

INTERNAL AUDIT DEPARTMENT

INVITATION TO BID

An invitation is hereby issued to suitably qualified and experienced service providers to provide services as described on the table below:

BID NUMBER	BID DESCRIPTION	PRICE AND BBBEE	CLOSING DATE	MANDATORY REQUIREMENTS
RFQ MUT 139/2026	Appointing a suitable and experienced service provider for whistle blowing/hotline (Fraud & Ethics) facility and Assisting MUT with the Fraud & Ethics Management plan. for a period of 36 Months	80/20	03 April 2026, 11:00 am Submission of Bids: Bids are to be submitted on the following email address: thusi.sikhulile@mut.ac.za and subject line use Bid Number: RFQ MUT 139/2026 and the Description.	Refer to a bid document.

Mangosuthu University of Technology is committed to the implementation of its Procurement Policy on Broad-based Black Economic Empowerment (BBBEE).

PROCUREMENT ENQUIRIES: Mr Sikhulile Thusi, email thusi.sikhulile@mut.ac.za (031) 819 9535.

TECHNICAL ENQUIRIES: Ms Zimasa Gwarube , email gwarube.zimasa@mut.ac.za (031) 819 9303.

Submission of Bids: Bids are to be submitted on the following email address: thusi.sikhulile@mut.ac.za and subject line use Bid Number: **RFQ MUT 139/2026** and the Description.

No facsimile, late or electronic bids will be accepted.

The University does not bind itself to accept the lowest bid and reserves the right to accept the whole or part of any bid.



MUT
MANGOSUTHU
UNIVERSITY OF TECHNOLOGY

OFFICIAL REQUEST FOR QUOTATION (RFQ)

INSTRUCTIONS: The supplier information must be completed in full, and this document must be signed by authorized personnel. The supplier must carefully read the instructions and the terms and conditions of this document. Failure to adhere to these instructions and terms and conditions may result in rejection of the submission.

Business Unit: Risk & Audit	RFQ number: RFQ MUT 139/2026
RFQ Description:	Appointing a suitable and experienced service provider for whistle blowing/hotline (Fraud & Ethics) facility and Assisting MUT with the Fraud & Ethics Management plan. for a period of 36 Months
Requester: Zimasa Gwarube Contact No: (031) 819 9303. E-mail: gwarube.zimasa@mut.ac.za	Buyer: Mr Sikhulile Thusi Contact no: (031) 819 9535. E-mail: thusi.sikhulile@mut.ac.za
Issue Date:	27 March 2026
Compulsory Briefing/Information session	None
Closing date: 03 April 2026 Closing Time: 11h00	Completed Quotation should be returned via e-mail: thusi.sikhulile@mut.ac.za
Payment term	30 days in arrears upon receipt of a valid invoice
NB: RFQ documents should be submitted to the email address above. Clarification questions to be directed to the buyer on the above email address.	

BIDDER/SUPPLIER INFORMATION

Company name:	
Address:	
Contact Number:	
Name & Surname of Authorized person:	
Email:	
Company Registration number	

RFQ FORM

1. I/We hereby render to supply all or any of the supplies and/or to render all or any of the services described in the attached documents to Mangosuthu University of Technology on the items and conditions and in accordance with the specifications stipulated in the RFQ documents (and which shall be taken as part of, and incorporated into, this RFQ) at the prices and on the terms regarding time for delivery and/or execution inserted therein.
2. I/We agree that the offer herein shall remain binding upon me/us and open for acceptance by Mangosuthu University of Technology during the validity period indicated and calculated from the closing time of the RFQ.
3. if I/we withdraw my/our RFQ within the period for which I/we have agreed that the RFQ should remain open for acceptance or fail to fulfil the contract when called upon to do so, Mangosuthu University of Technology may without prejudice to its other rights, agree to the withdrawal of my/or RFQ or cancel the contract that may have been entered into between me/us and Mangosuthu University of Technology and I/we will then pay to Mangosuthu University of Technology any additional expense incurred by Mangosuthu University of Technology having either to accept any less favourable RFQ or fresh RFQs have to be invited, the additional expenditure incurred by the invitation of fresh RFQ and by the subsequent acceptance of any less favourable RFQ, Mangosuthu University of Technology shall also have the right to recover such additional expenditure by set-off against moneys which may be due or become to me/us under this or any other RFQ or contract or against any guarantee or deposit that have been furnished by me/us or on my/our behalf for the due fulfilment of this or any other RFQ or contract and pending the ascertainment of the amount of such additional expenditure to retain such moneys, guarantee or deposit as security for any loss Mangosuthu University of Technology may sustain by reason of my/our default.
4. If my/our RFQ is accepted the acceptance may be communicated to me/us by letter or ordinary post or registered post and that SA Post Office Ltd shall be regarded as my/our agent. Delivery or such acceptance to SA Post Office Ltd shall be treated as delivery to me/us.
5. The law of the Republic of South Africa shall govern the contract created by the acceptance of my/our RFQ and that I/we choose domicilium citandi et executandi in the Republic (full address).

- 6. I/We furthermore confirm that I/we have satisfied myself/ourselves as to the correctness and validity of my/our RFQ, that the price(s) and rate(s) quoted cover all the work/items(s) in these documents; and that the price(s) and rate(s) cover all my/our obligations under a resulting contract. I/we accept that any mistakes regarding price(s) and calculations will be at my/our risk.
- 7. I/we hereby accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me/us under this agreement as the principal(s) liable for the due fulfilment of this contract.
- 8. I/We agree that any action from this contract in all respects be instituted against me/us and I/we hereby undertake to satisfy fully any sentence or judgment which may be pronounced against me/us as a result of such action.
- 9. I/We declare that I/we have participation /no participation in the submission of any other offer for the supplies/service described in the attached documents. If in the affirmative, state name(s) or RFQ(s) involved.

10. _____

Are you duly authorized to sign for this the RFQ? *YES / NO

11. Has the Declaration of Interest been duly completed and included with the other RFQ forms?
 *YES / NO

DECLARATION	
I,	the undersigned (full names)
.....	
Certify that the information furnished above is correct. I accept that, in addition to cancellation contract, action may be taken against me should this declaration prove to be false.	

Name & Surname of Authorised person/ Representative	Date:
Signature of a Bidder's Representative	

PRICING SCHEDULE – FIRM PRICES (PURCHASES)

NOTE: ONLY FIRM PRICES WILL BE ACCEPTED. NON-FIRM PRICES (INCLUDING PRICES SUBJECT TO RATES OF EXCHANGE VARIATIONS) WILL NOT BE CONSIDERED

IN CASES WHERE DIFFERENT DELIVERY POINTS INFLUENCE THE PRICING, A SEPARATE PRICING SCHEDULE MUST BE SUBMITTED FOR EACH DELIVERY POINT

Name of bidder.....RFQ number: RFQ MUT 139/2026
Closing Time:11h00.....Closing date: 03 April 2026

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

ITEM NO	ITEM DESCRIPTION	UNIT OF MEASURE	AMOUNT IN RANDS (INCLUSIVE OF VAT-IF VAT VENDOR)
1.	Monthly Management of Anti-Fraud and Corruption Hotline, with monthly update reports, and quarterly reports. (Fraud Awareness Campaigns. Fraud & Ethics risk workshops. Fraud Risk Register and Update.)	Rate/Month Rates to be fixed for the 1 st 12 months	
2.	Escalation (if Applicable)	In Percentage (%)	
3.	TOTAL AMOUNT FOR 1 st Year		
4.	TOTAL AMOUNT FOR 2 nd Year		
5.	TOTAL AMOUNT FOR 3 rd Year		
TOTAL TENDER VALUE FOR 36 MONTHS. (INCLUSIVE OF VAT-if VAT Vendor)			

-
- Required by: Risk and Audit
 - At: Mangosuthu University of Technology
.....
 - Brand and model
 - Country of origin
 - Does the offer comply with the specification(s)? *YES/NO
 - If not to specification, indicate deviation(s)
 - Period required for delivery
 - *Delivery: Firm/not firm
 - Delivery basis

Note: All delivery costs must be included in the bid price, for delivery at the prescribed destination.

** "all applicable taxes" includes value- added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies.

*Delete if not applicable

DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state¹, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-

- the bidder is employed by the state; and/or
- the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

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

2.1 Full Name of bidder or his or her representative:.....

2.2 Identity Number:

2.3 Position occupied in the Company (director, trustee, shareholder²):

2.4 Company Registration Number:

2.5 Tax Reference Number:

2.6 VAT Registration Number:

2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / persal numbers must be indicated in paragraph 3 below.

¹ "State" means –

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

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

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

2.7.1 If so, furnish the following particulars:

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

.....

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

.....

Position occupied in the state institution:

.....

Any other particulars:

.....

.....

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

2.7.2.1 If yes, did you attach proof of such authority to the bid document? **YES / NO**

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

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

.....

.....

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

2.8.1 If so, furnish particulars:

.....

.....

.....

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

2.9.1 If so, furnish particulars.

.....

.....

.....

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

2.10.1 If so, furnish particulars.

.....

.....

2.11 Do you or any of the directors / trustees / shareholders / members **YES/NO** of the company have any interest in any other related companies whether or not they are bidding for this contract?

2.11.1 If so, furnish particulars:

.....

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

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

4 DECLARATIONS

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

.....
 Signature

.....
 Date

.....
 Position

.....
 Name

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

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

Item	Question	Yes	No
4.1	<p>Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?</p> <p>(Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</p> <p>The Database of Restricted Suppliers now resides on the National Treasury's website(www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	<p>Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?</p> <p>The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>

4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
4.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		

CERTIFICATION

I, THE UNDERSIGNED (FULL NAME)

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

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

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This document must form part of all bids¹ invited.

- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).² Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.

- 3 Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
 - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
 - b. cancels a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.

- 4 This form serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.

- 5 In order to give effect to the above, the attached Certificate of Bid Determination must be completed and submitted with the bid:

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

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

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Institution)

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

I certify, on behalf of: _____ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.

7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
 - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

³ Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

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

.....
Signature

.....
Date

CONDITIONS OF THE RFQ:

1. Bidders must submit all necessary documents and complete all forms and questionnaires contained in the RFQ. Each bidder's proposal shall be evaluated against timelines and price.
2. pricing- do not show separately.
3. Bidders responding to this quotation are deemed to do so, on the basis that they acknowledge and accept all Terms and Conditions of this quotation.
4. RFQ validity period 90 days.
5. Validity period may not be extended unless otherwise stated by the member.
6. Incomplete or late submissions will not be evaluated.
7. Return quotations to the email address provided before closing date and time.
8. MUT reserves the right not to appoint a supplier in the event where a supplier has work (of services) with MUT totaling R500 000 or more and in progress.
9. Should the bidder not receive the letter of award or the purchase order within the validity period, the bidder must consider their proposals/offer unsuccessful.
10. This contract is subject to General Conditions of Contract (GCC).

WHAT IS THE MUT LOOKING FOR:

Mangosuthu University of Technology wishes to appoint suitably qualified and experienced service provider to for whistle blowing/hotline (Fraud & Ethics) facility for a period of 36 Months and Assisting MUT with the Fraud & Ethics Management plan, the Appointed bidder to enter into a contract of 36 months with MUT.

Specification/Scope of Work:

3.1. The Fraud Hotline facility should encompass the following reporting mechanisms:

- Multi-Lingual Forensic agents capable of fielding calls in all official languages.
- Voice: telephone (Toll Free Number)
- Document: Fax and Postal
- Electronic: Email and website.
- Forensic call center (24/7/365)
- The Hotline should be equipped to administer the payment of rewards on behalf of clients, without compromising the identity of the informant/whistle blower.
- The caller communication mechanisms at no charge to the whistle blower.
- The reporting mechanisms should be unique to MUT staff and stakeholders for reporting.
- The facility should ensure a seamless extraction of reports and dashboards for reporting purposes.
- The facility should enable MUT to update the status of the action taken on the call and update the status as and when there is interaction.
- The report should ensure completeness by using a unique numbering or referencing.

3.2. Fraud & Ethics management plan

- Fraud and Ethics prevention plan (Awareness campaigns etc.)
- Fraud and Ethics risk workshops quarterly updates
- Fraud Risk Register & quarterly Updates

3.3. Key performance deliverables

- Incidents reported should be cascaded to MUT within 24hrs.
- Incidents pertaining to planned fraud, robberies etc. should be reported immediately.
- Monthly incident reports including whistle blower follow up reports.
- Awareness campaigns inclusive such as posters and presentations to stakeholders as and when required.
- Fraud Risk workshops
- Fraud Risk Register

3.4. The content of the proposal should outline the following:

- Details about the company
- The Fraud and Ethics reporting processes.
- Features of the Ethics and Hotline
- Liaise with MUT and the nature of reports to be pulled from the system.
- Assistance with the marketing/awareness of the hotline service
- The Protected Disclosures Act
- Independence
- Confidentiality and Terms

INTRODUCTION

To ensure that all bidders are afforded the opportunity to compete on an equal footing and to enable the Mangosuthu University of Technology to evaluate the Bids received on an equal basis, a pre-described process of evaluating bids will be followed.

METHODOLOGY

The evaluation of bids will be divided into three (3) stages:

EVALUATION CRITERIA

Stage 1- Mandatory Requirements

Stage 2- Functionality

Stage 3- Rates Evaluation

STAGE 1- MANDATORY REQUIREMENTS

Mandatory documentation – whether all required documentation and/or certification have been included.

- 1.1.1 The MUT has defined minimum mandatory criteria listed in the table below that must be met by the Bidder for the MUT to accept an offer for evaluation.
- 1.1.2 Where there is failure to comply with the mandatory requirements or for any reason that MUT is unable to verify any of the mandatory documents the bid will not progress to the next stage of evaluation.
- 1.1.3 Documents submitted in support of this Bid must be documents of the Bidding entity. It is not permitted that documents submitted pertain to different companies or units within a group. As an example, a Bidder cannot submit its own BBBEE certificate but the financial statements of its parent or another company in the same group. Similarly, a Bidder cannot submit its own financial statement, but the BBBEE certificate, SARS certificate, etc. of other companies in the group.

Compulsory documents to be submitted with RFQ.

- Valid Tax certificate or Pin.
- Valid CIPC/Registration document / MUT Vendor Number
- Valid Ethics SA Certification of Whistle Blowers

NB: Failure to submit these documents will lead to disqualification

OTHER GENERAL REQUIREMENTS:

- CSD MAAA NUMBER -----(please insert in the space provided)
- BBBEE Certification – No points will be allocated if not provided.

STAGE 2 FUNCTIONALITY EVALUATION

2.1 The evaluation criteria for functionality considers the bidder's previous experience and ability, quality, reliability, viability of services as well as the Bidders technical capacity and ability to execute and maintain a contract.

Note:

- No bid will be considered further unless the minimum qualifying score of 70 points for functionality has been achieved.
- Only bidders scoring minimum of 70% and more shall be considered for Stage 3 dealing with Rates.

Functionality Criteria	Weights (100%)
<p>Reference Letters Evidence:</p> <p>The reference letter must have a description of the services, the duration, the value of contract, and a statement acknowledging the quality of work done.</p> <p>These letters must also be on the client's letterhead and include the following:</p> <p><i>Email address, Work phone numbers and duly signed by a person in authority</i></p>	<p>Maximum 25 Points</p>
<ul style="list-style-type: none"> • Three (3) Confirmed acceptable reference provided (25 points) • Two (2) Confirmed acceptable reference provided 15 points) • One (1) Confirmed acceptable reference provided (10 points) • No proof submitted / No relevant experience (0 points) 	
<p>The Business Proposal</p> <p>The content of the proposal should outline the following:</p> <ul style="list-style-type: none"> • Details about the company • The Fraud and Ethics reporting processes. • Features of the Ethics and Hotline • Liaise with MUT and the nature of reports to be pulled from the system. • Assistance with the marketing/awareness of the hotline service • The Protected Disclosures Act • Independence 	<p>Maximum 15 Points</p>

<ul style="list-style-type: none"> Confidentiality and Terms 	
<ul style="list-style-type: none"> The proposal is thorough and includes all required content (15 Points) The proposal is functional but lacks deep detail (10 Points) The proposal lacks the necessary core content (05 Points) No proposal was submitted (0 Points) 	
<p>Promotion of Local Based Bidders</p> <p>Bidders are required to submit supporting documentation, as appropriate, to satisfy MUT as to their primary place of business. (E.g., Lease Agreements/ Utility Bills)</p>	Maximum 10 Points
<ul style="list-style-type: none"> Business Operating in KwaZulu-Natal (10 Points) Business Operating Outside of KwaZulu-Natal (05 Points) No Supporting document Provided (00 Points) 	
TOTAL POINTS	50 Points

Note: Total points earned by the bidder to be weighted to 100%

STAGE 3 PRICE AND BBBEE

3.1 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).

3.2 Points for this tender shall be awarded for:

- (a) PRICE- Comparison (The acceptable and market related rates will be considered)
- (b) BBBEE- Will be utilized to back up the rates provided

Only Bids that achieved the minimum qualifying score/percentage of 70 % for functionality will be considered further in terms of the relevant preference point system.

POINTS AWARDED FOR PRICE

THE 80/20 PREFERENCE POINT SYSTEMS

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

80/20

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

Where

P_s = Points scored for price of bid under consideration

P_t = Price of bid under consideration

P_{\min} = Price of lowest acceptable bid

POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

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

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

Note:

Non-compliant contributors or failure to provide certification substantiating the BBEE status level of contribution will result in the Bidder being awarded zero (0) points for the preference point system.

TO BE COMPLETED BY SUPPLIER BY (Checklist)

• Does this Offer comply with specification, state brand where applicable?	
• Does the bidder have the required experience, state period?	
• Can this order be delivered within the specified period, state delivery period?	
• Do you intend sub-contraction/Partner?	
• Pricing Schedule (Recalculate to ensure accuracy)- Indicate whether prices are firm or non-firm)	
• Declaration of Interest (Read, Understand and Sign)	
• Declaration of Bidder's Past Supply Chain Management Practices (Read, Understand and Sign)	
• Certificate of Independent Bid Determination (Read, understand and Sign)	
• CSD Registration Number (MAAA.....) / CSD report	

PLEASE NOTE: *MUT reserves the right to appoint or not appoint a service provider for this project. MUT will not necessarily accept the lowest quotation in part or full, it will be MUT's discretion to appoint the most suitable service provider who will add value to MUT.*

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.

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General Conditions of Contract

1. Definitions

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

RSA.

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

obligations of the supplier covered under the contract.

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

2. Application

2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.

2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.

2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

3. General

3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.

3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from www.treasury.gov.za

4. Standards

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

5. Use of contract documents and information; inspection.

5.1 The supplier shall not, without the purchaser’s prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.

5.2 The supplier shall not, without the purchaser’s prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.

5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier’s performance under the contract if so required by the purchaser.

5.4 The supplier shall permit the purchaser to inspect the supplier’s records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

6. Patent rights

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

7. Performance security

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

8. Inspections, tests and analyses

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

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

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

9. Packing

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

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

10. Delivery and documents

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

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

11. Insurance

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

12. Transportation

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

13. Incidental services

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

- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
- (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
- (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;

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

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

14. Spare parts

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

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

15. Warranty

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

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

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

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

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

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

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

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

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

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

22. Penalties

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

23. Termination for default

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

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

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

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

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

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

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

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

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

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

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

24. Anti-dumping and countervailing duties and rights

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

may be due to him

- 25. Force Majeure**
- 25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.
- 25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.
- 26. Termination for insolvency**
- 26.1 The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the purchaser.
- 27. Settlement of Disputes**
- 27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.
- 27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.
- 27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.
- 27.5 Notwithstanding any reference to mediation and/or court proceedings herein,
- (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
 - (b) the purchaser shall pay the supplier any monies due the supplier.
- 28. Limitation of liability**
- 28.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6;
- (a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and

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

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

Js General Conditions of Contract (revised July 2010)