



**higher education
& training**

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA



westcol
Western College for Technical, Vocational Education and Training

**APPOINTMENT OF A SERVICE PROVIDER/S FOR A ONCE-OFF GARDENING AND
CLEANING SERVICES AT WESTERN TVET COLLEGE(WESTERN TVET) FOR
CARLETONVILLE, RANDFONTEIN AND KRUGERSDORP WEST CAMPUSES.**

TENDER NO: WT/2023/0001

Prospective Suppliers who are interested in participating in the afore-mentioned tender are invited to submit their proposal in full compliance to the requirement of this tender document. The completed document with all attachments must be signed and submitted to:
TENDER DOCUMENTS IN THE BID BOX SITUATED AT:

WESTERN TVET COLLEGE

42 JOHNSTONE
AVENUE
HECTORTON
RANDFONTEIN
1760

The closing time and date for receipt for tender documents is at 11:00 on 13 November 2023.

Tender number	WT2023/0001
Date issued	30 October 2023
Tender closing date	13 November 2023 at 11: 00
Compulsory site briefing	Yes

COMPULSORY SITE BRIEFING DATE: 6 November 2023 WILL TAKE PLACE AS FOLLOWS:

CAMPUSES AND ADRESSES	BRIEFING TIMES
CARLETONVILLE CAMPUS 20 SOUTH STREET, CARLETONVILLE	09:00 – 10:00
RANDFONTEIN CAMPUS 5 KIEWIET STREET, HELIKONPARK, RANDFONTEIN	11:30 – 12:30
KRUGERSDORP WEST CAMPUS 69 FLEMMING AVENUE, KRUGERSDORP WEST	13:00 – 14:00

Company Name	Western TVET College	
Address	42 Johnstone Street, Hectorton, Randfontein, 1760	
Contact person	Miss Cheryl Steady	
Contact numbers	(w) 011 692 4004 x 1022	(cell)
Email address	cheryl@westcol.co.za	

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1.1 PURPOSE AND OBJECTIVE OF THE RFP

1.1.1 PURPOSE

The purpose of this RFP is to collect pricing and general information on your business as part of our program to determine the Supplier or Suppliers most capable of supplying these services to WESTERN TVET College. WESTERN TVET College's objective is to identify opportunities to significantly reduce purchase costs and to improve the value added from all Suppliers of this service.

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Confidential

The information is the property of Western TVET College and is not to be used under any circumstances. Initial.....

1.1.2 HOW AGREEMENT IS TO BE FORMED

Responses to this RFP will form the basis for any agreements reached and such responses will represent a firm offer by the Supplier to agree to supply these services to WESTERN TVET College as detailed in the pricing table proposed (see Appendix B).

1.2 EVALUATION CRITERIA

1.2.1 OBJECTIVE

The objective is to provide services at competitive prices, acceptable quality, and on-time delivery. Suppliers selected to participate with WESTERN TVET College to meet this objective can anticipate an on-going commercial relationship.

1.2.2 TOTAL COST

“Total Costs” will be an important parameter for Supplier assessment. “Total Costs” is defined as follows:

“Total Costs” means the sum of all direct and indirect costs associated with the purchase of the services incurred by WESTERN TVET College, including but not limited to the invoice price, services life, service maintenance costs, distribution costs, transaction costs, inventory costs, purchasing administration costs and other costs incurred with the use of these services provided by the Supplier.”

Suppliers can reduce Total Costs through one or more of the following approaches:

- a) Lowering prices for the services.
- b) Lowering logistic costs.
- c) Increasing value from service and support; and/or
- d) Offering superior service performance.

Suppliers are expected to provide highly competitive pricing - pricing reserved for their largest and most important account - both at the outset of the relationship and on an on-going basis. WESTERN TVET College expects to work with Supplier(s) to continuously identify opportunities to reduce total cost.

1.2.3 COST TRANSPARENCY

WESTERN TVET College desires to achieve clarity on the costs of all aspects of the supply of the services. The details requested in this RFP are intended to deliver the required level of transparency. Any gaps in Supplier responses will be interpreted as an unwillingness to participate with WESTERN TVET College in the desired relationship and will seriously disadvantage the Supplier.

1.2.4 SUPPLIER CAPABILITY

WESTERN TVET College will assess the Supplier capability on the basis of WESTERN TVET College’s experience and information provided by Suppliers in response to this RFP.

1.2.5 ADDITIONAL INITIATIVES

Suppliers are encouraged to be creative and develop suggestions to enhance Supplier relationships, quality, and service levels that will be cost effective for WESTERN TVET College. These suggestions may lead WESTERN TVET College to promote options for new services.

1.2.6 EMPOWERMENT

WESTERN TVET College is serious in its commitment to the previously disadvantaged groups and will expect selected suppliers to demonstrate that they share that commitment. Accordingly, a BBBEE Certificate in terms of the Codes of Good Practice issued by an accredited rating agency must be submitted. Guidelines for Submission of Proposal (“RFP”)

2. GUIDELINES FOR SUBMISSION OF PROPOSAL (“RFP”)

2.1 PROPOSAL TERMS

WESTERN TVET College is inviting your company to submit a proposal for the supply services.

WESTERN TVET College intends to move quickly to award business; hence, suppliers are encouraged to provide their best offer under the proposal.

2.1.1 ACCEPTANCE OF PROPOSAL AT WESTERN TVET COLLEGE’S DISCRETION

WESTERN TVET College reserves the right, exercisable at its sole discretion, to review, evaluate and dispose of any offer as it sees fit. Nothing stated in this RFP (whether express or implied) binds or obligates WESTERN TVET College, or any other member of WESTERN TVET College to accept the lowest of any price contained in a Proposal or to accept any offer. Suppliers or their representatives can expect to discuss the details of their Proposal during the evaluation process. WESTERN TVET College reserves the right to negotiate specific terms with the preferred Suppliers prior to the award of a final contract (if any).

2.1.2 CONFORMANCE

All Proposals must conform to each of the requirements set out in this RFP. Non-conforming Proposals may not be considered. As well as providing a conforming Proposal, Suppliers may also submit additional or alternative information for further consideration where they believe that this is in the best interests of WESTERN TVET College.

2.1.3 COVERAGE

While WESTERN TVET College does not require Suppliers to tender on all aspects of this RFP, the broader the range of services quoted on, the greater Supplier’s chance of success.

2.1.4 REQUIREMENTS FOR ADDITIONAL INFORMATION

WESTERN TVET College may require a Supplier to provide additional information to allow further consideration of the Supplier’s Proposal.

2.1.5 COSTS

WESTERN TVET College is not responsible for any costs (whether direct or indirect) incurred by a Supplier in preparing and/or submitting a Proposal or otherwise responding to this RFP or in any subsequent discussions or negotiations. All parties and participants must bear their own costs.

2.1.6 SUBMISSION VALIDITY

Each Proposal submitted by a Supplier must remain valid for a period of 120 days from the required date of submission.

2.1.7 SUPPLIER'S ACCEPTANCE OF TERMS & CONDITIONS

Each Supplier submitting a Proposal agrees to do so on the terms and conditions set out in this RFP. Suppliers who submit responses to this RFP will be deemed to have accepted, and willfully comply with, all of those terms and conditions.

A person fully authorized to commit the Supplier to the terms must sign the Proposal and conditions set out in this RFP. WESTERN TVET College is entitled to assume that there is full authority in the signatory of the person.

2.2 PRICING TRANSPARENCY

WESTERN TVET College wishes to establish an increased level of cost transparency with the chosen Supplier. The level of transparency will be taken as an indication of each Supplier's willingness to participate with WESTERN TVET College in a transparent relationship.

2.3 WESTERN TVET TVET COLLEGE REPRESENTATIVE

All contact and questions regarding this RFP must be made through the WESTERN TVET TVET College representative. Discussion with other parties within or associated with Western TVET TVET College may result in disqualification from this process.

For the RFP, the Western TVET TVET College representative is:

Contact Person	
Name & Surname	Cheryl steady
Telephone number	011 692 4004 ext. 1022
Facsimile	011 692 3404
E-mail address	cheryl@westcol.co.za

2.4 QUESTIONS AND CLARIFICATIONS

All questions regarding this RFP must be directed to the Western TVET TVET Representative by email. Questions must not be submitted by telephone. Western TVET TVET College will accept written questions regarding this RFP up to 8 November 2023.

Answers to all questions will be e-mailed to all Suppliers who have been provided with this RFP.

All questions must include:

- a) the Supplier's name and address.
- b) a reference to the specific section and page number of the RFP; and
- c) the contact's name, telephone number and e-mail address

RFP Schedule of Dates

Date	Action

2.5 RFP FORMAT

All Supplier responses must follow the prescribed format. Refer to "Delivery Instructions" below. Failure to do so may result in disqualification from this RFP/Proposal process.

2.6 DELIVERY INSTRUCTIONS

All Suppliers must submit their responses in the following format:

- **One signed hard copy in a sealed envelope containing the appendixes in the following order.**

Appendix Number	Description of Appendix	Requirement	Circle yes if submitted	
Appendix A	RFP Document	Each page of the RFP document to be initialled by a delegated representative	Yes	No
Appendix A1	Proof of Payment		Yes	No

Appendix B	Technical specifications and pricing	Attach your pricing schedule as per specifications	Yes	No
Appendix C	Proof of Bank Account	Provide Confirmation letter from Bank not older than 3 months	Yes	No
Appendix D	Company registration documents	Provide Company registration documents	Yes	No
Appendix E	ID Copies of directors	Certified & not older than 6 months	Yes	No
Appendix F	Tax Pin	An original valid Tax Pin	Yes	No
Appendix G	Third party insurance	Provide a valid third-party insurance	Yes	No
Appendix H	B-BBEE certification	Provide a valid B-BBEE certificate from a SANAS accredited agency or Auditor registered with the IRBA	Yes	No
Appendix I	Declaration of Interest	Complete Point 9 of this tender document	Yes	No
Appendix J	Registration On Central Supplier Data Base (CSD)	Provide a copy of the full and summary reports of registration on National Treasury Central Supplier Database	Yes	No

The response deadline is **13 November 2023 at 11:00**. Only responses to this RFP received by due date and time will be considered. No exceptions will be considered.

2.7 ADDITIONAL SUPPLIER INFORMATION

WESTERN TVET College may request additional data, discussions, or presentations in support of responses to this RFP. Additionally, WESTERN TVET College may conduct a survey of any Supplier under consideration to confirm or clarify any information provided (including pricing) or to collect more evidence of managerial, financial, and technical abilities, including but not limited to, meetings and visits to current customers served by the Supplier.

2.8 ACKNOWLEDGMENTS AND DISCLAIMERS

2.8.1 NON-BINDING

This RFP and any Proposals are not legally binding on WESTERN TVET College.

None of WESTERN TVET College nor any person purporting to act on behalf of WESTERN TVET College, or any other Member of WESTERN TVET College makes any representations or provide any undertakings to Suppliers other than to invite Suppliers to submit Proposals. WESTERN TVET College intends to use the RFP/Proposal framework as the basis for negotiations with Suppliers. WESTERN TVET College reserves the right to alter that framework at its discretion at any point prior to or during the RFP/Proposal process.

2.8.2 ACCURACY OF INFORMATION

WESTERN TVET College has endeavored to provide correct information in this RFP. However, the onus is on Suppliers to satisfy themselves as to the accuracy, completeness and sufficiency of any information provided to them by WESTERN TVET College, or any person purporting to act on behalf of WESTERN TVET College.

2.8.3 NEGOTIATIONS

On receipt of Proposals from Suppliers, WESTERN TVET College proposes to evaluate those responses based on the requirements of WESTERN TVET College. Negotiations will be conducted with a reduced number of selected Suppliers, which may lead to one or more contracts for the supply of part or all of the services.

WESTERN TVET College reserves the right to vary, at its sole discretion, this negotiation plan at any time and does not make any undertakings in relation to entering into any contracts for the supply of services.

2.8.4 WESTERN TVET COLLEGE'S USE OF INFORMATION

In lodging a Proposal, a Supplier will be deemed to have granted WESTERN TVET College a non-exclusive right to use any information in the Proposal as WESTERN TVET College sees fit, including, without limitation, for operations purposes and future discussions with Suppliers. WESTERN TVET College will also acquire a non-exclusive right to use any processes, sketches, calculations, drawings, computer programs or other data or information submitted with, or included in, a Proposal.

Each Supplier which submits a Proposal agrees to indemnify WESTERN TVET College, and every other associate of WESTERN TVET College against third party claims arising out of any use of any proprietary information submitted with, or included in, the Proposal by WESTERN TVET College, and its or their respective directors, officers, agents, employees, advisers or consultants.

2.8.5 INFORMATION PROVIDED BY WESTERN TVET TVET COLLEGE

Copyright in this RFP is reserved exclusively to WESTERN TVET College.

Any information, which WESTERN TVET College provides in this RFP or otherwise (Information), is provided in confidence and for use solely by the Supplier in the preparation of its Proposal. The Supplier must not disclose it to any third party without WESTERN TVET College's prior approval in writing. Any further information that WESTERN TVET College provides to the Supplier from time to time will be made available on the same terms and conditions as apply under this RFP.

2.8.6 SUPPLIER'S ACKNOWLEDGMENTS

In submitting a Proposal, the Supplier acknowledges and agrees that:

- a) The Information has been independently verified and WESTERN TVET College, all other Associates of WESTERN TVET College and its and their respective directors, officers, advisers, employees and agents, are not under any liability, whether arising from negligence or otherwise, for any representation contained in it or any omission from it or for any error, inaccuracy, incompleteness or other defect in the Information it contains.
- b) This Proposal contains representations and other statements concerning requirements for the supply of the services. No representation, statement or warranty, express or implied, is made by WESTERN TVET College, any other Associate of WESTERN TVET College or its and their respective directors, officers, advisers, employees or agents that any statement, estimate or evaluation contained in it will prove correct. The Supplier relies solely on its own investigations and inquiries in respect of WESTERN TVET College's requirements for the services and the accuracy of the Information.
- c) Without limitation to the above, none of WESTERN TVET College, or any other Associate of WESTERN TVET College, nor any person purporting to act on behalf of WESTERN TVET College, or any other Associate of WESTERN TVET College, will be liable in any way for any losses or liabilities incurred by a Supplier or any other person (including, without limitation, damages, costs, loss of profits or consequential or indirect losses) arising from any cause whatsoever including, without limitation, any error, inaccuracy, incompleteness or other defect in the Information.
- d) The Supplier also acknowledges that WESTERN TVET College, without liability or recourse, may at any time without notice:
- e) Enter into and conclude negotiations with any other Supplier for the supply of part or all of WESTERN TVET College's requirements of the services.
- f) Terminate the RFP/Proposal process in respect of any or all WESTERN TVET College's requirements.
- g) Terminate discussions or negotiations with the Supplier or otherwise terminate the Supplier's further participation in the RFP/Proposal process.
- h) Reject any Proposal submitted by the Supplier; and/or
- i) Depart from or modify the proposed framework and/or any other procedures in relation to the RFP/Proposal process.

- j) If the Supplier decides not to submit a Proposal, or at any time discontinues for any reason (including as a result of any action of WESTERN TVET College) its participation in this RFP process or subsequent discussions or negotiations, the Supplier must promptly return this RFP (and destroy any copies which it has made) to WESTERN TVET College together with any other documents or other material relating to the service procurement that contains, embodies or might reveal Information.

2.8.7 PUBLIC ANNOUNCEMENTS

Neither the potential Supplier nor WESTERN TVET College will make any public announcements or disclosures as to the RFP, any Proposal, or the RFP process or otherwise in relation to the subject matter of any potential contract, without the prior written consent of the other party (except as required by any applicable law or regulatory requirement). In this regard, no media release or public announcement will be made in relation to any resulting contract, should such be executed, without the written approval of both parties as to the wording of such release and the manner or publication of such release.

3. SUPPLIER CAPABILITY

3.1 SECURITY OF SUPPLY

The services are critical to on-going operations and therefore security of supply is a major requirement for WESTERN TVET College.

4. PROPOSED PRICING

4.1 INTRODUCTION

While WESTERN TVET College require Suppliers to tender on the full range services or for all sites included in this RFP, the broader the range of services quoted on, the higher a Supplier's chance of success. Please be aware that this RFP provides all participants the opportunity to increase current business and/or acquire new business with WESTERN TVET College and its Members.

WESTERN TVET College expects Suppliers to respond fully to the requested level of detail. This detail will contribute towards the transparent cost structure being pursued by WESTERN TVET College.

4.2 PRICING TABLE – INSTRUCTIONS – PRICE AS PER DESIRED LAYOUT

The responses must remain in the format outlined in the instructions of Appendix B, which contain the technical and pricing information.

Please note that all the prices reflected in Appendix B shall be:

- a) Inclusive of Value Added Tax (which shall be payable by the Member subject to the receipt of a VAT invoice); and

- b) Inclusive of all associated costs and taxes, including insurance, charges for packaging, shipping, carriage, delivery to the premises, handling fees, toll fees, permits, all duties, licenses and other related charges payable in respect of the service from time to time.

4.3 PRICING TABLE, SPECIFICATION AND ESTIMATED VOLUME/ QUANTITY

WESTERN TVET College has included specification and estimated volumes/quantity (Appendix B where applicable) as a guideline to assist suppliers in pricing. Separate detailed pricing schedule and/ or bill of quantities may be attached. The volume is an estimate and should not be interpreted as a guarantee in any way.

4.4 DOUBLE COUNTING

In order to assess your prices fairly (and prevent “double counting”) do not include costs which are explicitly asked for in other columns or spread sheets.

5. PRICING

Tenderers are required to submit a price proposal as stipulated in the Appendix B.

5.1 PAYMENT TERMS

Payment terms are within 30 days from date of statement.

5.2 CONTRACT LENGTH

This is a once-off contract.

Type of Contract

WESTERN TVET requires a **full-risk contract** arrangement; no price increase will be applicable.

6. REQUIRED PROPOSAL LAYOUT

To facilitate a structured evaluation of the submissions resulting from this RFP, WESTERN TVET College requires each supplier to conform to a specific proposal layout. Deviation from this required document structure may result in disqualification.

6.1 GENERAL NOTES:

- a) A cover page per Appendix is included in this document and Supplier must ensure that these cover pages are used in their submissions.
- b) Each Appendix cover will contain a list of the required information and / or documents that need to be included in that section. The list has a check box for the supplier to indicate that the information requested has been included.
- c) Each Appendix cover page is to be signed by the duly authorized representative of the Supplier.

7. TECHNICAL SPECIFICATION

WESTERN TVET College has included specification and estimate volumes / quantity (Appendix B) to assist suppliers in pricing. Refer to Appendix B for instructions.

8. EVALUATION PROCESS

8.1 AIM OF EVALUATION

To ensure that all proposals received are afforded the opportunity to compete equally and enable WESTERN TVET College a chance to evaluate the tender received in fair and unbiased manner, as per pre – described process of evaluating proposals.

8.2 EVALUATION CRITERIA

The evaluation criteria as set out hereunder will assist WESTERN TVET College to ensure conformity to all tender requirements. WESTERN TVET College's evaluation team shall use the evaluation criteria, weights, applicable values and / or minimum qualifying score for functionality as indicated in the tender document. The evaluation criteria can be discussed and clarified with all attendees at the compulsory information session, where applicable, as an aid to prepare for such evaluation.

The set evaluation criteria shall be used as a guideline, but not limited to the following process:

8.2.1 PRE-QUALIFICATION/MANDATORY INFORMATION REQUIREMENT

The Pre-qualification/Mandatory Information Requirement phase validates the tenderers' compliance to the legal requirements to conduct business in SA, as well as to specific industry requirement for the supply of services where applicable.

Please see table below for the list of mandatory requirements and tick yes if documentation is submitted and no if not submitted.

Appendix Number	Description of Appendix	Requirement	Circle yes if submitted	
			Yes	No
Appendix A	RFP Document	Each page of the RFP document to be initialled by a delegated representative	Yes	No
Appendix A1	Proof of Payment		Yes	No
Appendix B	Technical specifications and pricing	Attach your pricing schedule as per specifications.	Yes	No
Appendix C	Proof of Bank Account	Provide Confirmation letter from Bank not older than 6 months	Yes	No
Appendix D	Company registration documents	Provide Company registration documents	Yes	No
Appendix E	ID Copies of directors	Certified & not older than 3 months	Yes	No
Appendix F	Tax Pin	An original valid Tax Pin	Yes	No
Appendix G	Third party insurance	Provide a valid third-party insurance	Yes	No
Appendix H	B-BBEE certification	Provide a valid B-BBEE certificate from a SANAS accredited agency or Auditor registered with the IRBA	Yes	No
Appendix I	Declaration of Interest	Complete Point 9 of this tender document	Yes	No
Appendix J	Registration On Central Supplier Data Base (CSD)	Provide a copy of the full and summary reports of registration on National Treasury Central Supplier Database	Yes	No

NB: No points will be allocated to this phase; however, tenders that do not meet the pre-qualification requirements may not advance to the next phase of the evaluation process.

8.2.2 STAGE 1: EVALUATION OF FUNCTIONALITY

The evaluation criterion for functionality aims to assess the capability of the tenderer to execute and maintain a tender and/ or contract. Tenderers need to obtain a minimum percentage score of 70% and above in order to progress to the next stage of evaluation.

All proposals will be evaluated on the following criteria indicated below.

Step 1: References table

Bidders are required to submit with the bid, a Proposal.

The Proposal is to be a brief printed document that describes how the Bidder intends to ensure the following items within the sub-criterion: The proposal to reflect the areas below as headings. Failure to submit the required proposal will result in disqualification based on non-responsiveness. Company profile only, will not be acceptable as a proposal.

The evaluation criterion for functionality aims to assess the capability of the tenderer to execute and maintain a tender and/ or contract. Tenderers need to obtain a minimum percentage score of 70% and above in order to progress to the next stage of evaluation.

Client's referral letters for work done in the past three (3) years, for similar Gardening Services and Cleaning projects.

Item No.	Criteria Description	Weighting
	Tender bids scoring less than a minimum of 70% in respect of the total evaluation points for quality criteria will NOT be considered for further evaluation.	
	FUNCTIONALITY	
1.	<p>Experience, Skills, and Ability of Service Provider to fulfil WESTERN TVET's requirements, experience in Gardening Services and Cleaning works:</p> <ul style="list-style-type: none"> Experience in Gardening Services and Cleaning projects. <p>The bidder to provide a minimum of 3 valid reference letters of projects completed within the last 3 years:</p> <p>5 and more references = 20 Points 4 Reference letters = 15 Points 3 Reference letters = 10 Points Less than 3 references/no references/irrelevant references = 00 Points</p> <p>WESTERN TVET has right to verify the company reference</p>	20
2.	<p>Project Execution Plan (PEP)</p> <ul style="list-style-type: none"> Provide a detailed project execution plan and implementation methodology including summary of major milestone deliverables - detailed programme plan including: <ul style="list-style-type: none"> Tasks = 10 Points Duration = 10 Points Milestones = 05 Points Responsibilities = 05 Points 	30

	<ul style="list-style-type: none"> • Non-compliance with the above = 0 points 	
3.	<p>Technical capability</p> <p>The tenderer must have or be able to hire the following items:</p> <ul style="list-style-type: none"> • Equipment (machinery and tools) = 10 Points • Plant (Trucks and backhoe) = 10 Points • Experienced employees that can operate the plant and equipment = 5 Points • Experienced Supervisor = 5 Points • Occupational Health and Safety Officer = 5 Points 	35
4.	<p>Locality:</p> <ul style="list-style-type: none"> • 15 Points within West Rand District Municipality • 10 Points within Gauteng Province • 05 Points outside Gauteng Province 	15
	TOTAL	100

Note: Employment of Local Contractors/Subcontractors

Employment of local unskilled labour promoted and advised at appointment stage.

CIDB GRADING

WESTERN TVET CAMPUSES	CIDB GRADING MINIMUM REQUIREMENTS
1. Carletonville	SH1 & GB1 OR MORE
2. Krugersdorp West	SH1 & GB1 OR MORE
3. Randfontein	SH1 & GB1 OR MORE

Please include reference letters of all your clients in the table below.

Kindly complete the table below for references.

**FUNCTIONALITY CRITERIA
REFERENCE ONE (1)**

COMPLETE TABLE IN FULL BELOW (COMPULSORY)

Reference Company One (1)		Contact Name:	
Name of Company:		Contact Telephone:	
Contact e-Mail:			
Description of Contract:			
Contract Details			
1	Contract Value:		
2	Contract Commencement date:		
3	Contract Completion Date:		
4	Contract Duration:		
Attach Reference Letter 1			
Note: References to be in the letterhead of the company that is making the reference.			

FAILURE TO PROVIDE RELEVANT PROOF WILL RESULT IN ZERO POINT ALLOCATION

FUNCTIONALITY CRITERIA

REFERENCE TWO (2)

COMPLETE TABLE IN FULL BELOW (COMPULSORY)

Reference Company Two (2) Name of Company:		Contact Name:	
Contact e-Mail:		Contact Telephone:	
Description of Contract:			
Contract Details			
1	Contract Value:		
2	Contract Commencement date:		
3	Contract Completion Date:		
4	Contract Duration:		
Attach Reference Letter 2 Note: References to be in the letterhead of the company that is making the reference.			

FAILURE TO PROVIDE RELEVANT PROOF WILL RESULT IN ZERO POINT ALLOCATION

**FUNCTIONALITY CRITERIA
REFERENCE THREE (3)**

COMPLETE TABLE IN FULL BELOW (COMPULSORY)

Reference Company Three (3)			Contact Name:	
Name of Company:			Contact Telephone:	
Contact e-Mail:				
Description of Contract:				
Contract Details				
1	Contract Value:			
2	Contract Commencement date:			
3	Contract Completion Date:			
4	Contract Duration:			
Attach Reference Letter 3				
Note: References to be in the letterhead of the company that is making the reference.				

FAILURE TO PROVIDE RELEVANT PROOF WILL RESULT IN ZERO POINT ALLOCATION

8.2.3 STEP 2: FUNCTIONALITY TABLE

A tenderer shall proceed to the next stage of evaluation if a percentage score of 70% is obtained. Tenderers that fail to achieve the minimum qualifying percentage score for functionality (70%) will not proceed to the next stage of evaluation.

8.3 STAGE 2: PRICE AND BBBEE

Only tenders that achieve the minimum stipulated threshold for functionality of 70% will be evaluated further in accordance with the 80/20 preference point systems. The 80 points will be allocated for the price whilst, 20 points will be allocated for BBBEE totaling 100 points.

The formula below will be used in calculating points scored for the Preference points system.

8.3.1 STEP 1: CALCULATION OF POINTS FOR PRICE

The first step under price and BBBEE is to calculate the price points for tenderers who progressed to this stage of evaluation as per formula below.

$$Ps = 80 \left\{ \left\{ \frac{1 - Pt - Pmin}{Pmin} \right\} \right\}$$

Where:

Ps = Points scored for comparative price of tender under consideration.

Pt = Comparative price of tender under consideration.

Pmin = Comparative price of lowest acceptable tender.

8.3.2 STEP 2: BBBEE LEVEL OF CONTRIBUTION

The second step under price and BBBEE is to calculate BBBEE points for tenderers who progressed to this stage of evaluation as per below BBBEE status level of contribution.

The level 1 contributor will obtain 20 points and the last level contributor will obtain the lowest points as per table below.

BBBEE 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 – complaint contributor	0

8.3.3 STEP 3: FINAL SCORE

The points scored for price (step 1) will be added together with the points scored for BBBEE (step 2) to obtain the tenders total points.

WESTERN TVET College and/ or Member/s may request additional information, clarification, or verification in respect of any information contained in or omitted from a Tenderer's proposal. This information will be requested in writing.

WESTERN TVET College and/ or Member/s will conduct a due diligence on any Tenderer, which will include interviewing customer references or other activities to verify a Tenderer's or other information and capabilities (including visiting the Tenderer's various premises and/or sites to verify certain stated information or assumptions) and in these instances the Tenderers will be obliged to provide WESTERN TVET College and/ or Member/s with all necessary access, assistance and/or information which WESTERN TVET College and/ or Member/s may reasonably request and to respond within the given time frame set by WESTERN TVET College and/ or Member/s;

WESTERN TVET College and/ or Member/s will evaluate the Tenders with reference to WESTERN TVET College set and approved evaluation criteria as indicated in the tender document.

Should the RFP proposal value be over R50M then the 90/10 points scoring system will be used.

9. DECLARATION OF INTEREST

I, the undersigned

From (Name of Supplier)

- a) Declare that I have studied the contents of this document and, that the organisation I represent agrees to the terms and condition of this RFP without any exceptions and, is prepared to carry out the services according to the specifications and to the satisfaction of WESTERN TVET College and its Associates.
- b) Has the authorisation to sign tender documents on behalf of my company. Attached a director's resolution or proxy, authorising to sign this document on behalf of the company.
- c) Declare that the company has the financial ability to meet its obligations in respect of this RFP and that it is in a sound position to meet its overall financial commitments.
- d) State that the information submitted is true and correct.
- e) Certify that as far as I/we know no member of our company have any direct or indirect vested interest in WESTERN TVET College or its Associates.

Signed at _____ on this _____ day of _____ 20_____

Signature and Capacity

Initials and Surname

GENERAL TERMS AND CONDITIONS OF THE TENDER

10. ESCALATION MECHANISM

10.1 Escalation of prices, WESTERN TVET College is expecting no escalation for the contract period.

11. PRICE OFFER AND ADJUSTMENTS

11.1 Prices quoted must be valid up to the conclusion and final award of the tender and thereafter remain fixed for the duration of the contract.

12. TENDER FORM, IMPORTANT CONDITIONS & MISCELLANEOUS REQUIREMENT

12.1 I/We hereby tender to supply all or any of the supplies and/or to render all or any of the services described in the attached documents to WESTERN TVET College on the items and conditions and in accordance with the specifications stipulated in the tender documents (and which shall be taken as part of, and incorporated into, this tender) at the prices and on the terms regarding time for delivery and/or execution inserted therein.

12.2 I/We agree that:

- a) The offer herein shall remain binding upon me/us and open for acceptance by WESTERN TVET College during the validity period indicated and calculated from the closing time of the tender.
- b) If I/we withdraw my/our tender within the period for which I/we have agreed that the tender should remain open for acceptance, or fail to fulfil the contract when called upon to do so, WESTERN TVET College may without prejudice to its other rights, agree to the withdrawal of my/our tender or cancel the contract that may have been entered into between me/us and WESTERN TVET College and I/we will then pay to WESTERN TVET College any additional expense incurred by WESTERN TVET college having either to accept any less favorable tender or fresh tenders have to be invited, the additional expenditure incurred by the invitation of fresh tender and by the subsequent acceptance of any less favorable tender, WESTERN TVET College shall also have the right to recover such additional expenditure by set-off against moneys which may be due or become due to me/us under this or any other tender or contract or against any guarantee or deposit that have been furnished by me/us or on my/our behalf for the due fulfilment of this or any other tender or contract and pending the ascertainment of the amount of such additional expenditure to retain such moneys, guarantee or deposit as security for any loss WESTERN TVET College may sustain by reason of my/our default;
- c) If my /our tender is accepted, the acceptance may be communicated to me/us by letter or ordinary post or registered post and the SA Post Office Ltd shall be regarded as my/our agent. Delivery or such acceptance to the SA Post Office Ltd shall be treated as delivery to me/us.
- d) The law of the Republic of South Africa shall govern the contract created by the acceptance of my/our tender and that I/we choose domicilium citandi et executandi in the Republic (full address).
- e) I/We furthermore confirm that I/we have satisfied myself/ourselves as to the correctness and validity of my/our tender, that the price(s) and rate(s) quoted cover all the work/items(s) in these documents; and that the price(s) and rate(s) cover all my/our obligations under a resulting contract. I/we accept that any mistakes regarding price(s) and calculations will be at my/our risk.
- f) I/we hereby accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me/us under this agreement as the principle(s) liable for the due fulfilment of this contract.

- g) I/We agree that any action from this contract in all respects be instituted against me/us and I/we hereby undertake to satisfy fully any sentence or judgment, which may be pronounced against me/us as a result of such action.
- h) I/We declare that I/we have participation /no participation in the submission of any other offer for the supplies/service described in the attached documents. If in the affirmative, state name(s) or tender(s) involved.

.....

Are you duly authorized to sign Appendix H: Acknowledgement of the tender?

***YES / NO**

Has the Declaration of Interest been duly completed and signed?

***YES / NO**

*Delete whichever is not applicable

SIGNATURE (S) OF TENDER OR ASSIGNEE(S)

DATE:.....

Please complete the following in block letters

Capacity and particulars of the authority under which this tender is signed

.....

Name of Service Provider

Postal Address

Telephone number(s) (Toll free if applicable)

Facsimile number(s)

Email Address(s)

Tender Number

Name of contact person

13. ACKNOWLEDGEMENT OF TENDER

13.1 I/We _____ have examined the Request for Proposal Document and all other information available prior to the closing date, hereby offer to execute, complete and maintain the whole of the said works and to supply all the requisite goods and/ or services in conformity with the previously mentioned documents.

13.2 Name of Service Provider: _____

Address: _____

Telephone Number: _____

Fax Number: _____

Email Address: _____

Company Stamp: _____

Signature

Date

14. SUPPLIER DEVELOPMENT

The WESTERN TVET College Membership actively supports Supplier Development and the Empowerment of suppliers that are locally based. The membership expects potential suppliers to buy into this initiative in order to assist developing previously disadvantaged communities. Tenderers are required to provide examples of what they have done for Supplier Development Initiatives. Suppliers should also propose a plan/program as to how they would engage Suppliers locally in attempt to support Supplier Development.

Supplier Development can be in the form of:

- Community development projects
- Skills development of local and previously disadvantaged communities
- Community training and development programs
- Mentorship, incubation and coaching programs

Responses to be attached to the Supplier Development Appendixes cover pages.

Request for Proposal: _____

APPENDIX A

RFP Document

Documentation	Requirement	Included in required format (Please tick)
RFP Document	Each page of the RFP document to be initialled by a delegated representative.	<input type="checkbox"/>

<i>Please sign that the contents of this Appendix has been verified</i>	
Name	
Signature	

Request for Proposal: _____

APPENDIX A1

Proof of Payment

Documentation	Requirement	Included in required format (Please tick)
Proof of Payment		<input type="checkbox"/>

Please sign that the contents of this Appendix has been verified

Name

Signature

Request for Proposal: _____

APPENDIX B

Technical Specifications and Pricing

Please see the attached Specifications,

Documentation	Requirement	Included in required format (Please tick)
Technical specifications and pricing	Specification and pricing schedule included in this tender document Pricing Schedule must be completed in full, failing which; such bidder/s will be disqualified. Pricing Schedule MUST not be changed	<input data-bbox="1170 1209 1260 1289" type="checkbox"/>

Please sign that the contents of this Appendix has been verified

Name

Signature

15. BACKGROUND TO WESTERN TVET

Western TVET College (WESTERN TVET) is a schedule 3A Public Entity established in terms of the provisions of the CET Act 16 of 2006 (as amended), Its mandate is the provision of further education & training to all persons within the borders of South Africa

The customer base of WESTERN TVET comprises not only the South African public, but all foreigners within the borders of the country. WESTERN TVET has campuses in Carletonville, Krugersdorp, Krugersdorp West, Randfontein and Westonaria.

16. BACKGROUND TO THE PROJECT

WESTERN TVET has decided to **appoint a service provider for a once-off Garden and Cleaning services at Western TVET various campuses**. A major consideration for this approach is to ensure that the service delivered is of a high and consistent standard.

17. SCOPE OF WORK

Campuses of WESTERN TVET are situated at:

Carletonville - 20 South Street, Carletonville

Randfontein - 5 Kiewiet Street, Helikon Park, Randfontein

Krugersdorp West - 69 Flemming Road, Krugersdorp West

PROJECT DESCRIPTION: GARDENING SERVICES AND CLEANING

CAMPUSES: CARLETONVILLE, RANDFONTEIN AND KRUGERSDORP WEST CAMPUS

17.1 BACKGROUND AND PURPOSE

This is the scope of work for the once off gardening services and cleaning for Carletonville Campus Krugersdorp West and Randfontein Campus,

The scope of works is determined by the infrastructure department and the Campus Management Infrastructure Steering Committee.

The main purpose of the scope of work is the overhauling cleaning and gardening services of these above-mentioned campuses.

The scope of work **EXCLUDES** planting of new hedges, flowers, and trees etc.

Works are very labour intensive, requiring machinery and high-level health and safety.

17.1.1 CARLETONVILLE CAMPUS

The works include the following items:

External works

1. External works includes the weeding and poisoning concrete apron and paving along R500 road.
2. South Street levelling grounds and cutting of grass.
3. Rugby field area grass cutting will be 10 m away from the college fence and a small portion of grass cutting around far rugby field corner to minimise veld fire accessing the campus.

Internal Works

1. Includes entire campus grass cutting, chemical removing of weed growing on tar roads, concrete aprons and paving areas.
2. Trimming of trees along the fence and student seating area and maintaining potted trees and flowers.
3. Trimming of umbrella indigenous trees (Dwarf Weeping Willow Tree) in front of admin and evergreen hedges around admin building, hall and T2 classrooms.
4. Dig and uproot stumps on the islands removal and making good, affected kerbs and tar roads and clean assembly point tower flowers.
5. Remove old and dusty flowers at staff seating next to classrooms to prevent water ingress to the classrooms.
6. Dig out bushy trees under the carports at entrance gate and make good the concrete blocks.
7. Dig out stumps and fill -up holes and compact.
8. Dig out trees at gardening, at staff seating area, side hall entrance, in front of electrical and mechanical workshop, back of SSS including prickly-pear cactus plant, fill -up holes and compact.
9. Cultivate gardening including trimming and edges of the entire campus between grass area and paving or concrete aprons.
10. Maintaining of paving and steel palisades fence on affected areas caused by the removing of trees and tree stumps.
11. Cleaning of rubble.
12. Loading rubble and dumping to municipal dumping sites.

17.1.2 RANDFONTEIN CAMPUS

The works include the following items:

External works

1. External works includes weeding and chemical removing of weeds along Kiewiet street, cutting grass away along fence line in proposed site of the rugby field, cutting grass at the

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Confidential

backside of workshop and bulk overhauling of residential rubble behind the admin block the distance between the two corners is about 20m area away from the college fence.

2. Includes digging and uprooting of trees.

Internal Works

1. Includes entire campus grass cutting, chemical removing of weeds growing on tar roads, concrete aprons and paving.
2. Dig out bushy trees at corner fence of the yard at Kiewiet Street (Taxi parking area).
3. Dig out trees leaning to building, growing on fence and small trees growing on brick walls.
4. Dig and uproot stumps and trees next to staff parking between admin and NW classrooms.
5. Trimming cantilever shaped trees at entrance parking.
6. Trimming of trees behind the security gate.
7. Maintaining of all gardening, trimming of plants and hedges.
8. Dig out stumps and fill -up holes and compact.
9. Providing gardening services including trimming and edges of the entire campus between grass area, paving and concrete aprons.
10. Maintaining of paving and steel palisades fence where they are affected by removing of trees and tree stumps.
11. Cleaning of rubble.
12. Loading rubble and dumping to municipal dumping sites.

17.1.3 KRUGERSDORP WEST CAMPUS

The works include the following items:

External works

1. External works includes weeding and poisoning walkways along Flemming Road and both other sides of streets.

Internal Works

1. Includes entire campus grass cutting, poisoning weeds growing on tar roads, paving's, concrete aprons and concrete water channels.
2. Dig out small trees next to newly incomplete carports.
3. Dig out trees along the entire yard fence including trees on the other side of the soccer field between admin area.
4. Dig and uproot all stumps.
5. Trimming of trees to be maintained.
6. Maintaining of all gardening, trimming of plants and hedges.

7. Providing gardening services including trimming and edges of the entire campus between grass area, paving and concrete aprons.
8. Maintaining of paving and steel palisades fence where they are affected by removing of trees and tree stumps.
9. Cleaning of rubble dumped.
10. Loading of rubble and dumping to municipal dumping sites.

18. PRICING STRUCTURE

Appointment of a service provider for Once-off gardening services at Western TVET various campuses. Refer to the attached Bill of Quantities template.

The detailed pricing schedules must accompany your bid documents.

Note: Please ensure that TOTAL PRICE is inclusive of an increase for the 3-year period. Official company quotation to accompany this submission confirming above totals & unit prices of titles.

Western TVET reserve the right to appoint different suppliers to minimise risk of supply and ensure effective service while being cost effective.

- ✓ Please indicate your total bid price broken down as follows below (**compulsory**). WESTERN TVET will evaluate and award the bid accordingly:

The Bidder will be required to price and deliver the titles as below to the relevant campus as per TOR stipulation.

PLEASE ANNEXURE "A" FOR DETAILED PRICING SCHEDULE

NOTE:

All prices must be VAT inclusive and must be quoted in South African Rand (ZAR).

All title prices as per ANNEXURE "A" quoted should be fixed for the contract period.

GENERAL CONDITIONS OF CONTRACT

1. Definitions

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 between the purchaser and the supplier, as recorded in the contract from 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 this contractual obligation.
- 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 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 basis 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 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 markets its good on own initiative in the RSA at lower prices than that of the country or 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 resolutions, 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" mean the General Conditions of Contract.
- 1.15. "Good" means all 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 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 procuring 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 ancillaries 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 against these general conditions, the special ??? shall apply.

3. General

3.1. Unless otherwise indicated in the bidding documents, the purchase 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 for bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from www.treasury.gov.za.

4. Standards

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

5. Use of contracts documents and information

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 as 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

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 contracts.
- 7.3. The performance security shall be denominated in the currency of the contract, or in freely convertible currency acceptable to the purchaser and shall be in one of the following:
 - (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 procured 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 payments arrangements with the testing authority concerned.
- 8.4. If the inspection, test 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 analysed and may be rejected if found no 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 purchase 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 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 precipitations during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' 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 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 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 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 destination.
- 15.2. This warranty shall remain valid twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the 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, with the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to be 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 fulfilment 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, apart from 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 contract 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 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 anti-dumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference shall on demand be paid forthwith by the contractor to the State who 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 procured, or is to deliver or procure 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 or 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 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 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 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 or 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 wilful 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 or 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.

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

SPECIAL CONDITIONS OF CONTRACT (SCC)

1. Interpretations and definitions

1.1. In this SCC and the GCC, unless clearly inconsistent with or otherwise indicated by the context, the following words, terms or phrases have the following meanings:

1.1.1. "This Agreement" means the documents specified as per SLA.

1.1.2. "Business Day" means any day other than a Saturday, Sunday or official public holiday in South Africa.

1.1.3. "Confidential Information" means the terms of this Agreement, any information concerning either party or its stakeholders and customers including its operations, business and financial affairs and all other matters which relate to the business of either party and in respect of which information is not readily available in the ordinary course of the business to a competitor of such party or to any third party, proprietary information or secret information.

- 1.1.4. "Created Intellectual Property" means all copyright works, inventions, improvements to inventions and novel designs whether or not registrable as designs or patents including any development or improvement to equipment, technology, methods, processes or techniques made by or on behalf of the Supplier during, in connection with or arising out of the provision of the goods.
- 1.1.5. "Effective Date" means the date of signature of this Agreement by the authorised representative of WESTERN TVET.
- 1.1.6. "WESTERN TVET" means the Western College for TVET, a juristic person established in terms of Section 2(1) of the Road Accident Fund Act No. 56 of 1996 (as amended), as well as its successor in title and any other juristic person to whom WESTERN TVET's rights and obligations may be assigned and devolve upon.
- 1.1.7. "Goods" means the goods and / or services specified in the Scope of work /Specification, read with the Bidder's Proposal.
- 1.1.8. "Intellectual Property Rights" means all rights in and to the intellectual property including, without limitation, any know-how, patent, copyright, registered design, trademark or other industrial or intellectual property, whether registered or not and whether or not capable of being registered and any application for any of the aforementioned.
- 1.1.9. "Implementation Date" means the date on which the provision of the goods or services commences
- 1.1.10. "Performance Undertakings" means the Performance Undertakings as set out in the Specification.
- 1.1.11. "Service Level Breach" means a failure by the Supplier to maintain a target specified in respect of one or more of the Performance Undertakings.
- 1.1.12. "The Specification" means the Specification as mentioned under the Scope of work to the tender document.
- 1.1.13. "Supplier" means the party described as such in the Contract Form or SLA, or in lieu of a Contract Form the party described as the Supplier in the Purchase Order issued by WESTERN TVET (whichever is applicable);
- 1.2. Any reference to the singular includes the plural and vice versa.
- 1.3. Any reference to natural persons includes legal persons and vice versa.
- 1.4. Any reference to a gender includes the other gender/s.
- 1.5. Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.

- 1.6. Where any number of days is prescribed in this Agreement same shall be considered to be calendar days and reckoned exclusive of the first and inclusive of the last day unless the last day falls on a Saturday, Sunday or public holiday, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday in the Republic of South Africa.
- 1.7. The use of the word "including" or "includes" followed by a specific example shall not be construed as limiting the meaning of the general wording preceding it and the "Ejusdem generis" rule shall not be applied in the interpretation of such general wording or such specific example.
- 1.8. The rule of construction that an agreement shall be interpreted against the party responsible for the constructing or preparation of this Agreement, shall not apply.
- 1.9. The clause headings in this Agreement have been inserted for convenience only and shall not be considered in its interpretation.
- 1.10. Recordables shall be binding on the parties and are not for information purposes only.
- 1.11. Words and expressions defined in any sub-clause shall, for the purposes of the clause of which that sub-clause forms part, bear the meaning assigned to such words and expressions in that sub-clause.
- 1.12. To the extent that there is a conflict between the provisions of the documents that form part of this Agreement, such conflict shall be decided with reference to the preference of documents as contained in the Contract Form.
- 1.13. Terms other than those defined within this Agreement will be given their plain English meaning, and those terms, acronyms, abbreviations and phrases known in the relevant industry to which this Agreement applies shall be interpreted in accordance with their generally known meanings in such industry.
- 1.14. Any reference to any statute or statutory regulation shall include a reference to any amendments thereto and to the successor/s in title to such statutes and statutory regulations.
- 1.15. Any reference to any organisation, institution, office, body, department, organ or person vested with certain powers and authority shall include a reference to its successor/s in title.
- 1.16. The expiration or termination of this Agreement shall not affect those provisions of this Agreement which expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding the fact that the clauses themselves do not expressly provide for this.
- 1.17. If any provision in a recorded, preamble or definition is a substantive provision conferring rights or imposing obligations on any party, effect shall be given to it as if it were a substantive clause in the body of this Agreement.

1.18. This Agreement shall be governed by and construed and interpreted in accordance with the laws of the Republic of South Africa.

1.19. Wherever the GCC refer to the SCC, such reference shall be read to include reference to the Specification.

2. Recordable

2.1. The SCC is WESTERN TVET'S standard terms and conditions of contract and constitutes part of this Agreement between WESTERN TVET and the Supplier/service provider, or in lieu of a Contract Form, constitutes part of the Purchase Order issued by WESTERN TVET to the Supplier (whichever is applicable).

2.2. The details and requirements of the Goods to be provided to WESTERN TVET are contained in the Specification and any additions or amendments thereto furnished to the Supplier during the procurement process. It is recorded that the Supplier has accepted these provisions.

3. Duration

3.1. This Agreement shall come into effect on the Effective Date and, unless terminated in accordance with the provisions of this Agreement, shall endure for the term of this Agreement specified in the Specification, calculated from the Implementation Date.

3.2. The Supplier acknowledges and agrees that any and all work performed prior to the Effective Date and all work performed after the expiry of the term of this Agreement, shall be at the Supplier's sole risk and the Supplier shall be without recourse against WESTERN TVET.

4. Warranty

4.1. The Supplier warrants that:

4.1.1. it has the capacity to execute, deliver and undertake its obligations in terms of this Agreement and all the necessary corporate and other action has been taken to authorise the aforementioned execution, delivery and undertaking.

4.1.2. it is fully experienced and properly organised, financed, equipped, manned, qualified, licensed and able to fulfil its obligations under this Agreement.

4.1.3. the provision of the Goods or Services will be undertaken by appropriately experienced and suitably qualified employees in a proper and professional manner, in accordance with all applicable laws including the Occupational Health and Safety Act, 1993, good industry practice and its own as well as WESTERN TVET's established internal procedures.

4.1.4. it shall provide the Goods /Services or parts thereof as the case may be, by the

relevant dates.

4.1.5. the Goods /Services shall:

4.1.5.1. be free from defects due to materials and/or workmanship.

4.1.5.2. comply with the Specification.

4.1.5.3. be fit for the purpose for which it is being acquired by WESTERN TVET.

4.1.5.4. not infringe any rights of any third party including intellectual property rights.

4.1.5.5. comply with all lawful and reasonable standards, rules and requirements set by any authority and shall not contravene any law or any regulation of any nature whatsoever.

4.2. The Supplier acknowledges that WESTERN TVET has entered into this Agreement relying on the warranties contained in this paragraph and elsewhere in this Agreement.

4.3. The Supplier undertakes to make good by repair or replacement defects in the Goods, or any part thereof as the case may be, arising from any cause whatsoever, after being notified of the defect by WESTERN TVET and within the time period specified by WESTERN TVET in the aforementioned defects notice.

4.3.1. All costs connected to repairs and/or replacement in terms of this paragraph, including costs in respect of the transport and handling of goods incidental to the Goods, between the Supplier's premises and WESTERN TVET's premises, shall be the responsibility of the Supplier.

4.3.2. If the Supplier repairs or replaces any equipment, materials or workmanship this provision will also then apply to the repaired or replaced equipment, materials and workmanship for an additional period equal to the warranty period contained in the GCC but commencing from the date the repairs or replacement was accepted in writing by WESTERN TVET and the aforesaid warranty period will be extended accordingly.

4.3.3. It is recorded for the sake of clarity that should the Supplier fail to make good by repair or replacement of any defect as contemplated above within the time period stipulated by WESTERN TVET in the defects notice, WESTERN TVET shall be entitled to enforce and call upon the performance security.

4.4. The Supplier acknowledges that the provision of the Goods includes all activities and responsibilities specifically referred to in this Agreement as well as activities and responsibilities not mentioned herein which are necessary for proper provision thereof.

5. Supplier's Responsibilities and Obligations

5.1. The Supplier must:

- 5.1.1. manufacture and supply the Goods and or deliver Services in compliance with the terms and conditions of this Agreement
- 5.1.2. attend to the delivery of the Goods / Services on working days during working hours unless the Purchaser agrees otherwise in writing. If the Supplier wishes to attend to the delivery of the Goods /Services outside of working hours or on Days that are not working days, the Supplier must obtain the prior written approval of the Purchaser. The grant of such approval is in the Purchaser's discretion
- 5.1.3. inform itself fully of the requirements of the Purchaser in respect of the manufacture and supply of the Goods/Services
- 5.1.4. comply with all reasonable directions of the Purchaser relating to the manufacture and supply of the Goods /Services
- 5.1.5. ensure that the manufacture and supply of the Goods /Services reach the required status by the relevant dates, as required by this Agreement
- 5.1.6. ensure that the Goods /Services are supplied at the stipulated address to the Purchaser's satisfaction by the relevant dates. The Supplier acknowledges that time is of the essence for the supply of the Goods/Services
- 5.1.7. Provide the Purchaser's employees with training in the operation and maintenance of the Goods / Services, if applicable
- 5.1.8. Provide the Purchaser with comprehensive details regarding the Goods/ Services including replacement and overhaul frequency, as well as recommended spare parts (if applicable);
- 5.1.9. provide the Purchaser in writing with details of any deviation in the supply of Goods/Services from the approved design
- 5.1.10. provide all equipment, apparatus, appliances and/or materials necessary for the manufacture and supply of the Goods/Services subject to the following:
 - 5.1.10.1. all such equipment, apparatus and/or appliances must be in good working order and suited for the purpose for which they are used; and
 - 5.1.10.2. on request and at the Supplier's own expense provide the Purchaser with samples of all materials to be used. If testing shows that the material/s do not comply with the required Specification, then the costs of the testing shall be paid by the Supplier and the Supplier shall replace the material with material that complies with the required specifications;

- 5.1.11. provide appropriately qualified, competent, skilled and experienced employees for undertaking the manufacture and supply of the Goods /Services and deliver to the Purchaser information regarding the Supplier's employees on the Purchaser's request.
- 5.1.12. ensure that its employees are fully acquainted with all the obligations and responsibilities of the Supplier contained in this Agreement.
- 5.1.13. provide the Purchaser with a list of the names of the permanent employees employed for the performance of the manufacture and supply of the Goods/Services, when requested to do so by the Purchaser.
- 5.1.14. comply with all reasonable directions of the Purchaser relating to the manufacture and supply of the Goods/Services including acceleration of the manufacture and supply or any activities relating thereto, suspension of the manufacture and supply or any activities relating thereto, resuming of performance of the manufacture and supply or such activities and/or rescheduling and/or reprogramming of the manufacture and supply.
- 5.1.15. provide information to the Purchaser on request, concerning the manner and timing of the manufacture and supply of the Goods/Services.
- 5.1.16. on becoming aware of any matter which may delay the manufacture and supply of the Goods/Services, promptly, but in any event no later than 3 (three) Days after becoming aware of the potential delay, give written notice to the Purchaser with detailed particulars of the cause of the delay, extent of the delay and steps taken to minimise the effect of the delay. In addition, and at its own cost, comply with all measures specified by the Purchaser to reduce the effects of the delay including increasing resources employed.
- 5.1.17. consult with the Purchaser throughout the manufacture and supply of the Goods /Services and supply any documentation reasonably requested and/or required by the Purchaser to use and/or operate the Goods/Services including any licences including software licences (if applicable);
- 5.1.18. provide the Purchaser with copies of all relevant documents and/or licences issued by the authorities that relate to or are connected to the manufacture and supply of the Goods/Services.
- 5.1.19. undertake the manufacture and supply of the Goods/Services with the professional skill, care and diligence expected of a service provider experienced in the particular activities that are the subject of this Agreement.
- 5.1.20. maintain records, for a period of 5 (five) years from the end of the warranty period, and control systems that conform to the norms and standards generally accepted as good practice in the industry applicable to the Supplier.

- 5.1.21. if requested, provide a schedule to the Purchaser demonstrating the Supplier's resources available for the manufacture and supply of the Goods/Services and to meet the dates and performance requirements listed in the Specification, including information regarding how the Supplier intends to use those resources.
- 5.1.22. arrange its activities in order to ensure that there is no danger and the least possible inconvenience caused to the public as well as the prevention of unnecessary noise or pollution or interference with public services or access to use and occupation of public roads or facilities; and
- 5.1.23. at all times act in the best interest of the Purchaser and avoid all conflict of interest that may arise.

6. Risk and Ownership

6.1. Without derogating from the Supplier's obligations in terms of this Agreement, including in respect of remedying of defects, risk and ownership in respect of the Goods shall pass to the Purchaser once the supply and delivery of the Goods, as per the requirements of this Agreement, has been completed to the Purchaser's satisfaction, provided that in the event that the Goods /Services are defective in whatever way and/or the Supplier fails to comply with the packaging and/or other requirements set out in the Specification, it shall be deemed that the risk in respect of such Goods has not so passed and the Supplier shall bear the risk in respect of such Goods.

7. Sub-contracting

- 7.1. The Supplier shall not subcontract to any third party ("Subcontractor") any portion of the Goods/Services that must be provided under this Agreement without WESTERN TVET's prior written consent.
- 7.2. WESTERN TVET shall not be under any obligation to consent to a request by the Supplier to subcontract to a Subcontractor any portion of the Goods/Services that must be provided under this Agreement.
- 7.3. WESTERN TVET shall, when considering a request contemplated in this clause 7, take into consideration the following aspects pertaining to the Subcontractor:
 - 7.3.1. An original B-BBEE Status Level Verification Certificate in respect of the Subcontractor, issued by an accredited verification agency, alternatively a certificate issued by the accounting officer (in respect of a close corporation) or auditor (in respect of a company) that the Subcontractor is an EME, furnished to WESTERN TVET by the Supplier.
 - 7.3.2. An original Declaration of Interest completed and signed by the Subcontractor and furnished to WESTERN TVET by the Supplier; and

7.3.3. An original Tax Clearance Certificate in respect of the Subcontractor and furnished to WESTERN TVET by the Supplier.

7.4. WESTERN TVET may, if WESTERN TVET elects to approve a request contemplated in clause 7.1 above make such consent subject to such terms and conditions as WESTERN TVET in its sole discretion considers reasonable.

7.5. Notwithstanding that WESTERN TVET may elect to consent to a request contemplated in clause 7.1 above, such consent by WESTERN TVET shall not relieve the Supplier of any of the Supplier's obligation under this Agreement and the Supplier shall remain responsible for the actions and omission of the Subcontractor.

8. Non-performance of the Supplier/Service Provider

8.1. In the event of the Supplier not meeting the performance standards set by the Purchaser, the Purchaser shall be entitled to call upon the Supplier by written notice to remedy the situation.

8.2. Should the Supplier fail to remedy the defective performance within 14 (fourteen) Days of the Purchaser dispatching the aforesaid notice, the Purchaser shall be entitled to cancel this Agreement forthwith and without further notice to the Supplier.

8.3. Following cancellation, the Purchaser shall be entitled to employ the services of an alternative supplier for the portion of the Goods/Services that the Supplier has failed to supply, or which do not meet the Purchaser's performance standards. Any additional costs related to the employment of an additional supplier shall be for the Supplier's account. The Purchaser shall be entitled to call upon the Supplier's performance security in order to cover such additional costs.

8.4. Should the Supplier fail to meet the set performance standards, the Purchaser shall be entitled to cancel any outstanding payment due to the Supplier in terms of this Agreement.

9. Payment

9.1. An original and detailed tax invoice must be submitted after WESTERN TVET has acknowledged receipt of the Goods / Services provided in writing.

9.2. The amount invoiced must be:

9.2.1. inclusive of VAT;

9.2.2. inclusive of all other taxes and duties which are levied or charges by any revenue authority;

9.2.3. inclusive of all cots and disbursements; and

9.2.4. fixed.

9.3. A correct and original tax invoice must be submitted to WESTERN TVET by the 25th calendar day of each month.

- 9.4. All supporting documentation, including but not limited to monthly statements (where applicable) and a verification of bank details, must be received before payment can be affected.
- 9.5. The Supplier shall be required to verify its bank account details by furnishing WESTERN TVET with a letter from its bank with a bank stamp, alternatively it shall furnish WESTERN TVET with a cancelled cheque.
- 9.5.1. The following bank details must be verified:
- Account Holder and any Trading Names
 - Bank Name
 - Branch Name
 - Branch Code
 - Account Number
 - Type of Account
- 9.6. Payment will be made by WESTERN TVET within 30 (thirty) days of receipt of the invoice from the Supplier, on condition that the invoice is correct and contains all the information required by WESTERN TVET.
- 9.7. WESTERN TVET may deduct and set off against any Payment due to the Supplier in terms of this Agreement any amount due or which may become due to it by the Supplier under this Agreement or otherwise as well as any Penalties not reflected in the invoice. This shall not prevent WESTERN TVET from separately recovering from the Supplier any debt owed by the Supplier to WESTERN TVET under this Agreement.
- 9.8. If an invoice and supporting documentation is submitted to WESTERN TVET after the 1st (first) calendar day of the month it shall only be paid by the end of the following month.
- 9.9. Should the documentation be incomplete, incorrect or late, payment shall only be affected once the correct and complete documents are received and only when WESTERN TVET is able to confirm the correctness of the amounts being invoiced. Payment shall then be made in terms of the provisions of this clause. No penalty interest shall be permitted to be charged by the Supplier in this event.
- 9.10. The Supplier acknowledges that the pricing specified in this Agreement is intended to compensate the Supplier fully for all Services provided pursuant to this Agreement. Accordingly, WESTERN TVET will not be obliged to pay the Supplier any amounts in addition to those specifically described in this Agreement.
- 9.11. Payment shall be affected by electronic bank transfer, or any other method of payment decided to be used by WESTERN TVET from time to time and at WESTERN TVET's sole discretion.
- 9.12. Value Added Tax (VAT) shall be charged on all invoices, which must include the Supplier's VAT registration number, in terms of the Value Added Tax legislation applicable in the Republic of South Africa.

10. Penalties

- 10.1. The Supplier acknowledges that WESTERN TVET will be prejudiced should the Supplier fail to strictly comply with the terms of this Agreement and the Specification/Scope of work.
- 10.2. In the event that the Supplier fails to strictly comply with the terms of this Agreement and the Specification/scope of work, WESTERN TVET shall be entitled to levy the penalties stipulated in the GCC clause 22 or otherwise stated. (Specification/ Scope of work)
- 10.3. Notwithstanding anything to the contrary, WESTERN TVET may in its sole discretion elect to waive a penalty and pursue a claim for damages instead.
- 10.4. The Supplier shall credit WESTERN TVET with the penalties due to WESTERN TVET for a particular month on the invoice issued for payment in respect of that month. If all outstanding invoices have already been paid by WESTERN TVET, WESTERN TVET shall be entitled to payment of the penalties due within 30 days of demand on the Supplier by WESTERN TVET.
- 10.5. WESTERN TVET shall be entitled to call on the performance security in order to recover penalties from the Supplier.

11. Confidential Information

- 11.1. The parties shall hold in confidence all Confidential Information received from each other and not divulge the Confidential Information to any parties, including any of their employees, agents, consultants and sub-contractors directly, unless the parties are involved with the execution of this Agreement and then only on a need-to-know basis.
- 11.2. The parties shall prevent disclosure of the Confidential Information, except as may be required by law.
- 11.3. The parties agree that they shall protect each other's Confidential Information using the same standard of care that each party applies to safeguard its own Confidential Information and that the information shall be stored and handled in such a way as to prevent any unauthorised disclosure thereof.
- 11.4. Within thirty (30) days after the termination of this Agreement, for whatever reason, the receiving party of Confidential Information shall return same or at the discretion of the disclosing party of such Confidential Information, destroy such Confidential Information, and shall not retain copies, samples or excerpts thereof.

- 11.5. The disclosing party of Confidential Information may at any time request the receiving party of such Confidential Information to return any material containing, pertaining to or relating to Confidential Information disclosed pursuant to the terms of this Agreement, and may in addition request the receiving party to furnish a written statement to the effect, that upon such return, the receiving party has not retained in its possession or under its control either directly or indirectly any such material.
- 11.6. As an alternative to the return of the material contemplated in 11.5 above, the receiving party shall at the instance of the disclosing party, destroy such material and furnish the disclosing party with a written statement to the effect that all such material has been destroyed.
- 11.7. The receiving party shall comply with the request in terms of clauses 11.5 and 11.6, within fourteen (14) days of receipt of same.
- 11.8. It is recorded that the following information shall, for the purpose of this Agreement, not be considered to be Confidential Information:
- 11.8.1. Information known to the receiving party prior to the date that it was disclosed to it by the other party; or
 - 11.8.2. Information known to the public or generally available to the public prior to the date that it was disclosed by either of the parties to the other; or
 - 11.8.3. Information which becomes known to the public or becomes generally available to the public subsequent to the date that it was disclosed by either of the parties to the other, through no act or failure to act on the part of the recipient of such Information; or
 - 11.8.4. Information which either of the parties, in writing, authorises the other to disclose.
- 11.9. For the avoidance of any doubt, no provision of this Agreement should be construed in such a way that the disclosing party is deemed to have granted its consent to the receiving party to disclose the whole or any part of the Confidential Information in the event that the receiving party receives the request for the whole or any part of the Confidential Information in terms of the provisions of the Promotion to Access to Information Act No. 2 of 2000.
- 11.10. Breach of these obligations shall, without prejudice to any other rights that the parties have in law and or in terms of this Agreement entitle WESTERN TVET to recover damages from the Supplier.

12. Warranties

- 12.1. The Supplier warrants that the Goods supplied by it in terms of this Agreement shall be new, unused and fit for their intended purpose.

12.2. Where the Supplier's Goods supplied to WESTERN TVET in terms of this Agreement include or come with certain warranties or guarantees, these shall be incorporated into this Agreement as if specifically mentioned and WESTERN TVET shall receive the full benefits thereof.

12.3. All representations made by the Supplier in this regard whether in writing or verbally shall be deemed to be incorporated into this Agreement as if specifically stated.

12.4. Where a dispute arises regarding the terms and conditions of such warranties or guarantees and the representations made by Supplier, then the standard practice of the Supplier in giving such warranties in the normal course of its business shall be deemed to apply as the minimum warranty or guarantee benefits due to WESTERN TVET.

13. Cession and Assignment

The Supplier/service provider shall not cede, assign, abandon or transfer any of its rights and/or obligations in terms of this Agreement (whether in part or in whole) or delegate any of its obligations in terms of this Agreement, without the prior written consent of WESTERN TVET.

14. Non-Exclusive Agreement

WESTERN TVET is not obliged to make exclusive use of the Supplier. Nothing in this Agreement shall be interpreted as precluding WESTERN TVET from procuring similar or equivalent products or service from other suppliers.

15. Contractual Relationship- Communications with News Media and Consensual Efforts at Resolution

15.1. The Supplier may not make a statement or furnish any information or cause any information to be furnished to any news media, on or regarding any matter relating to the contractual relationship between the parties, except with the prior written permission of the Chief Executive Officer of WESTERN TVET.

15.2. The parties agree that they shall inform each other as soon as possible about any problem relating to the contractual relationship between them that either of them may experience, and further that they shall make all reasonable effort to resolve any such problem consensually.

16. Relationship

This Agreement does not constitute either of the Parties an agent or representative of the other for any purpose whatsoever and neither of the parties shall be entitled to act on behalf of, or to represent, the other unless duly authorised thereto in writing.

17. Limitation of Liability and Indemnification

- 17.1. WESTERN TVET shall not be liable for any damages arising out of death or injuries sustained by the Supplier's employees, consultants, agents, representatives or sub-contractors whilst such persons are on any premises or in any vehicle owned by WESTERN TVET or used by the Supplier or arising out of any damage or loss of any property belonging to the Supplier or any such persons on or in such premises or property, whether such injury or damage or loss is caused by the negligence by WESTERN TVET or any of its employees, consultants, agents, representatives or sub-contractors or by any other cause whatsoever.
- 17.2. The Supplier indemnifies WESTERN TVET against any claims that may arise from the performance of its functions and actions in terms of this Agreement and that of their employees, consultants, agents, representatives or sub-contractors.
- 17.3. Each party hereby indemnifies the other party against all damages, losses or liabilities caused due to an event which is at its risk or due to its negligence, either contractually or deliberately. The liability of each party to indemnify the other party shall be reduced proportionally if the event at the other party's risk or negligence contributed to the damage, loss or liability.
- 17.4. The Supplier shall ensure that it and its employees, consultants, agents, representatives and subcontractors concerned do not in any way infringe or allow any infringement of any other party's Intellectual Property Rights in the performance of this contract, and the Supplier hereby indemnifies and holds WESTERN TVET harmless from and against any claims arising against WESTERN TVET as a result of any such infringements by the Supplier of such Intellectual Property Rights.
- 17.5. Neither party shall be liable towards the other for any indirect or consequential loss of any nature and howsoever incurred.

18. Insurance

- 18.1. Without limiting WESTERN TVET liabilities or responsibilities in terms of this Agreement, the Supplier shall provide insurance to cover its liabilities and responsibilities in terms of this Agreement.
- 18.2. Notwithstanding anything elsewhere contained in this Agreement, WESTERN TVET shall provide at least:

18.2.1. Insurance in terms of the Compensation for Occupational Injuries and Diseases Act, 130 of 1993. The Supplier shall upon request from WESTERN TVET submit proof to the satisfaction of WESTERN TVET that the Supplier is insured under the Compensation for Occupational Injuries and Diseases Act by providing WESTERN TVET with adequate proof stating that it has paid all assessments due;

18.2.2. Insurance covering legal liability in respect of claims for death of/or injury to persons or loss of/or damage to third party property;

18.2.3. Motor vehicle liability insurance in respect of all motor vehicles brought onto the premises of WESTERN TVET.

18.3. WESTERN TVET shall have the right to examine the policies maintained by the Supplier at any time during the term of this Agreement.

19. Occupational Health and Safety Act, 1993 (“OHS Act”)

19.1. Without derogating from the generality of the obligations set out in this Agreement, the Supplier undertakes and warrants that it shall in respect of all activities conducted in respect of this Agreement:

19.1.1. at all times comply with the provisions of the OHS Act;

19.1.2. acquaint all its employees with the provisions and requirements of the OHS Act;

19.1.3. not endanger the health and safety of any of its or WESTERN TVET’s employees in any way whilst provided the Goods and/or are present at WESTERN TVET’s premises;

19.1.4. accepts responsibility for compliance with the duties, obligations and prohibitions imposed by the OHS Act and expressly absolves WESTERN TVET from being obliged to comply with any of the aforesaid duties, obligations and prohibitions relating to the provision of the Goods; and

19.1.5. shall assume the responsibility of an employer in terms of the OHS Act and, if the Supplier assigns any duty as provided for in the OHS Act, shall immediately provide WESTERN TVET with a copy of such written assignment.

19.2. WESTERN TVET shall be entitled to request the Supplier to remove any employee, agent, consultant or Subcontractor from its team if WESTERN TVET is of the opinion that such a person is a security or safety risk or that the conduct of such a person is detrimental to the relationship between the parties. Such a person must be removed by the Supplier within the time period stipulated by WESTERN TVET. The Supplier indemnifies WESTERN TVET against any claims that might arise due to such removal.

20. **Canvassing, Gifts, Inducements and Rewards**

- 20.1. The Supplier shall not under any circumstances offer, promise or make any gift, payment, loan, reward, inducement, benefit or other advantage to any of WESTERN TVET's employees, consultants or subcontractors.
- 20.2. Such an act shall constitute a material breach of this Agreement and WESTERN TVET shall be entitled to terminate this Agreement forthwith, without prejudice to any of its rights in terms of this Agreement or in law.

21. **Meetings**

- 21.1. If the nature of the Goods provided to WESTERN TVET dictate it, authorised representatives of the parties must attend periodic meetings at such intervals as such representatives may agree from time to time but in any event not less than once every two weeks. The meetings shall take place at the location and at such times as the representatives may agree.
- 21.2. Each party's representatives shall be entitled to place such items which they intend discussing at a meeting on the agenda for the meeting and shall give the representatives of the other party notice of all such items by no later than 16h00 two (2) days preceding the day on which the meeting is to be held.
- 21.3. The Supplier shall not be entitled to payment from WESTERN TVET for time spent attending the aforementioned meetings.

22. **Change Over**

- 22.1. In this Agreement "Change Order" means a document which is used for the specific purpose of recording the details of any amendments, deletions, insertions or additions to this Agreement and which shall be signed by the authorised representatives of both parties before becoming effective and binding on the parties.
- 22.2. Should the parties wish to make any amendment, deletion, insertion or addition to this Agreement the parties shall prepare a Change Order.
- 22.3. No Change Order shall be of any force or effect until it is executed by the duly authorised signatories of each of the parties.

- 22.4. Each executed Change Order shall be subject to the terms and conditions contained in this Agreement, except as otherwise expressly provided for in such Change Order by the parties by specifically stating the parties' intention to amend such terms and conditions of this Agreement and identifying the specific terms and conditions being amended.
- 22.5. A unique, sequential, number shall be allocated to each Change Order.
- 22.6. The authorised representative of WESTERN TVET, for purposes of executing a Change Order, is WESTERN TVET's Chief Executive Officer.
- 22.7. No terms and conditions contained in, without limitation, any purchase order, quote, invoice, statement or similar document, other than a Change Order executed in pursuance to this clause 22, shall have the effect of changing any term or condition contained in this Supplier Agreement.

23. Compliance with Laws and Tax Obligations

- 23.1. The Supplier warrants that it complies with all laws and regulations applicable to it, with its legal obligations pertaining to its business in general and with its obligations contained in this Agreement as well as with all applicable requirements of any government department (whether national, provincial or local), other public authorities and regulating bodies (whether statutory or voluntary), and undertakes to continue to take all reasonable and necessary steps to ensure that such compliance is maintained.
- 23.2. The Supplier warrants that any of its undertakings in terms of this Agreement do not constitute a contravention in terms of any statute, statutory regulation, other law or regulating body's rules that it is bound by and undertakes to continue to take all reasonable and necessary steps to ensure that this remains so.
- 23.3. The Supplier furthermore specifically warrants that it complies with all of its obligations in terms of all tax laws and regulations applicable to it, including but not limited to all of its obligations pertaining to the payment of income tax, capital gains tax, employees tax (PAYE and SITE), value added tax, skills development levies, unemployment insurance Fund levies, workmen's compensation Fund levies, regional Services council levies and all other taxes and levies payable both now or in the future and whether it is liable in the Republic of South Africa or other jurisdictions, and undertakes to continue to take all reasonable and necessary steps to ensure that this remains so.
- 23.4. The Supplier specifically warrants that it is well acquainted with its obligations as a taxpayer, provisional taxpayer, employer, employee, labour broker, personal service company, personal service trust and the like (as the case may be) and its income tax, employees taxes and levies (SITE, PAYE, UIF, SDL, others) and other tax implications and obligations in terms of the Income Tax Act as a whole and specifically the Fourth Schedule thereto, and their successor/s in title.
- 23.5. Without limiting in any manner whatsoever the generality of the Supplier's above obligations, the Supplier shall, for the full and uninterrupted duration of this Agreement, ensure that WESTERN TVET is:
- 23.5.1. Placed in possession of an original, valid, unexpired Tax Clearance Certificate, issued by the South African Revenue Services; and/or
- 23.5.2. Furnished with a new, original, valid, unexpired Tax Clearance Certificate issued by the South African Revenue Services, not less than 30 (thirty) days prior to the expiry of the Tax Clearance Certificate contemplated in clause 23.5.1 above, in the event of any such Tax Clearance Certificate expiring during the duration of this Agreement.

23.5.3. Notwithstanding anything seemingly to the contrary in this Agreement, until the Supplier complies fully with its obligation under this clause 23, WESTERN TVET has the right to withhold payment of any unpaid amounts due in terms of this Agreement:

23.5.4. Without prejudice to any other rights which WESTERN TVET may have in terms of this Agreement or in law; and

23.5.5. Without interest accruing on the amount withheld.

23.6. A breach by the Supplier of its obligations under this clause 23 is a material breach which will entitle WESTERN TVET, at its sole election, to cancel this Agreement forthwith, without prejudice to any other rights which WESTERN TVET may have in terms of this Agreement or in law.

24. Intellectual Property Rights

24.1. The Supplier agrees to assign to WESTERN TVET absolutely, for the full duration thereof and throughout the world, all of the Supplier's right, title and interest in the Supplier's Created Intellectual Property on its creation. The Supplier undertakes, on request, to do all things and sign all documents necessary to assign the aforementioned rights, title and interest to WESTERN TVET in the Created Intellectual Property and necessary to record such assignment at any Office responsible for the registration of Intellectual Property Rights.

24.2. If the right, title and interest of any of the Created Intellectual Property is not capable of being assigned to WESTERN TVET, the Supplier undertakes, on request, to do all things and sign all documents necessary to ensure that WESTERN TVET is granted an irrevocable, fully paid up, royalty free licence to use the Created Intellectual Property for the full duration of the right and throughout the world.

24.3. In the event of assignment, WESTERN TVET grants the Supplier a licence to use the Created Intellectual Property for the performance of the Goods in terms of this Agreement.

25. Breach

25.1. In the event of either one of the parties ("the Defaulting Party") committing a breach of any of the provisions of this Agreement and failing to remedy such breach within a period of fourteen (14) days after receipt of a written notice from the other party ("the Aggrieved Party") calling upon the Defaulting Party to remedy the breach complained of, then the Aggrieved Party shall be entitled at its sole discretion and without prejudice to any of their other rights in law and/or in terms of this Agreement, either to:

25.1.1. Claim specific performance in the terms of this Agreement; or

25.1.2. Cancel this Agreement forthwith and without further notice and recover damages from the Defaulting Party.

25.2. In the event of the Defaulting Party being in breach of any provision of this Agreement and the Aggrieved Party having to take legal action / dispute resolution action against the Defaulting Party as a result thereof, the Defaulting Party shall be liable to pay the Aggrieved Party's legal costs as well as all expenses which have reasonably been incurred in having to take such legal action, which expenses will include but not be limited to private investigator's fees, tracing agents fees, forensic auditor's fees, valuation fees and such similar professional fees in terms of any court order, arbitration award or settlement agreement (whether legal action was instituted by way of arbitration, in a court of law or other forum, or was resolved prior to any such action having to be taken).

26. Termination

26.1. WESTERN TVET may terminate this Agreement, or suspend its operation, in whole or in part, at any time and at WESTERN TVET's sole discretion, by giving not less than 1 (one) month's written notice to the Supplier.

26.2. WESTERN TVET when giving notice under clause 26.1 shall, in the written notice, specify the extent of the termination or suspension, and the Effective Date of such termination or suspension.

26.3. The Supplier, upon receipt of a notice contemplated under clause 26.1 shall discontinue the provision of all of the Service under this Agreement, to the extent specified, and on the date specified in the notice.

26.4. In the event of the termination or suspension, in whole or in part, of this Agreement by WESTERN TVET under this clause 26, WESTERN TVET shall pay the Supplier for Services already provided by the Supplier under this Agreement, up to and including the date of termination or suspension specified in the notice.

26.5. WESTERN TVET shall not be liable for any consequential loss resulting from the termination or suspension of this Agreement by WESTERN TVET under this clause 26, including, without limitation, any loss of profits or any costs associated with the termination or suspension of any sub-contracts entered into by the Supplier.

26.6. Termination or suspension of this Agreement under this clause 26 shall be without prejudice to any rights that may have accrued to either of the parties, in respect of Services provided before the date of termination or suspension, specified in the notice. It is specifically agreed that, upon termination or suspension of this Agreement under clause 26, no rights shall accrue to either party in respect of Services not yet provided under this Agreement.

26.7. WESTERN TVET shall have the right to immediately cancel this Agreement, without prejudice to any rights which it may have in law, in the event that the Supplier is liquidated, sequestrated or placed under judicial management, business rescue or any other form of management for the benefit of its creditors, whether provisional or final.

27. Dispute Resolution

27.1. All disputes concerning or arising out of this Agreement exists once a party notifies the other in writing of the nature of the dispute and requires the dispute to be resolved under this clause. All disputes arising out of or in connection with this Agreement shall be resolved by:

27.1.1. Negotiation, in terms of clause 27.4; failing which

27.1.2. Mediation, in terms of clause 27.5; failing which

27.1.3. Arbitration, in terms of clause 28.

27.2. This clause shall not preclude any party from access to an appropriate court of law for interim relief in respect of urgent matters by way of an interdict, or mandamus pending finalisation of the dispute resolution process contemplated in this clause, for which purpose the parties irrevocably submit to the jurisdiction of the High Court of the Republic of South Africa.

27.3. This clause constitutes irrevocable consent of the parties to the dispute resolution process in terms hereof and neither of the parties shall be entitled to withdraw therefrom or to claim at any negotiation, mediation or arbitration proceedings that they are not bound by the dispute resolution provisions of this Agreement.

27.4. Within ten (10) days of notification by either party that a dispute exists, the parties must seek an amicable resolution to the dispute by referring the dispute to designated and authorized representatives of each of the parties to negotiate and resolve the dispute. If an amicable resolution to the dispute is found the authorized representatives of the parties must sign, within the ten (10) day period, an agreement confirming that the dispute has been resolved.

27.5. If negotiation in terms of clause 27.4 fails, either party may, within fifteen (15) days of the negotiations failing, refer the dispute for resolution by mediation under the rules of the Arbitration Foundation of Southern Africa (or its successor or body nominated in writing by it in its stead).

27.6. The periods for negotiation (specified in clause 27.4) or for referral of the dispute for mediation (specified in clause 27.5), may be shortened or lengthened by written agreement between the parties.

28. Arbitration of Disputes

- 28.1. In the event of the mediation contemplated in clause 27.5 failing either party may refer the dispute, within fifteen (15) days of the mediation failing, for resolution by expedited arbitration under the then current rules of the Arbitration Foundation of Southern Africa (or its successor or body nominated in writing by it in its stead).
- 28.2. A single arbitrator shall be appointed by agreement between the parties within ten (10) days of the dispute being referred for arbitration, failing which the arbitrator shall be appointed by the Secretariat of the Arbitration Foundation of Southern Africa (or its successor or body nominated in writing by it in its stead).
- 28.3. At all times, every reasonable effort shall be made to ensure that such arbitrator has the necessary technical skills to enable him to adjudicate the dispute in a satisfactory manner.
- 28.4. The arbitration shall be held at Randfontein, South Africa, in English.
- 28.5. The laws of the Republic of South Africa shall apply.
- 28.6. The parties shall be entitled to legal representation.
- 28.7. The award of the arbitrator shall be final and binding on the parties, who hereby agree to give effect to the award. Either party shall be entitled to have the arbitrator's award made an order of court at the cost of the party requesting same.
- 28.8. This clause 28 read with clause 27 above is a separate, divisible agreement from the rest of this Agreement and shall remain in effect even if this Agreement terminates, is nullified, or cancelled for any reason or cause.

29. **Domicilium and Notice of Address**

The parties each choose their domicilium citandi et executandi as the address where they will receive service of all legal process and notices at the respective physical addresses given in this Agreement or the Purchase Order (whichever is applicable).

30. **Notice**

- 30.1. All notices, correspondence and any other communication between the parties shall be made in writing and shall be sent by hand delivery, by registered post, by facsimile transmission or by e-mail with a 'read receipt'.
- 30.2. If notice is given by way of e-mail, it must be with a 'read receipt', such notice shall be deemed to be received 1 (one) day after sending.
- 30.3. If notice is given by way of facsimile transmission, such notice shall be deemed to be received 1 (one) day after sending.
- 30.4. If notice is given by registered post, such notice shall be deemed to be received 7 (seven) days after sending.
- 30.5. If notice is given by hand delivery, such notice shall be deemed to be received on the day of delivery.

30.6. Any legal process shall be served at the parties' chosen domicilium citandi et executandi addresses.

30.7. Any changes to the parties' notice addresses and domicilium addresses as furnished in this Agreement or Purchase Order shall be given in writing and shall be deemed to apply upon the date of receipt of such notice.

31. **General**

31.1. This Agreement constitutes the sole and entire agreement between the parties. This Agreement replaces all previous agreements between the Supplier and WESTERN TVET relating to the subject matter of this Agreement. No prior or parallel agreements relating to the subject matter of this Agreement are binding on the parties. All the representations, undertakings, warranties or guarantees ("the representations") made by the parties relating to the subject matter of this Agreement, are contained in this Agreement. Any representations not contained in this Agreement shall not be binding on the parties and shall be without any force or effect.

31.2. No amendment or variation of this Agreement (including this clause), whether by addition, deletion, waiver, novation or consensual cancellation shall be binding on the parties and shall be without any force or effect unless reduced to writing and signed by the parties to this Agreement.

31.2.1. No latitude, extension of time or other indulgence which may be given or allowed by any party to the other party in respect of the performance of any obligation in this Agreement or any enforcement of any rights arising from this Agreement and no single or partial exercise of any right by any party, shall under any circumstances be construed to be an implied consent by such party or operate as a waiver or a novation of, or otherwise affect any of that party's rights in terms of or arising from this Agreement or estop such a party from enforcing, at any time and without notice, strict and punctual compliance with each and every provision of this Agreement.

31.2.2. If any term, condition or performance, or any part thereof, in this Agreement ("the provision") is determined to be invalid, illegal, unlawful or unenforceable to any extent, then that provision shall be removed from the remaining provisions of this Agreement, or amended to make it valid, legal, lawful or enforceable (as the case may be), in such a manner as to leave the amended agreement substantially the same in essence, and this Agreement so amended shall remain in force and effect.

31.2.3. If any provision of this Agreement is determined to be invalid, illegal, unlawful or unenforceable, such a provision shall be deemed to be severable from the rest of the provisions of this Agreement and shall not in any way affect the validity and enforceability of the rest of the provisions of this Agreement and this Agreement as a whole.

31.2.4. WESTERN TVET and the Supplier warrant to each other that their respective signatories and representatives have the power, authority and legal right to conclude and sign this Agreement and perform in terms of this Agreement, and that this Agreement has been duly authorised by all necessary actions of their respective governing organs and management, as the case may be, and constitutes valid and binding obligations on them in accordance with the provisions of this Agreement.

31.2.5. Each party shall pay their own legal and other consulting and advisory fees and related expenses incurred in regard to the negotiation, drafting, preparation and finalisation of this Agreement and the entire transaction.

32. Steering Committee

32.1. The steering committee will be constituted by the representatives of the client and the Service Provider identified in the relevant Annexure who will manage the relationship between the parties and the services.

32.2. The steering committee will meet at least one a month for the duration of this agreement and whenever else deemed reasonably necessary by the Client in order to discuss:

32.2.1. the progress of the services and the steps to be taken to remedy any delays in the achievement of the deadlines / deliverables.

32.2.3. Any failures, defects, errors or deficiencies in the services

32.2.4. Additional recommendations by either Party

32.2.5. Any personnel related issues and

32.2.6. Any other matters of relevance to the performance of the services

32.3. Minutes of steering committee meetings will be kept and distributed to its members by the Client within 7 (seven) days of each meeting or such longer period as the Client deems reasonable. At least 7 (seven) days' notice of steering committee meetings must be given to its members unless all members unanimously agree to wave such notice in respect of a particular meeting.

32.4. Where the steering committee has reason to believe that the service provider has not met a service level in terms of this agreement or has not met the Repair Resolution Time, the steering committee will first give the service provider the opportunity to make representations to it before making any final decision in terms of clause 25 of this agreement.

PLEASE INITIAL EACH PAGE OF THE GENERAL CONDITIONS OF CONTRACT

Bidders shall provide full and accurate answers to all (including mandatory) questions posed in this document and are required to explicitly state "Comply/Accept" or "Do not comply/Do not accept" (with a √ or an X) regarding compliance with the requirements. Where necessary, the bidders shall substantiate their response to a specific question.

1.

This bid is subject to the General Conditions of Contract stipulated below.	Accept	Do not accept

2.

The laws of the Republic of South Africa shall govern this RFP and the bidders hereby accept that the courts of the Republic of South Africa shall have the jurisdiction.	Accept	Do not accept

3.

WESTERN TVET College shall not be liable for any costs incurred by the bidder in the preparation of response to this RFP. The preparation of response shall be made without obligation to acquire any of the items included in any bidder's proposal or to select any proposal, or to discuss the reasons why such vendor's or any other proposal was accepted or rejected.	Accept	Do not accept

4.

WESTERN TVET College may request written clarification or further information regarding any aspect of this proposal. The bidders must supply the requested information in writing within twenty-four (24) hours after the request has been made, otherwise the proposal may be disqualified.	Accept	Do not accept

5.

In the case of Consortium, Joint Venture or subcontractors, bidders are required to provide copies of signed agreements stipulating the work split and Rand value.	Accept	Do not accept

6

In the case of Consortium, Joint Venture or subcontractors, all bidders are required to provide mandatory documents as stipulated in schedule 1 of the Response format.	Accept	Do not accept

7

WESTERN TVET College reserves the right to; cancel or reject any proposal and not to award the proposal to the lowest bidder or award parts of the proposal to different bidders, or not to award the proposal at all.	Accept	Do not accept

8

Where applicable, bidders who are distributors, resellers and installers of network equipment are required to submit back-to-back agreements and service level agreements with their principals.	Accept	Do not accept

9

By submitting a proposal in response to this RFP, the bidders accept the evaluation criteria as it stands.	Accept	Do not accept

10

Where applicable, WESTERN TVET College reserves the right to run benchmarks on the requirements equipment during the evaluation and after the evaluation.	Accept	Do not accept

11

WESTERN TVET College reserves the right to conduct a pre-award survey during the source selection process to evaluate contractors' capabilities to meet the requirements specified in the RFP and supporting documents.	Accept	Do not accept

12

Only the solution commercially available at the proposal closing date shall be considered. No Bids for future solutions shall be accepted.	Accept	Do not accept

13

<p>The bidder should not qualify the proposal with own conditions.</p> <p>Caution: If the bidder does not specifically withdraw its own conditions of proposal when called upon to do so, the proposal response shall be declared invalid.</p>	Accept	Do not accept

14

Should the bidder withdraw the proposal before the proposal validity period expires, WESTERN TVET College reserves the right to recover any additional expense incurred by WESTERN TVET College having to accept any less favourable proposal or the additional expenditure incurred by WESTERN TVET College in the preparation of a new RFP and by the subsequent acceptance of any less favourable proposal.	Accept	Do not accept

15

Delivery of and acceptance of correspondence between the WESTERN TVET College and the bidder sent by prepaid registered post (by air mail if appropriate) in a correctly addressed envelope to either party's postal address or address for service of legal documents shall be deemed to have been received and accepted after (2) two days from the date of postage to the South African Post Office Ltd.	Accept	Do not accept

16

	Accept	Do not accept
--	---------------	----------------------

<p>Should the parties at any time before and/or after the award of the proposal and prior to, and-or after conclusion of the contract fail to agree on any significant product price or service price adjustments, change in technical specification, change in services, etc. WESTERN TVET College shall be entitled within 14 (fourteen) days of such failure to agree, to recall the letter of award and cancel the proposal by giving the bidder not less than 90 (ninety) days written notice of such cancellation, in which event all fees on which the parties failed to agree increases or decreases shall, for the duration of such notice period, remain fixed on those fee/price applicable prior to the negotiations.</p> <p>Such cancellation shall mean that WESTERN TVET College reserves the right to award the same proposal to next best bidders as it deems fit.</p>		
---	--	--

17

<p>In the case of a consortium or JV, each of the authorised enterprise's members and/or partners of the different enterprises must co-sign this document.</p>	Accept	Do not accept

18

<p>Any amendment or change of any nature made to this RFP shall only be of force and effect if it is in writing, signed by WESTERN TVET College signatory and added to this RFP as an addendum.</p>	Accept	Do not accept

19

<p>Failure or neglect by either party to (at any time) enforce any of the provisions of this proposal shall not, in any manner, be construed to be a waiver of any of that party's right in that regard and in terms of this proposal. Such failure or neglect shall not, in any manner, affect the continued, unaltered validity of this proposal, or prejudice the right of that party to institute subsequent action.</p>	Accept	Do not accept

20

<p>Bidders who make use of subcontractors.</p>	Accept	Do not accept
--	---------------	----------------------

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

21

All services supplied in accordance with this proposal must be certified to all legal requirements as per the South African law.	Accept	Do not accept

22

No interest shall be payable on accounts due to the successful vendor in an event of a dispute arising on any stipulation in the contract.	Accept	Do not accept

23

An evaluation panel established by WESTERN TVET College and WESTERN TVET SA shall perform evaluation of Bids. Bids shall be evaluated based on conformance to the required specifications as outlined in the RFP. Points shall be allocated to each bidder, on the basis that the maximum number of points that may be scored for price is 80 , and the maximum number of preference points that may be claimed for BBEE (according to the PPPFA) is 20 .	Accept	Do not accept

24

If the successful bidder disregards contractual specifications, this action may result in the termination of the contract.	Accept	Do not accept

25

The bidders' response to this Bid, or parts of the response, shall be included as a whole or by reference in the final contract.	Accept	Do not accept

26

Should the evaluation of this bid not be completed within the validity period of the bid, WESTERN TVET College has discretion to extend the validity period.	Accept	Do not accept

27

Upon receipt of the request to extend the validity period of the bid, the bidder must respond within the required periods and in writing on whether he agrees to hold his original bid response valid under the same terms and conditions for a further period.	Accept	Do not accept

28

Should the bidder change any wording or phrase in this document, the bid shall be evaluated as though no change has been affected and the original wording or phrasing shall be used.	Accept	Do not accept

Request for Proposal: _____

APPENDIX C

Proof of Bank Account

Documentation	Requirement	Included in required format (Please tick)
Proof of Bank Account	Provide Confirmation letter from Bank, not older than 3 months	<input type="checkbox"/>

Please sign that the contents of this Appendix have been verified

Name

Signature

Request for Proposal: _____

APPENDIX D

Company Registration Documents

Documentation	Requirement	Included in required format (Please tick)
Company Registration Document	Provide Company registration documents	<input type="checkbox"/>

<i>Please sign that the contents of this Appendix have been verified</i>	
Name	
Signature	

Request for Proposal: _____

APPENDIX E

ID Copies of Directors

Documentation	Requirement	Included in required format (Please tick)
ID Copies of Directors	Certified and not older than 6 months	<input type="checkbox"/>

<i>Please sign that the contents of this Appendix have been verified</i>	
Name	
Signature	

Request for Proposal: _____

APPENDIX F

Tax Pin

Documentation	Requirement	Included in required format (Please tick)
Tax Pin	An original valid Tax Pin	<input type="checkbox"/>

<i>Please sign that the contents of this Appendix have been verified</i>	
Name	
Signature	

Request for Proposal: _____

APPENDIX G

Audited Financial Statements/Management Account

Documentation	Requirement	Included in required format (Please tick)
Audited Financial Statements/Management Account	Provide Audited Financial Statements or Management Account for the last two (2) years	<input type="checkbox"/>

Please sign that the contents of this Appendix have been verified

Name

Signature

Request for Proposal: _____

APPENDIX H

B-BBEE Certification

Documentation	Requirement	Included in required format (Please tick)
B-BBEE certification	Provide A valid BBBEE certificate from a SANAS accredited agency or Auditor registered with the IRBA	<input type="checkbox"/>

Please sign that the contents of this Appendix have been verified

Name

Signature

Request for Proposal: _____

APPENDIX I

Declaration of Interest

Documentation	Requirement	Included in required format (Please tick)
Declaration of Interest	Complete Point 9 of this tender document	<input type="checkbox"/>

<i>Please sign that the contents of this Appendix have been verified</i>	
Name	
Signature	

Request for Proposal: _____

APPENDIX J

CSD

Documentation	Requirement	Included in required format (Please tick)
Registration On Central Supplier Data Base (CSD)	Provide a copy of the full report of registration on National Treasury Central Supplier Database	<input type="checkbox"/>

<i>Please sign that the contents of this Appendix have been verified</i>	
Name	
Signature	

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2011

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, 2011.

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to all bids:

The 80/20 B-BBEE scoring system will be applicable to this tender. This is in accordance with the new PPPFMA 2000: Preferential procurement regulation of 2017 as published in the Government Gazette of 20 January 2017.

“80/20 preference point system for acquisition of goods or services for Rand value equal to or above R30 000 and up to R50 million”

1.2 Preference points for this bid shall be awarded for:

- (a) Price; and
- (b) B-BBEE Status Level of Contribution.

1.3.1 The maximum points for this bid are allocated as follows:

	POINTS
1.3.1.1 PRICE
1.3.1.2 B-BBEE STATUS LEVEL OF CONTRIBUTION
Total points for Price and B-BBEE must not exceed	100

- 1.4 Failure on the part of a bidder to fill in and/or to sign this form and submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System (SANAS) or a Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA) or an Accounting Officer as contemplated in the Close Corporation Act (CCA) together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.
- 1.5. 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

- 2..1 **“all applicable taxes”** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- 2.2 **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- 2.3 **“B-BBEE status level of contributor”** means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- 2.4 **“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 services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
- 2.5 **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- 2.6 **“comparative price”** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;
- 2.7 **“consortium or joint venture”** 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;
- 2.8 **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;
- 2.9 **“EME”** means any enterprise with an annual total revenue of R5 million or less .

- 2.10 **“Firm price”** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- 2.11 **“functionality”** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, considering, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
- 2.12 **“non-firm prices”** means all prices other than “firm” prices;
- 2.13 **“person”** includes a juristic person;
- 2.14 **“rand value”** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;
- 2.15 **“sub-contract”** means the primary contractor’s assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;
- 2.16 **“total revenue”** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the *Government Gazette* on 9 February 2007;
- 2.17 **“trust”** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
- 2.18 **“trustee”** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

3. ADJUDICATION USING A POINT SYSTEM

- 3.1 The bidder obtaining the highest number of total points will be awarded the contract.
- 3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts;
- 1.3 Points scored must be rounded off to the nearest 2 decimal places.
- 3.4 In the event that two or more bids have scored equal total points, the successful bid

must be the one scoring the highest number of preference points for B-BBEE.

- 3.5 However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal preference points for B-BBEE, the successful bid must be the one scoring the highest score for functionality.
- 3.6 Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

4. POINTS AWARDED FOR PRICE

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

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

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

Where

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

5. Points awarded for B-BBEE Status Level of Contribution

- 5.1 In terms of Regulation 5 (2) and 6 (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 (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	8	16
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

5.2 Bidders who qualify as EMEs in terms of the B-BBEE Act must submit a certificate issued by an Accounting Officer as contemplated in the CCA or a Verification Agency accredited by SANAS or a Registered Auditor. Registered auditors do not need to meet the prerequisite for IRBA's approval for the purpose of conducting verification and issuing EMEs with B-BBEE Status Level Certificates.

5.3 Bidders other than EMEs 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 Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.

5.4 A trust, consortium, or joint venture will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.

5.5 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.

5.6 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.

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

5.8 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.

6. BID DECLARATION

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

7. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.3.1.2 AND 5.1

7.1 B-BBEE Status Level of Contribution: = (maximum of 10 or 20 points)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA, or an Accounting Officer as contemplated in the CCA).

8 SUB-CONTRACTING

8.1 Will any portion of the contract be sub-contracted? YES / NO (delete which is not applicable)

8.1.1 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? YES / NO (delete which is not applicable)

9 DECLARATION WITH REGARD TO COMPANY/FIRM

9.1 Name of company/firm :

9.2 VAT registration number :

9.3 Company registration number :

9.4 TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
- One person business/sole propriety
- Close corporation
- Company

(Pty) Limited

[TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....
.....
.....

9.6 COMPANY CLASSIFICATION

Manufacturer

Supplier

Professional service provider

Other service providers, e.g., transporter, etc.

[TICK APPLICABLE BOX]

9.7 Total number of years the company/firm has been in business?

9.8 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-BBE status level of contribution indicated in paragraph 7 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 paragraph 7, 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 contribution 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) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, 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

WITNESSES:

1.

.....
SIGNATURE(S) OF BIDDER(S)

2.

DATE:

ADDRESS:

.....

.....

**DECLARATION OF INTEREST AND BIDDER'S PAST SUPPLY
MANAGEMENT PRACTICES
DECLARATION OF INTEREST**

1. Any legal person, including persons employed by the state¹, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-
 - the bidder is employed by the state; and/or
 - the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

2. **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**
 - 2.1 Full Name of bidder or his or her representative:
 - 2.2 Identity Number:
 - 2.3 Position occupied in the Company (director, trustee, shareholder²):
 - 2.4 Company Registration Number:
 - 2.5 Tax Reference Number:
 - 2.6 VAT Registration Number:
 - 2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / persal numbers must be indicated in paragraph 3 below.

¹ "State" means –

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

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

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

2.7.1 If so, furnish the following particulars:

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

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

Position occupied in the state institution:

Any other particulars:

.....

.....

.....

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

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

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

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

.....

.....

.....

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

2.8.1 If so, furnish particulars:
.....
.....
.....

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

2.9.1 If so, furnish particulars.
.....
.....
.....

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

2.10.1 If so, furnish particulars.
.....
.....
.....

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

2.11.1 If so, furnish particulars:
.....
.....
.....

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

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>Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?</p> <p>(Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</p> <p>The Database of Restricted Suppliers now resides on the National Treasury's website(www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.</p>	<p>Yes</p> <input type="checkbox"/>	<p>No</p> <input type="checkbox"/>

4.1.1	If so, furnish particulars:		
4.2	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)? The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
4.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		

CERTIFICATION

**I, THE UNDERSIGNED (FULL NAMES)
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 bids¹ invited.
2. Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).² Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
3. Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
 - a) disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
 - b) 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. To give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

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

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

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, 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 consortium³ will not be construed as collusive bidding.

7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:

(a) prices;

(b) geographical area where product or service will be rendered (market allocation)

(c) methods, factors or formulas used to calculate prices;

(d) the intention or decision to submit or not to submit, a bid;

(e) the submission of a bid which does not meet the specifications and conditions of the bid; or

(f) bidding with the intention not to win the bid.

8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.

9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

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

.....
Signature:

.....
Date:

.....
Position:

.....
Name of Bidder:

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