



## REQUEST FOR QUOTATION (“RFQ”)

### PROVISION FOR CLEANING SERVICES AT THE EWSETA PROVINCIAL OFFICE SITUATED IN CAPE-TOWN FOR A PERIOD OF TWELVE (12) MONTHS -



<b>Bid Number</b>	EWSETA/RFQ/108/2024-25
<b>Bid Scope</b>	PROVISION FOR CLEANING SERVICES AT THE EWSETA PROVINCIAL OFFICE SITUATED IN CAPE TOWN FOR A PERIOD OF TWELVE (12) MONTHS
<b>Issue Date</b>	THURSDAY 13 FEBRUARY 2025
<b>Briefing Session</b>	N/A
<b>Closing Date for submission of bids</b>	THURSDAY 20 FEBRUARY 2025@13:00HRS
<b>Inquiries</b> (all inquiries should be in writing)	<a href="mailto:scmadmin@ewseta.org.za">scmadmin@ewseta.org.za</a>



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## 1. BACKGROUND INFORMATION

The Energy and Water Sector Education and Training Authority (EWSETA) is a statutory body established through the Skills Development Act No 97 of 1998 (the Act) to enable its stakeholders to advance the national and global position of the energy and water sector by facilitating the effective development of skills required to respond to related imperatives as envisaged in the National Development Plan (NDP).

The EWSETA is strategically positioned as an authority of skills development that effectively supports Government national plans and strategies. Furthermore, EWSETA is responsible for responding to the many skills-related needs of the sector and its respective labour markets. By carrying out its primary mandate, the EWSETA incrementally achieves skills development imperatives and related outcomes over the long term.

## 2. PURPOSE

The purpose of this bid is to source the services of a qualified and experienced service provider to supply **One (01) x cleaner** for daily comprehensive cleaning services at the EWSETA provincial office in False Bay College situated in Cape-Town for a period of twelve (12) months. The appointed service provider will be responsible for upholding high standards of cleanliness, hygiene, and sanitization across all designated areas, ensuring a safe, healthy, and conducive working environment for EWSETA staff and visitors. The False Bay College is located at the following address:

**False Bay TVET College  
Westlake Campus  
Westlake Drive  
Cape Town  
7950**

## 3. SCOPE OF WORK

The scope of work is herein entailed below:

The office area measures at 1600 sqm and which comprises of the following:

Offices	Type of floor
Big board room	Wooden laminated floors
Executive office	Wooden laminated floors
Coordinator office	Wooden laminated floors

Administrator office	Wooden laminated floors
Reception area	Wooden laminated floors
Kitchen and	Wooden laminated floors
Lobby	Wooden laminated floors
Bathroom	Wooden laminated floors
Garage	Wooden laminated floors

3.1 The service provider is to ensure that the EWSETA office is always kept clean and hygienic, and it is therefore necessary for the following:

- 3.1.1 Daily cleaning of the EWSETA building paying particular attention to public areas (reception, entrance ways, etc), staff offices and workstations, meeting rooms and recreation and dining areas. The Kitchen and all bathrooms on every floor will require more frequent attention.
- 3.1.2 The service provider is to ensure that once a quarter deep cleaning services are provided (this may include fumigation if necessary).
- 3.1.3 The service provider is to ensure that the washing of carpets and furniture upholstery are provided every 6 months at a minimum and upon request when necessary.
- 3.1.4 Service provider to replenish equipment and consumables as required and maintain all installed facilities equipment.

### 3.2 Normal Working Hours

- 3.2.1 Working Days (Excluding Public Holidays) Monday to Friday 06h30 to 16h30.
- 3.2.2 It must be further noted; that the EWSETA has a staff compliment of approximately two (02) employees, and any extended operating hours will be negotiated with the service provider should such a requirement be deemed necessary during our busy periods. This might include services to be provided over weekends where necessary.

### 3.3 Staffing Required

- 3.3.1 Bidder to provide staff complement required and most optimal work shift configuration
- 3.3.2 An all-inclusive monthly cost rate per cleaner to be included as part of the bid response. (this rate is to be inclusive of direct salary/wages, benefits, overheads and other ancillary costs).
- 3.3.3 The bidder to designate one (01) experienced cleaner to EWSETA. Additional cleaners may be required should the need arise.

### 3.4 Equipment

- 3.4.1 All equipment needs to be of an acceptable quality standard. An acceptable quality standard would be equipment which meets any relevant regulative prescripts and laws within the Republic of `South Africa. Sufficient and separate gloves for each area should be provided for the cleaning of the Bathrooms, kitchens and general areas. These gloves should be replaced monthly.

- 3.4.2 We require proper cleaning cloths for various areas and preferably colour coded, for example:
  - (i) Yellow for the workstations and equipment (i.e. printers, telephones, cabinets, computers etc.)
  - (ii) Blue for the kitchens
  - (iii) Green for glass, windows and mirrors
- 3.4.3 EWSETA will inspect the condition of the following cleaning equipment that is needed (before the contract starts and quarterly):
  - (i) Vacuum Cleaners
  - (ii) Brooms
  - (iii) Mops
  - (iv) Window wipers
  - (v) Dusters (long and short) / cloths
  - (vi) Buckets
  - (vii) Ladder (Long)
  - (viii) Ladder (short)
  - (ix) Industrial carpet washer
  - (x) High pressure water washers
  - (xi) Industrial strength steam cleaner (similar or equal to the Gemini)
  - (xii) Cleaning in progress signage / cones
  - (xiii) Any other cleaning materials
- 3.4.4 It is the responsibility of the bidder to ensure that all details as requested are completed, accurate and comprehensive as this will determine whether the service provider has the capacity available during evaluation.
- 3.4.5 The service provider shall be responsible for the maintenance of all equipment
- 3.4.6 The service provider must ensure that defective equipment will either be replaced or repaired within 12 hours from the time that such defective equipment is reported by EWSETA and/or the Service Providers staff.

### 3.5 Tasks and Activities

#	Tasks and Activities
3.5.1	<p><b>DUSTING</b></p> <p>Unless otherwise stated, the under-mentioned should be dusted and cleaned every day with a soft cloth or a duster, which is recommended specifically for this purpose:</p> <ul style="list-style-type: none"> <li>a) Bathrooms and Kitchen</li> <li>b) Contents of each staff member's office / workstation</li> <li>c) Meeting rooms that are booked for the day</li> <li>d) Training rooms that are booked</li> <li>e) Staff dining and leisure areas</li> <li>f) All surfaces and partitions</li> <li>g) All furniture and surfaces in public areas within the EWSETA office space</li> <li>h) Wooden panels and partitions</li> <li>i) Stock items in storerooms should be dusted on request, or at least once a month.</li> </ul>

3.5.2	<b>BLINDS</b> a) Dust blinds – weekly. b) Damp Clean blinds to remove stains – monthly
3.5.3	<b>DOORS</b> a) Remove all dirty spots on wooden and aluminium doors – daily. b) Polish doorknobs with an approved metal polish where applicable – weekly. c) Wash all glass doors (inside and outside) with a degreasing agent and equipment that will not scratch the surface, as required – weekly or on request
3.5.4	<b>GLASS PARTITIONING</b> a) Wash all full height and low-level glass partitioning – weekly.
3.5.6	<b>FURNITURE</b> a) Polish wooden furniture everywhere with an approved polish. Such polish should not be greasy and should not come off on anything it encounters after it has been polished – weekly. b) Do not polish any laminated furniture. c) Remove all dirty spots from glass tops, desks and other furniture such as, bookcases, empty shelves in a proper way – daily d) Damp-Wash those parts of furniture covered in leather or imitation leather – daily. e) Treat upholstered or leather covered parts of furniture with an approved agent – monthly. f) Vacuum those parts of furniture covered with fabric – weekly. g) Wipe telephones with a damp cloth using a suitable diluted disinfectant – daily.
3.5.7	<b>INSIDE WALLS</b> a) Remove all spots such as fingerprints on walls, paintwork, and electric switches – daily.
3.5.10	<b>FLOORS</b> a) Clean all floors with a non-slip floor cleaner to maintain a high gloss daily. b) Should entry to offices or high traffic make it difficult to treat floors, it should be done early morning or after office hours. c) Wash floors with an appropriate disinfectant – daily.
3.5.11	<b>VINYL: VINYL-ASBESTOS TILES, LINOLEUM, ASPHALT, RUBBER AND SIMILAR COATINGS</b> a) The relevant surface should be properly cleaned and where necessary old polish should be removed with an appropriate agent. If a polish-remover is used, the floor should be rinsed with clean water and dried properly.

<p><b>3.5.12</b></p>	<p><b>WOODEN FLOORS AND BLOCK-FLOORS</b></p> <p>a) Sweep and remove all dirty marks – daily</p> <p>b) Polishing, with an approved non-slip polish, should be done after the floor has been wiped with a damp mop.</p> <p>Various areas:</p> <p>c) High Traffic (Like passages) – apply polishing agent and polish –</p> <p>d) Weekly.</p> <p>e) Offices - apply polishing agent and polish – weekly.</p> <p>f) As soon as an unsightly layer of old polish has built up, it should be scrubbed off and a new coat re-applied. This must be negotiated first.</p>
<p><b>3.5.13</b></p>	<p><b>CARPETS (wall-to-wall and loose)</b></p> <p>a) Vacuum all carpets - weekly</p> <p>b) Thorough vacuuming as follows: High Traffic like passages – daily</p> <p>c) Offices and Conference Facilities – daily</p> <p>d) Clean spots or stains immediately daily. There should be guarded against the use of cleaning agents that could damage or discolour the carpets.</p> <p>e) The carpets should then be washed with an appropriate carpet washing machine. When carpets are washed, dirty marks or stains</p> <p>f) Should be removed after which the carpet should be thoroughly vacuumed. It should be always ensured that the carpets do not become excessively wet. All water should be removed until the carpets are damp only. Occupants should be requested not to walk on the damp carpets, if possible. Washing of carpets will be done regularly or when requested, after hours.</p>
<p><b>3.5.14</b></p>	<p><b>OUTDOORS CONCRETE SURFACES AND PAVING (<i>marble, ceramics, terrace, tiles etc,</i>)</b></p> <p>a) Balconies, passages, footways and water canals should be swept with appropriate brooms and dirty spots removed – daily.</p> <p>b) Pick up all rubbish on paving – daily.</p> <p>c) Sweep paving with a hard broom – daily.</p> <p>d) Walkways should be washed and scrubbed with non-slip soap and water – weekly</p>
<p><b>3.5.15</b></p>	<p><b>RUBBISH REMOVAL</b></p> <p>a) Empty all waste bins in office, kitchen, bathrooms and general areas –</p> <p>b) daily.</p> <p>c) All rubbish bins should be washed with an approved disinfectant.</p> <p>d) Sufficient rubbish bags need to be provided daily to outline the bins in the kitchens, bathrooms or where necessary.</p> <p>e) All rubbish bags will be removed from the containers with the rubbish</p> <p>f) intact and the containers will be outlined with new bags daily.</p>
<p><b>3.5.16</b></p>	<p><b>KITCHENS</b></p> <p>a) Kitchen floors to be washed with non-slip and degreasing floor cleaner- daily</p> <p>b) Counters tops to be washed - daily</p> <p>c) Cupboards to be cleaned and washed inside weekly to avoid infestation</p> <p>d) Fridges (In kitchen and Executive offices) to be washed internally - weekly</p>

<b>3.5.18</b>	<b>BRASS ITEMS</b> a) Should be cleaned - daily. b) Should be polished with appropriate agent using an equipment that will not scratch the surface, as required – weekly or on request.
<b>3.5.19</b>	<b>WINDOWS</b> a) Windows must be washed inside and outside at least once a month or when necessary. Service Provider must provide own safety harness when cleaning windows.

### 3.6 CONSUMABLES

- 3.6.1 All required cleaning consumables and chemicals will be supplied by the bidder/service provider. This includes the equipment. Service providers are to provide their own equipment as indicated above.
- 3.6.2 The service provider is expected by EWSETA in the management of consumables to ensure that enough back-up cleaning consumables, material and equipment specifically essential items are kept on site in case of sudden shortage (methods are to be included within the contingency section of the Work plan to be provided).
- 3.6.3 All chemicals, detergents and other related materials must be compliant to South African Bureau of Standards and meet all OHSA requirements; and non-toxic and comply with health and safety regulations.
- 3.6.4 All cleaning and hygiene services are to be undertaken in compliance with Occupational Health and Safety Act 85 of 1993. All staff must wear appropriate personal protective equipment (PPE) while working.

### 3.7 ADMINISTRATIVE ARRANGEMENTS

It must be noted that EWSETA will provide the service provider with the following:

- 3.7.1 A lock-up facility. This will be made available for the safekeeping of the stock and equipment
- 3.7.2 Instructions for all predetermined requirements including special arrangements
- 3.7.3 Required times for all meetings, reports and arrangements etc.
- 3.7.4 All of these arrangements will be provided to the service provider either telephonically, email or in person. The Best method of communication is to be discussed and finalized upon appointment of successful bidder.
- 3.7.5 The successful bidder shall not be entitled to store or leave goods or objects on the floors and offices, for example at the entrances, corridors, passages, hallways or the steps other than in the lock up facility.
- 3.7.6 The service provider and staff may use the facilities on the property e.g. toilets, rest rooms, electrical plugs,
- 3.7.7 Lighting and water for the purpose of this contract subject to the rules and policy of the EWSETA as applicable.
- 3.7.8 EWSETA will not be held responsible in any way for any damages, losses, theft of equipment or any valuables of
- 3.7.9 The service provider or injury of his/her employees while on site or in the execution of their duties.
- 3.7.10 The service provider will be held responsible for damages of items caused by them at the EWSETA Offices.



### **3.8 SECURITY IDENTIFICATION**

- 3.8.1 The contractor must supply each employee with a photo identification card. The card must have the following information:
- The name of the firm (contractor)
  - Name of the employee
  - Identity number of the employee
  - Signature of the employee
- 3.8.2 The card must be worn to be visible at all times whilst on the premises. The contractor must have sufficient control over the permits to prevent any unauthorized use thereof. A list of names of all employees, who are to be employed on this contract, as well as their replacements, must be furnished beforehand.

### **3.9 FIRE EXTINGUISHERS**

- 3.9.1 The contractor and his employees shall under no circumstances make use of fire hose reels or other fire extinguishers on the site in the activities attached to the rendering of the services unless in exceptional cases.

### **3.10 WARNING SIGNS**

- 3.10.1 Clearly readable warning notices or signs shall be exhibited where needed, where the rendering of the cleaning services may cause injuries to any person(s).

### **3.11 INFLAMMABLE AND POISONOUS SUBSTANCES**

- 3.11.1 The contractor shall not use or store any poisonous or highly inflammable substances on the premises without the written consent of the EWSETA for the rendering of the services or any other purposes.

### **3.12 DAMAGE COMPENSATION**

- 3.12.1 The contractor will be held responsible for any damage or thefts that may be caused, to the premises or contents, by him/her or his/her employees or be due to their neglect, whether in the normal execution of their duties or otherwise, and a claim for indemnification can accordingly be imposed by the EWSETA against the contractor.

### **3.13 COMPLIANCE WITH ACTS AND REGULATIONS**

- 3.13.1 The contractor must comply with all the acts and regulations applicable to cleaning services i.e OHS & COIDA

### **3.14 TRAINING**

- 3.14.1 Cleaning staff needs to be trained in every aspect relating to the handling of all equipment that they use with regards to this contract. The service provider will be held responsible for any damages or injuries arising from any misuse or negligent use of such equipment by one of their "on site" staff members.

### **3.15 ABSENTEEISM**

- 3.15.1 Should a staff member not be present at work a replacement is required by 10H00 on that day or earlier.

### 3.16 Code of Conduct

3.16.1 All contracted staff members should always conduct business in a courteous and professional manner.

### 3.17 Uniform

3.17.1 All contracted staff members should always be in uniform with visible name tags.

## 4. EVALUATION CRITERIA

### 4.1 Stage 1: Pre-Qualification Criteria

#### 4.1.1 Submission of Compulsory Documents:

**Prospective service providers must comply with the requirements and submit all required document(s) indicated hereunder with the bid documents at the closing date and time of bid. This phase is not scored and bidders who fail to comply with all the mandatory criteria will be disqualified.**

4.1.1.1 Prospective bidders are required to provide proof of registration with the Central Supplier Database by submitting the CSD report. In case of a Joint Venture, each party must provide proof of registration with CSD. Individual consultants are also required to be registered on CSD in their individual capacity and proof of registration must be submitted.

4.1.1.2 Completed and signed Standard Bidding Documents attached to the bid.

4.1.1.3 In case of a Joint Venture, a written agreement between the parties which must clearly set out the roles and responsibilities of each member and include a resolution of each company of the Joint Venture together with a resolution by its members authorizing a member of the Joint Venture to sign the documents on behalf of the Joint Venture.

4.1.1.4 Bidders must submit either valid COIDA certificate of registration with the Department of Labour or Valid Certifications from recognized Occupational Health and Safety (OHS) bodies in South Africa (SA).

#### 4.1.2 Non-compulsory documents

**Prospective service providers must comply with the requirements and submit all required document(s) indicated hereunder with the bid documents at the closing date and time of bid. This phase is not scored and bidders who fail to comply with all the mandatory criteria may be disqualified.**

4.1.1.5 Submit a valid Tax Clearance Certificate/ Tax Pin Certified copy of B-BBEE Certificate. A prospective service provider must ensure that their tax matters are in order in line with the Treasury Regulations and reflect accordingly on CSD. It is therefore a condition of this bid that the tax matters of the bidder be in order at

the time of award. Failure of the bidder for not complying with their tax matters at the time of award will result in the bidder being disqualified.

- 4.1.1.6 A Joint Venture will qualify for the B-BBEE status level as a legal entity, provided that the legal entity submits their B-BBEE status level certificate. Failure on the part of the bidder to comply with the above will be deemed that preference points for B-BBEE status level of contribution are not claimed and will therefore be allocated zero (0) points.

## 4.2 Stage 2 – Functionality evaluation

An assessment of Functionality will be based on the evaluation criteria noted in the table below. Each of the evaluation criteria in the table will carry a weighting as indicated, and the bidder will be required to score a minimum of 70 points (out of the 100 points), i.e. 70%, for Functionality to qualify and proceed to Stage 3 of the evaluation process.

### CRITERIA

The service provider is to meet the below criteria which is applicable to the bid to be submitted to the EWSETA.

Criteria	Scoring	Weighted score
<p>Reference letters from various clients as evidence of <u>related</u> services previously completed successfully or currently ongoing, with a minimum duration of 5 years.</p> <p><b>NB:</b> <i>The Reference Letter(s) must not be older than 5 years, must be on the letterhead of previously serviced client and should reflect the name of the client and description of the similar work conducted, year(s) conducted, contactable reference name and contact details, and be signed by the appropriate delegate. The Reference Letter should indicate the quality of service(s) rendered. EWSETA might contact references to confirm the contents of the reference letters.</i></p>	<p><b>3</b> Reference Letters attached = <b>30 points</b>  <b>2</b> Reference Letters attached = <b>20 points</b>  <b>1</b> Reference Letters attached = <b>10 points</b></p> <p>No/unsatisfactory/incomplete Reference Letters attached = <b>0 points</b></p>	<b>30</b>
<p><b>Methodology and Project Plan</b></p> <p>Bidders are required to submit a detailed project methodology, which should indicate the company's responsiveness /</p>	<p>Proposed methodology is effective for service delivery and includes all the required elements including:</p> <ul style="list-style-type: none"> <li>task descriptions and how such tasks will be performed on daily basis = <b>10 points</b></li> </ul>	<b>30</b>

<p>preparedness that covers the proposed scope of work including:</p> <ul style="list-style-type: none"> <li>• task descriptions and how such tasks will be performed on daily basis.</li> <li>• proposed work schedule / work plan</li> <li>• equipment to be utilized.</li> <li>• Resources to be utilised</li> <li>• contingency plan</li> </ul>	<ul style="list-style-type: none"> <li>• proposed work schedule / work plan = <b>5 points</b></li> <li>• equipment to be utilized = <b>5 points</b></li> <li>• Resources to be utilized = <b>5 points</b></li> <li>• contingency plan = <b>5 points</b></li> </ul> <p>No methodology = <b>0 points</b></p>	
<p><b>Resources</b></p> <p><b>(Attach CVs of resources that will be utilised in this project)</b></p> <p><b>Bidders to provide only one (01) CV of the proposed resource.</b></p>	<p>Capability and experience for one (01) staff member to be used.</p> <p>3 or more years' cleaning experience cleaners= <b>15 points</b>.</p> <p>Less than three (03) years' cleaning experience = <b>0 points</b></p>	<b>15</b>
<p><b>Company Profile</b></p> <p>Bidders must submit a company profile indicating the number of years the bidders have been providing cleaning services.</p> <p>The company profile must include an approach clearly indicating how the services will be executed and the geographical location.</p> <p>The company profile must include an organizational chart.</p>	<p>5 or more years of company experience = <b>10 points</b></p> <p>3 - 4 years of company experience = <b>5 points</b></p> <p>2 years of company experience = <b>0 points</b></p> <p>Less than one year of company experience = <b>0 points</b></p> <p><b>Geographical location – 5 points</b></p> <p><b>Organisational Chart – 5 points</b></p>	<b>20</b>
<p><b>Proof of company membership</b></p>	<p>Proof of membership with the National Contract Cleaners Association (NCCA) or any other relevant body.</p>	<b>5</b>
<p><b>TOTAL</b></p>		<b>100</b>

#### 4.3 Stage 3: Pricing and Preference Points Stage

4.3.1 The applicable preference point system for this tender is the 80/20 preference points system; 80 points are awarded for price and 20 points are awarded for specific goals.

4.3.2 The points scored in respect of specific goals will be added to the points scored for price.

4.3.3 The following formula will be used to calculate the points for Price:

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

P min = Price of lowest acceptable tender

#### 4.4 Points awarded for specific goals.

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:

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

	Points
Price	80
<b>Specific goals:</b>	
Minimum B-BBEE Status level 1 contribution	5
Minimum of 30% Black Female Ownership	10
QSE or EME as classified	5
Total points for Price and Specific goals	100

The following table must be used to calculate the score out of 20 for BBBEE status level contribution.

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



B-BBEE Status Level of contributor	Number of points 80/20 system)
8	2
Non-compliant contributor	0

#### 4.5 Financial Proposal

Financial proposals will be compared on the basis of their total bid price VAT inclusive. Bidders are required to submit financial proposals as per the table below on their company letterhead.

Pricing schedule is compulsory and failure to complete same in prescribed manner as per the table below and without alterations for comparability purposes may result in disqualification of the bid during the financial evaluation process.

Description	Monthly cost excl. vat	Monthly cost Incl. vat
<b>Provision of cleaning services for 12 months</b>		
<b>Cost for one (01) Resource (ex. Vat)</b>	R	R
<b>Cost for all hygiene consumables and equipment to be utilised</b>	R	R
<b>VAT</b>	R	R
<b>Total cost inclusive of VAT</b>	R	R
<b>Total cost inclusive of VAT for twelve 12 months</b>	R	

Pricing schedule is compulsory and failure to complete same in prescribed above and without alterations may result in disqualification of the bid during the financial evaluation process.

Only firm prices will be accepted. Non-firm prices (including prices subject to rates of exchange variations) will not be considered. Bidders are requested to provide a clear agreement regarding joint venture/consortia. The percentage involvement of each company in the joint venture agreement should be indicated on the agreement.

The service provider will be responsible for their own travel expenses to the place of duty at EWSETA offices located at False bay College in Cape Town. For assignments outside of Cape Town, EWSETA will endeavour to make all the necessary travel arrangements when required.

Bidders should note that the work will be based at the EWSETA Cape Town office, and they will be required to be physically present on-site during working hours, from 08:00 to 16:30. Remote work will not be permitted.



## 5. NOTES TO BIDDERS

Outlined below are basic requirements that each bid must comply with. Failure of any bid to meet any or all these requirements may disqualify such a bid from the evaluation process:

- 5.1 Prospective bidders must ensure their tax matters are in line with the Treasury Regulations and reflected on CSD. It is therefore a condition of this bid that the tax matters of the bidder be in order at the time of award. The failure of the bidder for not complying with their tax matters at the time of award will result in the bidder being disqualified.
- 5.2 The EWSETA will not be liable to reimburse any costs incurred by applicants in preparing their proposals.
- 5.3 Bids received late shall not be considered under any circumstances. A bid will be considered late if it arrives after 13H00 on/after the closing date.
- 5.4 EWSETA does not bind itself into making an appointment from proposals and offers received.
- 5.5 EWSETA reserves the right, at its sole discretion, to cancel this request for proposals, presentations, and price or not to make any appointment at all.
- 5.6 EWSETA will not make upfront payments.
- 5.7 A successful bidder must abide by the confidentiality undertakings in the agreement to be concluded.
- 5.8 The successful bidder will be informed of the outcome. A contract will only be deemed to be concluded when reduced to writing and signed by the designated responsible person of both parties (duly authorized). The designated responsible person for the EWSETA is the Chief Executive Officer or her/his written authorized delegate.
- 5.9 A probation period of 30 days will apply to the agreement and a penalty regime system in the maintenance addressing recourse by the supplier or EWSETA will be implemented.
- 5.10 Please note that any plagiarism of any sort contained within any bid, or any other documents submitted to the EWSETA by any bidder will result in the disqualification of the respective bidder and may potentially have legal ramifications.
- 5.11 EWSETA may request clarification or further information regarding any aspect of the bidder. The bidder must provide the requested information within forty-eight (48) hours after the request has been made; otherwise, the bidder may be disqualified.
- 5.12 Nothing as stipulated in these Terms of Reference may be amended without the written confirmation of the Chief Executive Officer of EWSETA or his/her delegated authority.
- 5.13 Any possible staff changes during the engagement must be done in consultation with and approval of EWSETA.
- 5.14 EWSETA undertakes to pay within thirty (30) days of presentation of a duly completed tax invoice and supporting documents if required by EWSETA
- 5.15 Bidders must attach latest proof of banking details along with their RFQ submission.

## 6. SUB-CONTRACTING

A tenderer will not be awarded points for B-BBEE status level if it is indicated in the tender documents that such a tenderer intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a tenderer qualifies for unless the intended sub-contractor is an exempted micro-enterprise that has the capability and ability to execute the sub-contract.

## 7. SUBMISSION OF BIDS

Bidders are required to submit their bids to [scmadmin@ewseta.org.za](mailto:scmadmin@ewseta.org.za)

## 8. CLOSING DATE OF PROPOSAL

A comprehensive proposal together with pricing schedule must reach EWSETA by no later than **Thursday 20 February 2025, not later than 13H00**. Please note that no late proposals will be considered.

## 9. TENDER VALIDITY

This RFQ shall be valid for 90 days calculated from Bid closing date.

## 10. FRAUD HOT-LINE

EWSETA subscribes to fair and just administrative processes. EWSETA therefore urges its clients, suppliers, and the general public to report any fraud or corruption to:

**EWSETA VUVUZELA FRAUD AND ETHICS HOTLINE**

Free Call: 0800 611 205; Email: [ewseta@thehotline.co.za](mailto:ewseta@thehotline.co.za); or

visit their website [www.thehotline.co.za](http://www.thehotline.co.za); or SMS 30916; or Vuvuzela Hotline (App Stores)



**11. ANNEXURE 1 SBD4 - BIDDER'S DISCLOSURE**

**1. PURPOSE OF THE FORM**

Any person (natural or juristic) may make an offer 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 is 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 interest<sup>1</sup> 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 the table below.

	<b>Full Name</b>	<b>Identity Number</b>	<b>Name of State institution</b>
2.2			

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

---

<sup>1</sup> 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.



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? <sup>[OBJ]</sup> **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 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 consortium<sup>2</sup> 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, or 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.

\_\_\_\_\_   
<sup>2</sup> 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.



- 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 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

## 12. ANNEXURE 2: EWSETA GENERAL CONDITIONS OF PURCHASE

### 12.1 General

- 12.1.1 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.
- 12.1.2 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](http://www.treasury.gov.za)

### 12.2 Standard

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

### 12.3 Use of contract documents and information; inspection

- 12.3.1 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.
- 12.3.2 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.
- 12.3.3 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.
- 12.3.4 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.

### 12.4 Patent rights

- 12.4.1 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.

### 12.5 Performance security

- 12.5.1 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.
- 12.5.2 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.

- 12.5.3 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

12.5.4 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.

## **12.6 Use of contract documents and information; inspection**

12.6.1 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.

12.6.2 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.

12.6.3 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.

12.6.4 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.

## **12.7 Patent rights**

12.7.1 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.

## **12.8 Performance security**

12.8.1 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.

12.8.2 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.

12.8.3 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.
- b. documents or another form acceptable to the purchaser; or (b) a cashier's or certified cheque

12.8.4 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.

## **12.9 Inspections, tests and analyses**

12.9.1 All pre-bidding testing will be for the account of the bidder.

12.9.2 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.

12.9.3 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.

12.9.4 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.

12.9.5 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.

12.9.6 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.

12.9.7 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.

12.9.8 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.

## **12.10 Packing**

12.10.1 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.

- 12.10.2 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.

### **12.11 Delivery and documents**

- 12.11.1 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.

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

### **12.12 Insurance**

- 12.12.1 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.

### **12.13 Transportation**

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

### **12.14 Incidental services**

- 12.14.1 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, startup, operation, maintenance, and/or repair of the supplied goods.

- 12.14.2 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.

### **12.15 Spare parts**

- 12.15.1 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: Page 42 of 51
  - (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.

#### **12.16 Warranty**

- 12.16.1 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.
- 12.16.2 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.
- 12.16.3 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.
- 12.16.4 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.

#### **12.17 Payment**

- 12.17.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.
- 12.17.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfilment of other obligations stipulated in the contract.
- 12.17.3 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.
- 12.17.4 Payment will be made in Rand unless otherwise stipulated in SCC.

#### **12.18 Prices**

- 12.18.1 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.

#### **12.19 Contract amendments**



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

## **12.20 Assignments**

12.20.1 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.

## **12.21 Subcontracts**

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

## **12.22 Delays in the supplier's performance**

12.22.1 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.

12.22.2 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 Page 44 of 51

12.22.3 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.

12.22.4 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.

12.22.5 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

12.22.6 unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.

12.22.7 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without cancelling 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.

## **12.23 Penalties**

12.23.1 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.

## **12.24 Termination for default**

- 12.24.1 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.
- 12.24.2 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.
- 12.24.3 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.
- 12.24.4 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.
- 12.24.5 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.
- 12.24.6 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.
- 12.24.7 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 the National Treasury website.

## **12.25 Anti-dumping and countervailing duties and rights**

12.25.1 When, after the date of bid, provisional payments are required, or antidumping 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.

#### **12.26 Force Majeure**

12.26.1 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.

12.26.2 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.

#### **12.27 Termination for insolvency**

12.27.1 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.

#### **12.28 Settlement of Disputes**

12.28.1 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.

12.28.2 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.

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

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

12.28.5 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.

### **12.29 Limitation of liability**

- 12.29.1 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.

### **12.30 Governing language**

- 12.30.1 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.

### **12.31 Applicable law**

- 12.31.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.

### **12.32 Notices**

- 12.32.1 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.
- 12.32.2 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.

### **12.33 Taxes and Duties**

- 12.33.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
- 12.33.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- 12.33.3 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.

### **12.34 National Industrial Participation (NIP) Programme**

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

### **12.35 Prohibition of Restrictive practices**

- 12.35.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is Page 49 of 51
- 12.35.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.
- 12.35.3 If a bidder(s) or contractor(s), has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.