than R0.01 and equal to or below R50 million, inclusive of all applicable taxes:

Where:

P_s = Points scored for the price of tender under consideration

P_t = Price of tender under consideration

P_{min} = Price of lowest acceptable tender

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

- 1.4.1.2. A maximum of 20 points may be awarded to a tenderer for the specific goals specified in the tender as per paragraphs 9.2.-9.3.
- 1.4.1.3. The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
- 1.4.1.4. Subject to section 2(1)(f) of PPPFA, the contract must be awarded to the tenderer scoring the highest points.

1.4.2. SPECIFIC GOALS

- 1.4.2.1. The Entity must, in the tender documents, stipulate:
- 1.4.2.2. The applicable Preference Point System is envisaged.
- 1.4.2.3. The Specific Goal in the invitation to submit the tender for which a point may be awarded; and
- 1.4.2.4. The number of points that will be awarded to each goal, and proof of the claim for such a goal.
- 1.4.2.5. The specific goals applicable to the North-West Housing Corporation for all procurement transactions and income generating above R1,000,000 and up to R50,000,000 inclusive of all applicable taxes based on the 80/20 points system are:

#	Specific goals	Procurement Transactions Preference points allocated out of 20
1.	Enterprises owned by black people (must be included as a specific goal)	<p>Maximum 8 points</p> <ul style="list-style-type: none"> ○ 100% Black ownership – 8 points ○ Less than 100% and above 51% Black ownership – 4 points ○ Less than 51% Black ownership – 0 points <p>Proof of ownership must be verified by either one of the following documents: CIPC Certificate, Valid B-BBEE Certificate & CSD report</p>

2.	Enterprise owned by women, youth, or military veterans, people living with disabilities.	<p>Maximum 8 points</p> <p>BLACK WOMEN OWNED ENTERPRISE</p> <ul style="list-style-type: none"> ○ 100% Black women enterprise – 4 points ○ Less than 30% Black women enterprise – 0 points <p>BLACK YOUTH and MILITARY VETERAN ENTERPRISE</p> <ul style="list-style-type: none"> ○ 100% Black youth - 2 points ○ Military Veteran enterprise – 1 point ○ Less than 100% Black youth and Military Veteran enterprise – 0 point <p>DISABILITY OWNED ENTERPRISE</p> <ul style="list-style-type: none"> ○ 20% or more enterprise with disability – 1 point ○ Less than 20% enterprise with disability – 0 point <p>Proof of points claimed must be verified by the following documents: CIPC Certificate, ID Document, CSD report, medical report by the medical practitioner for disability, Military Force Number</p>
3.	Enterprise location	<p>Maximum 4 Points</p> <ul style="list-style-type: none"> - Within North-West Province – 4 points - Outside North-West Province – 2 points

2. BID/PROPOSAL SUBMISSION

2.1. The format of the bid proposals to be submitted shall comprise cover letter and the following documents:

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- a. Returnable bid document with all the required documents fully completed and signed.
- b. Original and Valid Tax Clearance Certificate.
- c. Detailed cost breakdown schedule.
- d. Reference letters with contact details on a company letterhead and/or stamped.
- e. Company registration documents.
- f. Company profile that illustrates the core business, services offered, and staff compliment.
- g. Comprehensive methodology and Implementation plan.
- h. Summary of verifiable previous projects with contact details of the project owners.
- i. Latest Municipal bill not in arrears and no older than 3 months.

3. CANCELLATION

- 3.1. NWHC reserves the right to cancel the contract if the service provider fails to adhere to the conditions of the contract.

On termination of the contract for whatever reason, the service provider shall on demand deliver, without the right to retention all documents and information (soft and hard copies) gained of this agreement.

Annexure A

GOVERNMENT PROCUREMENT GENERAL CONDITIONS OF CONTRACT

NOTES

The purpose of this document is to:

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

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

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

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)

General Conditions of Contract

1. Definitions

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

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

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

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

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

**8. Inspections,
tests and
analyses**

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

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

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

9. Packing

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

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

10. Delivery and documents

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

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

11. Insurance

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

12. Transportation

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

13. Incidental services

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

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

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

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

14. Spare parts

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

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

15. Warranty

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

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

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

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

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

- 16. Payment**
- 16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.
- 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.
- 16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.
- 16.4 Payment will be made in Rand unless otherwise stipulated in SCC.
- 17. Prices**
- 17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized in SCC or in the purchaser's request for bid validity extension, as the case may be.
- 18. Contract amendments**
- 18.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.
- 19. Assignment**
- 19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.
- 20. Subcontracts**
- 20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.
- 21. Delays in the supplier's performance**
- 21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.
- 21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.
- 21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.
- 21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.

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

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

22. Penalties

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

23. Termination for default

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

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

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

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

23.4 If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard

the intended penalty as not objected against and may impose it on the supplier.

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

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

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

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

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

24. Anti-dumping and countervailing duties and rights

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

25. Force Majeure

25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security,

damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.

25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

26. Termination for insolvency

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

27. Settlement of Disputes

27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.

27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.

27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.

27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.

27.5 Notwithstanding any reference to mediation and/or court proceedings herein,

(a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and

(b) the purchaser shall pay the supplier any monies due the supplier.

28. Limitation of liability

28.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6;

(a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and

- (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.
- 29. Governing language** 29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.
- 30. Applicable law** 30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.
- 31. Notices** 31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice
- 31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.
- 32. Taxes and duties** 32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
- 32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- 32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.
- 33. National Industrial Participation Programme (NIP)** 33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.