

**SECTION A  
INVITATION TO BID**

**SBD1**

<b>YOU ARE HEREBY INVITED TO TENDER FOR REQUIREMENTS OF THE KWAZULU-NATAL DEPARTMENT OF TRANSPORT</b>					
<b>BID NUMBER:</b>	ZNB00069/00000/00/HOD/INF/20/T	<b>CLOSING DATE:</b>	08 October 2021	<b>CLOSING TIME:</b>	11:00
<b>DESCRIPTION</b>	GEOTECHNICAL INVESTIGATION FOR UPGRADING OF MAIN ROAD 16-2 FROM KM 6.900 TO KM 55.754				
<b>TENDER RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)</b>					
<b>Main Entrance Foyer</b>			<b>Monday to Friday: 08:00 until 16:00</b>		
<b>172 Burger Street</b>			<b>Under no circumstances must suppliers submit their Tender offers/ responses to the official whose name appears on the enquiries.</b>		
<b>Pietermaritzburg</b>					
<b>3201</b>					
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>			<b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>		
<b>CONTACT PERSON</b>	Sandile Nkala		<b>CONTACT PERSON</b>	Sbekezelo Nkwanyana	
<b>TELEPHONE NUMBER</b>	033 355 8975		<b>TELEPHONE NUMBER</b>	033 355 0539 or 072 276 5658	
<b>FACSIMILE NUMBER</b>	033 355 8091		<b>FACSIMILE NUMBER</b>	N/A	
<b>E-MAIL ADDRESS</b>	Sandile.Nkala@kzntransport.gov.za		<b>E-MAIL ADDRESS</b>	Sbekezelo.Nkwanyana@Kzntransport.gov.za	
<b>SUPPLIER INFORMATION</b>					
<b>NAME OF BIDDER</b>					
<b>POSTAL ADDRESS</b>					
<b>STREET ADDRESS</b>					
<b>TELEPHONE NUMBER</b>	CODE		NUMBER		
<b>CELLPHONE NUMBER</b>					
<b>FACSIMILE NUMBER</b>	CODE		NUMBER		
<b>E-MAIL ADDRESS</b>					
<b>VAT REGISTRATION NUMBER</b>					
<b>SUPPLIER COMPLIANCE STATUS</b>	<b>TAX COMPLIANCE SYSTEM PIN:</b>		<b>OR</b>	<b>CENTRAL SUPPLIER DATABASE NO:</b>	MAAA
<b>B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE</b>	TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No		<b>B-BBEE STATUS LEVEL SWORN AFFIDAVIT</b>	[TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EME &amp; QSE) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]</b>					
<b>ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		<b>ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]	
<b>QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>					
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**

- 1. BID SUBMISSION:**
- 1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
  - 1.2. **ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.**
  - 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
  - 1.4. IF THE BID WAS INVITED THROUGH A CLOSE QUOTATION PROCESS; WHERE SUPPLIERS WERE SOURCED FROM CSD USING THE COMMODITY PROCESS; SUPPLIERS WHO WERE NOT INVITED WILL NOT BE CONSIDERED.
  - 1.5. USE OF OMISSION IN THE DOCUMENT IS PROHIBITED.
  - 1.6. FAILING TO COMPLY WITH THE ABOVE REQUIREMENTS WILL RESULT IN THE BID BEING NON-RESPONSIVE.
  - 1.7. **THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).**

- 2. TAX COMPLIANCE REQUIREMENTS**
- 2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
  - 2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER’S PROFILE AND TAX STATUS.
  - 2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
  - 2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
  - 2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
  - 2.6 WHERE NO TCS 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.”

- 3. COMPLIANCE AND RETURNABLES: THE FOLLOWING RETURNABLE DOCUMENTS MUST RETURNED WITH THE TENDER DOCUMENT**
- 3.1 SCM APPENDIX 1 INVITATION TO TENDER (SBD1 PART A)
  - 3.2 SCM APPENDIX 2 – TERMS AND CONDITIONS FOR BIDDING (SBD1 PART B)
  - 3.3 SCM APPENDIX 3 – OFFICIAL BRIEFING SESSION/SITE INSPECTION CERTIFICATE
  - 3.4 SCM APPENDIX 4 - PRICE INFORMATION PAGE (MUST BE SIGNED OR THE BID IS INVALID)
  - 3.5 SBD 4 - DECLARATION OF INTEREST FORM
  - 3.6 SBD 6.1 - PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017;
  - 3.7 SBD 6.2 – DECLARATION CERTIFICATE FOR LOCAL PRODUCTION AND CONTENT TOGETHER WITH ANNEXURE C (COMPLETED IF APPLICABLE)
  - 3.8 SBD 8 - DECLARATION OF SUPPLIERS PAST PERFORMANCE FORM
  - 3.9 SBD 9 - CERTIFICATE OF INDEPENDENT BID DETERMINATION.

**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: .....



**transport**

Department:  
Transport  
Province of KwaZulu-Natal

## SECTION B

**Tender Notice and Invitation to Tender – ZNB00069/00000/00/HOD/INF/20/T**

**KwaZulu-Natal Department of Transport invites Geotechnical Engineering Professionals (hereon service providers) to bid to provide Road Geotechnical Investigation for the Upgrade of P16-2 from km 6+900 to km 55+754**

It is estimated that interested service providers, who can do the Geotechnical Investigation for the Upgrading of P16-2 from km 6+900 to km 55+754, who satisfy criteria stated in the Tender Data, may submit Tender offers. The Department reserves the right to award to multiple suppliers

Tender documents will be available for download on [www.kzntransport.gov.za](http://www.kzntransport.gov.za) or [www.etenders.gov.za](http://www.etenders.gov.za)

Queries relating to the issue of these documents may be addressed to Mr. Sbekezelo Nkwanyana **Tel. No. 072 276 5658:**

**E-mail:** [Sbekezelo.Nkwanyana@kzntransport.gov.za](mailto:Sbekezelo.Nkwanyana@kzntransport.gov.za)

**Deadline for the submission of all technical enquiries: 30 September 2021**

**The closing time for receipt of Tenders is 11h00 on 08<sup>th</sup> of October 2021 at KZN Department of Transport, Inkosi Mhlabunzima Maphumulo House, 172 Burger Street, Pietermaritzburg 3201.**

Telegraphic, telephonic, telex, facsimile, e-mail and late Tender Proposals will not be accepted.  
Tender Proposals may only be submitted on the documentation that is issued.

<b>ANNEXURE A</b>	<b>STANDARD BIDDING DOCUMENT</b>	<b>PAGE</b>
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## SECTION C

### SPECIAL INSTRUCTIONS AND NOTICES TO BIDDERS REGARDING THE COMPLETION OF BIDDING FORMS

PLEASE NOTE THAT THIS BID IS SUBJECT TO TREASURY REGULATIONS 16A ISSUED IN TERMS OF THE PUBLIC FINANCE MANAGEMENT ACT, 1999, THE KWAZULU-NATAL SUPPLY CHAIN MANAGEMENT POLICY FRAMEWORK.

1. Unless inconsistent with or expressly indicated otherwise by the context, the singular shall include the plural and visa versa and with words importing the masculine gender shall include the feminine and the neuter.
2. Under no circumstances whatsoever may the bid forms be retyped or redrafted. Photocopies of the original bid documentation may be used, but an original signature must appear on such photocopies.
3. The bidder is advised to check the number of pages and to satisfy himself that none are missing or duplicated.
4. Bids submitted must be complete in all respects.
5. Bids shall be lodged at the address indicated not later than the closing time specified for their receipt, and in accordance with the directives in the bid documents.
6. Each bid shall be addressed in accordance with the directives in the bid documents and shall be lodged in a separate sealed envelope, with the name and address of the bidder, the bid number and closing date indicated on the envelope. The envelope shall not contain documents relating to any bid other than that shown on the envelope. If this provision is not complied with, such bids may be rejected as being invalid.
7. All bids received in sealed envelopes with the relevant bid numbers on the envelopes are kept unopened in safe custody until the closing time of the bids. Where, however, a bid is received open, it shall be sealed. If it is received without a bid number on the envelope, it shall be opened, the bid number ascertained, the envelope sealed and the bid number written on the envelope.
8. A specific box is provided for the receipt of bids, and no bid found in any other box or elsewhere subsequent to the closing date and time of bid will be considered.
9. No bid sent through the post will be considered if it is received after the closing date and time stipulated in the bid documentation, and proof of posting will not be accepted as proof of delivery.
10. No bid submitted by telefax, telegraphic or other electronic means will be considered.
11. Bidding documents must not be included in packages containing samples. Such bids may be rejected as being invalid.
12. Any alteration made by the bidder must be initialed.
13. Use of correcting fluid is prohibited
14. Bids will be opened in public as soon as practicable after the closing time of bid.
15. Where practical, prices are made public at the time of opening bids.
16. If it is desired to make more than one offer against any individual item, such offers should be given on a photocopy of the page in question. Clear indication thereof must be stated on the schedules attached.
17. Bidder must initial each and every page of the bid document.
18. All Professional Service Providers once appointed to a specific panel will sign a service level agreement aligned to the Engineering Council of South Africa which will manage the performance and outputs of the service provider inclusive of penalties.

## SECTION D

### REGISTRATION ON THE CENTRAL SUPPLIERS DATABASE

1. In terms of the National Treasury Instruction Note, all suppliers of goods and services to the State are required to register on the Central Suppliers Database.
2. Prospective suppliers should self-register on the CSD website [www.csd.gov.za](http://www.csd.gov.za).
3. If a business is registered on the Database and it is found subsequently that false or incorrect information has been supplied, then the Department may, without prejudice to any other legal rights or remedies it may have;
  - 3.1 cancel a bid or a contract awarded to such supplier, and the supplier would become liable for any damages if a less favourable bid is accepted or less favourable arrangements are made.
4. **The same principles as set out in paragraph 3 above are applicable should the supplier fail to request updating of its information on the Central Suppliers Database, relating to changed particulars or circumstances.**
5. IF THE SUPPLIER IS NOT REGISTERED AT THE CLOSING TIME OF BID, THE SUPPLIER WILL BE DISQUALIFIED AT THE BID EVALUATION PROCESS.

**SECTION E**  
**DECLARATION THAT INFORMATION ON CENTRAL SUPPLIER DATABASE IS CORRECT AND UP TO DATE**  
(To be completed by bidder)

THIS IS TO CERTIFY THAT I (name of bidder/authorized representative)

.....

....., WHO REPRESENTS (state name of bidder) .....

.....

CSD Registration Number.....

AM AWARE OF THE CONTENTS OF THE CENTRAL SUPPLIER DATABASE WITH RESPECT TO THE BIDDER'S DETAILS AND REGISTRATION INFORMATION, AND THAT THE SAID INFORMATION IS CORRECT AND UP TO DATE AS ON THE DATE OF SUBMITTING THIS BID.

AND I AM AWARE THAT INCORRECT OR OUTDATED INFORMATION MAY BE A CAUSE FOR DISQUALIFICATION OF THIS BID FROM THE BIDDING PROCESS, AND/OR POSSIBLE CANCELLATION OF THE CONTRACT THAT MAY BE AWARDED ON THE BASIS OF THIS BID.

.....  
**SIGNATURE OF BIDDER OR AUTHORISED REPRESENTATIVE**

**DATE:**.....

PRICING SCHEDULE

Name of Bidder.....

Bid Number: ZNB00272/00000/00/HOD/IINF/21/T

Closing Time: 11:00 .....

Closing Date.....

PREAMBLE TO THE SCHEDULE OF PRICES

1. The prices and rates to be inserted in the schedule of prices are to be the full inclusive prices for the work described under the several items. Such prices and rates shall cover all costs and expenses that may be required in and for the execution of the work described, and shall cover the cost of all general risks, liabilities, and obligations set forth or implied in the documents on which the tender is based, as well as overhead charges and profit. Reasonable charges shall be inserted as these shall be used as a basis for assessment of payment for additional work that may have to be carried out.
2. A price or rate is to be entered against each item in the schedule of prices, whether the quantities are stated or not. Failure to indicate a rate for a required will invalidate the tender.
3. Except where a rate only is required, the tendered price for each scheduled item is to be inserted in the "Amount" column. The total tendered price is to be inserted in the Summary of the schedule of prices.
4. Bidder must complete the applicable pricing schedule.
5. All prices and rates provided will be subjected to an annual Consumer Price Index CPI rate fluctuation calculated and applied each year of the contract on the anniversary of the closing date of the bid. The rates will be adjusted annually as per the published CPI rates by Statistics South Africa.

The Tenderer shall price each item in the schedule of prices in **BLACK INK**.

OFFER TO BE VALID FOR 120 DAYS FROM THE CLOSING DATE OF BID.



Bidder's Signature: \_\_\_\_\_

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



**GEOTECHNICAL INVESTIGATION FOR THE UPGRADING OF MAIN ROAD 16-2 FROM KM 6.900 TO KM 55.754**

**NOTE:**

**QUANTITIES TO BE CONFIRMED AFTER APPROVAL OF PRELIMINARY DESIGN DRAWINGS AND CONDUCTING A DETAIL SITE MATERIAL INSPECTION. TENDERER RATES TO COVER COST OF REPORTS.**

Quantity	Description	Unit Measure	Price
	Contractor's establishment - Fixed Charges	L.Sum	
	Contractor's establishment - Time-related charges	Months	
	Contractor's establishment - Health and Safety obligations	Cal. Day	
	Contractor's establishment - Environmental Management	L.Sum	
	Contractor's establishment - Provision of labour (per person)	Hour	
	Provision of drilling rig and equipment - Core drilling rig	Weeks	
	Setting up - Skid setups	No.	
	Setting up - Normal skid setup	No.	
	Setting up - Difficult skid setup	No.	
	Access - Tractor – loader – backhoe	Days	
	Rotary Core Drilling - In category A materials (soils and very weak rock)	m	
	Rotary Core Drilling - In category B materials (soft to hard rock)	m	
	Rotary Core Drilling - In category C materials (very hard rock)	m	
	Rotary Core Drilling - In very closely fractured materials (Extra over Item 10.3)	m	
	Rotary Core Drilling - Triple tube drilling (Extra over Items 10.1 and 10.2)	pull	
	Rotary Core Drilling - Drilling in gravel	m	
	Rotary Core Drilling - Drilling in cobbles and boulders	m	
	Core & material recovery - Soil material recovery in all material types (including gravels, cobbles and boulders)	m	
	Core & material recovery - In category A materials	m	
	Core & material recovery - In category B materials	m	
	Core & material recovery - In category C materials	m	
	Core & material recovery - In category D materials (extra over 12.4)	m	
	Core & material recovery - In very closely fractured material	m	
	Core & material recovery - Triple tube drilling	m	
Incl.	Casing - Casing, which may be removed	m	
Incl.	Casing - Casing in Category B or harder material (extra over 13.1)	m	
Incl.	Casing - Casing in gravel, cobbles or boulders (extra over 13.1)	m	
Incl.	Casing - Casing left in the hole (extra over 13.1)	m	
	Casing - Casing in inclined holes (extra over 13.1)	m	
	Standard penetration tests – UCS	No.	
	Piezometers - Supply 3m long by 50mm Ø uPVC screens with 0,25mm size slots and end-caps	No.	
	Piezometers - Supply 3m long by 50mm Ø uPVC solid pipe and end-caps	No.	
	Piezometers - Installation of standpipe piezometers	No.	
	Core boxes	No.	
	Temporary core shed - Name board	No.	
	Temporary core shed - Steel container, incl. delivery	P.sum	
	Temporary core shed - Mark up for handling & profit	%	
	Core Photography - Core photographs	No.	
	Marking of holes - Standpipe and lockable Steel Cap	No.	
Rate Only	Standing time - Standing time per rig	Hour	
	<b>Sub-total</b>		
	<b>(If a VAT Vendor provide proof of VAT Registration) @ 15%</b>		
	<b>TOTAL</b>		
	<b>Delivery period after order issued</b>	6 Months	

AMOUNT IN WORDS			
VAT REGISTRATION NO.:		VALIDITY PERIOD OF OFFER (in months)	60 days (2 Months)
<b>Supplier Business Stamp</b>			
HAS AN ALTERNATIVE QUOTE BEEN SUBMITTED? <b>YES/NO</b>			
IF APPLICABLE DID THE SUPPLIER ATTEND THE COMPULSORY SITE INSPECTION/BRIEFING SESSION/? <b>YES/NO/NA</b>			
<i>I (full name) _____, in my capacity as _____, the duly authorized representative of _____ (business name) hereby declares that the offer is in accordance with the attached specification, notes to suppliers &amp; accepts all conditions/clauses contained in the said documents.</i>			
Signature of duly authorised representative		Date:	_____

We hereby tender the amount of R\_\_\_\_\_ (in Words) \_\_\_\_\_

\_\_\_\_\_

Name: \_\_\_\_\_

Capacity: \_\_\_\_\_

Duly authorized to sign on behalf of: \_\_\_\_\_

**SIGNATURE:** \_\_\_\_\_  
 (Of person authorised to sign on behalf of the Tenderer)

Date \_\_\_\_\_

**ANNEXURE B**

**Every question must be answered individually on this form, whether a relationship is present or not:  
Failure to do so will invalidate your tender/bid**

**SECTION G**

**SBD 4**

**DECLARATION OF INTEREST**

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

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

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

- 2.1. Full Name of bidder or his or her representative: .....
- 2.2. Identity Number: .....
- 2.3. Position occupied in the Company (director, trustee, shareholder<sup>2</sup>): .....
- 2.4. Company Registration Number: .....
- 2.5. Tax Reference Number: .....
- 2.6. VAT Registration Number: .....

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

<sup>1</sup> "State" means –

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

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

2.7.	Are you or any person connected with the bidder presently employed by the state? <b>Kindly mark the applicable answer with a tick</b> √.	YES NO	
2.7.1	<p>If so, furnish the following particulars:</p> <p>Name of person/director/trustee/shareholder/member: .....</p> <p>Name of state institution at which you or the person connected to the bidder is employed: .....</p> <p>Position occupied in the state institution: .....</p> <p>Any other particulars:</p> <p>.....</p> <p>.....</p> <p>.....</p>		
2.7.2	<p>If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector?</p> <p><b>Kindly mark the applicable answer with a tick</b> √.</p>	YES NO	
2.7.2.1	<p>If yes, did you attach proof of such authority to the bid document?</p> <p><b>Kindly mark the applicable answer with a tick</b> √.</p> <p><u>(Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.</u></p>	YES NO	
2.7.2.2	<p>If no, furnish reasons for non-submission of such proof:</p> <p>.....</p> <p>.....</p> <p>.....</p>		
2.8	<p>Did you or your spouse, or any of the company's directors/ trustees/ members of their spouses conduct business with the state in the previous twelve months?</p> <p><b>Kindly mark the applicable answer with a tick</b> √.</p>	YES NO	
2.8.1	<p>If so, furnish particulars:</p> <p>.....</p> <p>.....</p> <p>.....</p>		
2.9	<p>Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation or adjudication of the bid?</p> <p><b>Kindly mark the applicable answer with a tick</b> √.</p>	YES NO	

2.9.1	If so, furnish particulars. ..... ..... .....					
2.10	Are you, or any person connected with the bidder, aware of any relationship (family, friend, other) between any other bidder and any person employed by the state who may be involved with the evaluation and or adjudication of this bid? <b>Kindly mark the applicable answer with a tick √.</b>	<table border="1"> <tr> <td>YES</td> <td><input type="checkbox"/></td> </tr> <tr> <td>NO</td> <td><input type="checkbox"/></td> </tr> </table>	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
YES	<input type="checkbox"/>					
NO	<input type="checkbox"/>					
2.10.1	If so, furnish particulars. ..... ..... .....					
2.11	Do you, or any person connected with the bidder, have any relationship (family, Do you or any of the directors / trustees / shareholders / members of the company have any interest in any other related companies whether or not they are bidding for this contract? <b>Kindly mark the applicable answer with a tick √.</b>	<table border="1"> <tr> <td>YES</td> <td><input type="checkbox"/></td> </tr> <tr> <td>NO</td> <td><input type="checkbox"/></td> </tr> </table>	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
YES	<input type="checkbox"/>					
NO	<input type="checkbox"/>					
2.11.1	If so, furnish particulars. ..... ..... .....					

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

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

**4. DECLARATION**

I, THE UNDERSIGNED (NAME).....

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

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of bidder

**SECTION H**

**AUTHORITY TO SIGN A BID**

**BIDDERS MUST COMPLETE THE RELEVANT APPLICABLE SECTION: A, B, C, D, E, F & G HEREUNDER**

**A. CLOSE CORPORATION**

In the case of a close corporation submitting a bid, a certified copy of the Founding Statement of such corporation shall be included with the bid, together with the resolution by its members authorizing a member or other official of the corporation to sign the documents on their behalf.

By resolution of members at a meeting on ..... 20..... at .....  
.....Mr/Ms....., whose  
signature appears below, has been authorised to sign all documents in connection with this bid  
on behalf of (Name of Close Corporation) .....  
.....

**SIGNED ON BEHALF OF A CLOSE CORPORATION..... (PRINT NAME)**

**IN HIS/HER CAPACITY AS ..... DATE: .....**

**SIGNATURE OF SIGNATORY: .....**

**WITNESSES:**

1. ....
2. ....

**B. COMPANIES**

If a Bidder is a company, a certified copy of the resolution by the board of directors, personally signed by the chairperson of the board, authorising the person who signs this bid to do so, as well as to sign any contract resulting from this bid and any other documents and correspondence in connection with this bid and/or contract on behalf of the company must be submitted with this bid, that is before the closing time and date of the bid

**AUTHORITY BY BOARD OF DIRECTORS**

By resolution passed by the Board of Directors on.....20....., Mr/Mrs.....  
..... (whose signature appears  
below) has been duly authorised to sign all documents in connection with this bid on behalf of  
(Name of Company) .....

IN HIS/HER CAPACITY AS: .....

SIGNED ON BEHALF OF COMPANY: .....(PRINT NAME)

SIGNATURE OF SIGNATORY: ..... DATE: .....

**WITNESSES:**

1. ....

2. ....

**C. SOLE PROPRIETOR (ONE – PERSON BUSINESS)**

I, the undersigned..... hereby confirm that I am the sole owner of the business trading as .....

.....

.....  
**SIGNATURE**

.....  
**DATE**

**D. PARTNERSHIP**

The following particulars in respect of every partner must be furnished and signed by every partner:

Full name of partner	Residential address	Signature
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

We, the undersigned partners in the business trading as.....

hereby authorise ..... to sign this bid as well as any contract resulting from the bid and any other documents and correspondence in connection with this bid and /or contract on behalf of

.....  
**SIGNATURE**

.....  
**SIGNATURE**

.....  
**SIGNATURE**

.....  
**DATE**

.....  
**DATE**

.....  
**DATE**



**E CO-OPERATIVE**

A certified copy of the Constitution of the co-operative must be included with the bid, together with the resolution by its members authoring a member or other official of the co-operative to sign the bid documents on their behalf.

By resolution of members at a meeting on ..... 20..... at .....

Mr/Ms ..... , whose signature appears below, has been authorised to sign all documents in connection with this bid on behalf of (Name of co-operative) .....

**SIGNATURE OF AUTHORISED REPRESENTATIVE/SIGNATORY:**

.....

**IN HIS/HER CAPACITY AS:** .....

**DATE:** .....

**SIGNED ON BEHALF OF CO-OPERATIVE:** .....

**NAME IN BLOCK LETTERS:** .....

**WITNESSES:**

1. ....

2. ....

**F JOINT VENTURE**

If a Bidder is a joint venture, a certified copy of the resolution/agreement passed/reached signed by the duly authorized representatives of the enterprises, authorizing the representatives who sign this bid to do so, as well as to sign any contract resulting from this bid and any other documents and correspondence in connection with this bid and/or contract on behalf of the joint venture must be submitted with this bid, before the closing time and date of the bid.

**AUTHORITY TO SIGN ON BEHALF OF THE JOINT VENTURE**

By resolution/agreement passed/reached by the joint venture partners on.....20..... ,

Mr/Mrs....., Mr/Mrs.....

Mr/Mrs..... and Mr/Mrs.....(whose signatures appears below) has been duly authorised to sign all documents in connection with this bid on behalf of:

(Name of Joint Venture) .....

**IN HIS/HER CAPACITY AS:** .....

**SIGNED ON BEHALF OF COMPANY:** .....  
(PRINT NAME)  
**SIGNATURE:** ..... **DATE:** .....

**IN HIS/HER CAPACITY AS:** .....

**SIGNED ON BEHALF OF COMPANY:** .....  
(PRINT NAME)  
**SIGNATURE:** ..... **DATE:** .....

**IN HIS/HER CAPACITY AS:** .....

**SIGNED ON BEHALF OF COMPANY:** .....  
(PRINT NAME)  
**SIGNATURE:** ..... **DATE:** .....

**IN HIS/HER CAPACITY AS:** .....

**SIGNED ON BEHALF OF COMPANY:** .....  
(PRINT NAME)  
**SIGNATURE:** ..... **DATE:** .....

**G. CONSORTIUM**

If a bidder is a consortium, a certified copy of the resolution/agreement passed/reached signed by the duly authorized representatives of concerned enterprises, authorizing the representatives who sign this bid to do so, as well as to sign any contract resulting from this bid and any other documents and correspondence in connection with this bid and/or contract on behalf of the consortium must be submitted with this bid, before the closing time and date of the bid.

**AUTHORITY TO SIGN ON BEHALF OF THE CONSORTIUM**

By resolution/agreement passed/reached by the consortium on.....20...,

Mr/Mrs..... and Mr/Mrs ..... (whose signatures appears below) has been duly authorised to sign all documents in connection with this bid on behalf of:

(Name of Consortium) .....

**IN HIS/HER CAPACITY AS:** .....

**SIGNATURE:** ..... **DATE:** .....

**SECTION I**

**CONDITIONS OF BID**

1. I/We hereby bid to supply all or any of the supplies and/or to render all or any of the services described in the attached documents to the KwaZulu-Natal Provincial Administration (hereinafter called the "Province") on the terms and conditions and be in accordance with the specifications stipulated in the bid documents (and which shall be taken as part of and be incorporated into this bid) at the prices and on the terms regarding time for delivery and/or execution inserted therein.
  
2. I/we agree that:
  - (a) the offer herein shall remain binding upon me and open for acceptance by the Province during the validity period indicated and calculated from the closing time of the bid;
  - (b) this bid and its acceptance shall be subject to Treasury Regulations 16A issued in terms of the Public Finance Management Act, 1999, the KwaZulu-Natal Supply Chain Management Policy Framework, the Provincial Treasury issued Practice Notes, and the KwaZulu-Natal General Conditions of Contract, with which I/we are fully acquainted;
  - (c) if I/we withdraw my bid within the period for which I/we have agreed that the bid shall remain open for acceptance, or fail to fulfil the contract when called upon to do so, the Province may, without prejudice to its other rights, agree to the withdrawal of my bid or cancel the contract that may have been entered into between me and the Province. I/we will then pay to the Province any additional expenses incurred by the Province having either to accept any less favourable bid or, if fresh bids have to be invited, the additional expenditure incurred by the invitation of fresh bids and by the subsequent acceptance of any less favourable bid. The Province shall have the right to recover such additional expenditure by set-off against monies which may be due to me under this or any other bid or contract or against any guarantee or deposit that may have been furnished by me or on my behalf for the due fulfillment of this or any other bid or contract and pending the ascertainment of the amount of such additional expenditure to retain such monies, guarantee or deposit as security for any loss the Province may sustain by reason of my default;
  - (d) if my bid is accepted, the acceptance may be communicated to me by registered post, and that the South African Post Office Limited shall be treated as delivery agent to me;
  - (e) the law of the Republic of South Africa shall govern the contract created by the acceptance of my bid and I choose *domicilium citandi et executandi* in the Republic at (full physical address) :  
.....  
.....
  
3. I/we furthermore confirm that I/we have satisfied myself as to the correctness and validity of my bid: that the price(s), rate(s) and preference quoted cover all of the work/item(s) and my obligations under a resulting contract, and I accept that any mistakes regarding the price(s) and calculations will be at my risk.
  
4. I/we hereby accept full responsibility for the proper execution and fulfillment of all obligations and conditions devolving on me under this agreement, as the Principal(s) liable for the due fulfillment of this contract.
  
5. I/we agree that any action arising from this contract may in all respects be instituted against me and I/we hereby undertake to satisfy fully any sentence or judgment which may be pronounced against me as a result of such action.
  
6. I/we confirm that I/we have declared all and any interest that I or any persons related to my business has with regard to this bid or any related bids by completion of the Declaration of Interest Section.

**7. CERTIFICATION OF CORRECTNESS OF INFORMATION SUPPLIED IN THIS DOCUMENT**

I/we, THE UNDERSIGNED, WHO WARRANT THAT I AM DULY AUTHORISED TO DO SO ON BEHALF OF THE BIDDER, CERTIFY THAT THE INFORMATION SUPPLIED IN TERMS OF THIS DOCUMENT IS CORRECT AND TRUE, THAT THE SIGNATORY TO THIS DOCUMENT IS DULY AUTHORISED AND ACKNOWLEDGE THAT:

- (1) The bidder will furnish documentary proof regarding any bidding issue to the satisfaction of the Province, if requested to do so.
- (2) If the information supplied is found to be incorrect and/or false then the Province, in addition to any remedies it may have, may:-
  - (a) Recover from the contractor all costs, losses or damages incurred or sustained by the Province as a result of the award of the contract, and/or
  - (b) Cancel the contract and claim any damages which the Province may suffer by having to make less favourable arrangements after such cancellation.

SIGNED ON THIS ..... DAY OF ..... 20 ..... AT .....

.....  
SIGNATURE OF BIDDER OR DULY AUTHORIZED REPRESENTATIVE                      NAME IN BLOCK LETTERS

ON BEHALF OF (BIDDER'S NAME) .....

CAPACITY OF SIGNATORY .....  
NAME OF CONTACT PERSON (IN BLOCK LETTERS, PLEASE) .....

.....  
POSTAL ADDRESS .....

.....

TELEPHONE NUMBER: .....

FAX NUMBER: .....

CELLULAR PHONE NUMBER: .....

E-MAIL ADDRESS: .....

**SECTION J**  
**SPECIAL CONDITIONS OF CONTRACT**

This bid is subject to the Preferential Procurement Policy Framework Act and the Preferential Procurement Regulations, 2017; General Condition of Contract (GCC) and if applicable any other Special Conditions of Contract. The offers must remain valid for a period of 120 days from the closing date of the submission of bids.

**1. CONTRACT PERIOD**

The contract shall be valid for a period of 6 months.

**2. EVALUATION CRITERIA**

There are three main stages in the evaluation process, namely, ensuring that bids comply with Administrative compliance; Pre-qualification, and Price and Preference.

**2.1. STAGE 1 – ADMINISTRATIVE COMPLIANCE**

Check and verify compliance with the submission and completion of compulsory bid documents viz Annexure A, Sections A to P. Failure to comply with the Administrative Compliance requirements will render the bid invalid.

The following documentation must be submitted:

Criteria	Yes	No	Remarks
<b>Section A</b> - Invitation to Bid.			
<b>Section B</b> – Terms and Conditions for bidding			
<b>Section C</b> – Special instructions regarding completion of bid			
<b>Section D</b> – Registration on central suppliers' database			
<b>Section E</b> - Declaration that Information on Central Suppliers Database is correct and up to date.			
<b>Section F</b> – Pricing schedule			
<b>Section G</b> - Declaration of interest			
<b>Section H</b> – Authority to sign a bid			
<b>Section I</b> - Conditions of Bid			
<b>Section J</b> – Special Conditions of Contract			
<b>Section K</b> – Schedule of variation form goods or services information			
<b>Section L</b> – Schedule of alternative bids			
<b>Section M</b> – National Industrial Participation Programme			
<b>Section N</b> – Preference Points Claim Form in Terms of The Preferential Procurement Regulations 2017			
<b>Section O</b> – Declaration of Bidders Past Supply Chain Management Practices			
<b>Section P</b> - Certificate of Independent Bid Determination			
<b>ANNEXURE C</b> –Specification and Functionality			

## 2.2. STAGE-2 – PRE-QUALIFYING CRITERIA FOR PROFESSIONAL ENGINEERING SERVICE PROVIDER

The Department is applying pre-qualifying criteria for the appointment of professional service provider in terms of Regulation 4 of the PPPFA Regulations, 2017. The following is the pre-qualifying criteria for the Professional Service Providers:

- A tenderer must be B-BBEE Level 1,2 or 3 only.

Any tenderer that fails to comply with the minimum pre-qualification criteria will be deemed non-responsive and not evaluated further.

## 2.3. STAGE 3: PRICE AND PREFERENCE POINTS

Bidders are advised that 80/20 preference points system shall be applied in the evaluation of bids.

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

**80/20**

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

Where

$P_s$  = Points scored for comparative price of bid under consideration

$P_t$  = Comparative price of bid under consideration

$P_{min}$  = Comparative price of lowest acceptable bid

## 2.5.1 Points awarded for B-BBEE Status Level of Contribution

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

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

2.5.1.2 Bidders are required to complete the preference claim form (SBD 6.1) and submit their original and valid B-BBEE status level verification certificate or a certified copy thereof at the closing date and time of the bid in order to claim the B-BBEE status level points.

2.5.1.3 The points scored by a bidder in respect of the level of B-BBEE contribution will be added to the points scored for price.

2.5.1.4 Only bidders who have completed and signed the declaration part of the preference claim form and who have submitted a B-BBEE status level certificate issued by SANAS accredited verification agency will be considered for preference points.

2.5.1.5 A bidder who qualifies as a EME or QSE in terms of the B-BBEE Act must submit a sworn affidavit confirming Annual Total Revenue and Level of Black Ownership.

2.5.1.6 Bidders other than EMEs or QSE must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a verification agency accredited by SANAS to qualify for preference points. A list of approved agencies can be found on the SANAS website at [www.sanas.co.za /directory/bbbeedefault.php](http://www.sanas.co.za/directory/bbbeedefault.php). The certificate must be valid at the time of bid closing.

2.5.1.7 Failure on the part of the bidder to comply with paragraphs 2.5.1.2 and 2.5.1.4 will be deemed that preference points for B-BBEE status level of contribution are not claimed and will therefore be allocated a zero (0).

### **3. APPOINTMENT OF GEOTECHNICAL ENGINEERING PROFFSSIONALS**

The KZNDOT intends to appoint Geotechnical Engineering Professional in the civil engineering industry to provide geotechnical investigation for the upgrading of main road 16-2 from KM 0.000 TO KM 28.200 in the Umzinyathi and King Cetshwayo District Municipalities within the Province of KwaZulu-Natal. Service Provider will be appointed based on capacity, past experience, preference and price.

### **4. GEOTECHNICAL ENGINEERING PROFFSSIONALS (HEREON SERVICE PROVIDER)**

The term "Geotechnical Engineering Professionals" has the same meaning as "Consulting Engineer" as stated in the ECSA Guideline for Services and Processes for Estimating Fees for Registered Persons 2013 which was issued in terms of Section 34(2) of the Engineering Profession Act, 2000 (Act No.46 of 2000).

### **5. ENQUIRIES**

All enquiries regarding technical matters, should be directed to: Mr. Sbekezelo Nkwanyana, Tel. No. 072 276 5658: email [Sbekezelo.Nkwanyana@kzntransport.gov.za](mailto:Sbekezelo.Nkwanyana@kzntransport.gov.za)







## SECTION M

SBD 5

This document must be signed and submitted together with your bid

### THE NATIONAL INDUSTRIAL PARTICIPATION PROGRAMME

#### INTRODUCTION

The National Industrial Participation (NIP) Programme, which is applicable to all government procurement contracts that have an imported content, became effective on the 1 September 1996. The NIP policy and guidelines were fully endorsed by Cabinet on 30 April 1997. In terms of the Cabinet decision, all state and parastatal purchases / lease contracts (for goods, works and services) entered into after this date, are subject to the NIP requirements. NIP is obligatory and therefore must be complied with. The Industrial Participation Secretariat (IPS) of the Department of Trade and Industry (DTI) is charged with the responsibility of administering the programme.

#### 1 PILLARS OF THE PROGRAMME

- 1.1 The NIP obligation is benchmarked on the imported content of the contract. Any contract having an imported content equal to or exceeding US\$ 10 million or other currency equivalent to US\$ 10 million will have a NIP obligation. This threshold of US\$ 10 million can be reached as follows:
- (a) Any single contract with imported content exceeding US\$10 million.  
or
  - (b) Multiple contracts for the same goods, works or services each with imported content exceeding US\$3 million awarded to one seller over a 2 year period which in total exceeds US\$10 million.  
or
  - (c) A contract with a renewable option clause, where should the option be exercised the total value of the imported content will exceed US\$10 million.  
or
  - (d) Multiple suppliers of the same goods, works or services under the same contract, where the value of the imported content of each allocation is equal to or exceeds US\$ 3 million worth of goods, works or services to the same government institution, which in total over a two (2) year period exceeds US\$10 million.
- 1.2 The NIP obligation applicable to suppliers in respect of sub-paragraphs 1.1 (a) to 1.1 (c) above will amount to 30 % of the imported content whilst suppliers in respect of paragraph 1.1 (d) shall incur 30% of the total NIP obligation on a *pro-rata* basis.
- 1.3 To satisfy the NIP obligation, the DTI would negotiate and conclude agreements such as investments, joint ventures, sub-contracting, licensee production, export promotion, sourcing arrangements and research and development (R&D) with partners or suppliers.
- 1.4 A period of seven years has been identified as the time frame within which to discharge the obligation.

## **2 REQUIREMENTS OF THE DEPARTMENT OF TRADE AND INDUSTRY**

- 2.1 In order to ensure effective implementation of the programme, successful bidders (contractors) are required to, immediately after the award of a contract that is in excess of **R10 million** (ten million Rands), submit details of such a contract to the DTI for reporting purposes.
- 2.2 The purpose for reporting details of contracts in excess of the amount of R10 million (ten million Rands) is to cater for multiple contracts for the same goods, works or services; renewable contracts and multiple suppliers for the same goods, works or services under the same contract as provided for in paragraphs 1.1.(b) to 1.1. (d) above.

## **3 BID SUBMISSION AND CONTRACT REPORTING REQUIREMENTS OF BIDDERS AND SUCCESSFUL BIDDERS (CONTRACTORS)**

- 3.1 Bidders are required to sign and submit this Standard Bidding Document (SBD 5) together with the bid on the closing date and time.
- 3.2 In order to accommodate multiple contracts for the same goods, works or services; renewable contracts and multiple suppliers for the same goods, works or services under the same contract as indicated in sub-paragraphs 1.1 (b) to 1.1 (d) above and to enable the DTI in determining the NIP obligation, successful bidders (contractors) are required, immediately after being officially notified about any successful bid with a value in excess of R10 million (ten million Rands), to contact and furnish the DTI with the following information:
- Bid / contract number.
  - Description of the goods works or services.
  - Date on which the contract was accepted.
  - Name, address and contact details of the government institution.
  - Value of the contract.
  - Imported content of the contract, if possible.
- 3.2 The information required in paragraph 3.2 above must be sent to the **Department of Trade and Industry**, Private Bag X 84, Pretoria, 0001 for the attention of Mr Elias Malapane within five (5) working days after award of the contract. Mr Malapane may be contacted on telephone (012) 394 1401, facsimile (012) 394 2401 or e-mail at [Elias@thedti.gov.za](mailto:Elias@thedti.gov.za) for further details about the programme.

## **4 PROCESS TO SATISFY THE NIP OBLIGATION**

- 4.1 Once the successful bidder (contractor) has made contact with and furnished the DTI with the information required, the following steps will be followed:
- a. the contractor and the DTI will determine the NIP obligation;
  - b. the contractor and the DTI will sign the NIP obligation agreement;
  - c. the contractor will submit a performance guarantee to the DTI;
  - d. the contractor will submit a business concept for consideration and approval by the DTI;
  - e. upon approval of the business concept by the DTI, the contractor will submit detailed business plans outlining the business concepts;
  - f. the contractor will implement the business plans; and
  - g. the contractor will submit bi-annual progress reports on approved plans to the DTI.

4.2 The NIP obligation agreement is between the DTI and the successful bidder (contractor) and, therefore, does not involve the purchasing institution.

Bid number .....	Closing date: .....
Name of bidder.....	
Postal address.....	
.....	
Signature.....	Name (in print).....
Date.....	

**PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017**

This preference form must form part of all bids invited. It contains general information and serves as a claim form for preference points for Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution

**NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.**

**1. GENERAL CONDITIONS**

- 1.1 The following preference point systems are applicable to all bids:
- the 80/20 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).
- 1.2 (a) The value of this bid is estimated to not exceed R50 000 000 (all applicable taxes included) and therefore the 80/20 preference point system shall be applicable.
- 1.3 Points for this bid shall be awarded for:
- (a) Price; and
  - (b) B-BBEE Status Level of Contributor
- 1.4 The maximum points for this bid are allocated as follows:

	<b>POINTS</b>
<b>PRICE</b>	80
<b>B-BBEE STATUS LEVEL OF CONTRIBUTOR</b>	20
<b>Total points for Price and B-BBEE must not exceed</b>	<b>100</b>

- 1.5 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.
- 1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.

**2. DEFINITIONS**

- (a) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (b) **“B-BBEE status level of contributor”** means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (c) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services, through price tenders, advertised competitive bidding processes or proposals;
- (d) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (e) **“EME”** means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (f) **“functionality”** means the ability of a tenderer to provide goods or services in accordance with

specifications as set out in the tender documents;

- (g) “**prices**” includes all applicable taxes less all unconditional discounts;
- (h) “**proof of B-BBEE status level of contributor**” means:
  - 1) B-BBEE Status level certificate issued by an authorized body or person;
  - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
  - 3) Any other requirement prescribed in terms of the B-BBEE Act;
- (i) “**QSE**” means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (j) “**rand value**” means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

**3. POINTS AWARDED FOR PRICE**

**3.1 THE 90/10 PREFERENCE POINT SYSTEMS**

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

**80/20**

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

Where

- Ps = Points scored for price of bid under consideration
- Pt = Price of bid under consideration
- Pmin = Price of lowest acceptable bid

**4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR**

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

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

**5. BID DECLARATION**

- 5.1 Bidders who claim points in respect of B-BBEE Status Level of Contribution must complete the following:

**6. B-BBEE STATUS LEVEL OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1**

6.1 B-BBEE Status Level of Contributor: = ..... (maximum of 10 points)

Points claimed in respect of paragraph 6.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

**7. SUB-CONTRACTING**

7.1 Will any portion of the contract be sub-contracted?

(Tick applicable box)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

(a) If yes, indicate:

- i) What percentage of the contract will be subcontracted ..... %
- ii) The name of the sub-contractor.....
- iii) The B-BBEE status level of the sub-contractor.....
- iv) Whether the sub-contractor is an EME or QSE

(Tick applicable box)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

v) Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations, 2017:

**Designated Group: An EME or QSE which is at least 51% owned by:**

- Black people
- Black people who are youth
- Black people who are women
- Black people with disabilities
- Black people living in rural or underdeveloped areas or townships
- Cooperative owned by black people
- Black people who are military veterans

**OR**

- Any EME
- Any QSE

EME	QSE
√	√
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

**8. DECLARATION WITH REGARD TO COMPANY/FIRM**

8.1 Name of company/firm:.....

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
- One-person business/sole propriety
- Close corporation
- Company
- (Pty) Limited

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....  
 .....



.....  
.....

8.6 COMPANY CLASSIFICATION

- Manufacturer
  - Supplier
  - Professional service provider
  - Other service providers, e.g. transporter, etc.
- [TICK APPLICABLE BOX]

8.7 Total number of years the company/firm has been in business: .....

8.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBEE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we 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 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
  - (a) disqualify the person from the bidding 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 bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury 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.

<p>WITNESSES</p> <p>1. ....</p> <p>2. ....</p>
--

<p>.....</p> <p>SIGNATURE(S) OF BIDDER(S)</p> <p>DATE: .....</p> <p>ADDRESS .....</p> <p>.....</p> <p>.....</p>
---

### DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

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

Item	Question	Yes	No
4.1	<p><b>Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector? (Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</b></p> <p>The Database of Restricted Suppliers now resides on the National Treasury's website(<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) and can be accessed by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	<p><b>Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?</b></p> <p>Register for Tender Defaulters can be accessed on the National Treasury's website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	<p><b>Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?</b></p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
4.4	<p><b>Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?</b></p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		

**SBD 8**

**CERTIFICATION**

I, THE UNDERSIGNED (FULL NAME).....  
CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS TRUE AND CORRECT.

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

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

- 1 This Standard Bidding Document (SBD) must form part of all bids<sup>1</sup> invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).<sup>2</sup> Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
  - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
  - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
- 4 This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

<sup>1</sup> Includes price quotations, advertised competitive bids, limited bids and proposals.

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

**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

I, the undersigned, in submitting the accompanying bid:

\_\_\_\_\_  
(Bid Number and Description)

in response to the invitation for the bid made by:

\_\_\_\_\_  
(Name of Institution)

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

I certify, on behalf of: \_\_\_\_\_ that:  
(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
  - (a) has been requested to submit a bid in response to this bid invitation;
  - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience;  
and
  - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder

- 6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium<sup>3</sup> will not be construed as collusive bidding.
- 7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
  - (a) prices;
  - (b) geographical area where product or service will be rendered (market allocation)
  - (c) methods, factors or formulas used to calculate prices;
  - (d) the intention or decision to submit or not to submit, a bid;
  - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
  - (f) bidding with the intention not to win the bid.
- 8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

**<sup>3</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.**

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

## ANNEXURE C: SPECIFICATIONS

### 1. Introduction

The Department of Transport incorporating the KwaZulu-Natal Department of Transport (“KZNDOT”), is responsible for regulation of Transportation in South Africa, that is, public transport, rail transportation, civil aviation, shipping, freight and motor vehicles. Transport, the heartbeat of economic growth and social development is aimed to provide access and mobility within KwaZulu-Natal through the planning and provision of access roads and bridges (including pedestrian bridges) to communities, particularly the previously marginalised rural cost centres with the aim of improving the quality of the lives of our people.

In so doing, we strive to achieve an equitable, balanced road network by effectively managing the road infrastructure network through the planning, construction, repair and maintenance of a balanced road network that supports the Provincial Growth and Development Strategy and the Provincial Spatial Economic Development Strategy in order to promote economic and social development of KwaZulu-Natal. In an effort to create economic transformation i.e. structurally changing the locally economy in order to achieve sustainable economic growth and improve the standards of living of the KwaZulu-Natal people.

### 2. Objective and Aim

**The Purpose of this Bid** is to solicit proposals from professional service providers with adequate skills, capacity and experience for the provision of professional civil engineering consultant services for a period of 6 months.

The successful respondent will be notified by **letter issued by KZNDOT Supply Chain Management and advertised in the Tender bulletin.**

### 3. Overview and Location of Works

A materials investigation is required for the upgrading of P16-2, Km 6+900 to Km 55+754 from Kranskop to Qudeni under Ladysmith Region and Empangeni Region. Currently the road is an existing gravel road and will be upgraded to a surfaced blacktop road.

A locality plan of the road under investigation is provided

### 4. Extent of the Indicative Scope of Works

The work will involve the following:

The materials investigation will incorporate a “centre-line” soil survey, proving of borrow pits and a geotechnical investigation for structure foundations. The investigation will include but not limited to the following:

- Test pits
- Profiling
- Dynamic cone penetrometer (DCP) tests
- Material sampling
- Borrow-pit exploration
- Drilling at borrow pits
- Foundation investigation for structures
- Laboratory testing
- Traffic accommodation
- Geotechnical Engineering Report prepared by Geotechnical Engineer.
- Reporting

#### **4.1 Centre-Line Soil Survey**

The purpose of the centre line soil survey is to determine the quality of the horizon up to 1,0m below road level whether it is located within the existing pavement or on natural ground either side of the existing gravel wearing course. For information. The test pits will be located on the proposed centre line. Where potential unstable ground conditions are encountered the depth of the unstable material must be determined to be able to assess remedial measures.

Where the new finished road level will be in excess of 900mm above the existing road or natural ground, the fill founding conditions are important but only with respect to identifying unstable ground conditions such as heaving clay.

Cuttings will be investigated to assess the quality of material for fill and layerworks as well as the subgrade conditions at bottom of cut.

The centreline test pit positions will be excavated as per the scheduled or as otherwise indicated by the Engineer. Where it is discovered that the proposed location of the test pit would interfere with drainage pipes or underground service crossings the test pit shall be relocated to a position clear of such installations. The excavation shall be sufficient to permit safe working conditions and to allow for adequate quantities of material to be sampled from each horizon for the required geotechnical report and for stabilisation design.

If the material under proposed fills is however found to be potentially unstable due to high moisture content, organic content or high swell/shrinkage potential, the depth of the test pit must be extended and, in addition, a DCP test must be done from the bottom of the pit. The depth of the test pit must be limited to 2.5m when using a TLB.

Excavation of test pit into existing road cuttings will be required where it is anticipated that the material will be suitable for pavement layers. Any additional test pit that is deemed to be required will only be excavated prior to the Engineers approval.

#### **4.2 Dynamic Cone Penetration (DCP) Tests**

The DCP's are to be done at every test pit, to penetrate a depth of 1000mm below surface level, or deeper where requested by the Engineer. DCP tests shall be undertaken at each test pit position before the test pit is excavated.

The guidelines in TMH6: Special Methods for Testing Roads, method ST6 shall be followed.

No DCP must be executed before it is verified that the DCP will not damage any services. If the DCP cannot penetrate to the required depth, a second attempt must be made at a position close by, but still within the proposed test pit excavation area. The cost for the second attempt is deemed to be included in the tendered rates for DCP testing.

Copies of the recorded DCP data must be provided in hard copy format, and the results shall be analysed to provide, as a minimum, the following information:

- The DCP curve
- Layer strength diagram
- Normalised Emod curve
- Emod curve

The DCP computer programme as developed by CSIR Transportek will be of assistance in producing this information.

#### **4.3 Test pits**

The excavation of the test pit shall be 1m x 0.8m minimum in area, to the total depth of 1m. The excavation shall be carried out with due care, so that each type of material encountered in the test pit can be sampled separately. The excavation shall be carried out neatly; the sides of the test pit shall be vertical.

All test pits in the road must be properly backfilled with compacted selected material before opening to traffic. The laboratory shall carry out the backfilling in a manner that ensures no subsidence will occur. If the laboratory wishes to use better quality



material for the full depth of backfilling, then the cost of the material shall be included in the excavation rates. Any subsidence within the excavations shall be repaired without delay by the laboratory, at its own cost. The top 150mm of the backfill must consist of gravel wearing course quality material.

The number of test pits opened each day must be limited by the requirement that they be completely backfilled by sunset and that proper accommodation of traffic measures are in place during all operations.

#### **4.4 Material sampling**

i) Sampling each layer

Representative samples shall be taken for each material type from each layer encountered in the excavation in accordance with SANRAL M1 Manual (Material Code of Procedures) and industry good practice, care shall be taken not to contaminate the sample with material from surrounding layers.

Adequate sample shall be taken in order to conduct the following tests for each layer of each excavation.

SANS 3001 – GR1 – Wet Prep Sieve Analysis

SANS 3001 – GR20 – Determination of MC by oven drying

SANS 3001 – GR 12 – Atterberg Limits

SANS 3001 – GR30 – Max Dry Density (MDD) and Optimum moisture content (OMC)

SANS 3001 – GR40 – California Bearing Ratio (CBR)

The samples from the test pits shall be transported to the laboratory and tested. Material not used in the tests shall be stored for up to 6 months where after it may be disposed of after written instruction from the Engineer.

ii) Replicate samples for Non-traditional additive mix design

Replicate samples shall be taken for each material type found within the upper pavement layers in addition to the samples taken in 2.4) i) above.

The following amounts of additional material are required;

- Granular wearing coarse 50kg
- Other material within the top 300mm of pavement 50kg

All replicate samples and untested samples to be clearly and properly numbered in a manner such that no deterioration of the labels or markings occur during storage of these samples. Provision must be made for storage of these samples in a secure, dry shaded condition for a maximum period of six months from time of sampling at an approved location within the precincts of the testing firm's laboratory.

iii) Moisture content

Representative samples shall be taken from each layer and from within the excavation, as soon as possible, after the layer has been excavated, so as to avoid moisture loss. Moisture samples shall not be taken from the material stockpiled during excavation of the layers. A sample, approximately 500g for materials shall be sealed in an airtight container and properly marked. Moisture contents shall be sampled for all layers within all excavations. All sample sizes of the material to be confirmed or accepted by the Engineer's Representative on site.

## 4.5 Profiling

All test pits are to be profiled as per SANRAL M1 Manual (Material Code of Procedures) and industry good practice. Profiling should commence immediately after excavation and sampling and should be completed within 1 hour from completion of the excavation.

The test pit profile shall consist of the following:

- Date of sampling
- Test pit number
- Location of test pit with respect to road name, offset from existing road centre line, kilometre distance and GPS coordinate in XY format (WGS84).
- Method of excavation
- Depth to bottom of test pit, including whether it was a refusal depth
- Depth to water table
- Photograph of the excavated test pit to be incorporated with the profile.
- Graphical log of the test pit which shows the horizons of each soil type with descriptions as per Jennings' method
- Description of the layers should follow the key facets (**MCCSSO**) utilised for the profiling of soils.

i) Moisture:

In most instances the moisture condition within the specific layer would be uniform, however if the following conditions are evident, they should be recorded in detail:

- Variation in moisture within the layer
- Higher moisture at the top of the layer
- Higher moisture at the bottom of the layer
- Higher moisture adjacent to any cracks within the layer

A sample must be taken of each layer and immediately sealed for the later determination of moisture content in the laboratory. Where there is a visual difference in moisture condition within the layer, separate samples must be taken and tested.

Moisture Condition	Description
No visible signs of moisture	Dry
Sufficient moisture present to cause a colour change and not dry	Slightly moist
Sufficient moisture for a colour change. Moisture close to optimum moisture content	Moist
Sufficient moisture to cause material to stick to the skin. Moisture is above optimum.	Very moist
Free water visible. Below the water table or due to permeability inversion	Wet

ii) Colour:

All colours must be described in terms of the Burland colour chart. To enable a comparison to be made to similar layers in other test pits, the description of colour should be done with the material in a moist state.

iii) Consistency:

Dependant on the availability and accuracy of as-built information, it is usually the norm to utilise phenolphthalein and hydrochloric acid as indicators to determine (or confirm) whether or not a particular layer has been chemically stabilised. It is important to have this information as the description of Consistency is dependent on whether the layer has been cemented or not. Consistency should thus be described according to the tables below, as relevant. In cases where the layer also consists of gravel, pebbles, aggregate particles, an estimate of the proportion of the matrix to the aggregate must be made. The rock type as well as its hardness must also be recorded.

Condition of non-cohesive or granular material	Description
Material can be easily excavated with a shovel	Very loose
Material can be reasonably easily excavated with a shovel	Loose
Material is excavated by means of a shovel with difficulty	Medium dense
Material must be loosened with a pick before it can be excavated	Dense
Difficult to penetrate the material and power tools are required.	Very dense

Condition of silt, clay and very clayey material	Description
Material can be easily kneaded with the fingers	Very soft
Material can be kneaded with the fingers only with a measure of force and can easily be penetrated with the thumbs.	Soft
Material can only be kneaded with difficulty and thumb can only penetrate with substantial effort.	Firm
Material can be penetrated with thumbnail but cannot be kneaded with fingers. A hand pick is required to excavate the material.	Stiff
Indentation with thumbnail is difficult and material can only be excavated with power tools.	Very stiff

iv) Structure:

This indicates the presence, or absence, of joints in the soil and the nature of these joints. In this case with non-cohesive soils with a granular structure, it is not recorded.

Condition	Description
Layer is homogeneous over its full depth	Uniform
Layers within the layer can be observed	Layered (+ no. of layers)
Very thin layer/s evident e.g. biscuit layer	Laminated (+location)
Segregation of material within layer	Segregated
Cracking	Type, size, direction, accumulation of fines etc.
Other	Any other structural characteristic evident

v) Soil Type:

Each layer in the test pit must be described in terms of the soil/material type. The description of the material in the test pit must correlate with the description and classification of the material based on the laboratory test result. The profiles of any test pits can thus only be finalised once the relevant testing has been completed.

vi) Origin:

It is usually stating the obvious that the material within the pavement depth has been transported. Of more value would be the name or identification/purpose of the layer or if possible, the determination of the borrow pit or quarry from which the material was obtained. If this information can be determined, it should be included in the profile. In cuttings however it may be that layer/s comprise of in situ materials. If so then they should be described as *residual*. If identifiable, additional detail as to possible signs of treatment in place (rip and recompaction), or the lack thereof, should be recorded e.g. altered orientation of particles within shale layers, shattered residual rock etc.

Photographs shall be provided showing the following;

a) The excavation site before excavation detailing the following

- The outline of the proposed excavation
- A board giving road number and kilometer distance placed next to proposed excavation.

b) On completion of the excavation, the photograph shall show

- The full depth of the excavation without shadows
- A board giving the road number, kilometer distance and test pit/slot number positioned next to the excavation
- A depth gauge marked clearly in 100mm units, appropriately positioned in the excavation
- Interface of layers marked by inserting nails at 200mm centres along the interface of the various layers. White string is then connected to the nails along each interface.

It is mandatory to use a flash in order to produce photographs of acceptable quality. The photograph must be clear and sharp and not over- or under- exposed with the individual layers clearly visible. No cell phone photography will be accepted.

The photographs shall consist of one colour print and digital image each for before and after excavation as detailed above.

#### **4.6 Borrow pit exploration and drilling**

i) Overview

The borrow pit exploration shall be undertaken in accordance with the Kwazulu-Natal Department of Transport Quarry and Borrow-Pit Procedure Manual and SANRAL M1- Geotechnical and Materials Exploration.

The service provider shall familiarise themselves fully with the various Sections (9 and 39) of the Minerals Act 1991 (Act 50 of 1991) regarding the Application to explore and the Standard Environmental Management Programme for borrow pits and quarries.

Work to be undertaken in terms of the Borrow pit exploration investigations for this project include the following

- a) The contractor's establishment and disestablishment on completion of the work.
- b) The provision of rigs and other equipment.
- c) The setting up of rigs and equipment.
- d) Geophysical survey.
- e) Test pitting.
- f) Rotary core drilling.
- g) Materials testing.
- h) The transportation of samples and core boxes to a place of permanent storage. (Only applicable to quarries).
- i) Survey of the drilling sites. (Only applicable to quarries).

ii) Objective of investigation

The objective of the investigation is to prove the quality of material available and estimate the quantity of compliant material that is available. Previously identified material sources should cover potential sources of layer material, however possible alternative material sources should be prospected for and brought to the attention of the engineer. Prospecting should be done as thoroughly as possible to ensure that the best and most economical sources are located. Material sources need to be located as required by the preliminary long sections for the road and/or mass-haul diagrams provided by the designer.

The following factors are the critical determinants in the identification and selection of a suitable material source:

- a) Material quality and quantity
- b) Haul distance
- c) Environmental sensitivity and impact
- d) Land-use sensitivity and expropriation value

All sites likely to yield layer material for base, sub-base, selected sub grade or gravel wearing course, must be fully investigated by auger hand or TLB excavation supplemented by diamond drilling where hard material is encountered, or deep investigation if necessary.

iii) Material investigations

a) Borrow-pit Investigation

For all borrow pit material, adequate sampling and testing should be carried out to prove the availability and quality of the material. Sample pits should be generally spaced at no greater than 50-meter centres, with at least one indicator test being provided for each horizon of each test pit. However, when an extensive source is envisaged it is not necessary to test more than 30 samples per horizon proposed for use, provided the material remains consistent throughout the area. Special attention should be paid to determining the strength of material from the borrow pit (especially for subbase and selected subgrade material), with respect to its ease of breakdown under compaction. The service provider shall specifically pay attention to whether the borrow materials require crushing.

Sampling should be sufficient to enable all relevant properties of the material, as specified in the materials standards to be established, with at least five tests per parameter.

b) Quarry investigation

Quarry investigation shall be aimed at locating all usable material, while giving consideration to the volume required of each type of layer material. The area and depth investigated should thus be related to the volume of material sought from a particular site.

In the case of a hard rock source which is to be blasted, an accurate site survey is carried out for a distance of 500 m around the area to be worked. This is mandatory as laid down in the Mines and Works Act. Also note any structures which may be affected by the blasting.

The overburden depth should be recorded for each sample hole, which is normally taken down to hard material, or the depth limit of the auger or TLB, whichever is the lesser.

For all quarry material that will require crushing, it will be necessary to carry out diamond core drilling and to present core logs, core photographs plus suitable cores during the eventual construction work tender period, to indicate to the tenderers the potential quarrying characteristics of the material.

Adequate core drilling (supplemented with percussion drilling if warranted) plus sampling and testing should be carried out to prove the spatial availability and quality of the quarry material. Boreholes should be spaced at no greater than 30m centres and to adequate depth. The necessary amount of tests for evaluating the rock cores (or rock fragments representative of an existing quarry face) must be carried out as specified in first phase of this specification. Where considered necessary seismic probes should be carried out.

#### **4.7 Traffic Accommodation**

The persons responsible for undertaking the materials investigation shall provide, erect and maintain the necessary traffic-control devices, road signs, traffic cones, flagmen and speed controls (hereinafter referred to as traffic-control devices) in accordance with these special provisions and as appropriate in terms of the SARTSM and remove them when no longer required. It shall be incumbent upon the persons responsible for supervising traffic accommodation to see to it that the abovementioned traffic-control devices are present where required at all times and are in good condition.

The safety of the travelling public is of utmost importance and every effort shall be made to ensure that all traffic control devices are maintained and effective and that courtesy is extended to the travelling public at all times. All workmen within the work area shall wear appropriate safety apparel and all vehicles shall be equipped with rotating beacons.

The type of construction, spacing and placement of traffic-control devices shall be in accordance with the appropriate short term closure layout, as shown in SARTSM. The recommended arrangements of the traffic control devices shall not be departed from without prior approval of the Engineer.

The details shown for spacing and placement of traffic-control facilities may however, be revised at the discretion of the Engineer where deemed necessary to accommodate local site geometry and traffic conditions.

All temporary road signs shall be mounted on portable supports for the easy moving of signs to temporary positions. The only permitted method of ballasting the sign supports shall consist of durable sandbags filled with sand of adequate mass to prevent signs from being blown over by wind. The cost of the sandbags shall be included in the tendered rates.

Traffic cones manufactured in a fluorescent red-orange or red plastic material only may be used at short term lane deviations. Cones used on all deviations shall be 750 mm high.

### **5. Minimum Specifications**

It is a requirement that the field, as well as laboratory materials testing, be carried out by a SANAS accredited testing firm that has been approved by the Department.

Personnel carrying out, leading, supervising and managing the various facets of the geotechnical investigation shall be professionally registered and preferably also member affiliated as per table below. The laboratory shall provide the details of the person to be responsible for the site together with the persons CV.

Site supervisor nominated by the Registered person shall be on site at all times, for the full duration of the site work.

## **MINIMUM REQUIREMENTS**

- Professional Geotechnical Engineer (Pr. Eng /Pr.Tech. with at least NQF level 7 qualification)
- Engineering Geologist (Registered with SACNASP)
- Geophysicist (Registered with SACNASP)
- Geohydrologist (Registered with SACNASP)

**ANNEXURES:**

**Geotechnical Specialist / Civil Engineer/ Project Manager: Project Leader**





**transport**

Department:  
Transport  
Province of KwaZulu-Natal

**Annexure 1: Geotechnical Specialist / Civil Engineer/ Project Manager \_\_\_\_\_(Name)\_\_\_\_\_**

No.	Client Name, Address, Contact Person and No.	Project Description	Value (incl Vat)	Contract Number	Start date	End date

## ANNEXURE D: GENERAL CONDITIONS OF CONTRACT

### 1. Definitions

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

includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.

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

## **2. Application**

- 2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
- 2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.
- 2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

## **3. General**

- 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.
- 3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from [www.treasury.gov.za](http://www.treasury.gov.za)

## **4. Standards**

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

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

- 5.1 The supplier shall not, without the purchaser's prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 5.2 The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.
- 5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

## **6. Patent rights**

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

## **7. Performance security**

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

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

- 8.1 All pre-bidding testing will be for the account of the bidder.
- 8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department.
- 8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and

analyses shall be defrayed by the purchaser.

- 8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.
- 8.7 Any contract supplies may on or after delivery be inspected, tested or analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.
- 8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of GCC.

## **9. Packing**

- 9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.
- 9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in SCC, and in any subsequent instructions ordered by the purchaser.

## **10. Delivery and documents**

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

## **11. Insurance**

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

## **12. Transportation**

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

## **13. Incidental Services**

- 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:
- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
  - (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
  - (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
  - (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
  - (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.
- 13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.

## **14. Spare parts**

- 14.1 As specified in SCC, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:
- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and
  - (b) in the event of termination of production of the spare parts:
    - (i) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
    - (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

## **15. Warranty**

- 15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.
- 15.2 This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in SCC.
- 15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.
- 15.4 Upon receipt of such notice, the supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.
- 15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

## **16. Payment**

- 16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.
- 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.
- 16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.
- 16.4 Payment will be made in Rand unless otherwise stipulated in SCC.

## **17. Prices**

- 17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized in SCC or in the purchaser's request for bid validity extension, as the case may be.



## **18. Contract amendments**

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

## **19. Assignment**

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

## **20. Subcontracts**

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

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

- 21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.
- 21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.
- 21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.
- 21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.
- 21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.
- 21.6 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without 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.

## **22. Penalties**

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

## **23. Termination for default**

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

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

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

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

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

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

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

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

(iv) the reasons for the restriction.

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

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

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

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

## **25. Force Majeure**

25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.

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

## **26. Termination for insolvency**

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

## **27. Settlement of Disputes**

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

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

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

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

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

- (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
- (b) the purchaser shall pay the supplier any monies due the supplier.

## **28. Limitation of liability**

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

- (a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and
- (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

## **29. Governing language**

29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.

### **30. Applicable law**

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

### **31. Notices**

- 31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice
- 31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

### **32. Taxes and duties**

- 32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
- 32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- 32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.

### **33. National Industrial Participation (NIP) Programme**

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

### **34 Prohibition of Restrictive practices**

- 34.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).
- 34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.