



**REQUEST FOR QUOTATION (RFQ)**

**RFQ NO: 039/2024/HR&OD/CONSULTANT/RFQ**

**APPOINTMENT OF A SERVICE PROVIDER TO PROVIDE ORGANISATIONAL DEVELOPMENT (OD) SUPPORT IN THE FORM OF FACILITATION AND COORDINATION SERVICES FOR THE LESOTHO HIGHLANDS WATER PROJECT (LHWP) TEAM EFFECTIVENESS IMPLEMENTATION PLAN FOR 12 MONTHS**

|                                 |  |
|---------------------------------|--|
| <b>DESCRIPTION:</b>             | Appointment of a service provider to provide Organisational Development (OD) support in the form of facilitation and coordination services for the Lesotho Highlands Water Project (LHWP) Team Effectiveness Implementation Plan |
| <b>DURATION:</b>                | 12 Months  |
| <b>PROPOSED BID PROCESS:</b>    | RFQ  |
| <b>DIVISION UNIT:</b>           | HR&OD  |
| <b>ISSUE DATE:</b>              | 3 December 2024  |
| <b>CLOSING DATE:</b>            | 13 December 2024 @ 11H00 a.m.  |
| <b>RFQ VALIDITY PERIOD</b>      | 30 Days (from RFQ closing date)  |
| <b>SUBMISSION OF PROPOSALS:</b> | <a href="mailto:tenders07@tcta.co.za">tenders07@tcta.co.za</a>   |
| <b>ENQUIRIES</b>                | <a href="mailto:tenders07@tcta.co.za">tenders07@tcta.co.za</a>   |

**BACKGROUND**

HR&OD has been working with the LHWP to move the RSA Delegates and the Maseru office staff towards greater team effectiveness. The LHWP Team Effectiveness Implementation Plan outlines several initiatives critical for the effective functioning of the LHWP team. Currently the Senior Manager CoE in HR&OD is project managing the team effectiveness for the LHWP team, however additional support is required to effectively implement the project on a day-to-day basis.

The service provider will provide virtual facilitation and coordination services towards the effective implementation, monitoring and reporting of the team effectiveness implementation plan. Extensive liaison is required with the key stakeholders who are as follows:

- The RSA Delegation, especially the Chief Delegate (6 Delegates)
- The Maseru Office staff (9 staff members)
- HR&OD, specifically the HRBP and the Senior Manager: CoE, HR&OD

**SCOPE OF WORK**

## DETAILED DESCRIPTION OF GOODS/SERVICES

1. TCTA requires the services of a service provider who can provide TCTA with dedicated OD Consultant services to provide facilitation and coordination services for approximately 65 hours per month.
2. The services required are as follows:
  - 2.1. Expert Facilitation Services for discussions, team meetings and workshops to achieve the objectives set out in the implementation plan.
  - 2.2. Project Coordination services to ensure effective communications and the scheduling of meetings and workshops
  - 2.3. Report writing services arising from meetings and workshops and the resolutions taken therefrom
  - 2.4. Monitoring of team effectiveness plan implementation with RSA delegates and Maseru Office staff
  - 2.5. Change Management Plan Development and Implementation
  - 2.6. Business Plan development
  - 2.7. Job Profile Development for all Roles in the LHWP
  - 2.8. Performance Management Policy and Procedure Implementation

## COMPANY EXPERIENCE REQUIRED

- The bidder must have at least 3 projects in the Facilitation and Project Coordination of Organisational Development Projects. The Bidder must provide a minimum of 3 relevant reference letters (on clients' letterheads) signed by their clients and containing all contact details (name & surname, telephone number & email address) pertaining to the Facilitation and Project Coordination of Organisational Development Projects.

## PERSONNEL EXPERIENCE AND QUALIFICATIONS REQUIRED

- The Organisational Development (OD) Specialist must have a minimum of 5 years' working experience in the facilitation and project coordination of Organisational Development Projects.
- A Postgraduate Diploma or Honours Degree equivalent to NFQ Level 8 in Industrial Psychology, Human Resources, Project Management or other Business-Related Fields.

## DELIVERABLES

The deliverables below do not limit the scope of work but provides specific performance requirements relating to the service provider's contractual obligations. The service provider will still be required to provide the entire scope of work in full. This consultant will be required to execute work as guided by the TCTA Project Manager. This work is not at a strategic level.

|    | Deliverables  | Evidence             | Measure                     | Timeline                        |
|----|---|----------------------|-----------------------------|---------------------------------|
| 1. | Provision of effective Facilitation services for team effectiveness | Participant Feedback | Within Human Resources best | According to Team effectiveness |

|   |  |   |  |   |
|---|--|---|--|---|
|   | discussions  |   | practice project requirements  | implementation plan                                 |
| 2 | Effective Project coordination and scheduling                            |   | Accurate and effective coordination, liaison, diary management and scheduling        | According to Team effectiveness implementation plan |
| 3 | Effective Project monitoring and reporting                               | Regular project status reports and workshop reports | Accurate and on time according to project plan                                       | According to Team effectiveness implementation plan |
| 4 | Change Management Plan and implementation                                | Change management Plan Implementation reports       | According to Change Management best practice   | According to Team effectiveness implementation plan |
| 5 | Business Plan Development  | Business Planning document                          | Aligned to LHWP strategic objectives   | According to Team effectiveness implementation plan |
| 6 | Job profiles for all roles in the LHWP                                   | Job profile documents                               | Aligned to LHWP strategy, structure and business plans                               | According to Team effectiveness implementation plan |
| 7 | Performance Management Policy and Procedure Implementation               | Performance contracts and review documents          | Aligned to TCTA policy and procedure and LHWP strategy, structure and business plans | According to Team effectiveness implementation plan |
| 8 | Timesheets accurately reflecting the time spent on each task on each day | Timesheet   | Timesheet should correspond to actual time spent                                     | Simultaneously with each invoice                    |

## RETURNABLES

| MANDATORY  | NON-MANDATORY  |
|--|--|
| <p><b><u>Company Experience Required</u></b><br/>The bidder must provide a <b>minimum of three (3) reference letters</b> in Facilitation and Project Coordination of Organisational Development Projects.</p>  | SARS Tax Compliance Tax Pin. Bidders to populate their Tax Compliance Status Pin on SBD 1 and provide the letter of authority or board resolution for the authorised representative. |
| <p><b><u>Personnel Experience of the OD Specialist</u></b></p> <ul style="list-style-type: none"> <li>• A comprehensive CV with a minimum of <b>five (5) years'</b> working experience in experience in the facilitation and project coordination of Organisational Development Projects.</li> <li>• A Postgraduate Diploma or Honours Degree equivalent to NFQ Level 8 in Industrial Psychology, Human Resources, Project Management or other business-related fields.</li> </ul> | SCM Bidding Forms: SBD1, SBD 4 & SBD 6.1 must be fully completed and signed.   |

A valid BBEE Certificate issued by a Verification Agency Accredited by SANAS, or a Sworn Affidavit for EME and QSE. Consolidated BBEE for Joint Venture tenderers issued by Agency Accredited by SANAS, or a Sworn Affidavit for EME and QSE (**Refer to Annexure F and G**). **Bidders must complete one of the Sworn Affidavit applicable to their company (EME/QSE).**

**No points will be awarded if the bidders' Sworn Affidavit does not comply with the requirements outlined in ANNEXURE A.**

**FUNCTIONAL CRITERIA**

**Bidders must obtain a minimum of 30 points out of 50 points to qualify for evaluation on Price and Specific Goals. Bidders that score less than 30 points for functionality will be disqualified at this stage.**

| CRITERIA                  | SUB-CRITERIA  | POINTS           |
|---------------------------|---|------------------|
| <b>Company Experience</b> | <p>The bidder must have at least 3 projects in Facilitation and Project Coordination of Organisational Development Projects. The Bidder must provide a minimum of 3 relevant reference letters (on clients' letterheads) signed by their clients and containing all contact details (name &amp; surname, telephone number &amp; email address) pertaining to the Facilitation and Project Coordination of Organisational Development Projects.</p> <ul style="list-style-type: none"> <li>• Less than 3 reference letters in Facilitation and Project Coordination of Organisational Development Projects = <b>Disqualification</b></li> <li>• 3 reference letters in Facilitation and Project Coordination of Organisational Development Projects = <b>10 Points</b></li> <li>• 4 reference letters in Facilitation and Project Coordination of Organisational Development Projects = <b>15 Points</b></li> <li>• 5 or more reference letters in Facilitation and Project Coordination of Organisational Development Projects = <b>20 Points</b></li> </ul> <p><b>NOTE:</b></p> <ul style="list-style-type: none"> <li>• <b>TCTA reserves the right to contact these organizations, without prior notice to the bidder.</b></li> </ul> | <b>20 Points</b> |

|  |  |                  |
|--|--|------------------|
| <b>Personnel Experience and Qualifications</b> | <p>The Organisational Development (OD) Specialist must have a minimum of 5 years' working experience in the facilitation and project coordination of Organisational Development Projects. A Postgraduate Diploma or Honours Degree equivalent to NFQ Level 8 in Industrial Psychology, Human Resources, Project Management or other business-related fields.</p> <p><b><u>Working experience in the facilitation and project coordination of Organisational Development Projects</u></b></p> <ul style="list-style-type: none"> <li>• Less than five (5) years' working experience in the facilitation and project coordination of Organisational Development Projects = <b>Disqualification</b></li> <li>• Five (5) years' working experience in the facilitation and project coordination of Organisational Development Projects = <b>10 Points</b></li> <li>• For each year of working experience above 5 years, bidders will score an additional two (2) points to the maximum of <b>10 points</b></li> </ul> <p><b>NOTE:</b></p> <ul style="list-style-type: none"> <li>• <b>Bidders must submit a comprehensive CV detailing the working experience in the facilitation and project coordination of Organisational Development Projects</b></li> </ul> | <b>20 Points</b> |
|  | <p><b><u>Qualifications</u></b></p> <ul style="list-style-type: none"> <li>• No Postgraduate Diploma or Honours Degree equivalent to NFQ Level 8 in Industrial Psychology, Human Resources, Project Management or other business-related fields = <b>Disqualification</b></li> <li>• Postgraduate Diploma or Honours Degree equivalent to NFQ Level 8 in Industrial Psychology, Human Resources, Project Management or other business-related fields = <b>10 Points</b></li> </ul>   | <b>10 Points</b> |
| <b>Total Score</b>                             |  | <b>50 Points</b> |

## SPECIFIC GOALS

The below table will be used to calculate the score out of 20 for preference points: -

| B-BBEE Status Level of Contributor | Number of Points |
|------------------------------------|------------------|
| 1                                  | 20               |
| 2                                  | 18               |
| 3                                  | 14               |
| 4                                  | 12               |
| 5                                  | 8                |
| 6                                  | 6                |
| 7                                  | 4                |
| 8                                  | 2                |
| Non-compliant contributor          | 0                |

Any bidder who fails to meet the specific goals will not be disqualified from the process and will score 0 for Specific Goals. NB - Bidders must submit valid certified copies of their B-BBEE Certificates/Sworn Affidavits which stipulates their B-BBEE Status Level of Contributor to claim preference points. Furthermore, no points will be awarded if the bidders' Sworn Affidavit does not comply with the requirements outlined in ANNEXURE A. Where a B-BBEE Certificate is issued by a withdrawn verification agency, no points will be awarded as the B-BBEE Certificate will be deemed invalid.

**Preferential Points Calculation** - The weighting of the Preferential points calculation is as follows:

Price = 80  
 Specific Goals = 20  
 Total Score = 100

## TERMS AND CONDITIONS

TCTA'S Standard Conditions of Bid shall apply to this bid. TCTA reserves the right to cancel or not to award this bid in accordance with its standard Conditions of Bid.

## ANNEXURES

|          |  |
|----------|--|
| <b>A</b> | B-BBEE SWORN AFFIDAVIT REQUIREMENTS FOR EME AND QSE            |
| <b>B</b> | SBD 1 – INVITATION TO BID                                      |
| <b>C</b> | SBD 4 – BIDDERS DISCLOSURE                                     |
| <b>D</b> | SBD 6.1 – IN TERMS OF PPR 2022                                 |
| <b>E</b> | SWORN AFFIDAVIT – B-BBEE EXEMPTED MICRO ENTERPRISE – GENERAL   |
| <b>F</b> | SWORN AFFIDAVIT – B-BBEE QUALIFYING SMALL ENTERPRISE – GENERAL |

## PRICING SCHEDULE

***Appointment of a service provider to provide Organisational Development (OD) support in the form of facilitation and coordination services for the Lesotho Highlands Water Project (LHWP) Team Effectiveness Implementation Plan for 12 months***

| Description  | Resource          | Estimated Hours per month (A) | Rate per Hour (B) | Total cost per month (A x B) = C | Total Cost for 12 months (C x 12) |
|--|-------------------|-------------------------------|-------------------|----------------------------------|-----------------------------------|
| OD Facilitation Services                               | 1 x OD Specialist | 65                            |                   |                                  |                                   |
| <b>DISBURSEMENTS (INCLUDING TRAVEL, PRINTING ETC.)</b> |                   |                               |                   |                                  |                                   |
| <b>TOTAL EXCLUDING VAT</b>                             |                   |                               |                   |                                  |                                   |
| <b>15% VAT</b>   |                   |                               |                   |                                  |                                   |
| <b>GRAND TOTAL INCLUDING VAT</b>                       |                   |                               |                   |                                  |                                   |

**NB:**

- If the price offered by the highest scoring bidder is not market related, TCTA reserves the right not to award to that bidder in terms of its Procurement policies.
- Price must be reflected Excluding and Including VAT.
- All prices must include disbursements.
- Prices must be firm and unconditional.

## **ANNEXURE A: B-BBEE SWORN AFFIDAVIT REQUIREMENTS FOR EME AND QSE**

**The following information is required for the Sworn Affidavits to be valid: -**

1. Name/s of deponent as they appear in the identity document and the identity number;
2. Designation of the deponent as either the director, owner or member must be indicated in order to know that person is duly authorised to depose of an affidavit;
3. Name of enterprise as per enterprise registration documents issued by the CIPC, where applicable, and enterprise business address.;
4. Percentage of black ownership, black female ownership and designated group. In the case of specialised enterprises as per Statement 004, the percentage of black beneficiaries must be reflected;
5. Indicate total revenue for the latest financial year and whether it is based on audited financial statements or management accounts;
6. Full financial year end as per the enterprise's registration documents, which was used to determine the total revenue. Example 28 February 2022;
7. B-BBEE Status level. An enterprise can only have one status level;
8. Nature of business;
9. VAT Number;
10. Date deponent signed and date of Commissioner of Oath must be the same;
11. Commissioner of Oath cannot be an employee or ex officio of the enterprise because, a person cannot by law, commission a sworn affidavit in which they have an interest;
12. Correct Sector Codes Affidavit to be used.



**PART A  
INVITATION TO BID**

**YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)**

|             |                               |               |                  |               |         |
|-------------|-------------------------------|---------------|------------------|---------------|---------|
| BID NUMBER: | 039/2024/HR&OD/CONSULTANT/RFQ | CLOSING DATE: | 13 DECEMBER 2024 | CLOSING TIME: | 11h00am |
|-------------|-------------------------------|---------------|------------------|---------------|---------|

|             |  |
|-------------|--|
| DESCRIPTION | APPOINTMENT OF A SERVICE PROVIDER TO PROVIDE ORGANISATIONAL DEVELOPMENT (OD) SUPPORT IN THE FORM OF FACILITATION AND COORDINATION SERVICES FOR THE LESOTHO HIGHLANDS WATER PROJECT (LHWP) TEAM EFFECTIVENESS IMPLEMENTATION PLAN |
|-------------|--|

**BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)**

[tenders07@tcta.co.za](mailto:tenders07@tcta.co.za)

**BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO**

|                  |  |
|------------------|--|
| CONTACT PERSON   | EVANS KHOSA  |
| TELEPHONE NUMBER | N/A  |
| FACSIMILE NUMBER | N/A  |
| E-MAIL ADDRESS   | <a href="mailto:tenders07@tcta.co.za">tenders07@tcta.co.za</a> |

**TECHNICAL ENQUIRIES MAY BE DIRECTED TO:**

|                  |  |
|------------------|--|
| CONTACT PERSON   | UMA HIRA   |
| TELEPHONE NUMBER | N/A  |
| FACSIMILE NUMBER | N/A  |
| E-MAIL ADDRESS   | <a href="mailto:tenders07@tcta.co.za">tenders07@tcta.co.za</a> |

**SUPPLIER INFORMATION**

|                            |                            |  |                                       |
|----------------------------|----------------------------|--|---------------------------------------|
| NAME OF BIDDER             |                            |  |                                       |
| POSTAL ADDRESS             |                            |  |                                       |
| STREET ADDRESS             |                            |  |                                       |
| TELEPHONE NUMBER           | CODE                       |  | NUMBER                                |
| CELLPHONE NUMBER           |                            |  |                                       |
| FACSIMILE NUMBER           | CODE                       |  | NUMBER                                |
| E-MAIL ADDRESS             |                            |  |                                       |
| VAT REGISTRATION NUMBER    |                            |  |                                       |
| SUPPLIER COMPLIANCE STATUS | TAX COMPLIANCE SYSTEM PIN: |  | OR CENTRAL SUPPLIER DATABASE No: MAAA |

|  |   |
|--|---|
| <p><b>1. ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES OFFERED?</b></p> <p><input type="checkbox"/> Yes      <input type="checkbox"/> No</p> <p>[IF YES ENCLOSE PROOF]</p> | <p><b>2. ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES OFFERED?</b></p> <p><input type="checkbox"/> Yes      <input type="checkbox"/> No</p> <p>[IF YES, ANSWER THE QUESTIONNAIRE BELOW]</p> |
|--|---|

**QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS**

|  |  |
|--|--|
| IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?  | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| DOES THE ENTITY HAVE A BRANCH IN THE RSA?  | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?   | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?  | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?  | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| <b>IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.</b> |  |

**PART B  
TERMS AND CONDITIONS FOR BIDDING**

- 3. BID SUBMISSION:**
- 1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
  - 1.2. **ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED (NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.**
  - 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
  - 1.4. **THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).**

- 4. TAX COMPLIANCE REQUIREMENTS**
- 2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
  - 2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
  - 2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
  - 2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
  - 2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED; EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
  - 2.6 WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
  - 2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

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

SIGNATURE OF BIDDER: .....

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

DATE: .....

## BIDDER'S DISCLOSURE

### 1. PURPOSE OF THE FORM

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

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

### 2. Bidder's declaration

2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling 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 table below.

| Full Name | Identity Number | Name of State institution |
|-----------|-----------------|---------------------------|
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |

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<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.

2.2 Do you, or any person connected with the bidder, have a relationship with any person who is employed by the procuring institution? **YES/NO**

2.2.1 If so, furnish particulars:

.....  
.....

2.3 Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract?

**YES/NO**

2.3.1 If so, furnish particulars:

.....  
.....

### **3 DECLARATION**

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

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

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<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.

possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

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

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

.....  
Signature Date

.....  
Position Name of bidder

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

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

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

**1. GENERAL CONDITIONS**

1.1 The following preference point systems are applicable to invitations to tender:

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included);

**1.2 To be completed by the organ of state**

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

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

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

**1.4 To be completed by the organ of state:**

The maximum points for this tender are allocated as follows:

|  | <b>POINTS</b> |
|--|---------------|
| <b>PRICE</b>                                     | <b>80</b>     |
| <b>SPECIFIC GOALS</b>                            | <b>20</b>     |
| <b>Total points for Price and SPECIFIC GOALS</b> | <b>100</b>    |

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

1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

**2. DEFINITIONS**

(a) **“tender”** means a written offer in the form determined by an organ of state in

response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;

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

### **3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES**

#### **3.1. POINTS AWARDED FOR PRICE**

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

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

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

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

##### **3.2.1. POINTS AWARDED FOR PRICE**

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

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmax = Price of highest acceptable tender

#### 4. POINTS AWARDED FOR SPECIFIC GOALS

4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:

4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—

(a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or

(b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,

then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

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

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

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

| CRITERIA OF SPECIFIC GOALS | Number of points allocated (80/20 system)<br>(To be completed by the organ of state) | Number of points claimed (80/20 system)<br>(To be completed by the tenderer) |
|----------------------------|--|--|
| BBBEE-LEVEL                |  |  |
| 1                          | 20   |  |
| 2                          | 18   |  |
| 3                          | 14   |  |
| 4                          | 12   |  |
| 5                          | 8  |  |
| 6                          | 6  |  |



|                           |   |  |
|---------------------------|---|--|
| 7                         | 4 |  |
| 8                         | 2 |  |
| Non-compliant contributor | 0 |  |

**DECLARATION WITH REGARD TO COMPANY/FIRM**

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

4.4. Company registration number: .....

4.5. TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

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

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
  - (a) disqualify the person from the tendering process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person’s conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - (d) recommend that the tenderer or contractor, its shareholders and

directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and

- (e) forward the matter for criminal prosecution, if deemed necessary.

|   |       |
|---|-------|
| .....<br><b>SIGNATURE(S) OF TENDERER(S)</b> |       |
| <b>SURNAME AND NAME:</b>                    | ..... |
| <b>DATE:</b>                                | ..... |
| <b>ADDRESS:</b>                             | ..... |

## ANNEXURE E

### SWORN AFFIDAVIT – B-BBEE EXEMPTED MICRO ENTERPRISE - GENERAL

I, the undersigned,

|                                |  |
|--------------------------------|--|
| <b>Full name &amp; Surname</b> |  |
| <b>Identity number</b>         |  |

Hereby declare under oath as follows:

1. The contents of this statement are to the best of my knowledge a true reflection of the facts.
2. I am a Member / Director / Owner (**Select one**) of the following enterprise and am duly authorised to act on its behalf:

|  |  |
|--|--|
| <b>Enterprise Name:</b>                                |  |
| <b>Trading Name (If Applicable):</b>                   |  |
| <b>Registration Number:</b>                            |  |
| <b>Vat Number (If applicable)</b>                      |  |
| <b>Enterprise Physical Address:</b>                    |  |
| <b>Type of Entity (CC, (Pty) Ltd, Sole Prop etc.):</b> |  |
| <b>Nature of Business:</b>                             |  |
| <b>Definition of “Black People”</b>                    | <p>As per the Broad-Based Black Economic Empowerment Act 53 of 2003 as Amended by Act No 46 of 2013 “Black People” is a generic term which means Africans, Coloureds and Indians –</p> <p>(a) who are citizens of the Republic of South Africa by birth or descent; or</p> <p>(b) who became citizens of the Republic of South Africa by naturalisation-</p> <ol style="list-style-type: none"> <li>i. before 27 April 1994; or</li> <li>ii. on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalization prior to that date;”</li> </ol>   |
| <b>Definition of “Black Designated Groups”</b>         | <p>“Black Designated Groups means:</p> <p>(a)unemployed black people not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution;</p> <p>(b) Black people who are youth as defined in the National Youth Commission Act of 1996;</p> <p>(c) Black people who are persons with disabilities as defined in the Code of Good Practice on employment of people with disabilities issued under the Employment Equity Act;</p> <p>(d) Black people living in rural and underdeveloped areas;</p> <p>(e) Black military veterans who qualify to be called a military veteran in terms of the Military Veterans Act 18 of 2011;”</p> |

3. I hereby declare under Oath that:

- The Enterprise is \_\_\_\_\_% Black Owned using the flow-through principle as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- The Enterprise is \_\_\_\_\_% Black Female Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- The Enterprise is \_\_\_\_\_% Black Designated Group Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- Black Designated Group Owned % Breakdown as per the definition stated above:
  - Black Youth % = \_\_\_\_\_%
  - Black Disabled % = \_\_\_\_\_%
  - Black Unemployed % = \_\_\_\_\_%
  - Black People living in Rural areas % = \_\_\_\_\_%
  - Black Military Veterans % = \_\_\_\_\_%
- Based on the Audited Financial Statements/Financial Statements and other information available on the latest financial year-end of \_\_\_\_\_ (DD/MM/YYYY), the annual Total Revenue was R10,000,000.00 (Ten Million Rands) or less
- Please Confirm on the below table the B-BBEE Level Contributor, **by ticking the applicable box.**

|                           |   |  |
|---------------------------|---|--|
| 100% Black Owned          | <b>Level One</b> (135% B-BBEE procurement recognition level)  |  |
| At least 51% Black Owned  | <b>Level Two</b> (125% B-BBEE procurement recognition level)  |  |
| Less than 51% Black Owned | <b>Level Four</b> (100% B-BBEE procurement recognition level) |  |

4. I know and understand the contents of this affidavit and I have no objection to take the prescribed oath and consider the oath binding on my conscience and on the Owners of the Enterprise which I represent in this matter.

5. The sworn affidavit will be valid for a period of 12 months from the date signed by commissioner.

Deponent Signature: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
 Commissioner of Oaths

Signature & stamp

Date

## ANNEXURE F

### SWORN AFFIDAVIT – B-BBEE QUALIFYING SMALL ENTERPRISE - GENERAL

I, the undersigned,

|                                |  |
|--------------------------------|--|
| <b>Full name &amp; Surname</b> |  |
| <b>Identity number</b>         |  |

Hereby declare under oath as follows:

1. The contents of this statement are to the best of my knowledge a true reflection of the facts.
2. I am a Member / Director / Owner (**Select one**) of the following enterprise and am duly authorised to act on its behalf:

|  |  |
|--|--|
| <b>Enterprise Name:</b>                                |  |
| <b>Trading Name (If Applicable):</b>                   |  |
| <b>Registration Number:</b>                            |  |
| <b>Vat Number (If applicable)</b>                      |  |
| <b>Enterprise Physical Address:</b>                    |  |
| <b>Type of Entity (CC, (Pty) Ltd, Sole Prop etc.):</b> |  |
| <b>Nature of Business:</b>                             |  |
| <b>Definition of “Black People”</b>                    | <p>As per the Broad-Based Black Economic Empowerment Act 53 of 2003 as Amended by Act No 46 of 2013 “Black People” is a generic term which means Africans, Coloureds and Indians –</p> <p>(a) who are citizens of the Republic of South Africa by birth or descent; or</p> <p>(b) who became citizens of the Republic of South Africa by naturalisation-</p> <p style="margin-left: 40px;">i. before 27 April 1994; or</p> <p style="margin-left: 40px;">ii. on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalization prior to that date;”</p>  |
| <b>Definition of “Black Designated Groups”</b>         | <p>“Black Designated Groups means:</p> <p>(a)unemployed black people not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution;</p> <p>(b) Black people who are youth as defined in the National Youth Commission Act of 1996;</p> <p>(c) Black people who are persons with disabilities as defined in the Code of Good Practice on employment of people with disabilities issued under the Employment Equity Act;</p> <p>(d) Black people living in rural and underdeveloped areas;</p> <p>(e) Black military veterans who qualify to be called a military veteran in terms of the Military Veterans Act 18 of 2011;”</p> |

3. I hereby declare under Oath that:

- The Enterprise is \_\_\_\_\_% Black Owned using the flow-through principle as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- The Enterprise is \_\_\_\_\_% Black Female Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- The Enterprise is \_\_\_\_\_% Black Designated Group Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- Black Designated Group Owned % Breakdown as per the definition stated above:
  - Black Youth % = \_\_\_\_\_%
  - Black Disabled % = \_\_\_\_\_%
  - Black Unemployed % = \_\_\_\_\_%
  - Black People living in Rural areas % = \_\_\_\_\_%
  - Black Military Veterans % = \_\_\_\_\_%
- Based on the Audited Financial Statements/ Financial Statements and other information available on the latest financial year-end of \_\_\_\_\_ (DD/MM/YYYY), the annual Total Revenue was between R10,000,000.00 (Ten Million Rands) and R50,000,000.00 (Fifty Million Rands),

6. Please confirm on the table below the B-BBEE level contributor, **by ticking the applicable box.**

|                          |  |  |
|--------------------------|--|--|
| 100% Black Owned         | <b>Level One</b> (135% B-BBEE procurement recognition level) |  |
| At Least 51% black owned | <b>Level Two</b> (125% B-BBEE procurement recognition level) |  |

4. I know and understand the contents of this affidavit and I have no objection to take the prescribed oath and consider the oath binding on my conscience and on the owners of the enterprise which I represent in this matter.

5. The sworn affidavit will be valid for a period of 12 months from the date signed by commissioner.

Deponent Signature: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Commissioner of Oaths  
Signature & stamp  
Date:



# **TRANS- CALEDON TUNNEL AUTHORITY STANDARD CONDITIONS OF CONTRACT**

# **TCTA STANDARD CONDITIONS OF CONTRACT**

## **NOTES**

The purpose of this document is to:

1. Draw special attention to certain general conditions applicable to government bids, contracts and orders; and
  2. To ensure that suppliers 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.



# TCTA STANDARD CONDITIONS OF CONTRACT

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# TCTA STANDARD CONDITIONS OF CONTRACT

## 1. Definitions

The following terms shall be interpreted as indicated:

- 1.1 **“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.
- 1.2 **“Contract price”** means the price payable to the supplier under the contract for the full and proper performance of the supplier’s contractual obligations.
- 1.3 **“Corrupt practice”** means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.
- 1.4 **“Countervailing duties”** are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
- 1.5 **“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.
- 1.6 **“Day”** means calendar day.
- 1.7 **“Delivery”** means delivery in compliance of the conditions of the contract or purchase order.
- 1.8 **“Delivery ex stock”** means immediate delivery directly from stock actually on hand.
- 1.9 **“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 purchase order, the supplier bearing all risks and charges involved until the supplies or goods are so delivered and a valid receipt is obtained.
- 1.10 **“Dumping”** occurs when a private enterprise abroad market its goods on own initiative in the Republic at lower prices than that of the country of origin and which have the potential to harm the local industries in the Republic.
- 1.11 **“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.
- 1.12 **“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.

## TCTA STANDARD CONDITIONS OF CONTRACT

- 1.13 “**GCC**” means the General Conditions of Contract.
- 1.14 “**Goods**” means all of the equipment, machinery, and/or other materials other than services that the supplier is required to supply to the purchaser under the contract or purchase order.
- 1.15 “**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.
- 1.16 “**Local content**” means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- 1.17 “**Manufacture**” means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.18 “**Purchase Order**” means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.19 “**Project site**,” where applicable, means the place indicated in bidding documents, contract or purchase, where the goods or services will be delivered or rendered.
- 1.20 “**Purchaser**” means the organization purchasing the goods or services, and in this instance means Trans-Caledon Tunnel Authority (“TCTA”).
- 1.21 “**Republic**” means the Republic of South Africa.
- 1.22 “**SCC**” means the Special Conditions of Contract.
- 1.23 “**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.
- 1.24 “**Supplier**” means the successful bidder who is awarded the contract to maintain and administer the required and specified services and supply the required and specified goods.
- 1.25 “**Tort**” means in breach of contract.
- 1.26 “**Turnkey**” means a procurement process where one supplier assumes total responsibility for all aspects of the project and delivers the full end product / service required under the contract.
- 1.27 “**Written**” or “**in writing**” means handwritten in ink or any form of electronic or mechanical writing.

## **TCTA STANDARD CONDITIONS OF CONTRACT**

### **2. Application**

- 2.1. These general conditions are applicable to all bids, contracts and purchase 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. Standards**

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

### **4. Use of contract documents and information; inspection.**

- 4.1. 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.
- 4.2. 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.
- 4.3. 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.
- 4.4. 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.

### **5. Patent rights**

- 5.1. 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.

## **TCTA STANDARD CONDITIONS OF CONTRACT**

### **6. Performance security**

- 6.1. Within thirty (30) days of receipt of the notification of contract award the successful bidder shall, where applicable, furnish to the purchaser the performance security of the amount specified in SCC.
- 6.2. 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 as set out in the contract.
- 6.3. 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.
- 6.4. 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 as set out in the contract, including any warranty obligations, unless otherwise specified in SCC.

### **7. Inspections, tests and analyses**

- 7.1. All pre-bidding testing will be for the account of the bidder.
- 7.2. 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 purchaser.
- 7.3. 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.
- 7.4. 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.
- 7.5. 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.

## **TCTA STANDARD CONDITIONS OF CONTRACT**

- 7.6. 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.
- 7.7. 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.
- 7.8. 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.

### **8. Packing**

- 8.1. 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.
- 8.2. 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.

### **9. Delivery and documents**

- 9.1. 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.
- 9.2. Documents to be submitted by the supplier are specified in SCC.

## **TCTA STANDARD CONDITIONS OF CONTRACT**

### **10. Insurance**

10.1. The goods supplied under the contract shall, where applicable, 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.

### **11. Transportation**

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

### **12. Incidental services**

12.1. The supplier may, where applicable, 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.

12.2. 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.

### **13. Spare parts**

13.1. 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
- (c) in the event of termination of production of the spare parts:

## **TCTA STANDARD CONDITIONS OF CONTRACT**

- 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.

### **14. Warranty**

- 14.1. 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.
- 14.2. 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.
- 14.3. The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.
- 14.4. 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.
- 14.5. 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.

### **15. Payment**

- 15.1. The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.
- 15.2. 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.
- 15.3. 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.
- 15.4. Payment will be made in Rand unless otherwise stipulated in SCC.



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### **16. Prices**

16.1. 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.

### **17. Contract amendments**

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

### **18. Assignment**

18.1. The supplier shall not assign to any person, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.

### **19. Subcontracts**

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

### **20. Delays in the supplier's performance**

- 20.1. 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.
- 20.2. 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.
- 20.3. The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.
- 20.4. Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to

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GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 22.2 without the application of penalties.

20.5. 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.

### **21. Penalties**

21.1. 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.

### **22. Termination for default**

22.1. 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.

22.2. 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.

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### **23. Anti-dumping and countervailing duties and rights**

23.1. 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 purchaser is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference shall on demand be paid forthwith by the supplier to the purchaser or the latter may deduct such amounts from moneys (if any) which may otherwise be due to the supplier 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.

### **24. Force Majeure**

- 24.1. 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.
- 24.2. 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.

### **25. Termination for insolvency**

25.1. 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.

### **26. Settlement of Disputes**

- 26.1. 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.

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- 26.2. 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.
- 26.3. Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.
- 26.4. Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.
- 26.5. 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 for goods delivered and /or services rendered according to the prescripts of the contract.

### **27. Limitation of liability**

- 27.1. 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.

### **28. Governing language**

- 28.1. 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.

### **29. Applicable law**

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

### **30. Notices**

- 30.1. Every written acceptance of a bid shall be posted or communicated to the supplier concerned by registered or certified mail or electronic mail and any other notice to him shall be posted

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by ordinary mail or electronic 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.

30.2. 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.

### **31. Taxes and duties**

- 31.1. A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
- 31.2. A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- 31.3. No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the purchaser must verify that the tax matters of the successful bidder are in order. The successful bidder must submit the tax compliance status pin or the Central Supplier Database Master Registration Number which the purchaser will use to confirm the tax status of the successful bidder.

### **32. Transfer of contracts**

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

### **33. Amendment of contracts**

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

### **34. Prohibition of restricted 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 supplier(s) was /were in collusive bidding.
- 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 Competitive Commission for investigation and possible imposition of administrative penalties as contemplated in section 59 of the Competition Act No. 89 of 1998.
- 34.3.** If a bidder(s) or supplier(s) has / have been found guilty by the Competition Commission of

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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 items(s) offered, and / or terminate the contract in whole or part, and /or restrict the bidder(s) or supplier(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 supplier(s) concerned.