|  |
| --- |
| **TENDER 2018/0004** |
| **Invitation to reputable, established stationery suppliers for the supply & delivery of Engineering Drawing Kits to all campuses for a period of 12 months.**    **Bid Validity: 90 Days** |
|  |

**TENDER PRICE**

**TENDER PRICE: Engineering Drawing kits as per estimated quantities**

**Randfontein Campus: R ………………………………….**

**Krugersdorp West Campus: R ……………………………**

**Carletonville Campus: R …………………………………..**

**Westonaria Campus: R …………………………………..**

**TOTAL FOR ALL CAMPUSES: R…………………………………..**

**Note: Official company quotation to accompany this submission confirming component totals, unit prices of items and detailed specifications / decscription**

**.**

|  |  |
| --- | --- |
| **COMPANY NAME** |  |

|  |  |
| --- | --- |
| **NAME (PRINT)** |  |

|  |  |
| --- | --- |
| **CAPACITY** |  |

|  |  |
| --- | --- |
| **SIGNATURE** |  |

|  |  |
| --- | --- |
| **DATE** |  |

**TENDER WT 2018/0004**

|  |  |  |
| --- | --- | --- |
| **TENDER DOCUMENT**  *(Document to be printed, completed in black ink, initialled and signed)* | | |
| **NO** | **CONTENT** | **PAGE(s)** |
| 1 | Invitation to Tender |  |
| 2 | Standard Bid Conditions & Evaluation Criteria for Goods and Services |  |
| 3 | Specification List |  |
| 4 | Pricing Schedule |  |
| 5 | Checklist: Tender documents |  |
| 6 | General Conditions of Contract |  |

|  |
| --- |
| **ADDENDUM**  *(Documents to be printed and completed in black ink and signed)* |
| SBD 4 Declaration of Interest |
| SBD 8 Declaration of Bidder’s Past Supply Chain Management Practices |
| SBD 9 Certificate of Independent Bid Determination |

|  |
| --- |
| **ATTACHMENTS** |
| |  | | --- | |  | |

SBD 1

INVITATION TO TENDER

|  |
| --- |
| YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF**WESTERN TVET COLLEGE** |

BID NUMBER: WT 2018/0004 CLOSING DATE: **9 NOVEMBER 2018** CLOSING TIME: **11:00**

**DESCRIPTION**: **Tenders are hereby invited from reputable, established stationery suppliers for the supply & delivery of Engineering Drawing kits to all campuses for a period of 12 months.**

**The successful bidder will be required to provide proof of registration on the Centralised Supplier Database (registration summary not older than 30 days)**

**Bid documents deposited in the bid box at Westcol TVET College: Corporate Office Park, 42 Johnstone Street, Hectorton, Randfontein (33°55’36.27″ S 18°51’22.28″ E) at Reception.**

**Bidders should ensure that bids are delivered timeously to the correct address. If the bid is late, it will not be accepted for consideration.**

**The bid box is open from Monday to Friday 09:00 – 14:00**

**Bid Closes: 9 NOVEMBER 2018 at 11:00**

# ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS – (NOT TO BE RE-TYPED)

# THIS BID IS SUBJECT TO THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT

|  |
| --- |
| THE FOLLOWING PARTICULARS MUST BE FURNISHED(FAILURE TO DO SO MAY RESULT IN YOUR BID BEING DISQUALIFIED) |

NAME OF BIDDER .................………………………………………………………………………………………………

POSTAL ADDRESS ………...............................……..………….....……………………………………………………….

STREET ADDRESS ………………………………………........………………..………..................................................

TELEPHONE NUMBER CODE …………

NUMBER ………………………..………………………………

CELL PHONE NUMBER ………………………………………........………………………………………….

FACSIMILE NUMBER CODE ……....…

NUMBER …………….……….......……………………………

VAT REGISTRATION NUMBER…………………………...………………………………………………………….

HAS A TAX CLEARANCE CERTIFICATE BEEN SUBMITTED (SBD 2)? YES/NO

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS/SERVICES OFFERED BY YOU? YES/NO (IF YES ENCLOSE PROOF)

SIGNATURE OF BIDDER ……………………………………………………………………………………………………

DATE …………………………..………………………………………………………………

CAPACITY UNDER WHICH THIS BID IS SIGNED ………………………………………………………………………..

* 1. WESTCOL shall not take cognisance of any terms and conditions, contract or other contractual documents which a bidder wishes to govern any contractual relationship which may result from this document. Bidders' attention is drawn to the conditions of contract that will govern such contractual relationship, which are contained in Section 4 – Conditions of Contract.
  2. No contract shall exist between WESTCOL and any bidder until such time as WESTCOL has notified the successful bidder that its bid has been accepted and the Contract Form is signed by WESTCOL.
  3. Should a bidder be of the view that the document or any specific requirement is unclear or contains inconsistencies, this must be brought to the attention of WESTCOL, by e-mail to its representative whose name and e-mail address appears in the Bid Data, before the closing date of the RFQ.
  4. Should a bidder have reasons to believe that the Specifications are not open and/or are written for a particular brand or product, the bidder shall notify WESTCOL, by e-mail to its representative whose name and e-mail address appears in the Bid Data, within ten (10) days after publication of this document.
  5. WESTCOL reserves the right to consider any bid that does not strictly comply with the requirements of this bidding document.
  6. WESTCOL reserves the right to make a selection solely on the information received in the bids or to negotiate further with one or more bidder/s.
  7. WESTCOL reserves the right:
     1. to cancel this document at any time;
     2. not to accept any bids;
     3. to accept one or more bid for further negotiation and;
     4. to contact any bidder during the evaluation period, to clarify information only, without informing any other bidder.
  8. This document is the intellectual property of WESTCOL, and shall be treated as being confidential.
  9. Should WESTCOL consider it necessary, any bidder may be requested to consent that WESTCOL inspects the bidder's resources, premises and works. Such consent shall not be unreasonably withheld.
  10. All details, dimensions and instructions shown on any drawings, diagrams and specifications quoted or referenced, shall be considered to form part of this document.
  11. In the event that modifications, clarifications or additions to the bidding document become necessary, all bidders will be notified, in writing, and if necessary an addenda to this document will be issued to all bidders.
  12. All costs incurred in the preparation, presentation and demonstration of bids shall be for the account of the bidder. All supporting documentation and manuals submitted with the document will become the property of WESTCOL unless otherwise stated by the bidder at the time of submission of its bid.
  13. Any material submitted by a bidder which is considered to be confidential in nature, must be clearly marked as such.
  14. By submitting a bid in response to this document, the bidder acknowledges that its bid shall remain binding upon it and open for acceptance by WESTCOL during the Bid validity period.
  15. By submitting a bid in response to this document, the bidder accepts that WESTCOL is under no obligation to award a contract to any bidder, and that that WESTCOL is free to withdraw this document without awarding a contract to any bidder.
  16. WESTCOL reserves the right to extend the Bid Validity Period specified in the Bid Data at any time at its sole election, provided that Bidders shall be allowed the opportunity to submit a revised pricing schedule, or withdraw its bid.
  17. WESTCOL will respond via WESTCOL website on 5 November 2018 to requests for clarifications. that are received by WESTCOL, by e-mail to its representative whose name and e-mail address appears in the Bid Data, up to **11h00 on 2 November 2018.**

**STANDARD BID CONDITIONS &**

**EVALUATION CRITERIA FOR GOODS & SERVICES**

1. **PRICES**
   1. Quoted tariffs must be firm for the full duration of the period as stipulated on the specification list. Non-firm prices will not be considered.
   2. Bid prices must be all inclusive and no hidden or additional cost will be paid.
   3. **SPECIFICATION LIST** 
      1. The specification list must be fully completed in ink and submitted with the bid.
      2. Bid prices must be indicated on the specification list form/s and/or pricing schedules unless otherwise requested
      3. Prices of bids must be provided for the specific units as required per specification list and/or pricing schedules. Failure to do so will invalidate your offer.
2. **QUALIFICATION OF BID DOCUMENTS** 
   1. **COMPULSORY STANDARD BID DOCUMENTATION FORMS TO BE COMPLETED**
      1. Invitation for tender form must be completed in full and signed originally in ink. Failure to do so will invalidate your bid.
      2. Standard Bid Conditions must be completed in full and signed originally in ink. Failure to do so will invalidate your bid.
      3. Specification list must be completed in full and signed originally in ink. Failure to do so will invalidate your bid.
      4. Company name and vendor number (if available) must be filled in
      5. The Preference point claim form must be completed and signed in ink. Company name and vendor number (if available) must be filled in. Failure to do so will invalidate your bid
      6. The declaration of interest form must be fully completed in ink at all times (if applicable or not) and signed by the bidder. Failure to do so will invalidate your bid. The service providers must declare any relationship with any person employed by the Department as contemplated in the National Treasury Practice Note no 7 of 2009/2010 (SCM — Declaration of Interest). Failure by the service provider to declare relationships and connections will result in an immediate termination of the bid/service level agreement.
      7. The Declaration of Bidder's past Supply Chain Management Practices form must be completed and signed originally in ink. Failure to do so will invalidate your bid.
      8. The Certificate of Independent Bid Determination must be completed and signed originally in ink. Failure to complete and sign this form originally in ink will invalidate your bid.
   2. **CORRECTION FLUID AND CORRECTIONS TO TENDER/QUOTATION FORMS**
      1. Correction fluid (e.g. Tippex) must not be used in bid documents in order to correct mistakes. Use of correction fluid (tippex) in the bid document and on the following forms are not acceptable and will invalidate your bid:
      2. Where a bidder wishes to correct a mistake, a single line must be drawn through it and the bidder must place his/her signature and date next to the correction, so that the original entry is still visible and legible. Failure to rectify mistakes in this manner will invalidate the bid, or the relevant item, or the relevant clause.
      3. In the case of alterations/corrections a full signature must be attached above, next to or below the said alteration or correction. If not signed in full at the correction on price the specific item/bid will not be taken into consideration.
   3. **ORIGINAL BID FORMS**
      1. The bid forms should not be retyped or redrafted.
      2. Only the bid documents issued by Westcol TVET College must be used.
      3. Bid documents must be completed originally in ink.
      4. Bidders shall check the numbers of the pages and satisfy themselves that none are missing, duplicated or misprinted. No liability shall be accepted in regard to claims arising from the fact that pages are missing, duplicated or misprinted.
   4. **SUBMITTING OF BID DOCUMENTATION**
      1. No bid transmitted by telegram, telex, facsimile or similar apparatus shall be considered.
      2. The bid must be submitted in a sealed envelope before the closing date and time and deposited in the tender-box at:

Westcol Corporate Office Park

42 Johnstone Street (33°55’36.27″ S 18°51’22.28″ E)

Hectorton

RANDFONTEIN

The bid box is at reception.

The bid box is open from Monday to Friday 09:00 – 14:00.

Bid Closes **9 NOVEMBER** **2018 at 11:00.**

* + 1. The bid number and closing date must be clearly indicated on the sealed envelope.
    2. Bidders must ensure that bids are delivered timeously to the correct address. If the bid is late, it will not be accepted for consideration.
    3. Company details to be clearly indicated on the back of the submission.
    4. Companies must ensure that their bid documentation is properly bound. Westcol TVET College cannot be held responsible for missing pages if your document is not bound.

1. **SITE VISIT / BRIEFING SESSION**

**None**

1. **EVALUATION CRITERIA** 
   1. **THE BID WILL BE EVALUATED AS FOLLOWS**

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”*

**FUNCTIONALITY PRE-QUALIFICATION**

* Assessment on Functionality (separate from price): **100 points**

**ADJUDICATION ON PRICE & B-BBEE GRADING**

* + Assessment on price: **80 points**
  + B-BBEE grading: **20 points**
    1. **PRE-QUALIFICATION REQUIREMENTS/FUNCTIONALITY CRITERIA**

**STAGE 1A**

* Submission of Proposal structured as per evaluation criteria (page 9)
* Bid Commitment (SBD 9 ), preference points claimed (SBD 6.1) and declaration of interest (SBD 4) form should be signed by bidder
* Submission of price (The bidder to submit a quote for drawing kits for 12 months VAT inclusive)
* Submission of proper details / specifications of items proposed. (pictures may be included)
* Submission of a valid tax clearance certificate / Certified copy
* Submission of Tax Compliance Status certificate
* Submission of a BBBEE certificate / EME affidavit
* Proof of registration on Centralised Supplier Database (CSD). Summary of registration not older than 30 days

**SERVICE PROVIDERS THAT DO NOT COMPLY WITH THE ABOVE REQUIREMENTS SHALL BE ELIMINATED AND SHALL BE REGARDED AS NON-RESPONSIVE.**

**STAGE 1B**

* Technical evaluation as explained on page 10
* Minimum threshold = 70 points

**STAGE 2**

* Preference points and price only.
* Price =80 points
* Preference = 20 points.
  1. Responsive bids will be evaluated against the following criteria:
     1. Compliance to the Specification (Mandatory where applicable and Technical / Functional Criteria); and
     2. Price & B-BBEE.
  2. Only bids that satisfy the technical requirements, i.e. which comply with the Specification, shall be evaluated in respect of B-BBEE and price. The requirements in respect of compliance to the Specification are mandatory requirements – if these criteria are not satisfied bids will not be evaluated Responsive bids will be evaluated against the following criteria:
  3. **Evaluation Criteria 1: Compliance with the Specification** 
     1. Bidders must meet the following technical mandatory criteria. Bidders who do not meet all the functional/technical mandatory criteria shall be disqualified:
     2. Bidders need to demonstrate that they are capable of fulfilling the below technical functional criteria. Bidders who achieve a score of 70% and above out of 100% in respect of technical functional criteria will be further evaluated in terms of price and B-BBEE:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Sub-Criteria** | | **Description** | | | **Points** |
| **Proposal** | | 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: | | | 70 |
| **Item within sub-criterion** | | **Points**  **allocated to item** |
| * Quality of products proposed in the pricing schedule (including returns of faulty or damaged items); | | 30 |
| * Delivery within **seven (7)** days of receipt of a delivery request, including how the bidder’s infrastructure and administration capabilities will be deployed to effect timeous delivery; | | 10 |
| * Adequate ongoing communication between WESTCOL and the successful bidder, including establishment and management of the account; | | 5 |
| * Customer satisfaction / exchange of goods | | 5 |
| * Drawing equipment supply contracts (past & present). Full details required | | 10 |
| * Agreements / accounts in place to ensure uninterrupted bulk supply of equipment (contracts / account / credit limits) | | 5 |
| * Ability to supply additional items not specifically provided for in the pricing schedule and proposals on how reasonable and competitive prices for these items will be calculated. | | 5 |
|  | | The items within the Proposal sub-criterion will be scored out of 5 according to the table below: | | | |  | |
| **Category** | | **Description** | **Score out of 5** |
| No  response | |  | 0 |
| Poor | | The proposal is poor / is unlikely to satisfy project objectives or requirements. The bidder has misunderstood certain aspects of the scope of work and does not deal with the critical aspects of the project. Quality control procedures are unlikely to ensure compliance with stated employer’s requirements. | 1 |
| Below Average | | The proposal is generic and not tailored to address the specific project objectives and methodology. The proposal does not adequately deal with the critical characteristics of the project. The quality plan, manner in which risk is to be managed etc is too generic. Quality control procedures are possibly able to ensure compliance with stated employer’s requirements. | 2 |
|  | | Average | | The proposal is tailored to address the specific project objectives and methodology to an acceptable extent. The proposal adequately deals with some of the critical characteristics of the project. The quality plan, manner in which risk is to be managed etc is written for this appointment. Quality control procedures are likely to ensure compliance with some of the stated employer’s requirements. | 3 |  | |
|  | | Good | | The proposal is specifically tailored to address the specific project objectives and methodology and is sufficiently flexible to accommodate changes that may occur during execution. The quality plan and approach to managing risk etc is specifically tailored to the critical characteristics of the project. Quality control procedures are likely to ensure compliance with stated employer’s requirements. | 4 |  | |
|  | | Very Good | | Besides meeting the “good” rating, the important issues are approached in an innovative and efficient way, indicating that the bidder has outstanding knowledge of state-of-the- art approaches. The proposal details ways to improve the project outcomes and the quality of the outputs. Quality control procedures are most likely to ensure compliance with stated employer’s requirements. | 5 |  | |
|  | | The score out of 5 for each item within the sub-criterion will be multiplied by the points allocated to item and divided by 5 and these scores will be added together to obtain the points score out of 70. (brochures may be submitted in addition to the Proposal) | | | |  | |
| **Track**  **Record** | | Bidders are requested to send the attached reference questionnaire to their clients where similar services were rendered and attach the completed reference check questionnaires to the bid response. The reference questionnaire should be completed by at least 1 client where **similar services** **/ products** were rendered over at least a one year period | | | | 30 | |
|  | |  | | | |  | |

|  |  |
| --- | --- |
| **WESTCOL REFERENCE QUESTIONAIRE** |  |

**REFERENCE QUESTIONAIRE FOR WT2018/0004**

**Bidder / Supplier Name: ………………………………………………………………………………………**

Thank you for making time to respond to this questionnaire.

WESTCOL is a statutory body that, in terms of the provisions of the FET Act 16 of 2006 (as amended 2012), exists to provide further education & training to all persons within the borders of South Africa

***WESTCOL requested a bid for stationary suppliers to supply WESTCOL with Engineering Drawing kits to campuses situated in Krugersdorp West, Randfontein , Westonaria & Carletonville on a as and when is required basis for a period of 12 months.***

We would like to do a reference check that will take approximately 15 minutes of your time. Your assistance will help us in making the final decision for the appointment of the bidder. This information will be treated as confidential.

Brief description of services rendered:

Approximate duration over which services were rendered:

Location where services were rendered: ..........................................................

How do you rate this company / organisation / individual on the following areas?

|  |  |
| --- | --- |
| **1. Capacity of the company to meet expectations** | |
| Poor |  |
| Below Average |  |
| Average |  |
| Good |  |
| Very Good |  |
| Comments: | |

|  |  |
| --- | --- |
| 1. **Quality of the supplied items requested compared to the expected quality** | |
| Poor |  |
| Below Average |  |
| Average |  |
| Good |  |
| Very Good |  |
| Comments: | |

|  |  |
| --- | --- |
| 1. **Professionalism of the team rendering the service to you** | |
| Poor |  |
| Below Average |  |
| Average |  |
| Good |  |
| Very Good |  |
| Comments: | |

|  |  |
| --- | --- |
| 1. **Timeliness of delivery within expected or contracted timeframes** | |
| Poor |  |
| Below Average |  |
| Average |  |
| Good |  |
| Very Good |  |
| Comments: | |

|  |  |
| --- | --- |
| 1. **Overall satisfaction with the entire scope of work from ordering to delivery and rectifying problems** | |
| Poor |  |
| Below Average |  |
| Average |  |
| Good |  |
| Very Good |  |
| Comments: | |

|  |  |
| --- | --- |
| 1. **How likely are you making use of this company’s services in future should you require similar services?** | |
| Highly unlikely |  |
| Unlikely |  |
| Possibly |  |
| Likely |  |
| Highly likely |  |
| Comments: | |

|  |
| --- |
| 1. **General Comments** |

**CLIENT DETAILS:**

**(Details of client supplied by bidder)**

Your Company Name :

Contact Person Name:

Contact Person Position:

Contact Number:

E-mail Address:

Signature:

Client company stamp

Official stamp

(Compulsory)

Thank you very much for your time.

2.5. **Evaluation Criteria 2: Price & B-BBEE**

2.5.1. The evaluation for Price and B-BBEE shall be based on the 80/20 PPPFA principle and the points for evaluation criteria are as follows:

|  |  |  |
| --- | --- | --- |
|  | **Evaluation Criteria** | **Points** |
|  | Price | **80** |
|  | Black Economic Empowerment | **20** |
| **Total** | | **100** |

2.5.2. The price will be evaluated by comparing the bidder's price with the prices of other bidders, and based on such comparison to allocate scores to each bidder.

2.5.3. WESTCOL has established a programme of economic empowerment in its procurement strategies. In this regard, bidders are required to indicate their involvement, current and planned, with black businesses and professionals. This will form an important part of the evaluation criteria to be used. WESTCOL reserves the right to request all relevant information, agreements and other documents to verify information supplied in response hereto.

* + All the necessary documentation must be submitted for the Evaluation Panel to make an informed evaluation. Evaluation of the Technical (Quality) Requirements will be based on the information provided by the bidder.
  + The formula to calculate percentages is as follows:

Ps = So/Ms x 100 where:

* Ps = percentage scored for functionality by bid/proposal under consideration
* So = total score of bid/proposal under consideration
* Ms = maximum possible score

**3.1.2 BID EVALUATION / ADJUDICATION CRITERIA**

The following preference point system is applicable to this bid: 80/20

**3.1.2.1 AWARDED FOR PRICE**: A maximum of 80 points is allocated for price on the following basis:

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

**3.1.2.2 AWARDED FOR B-BBEE: A maximum of 20 points is allocated for the B-BBEE status level:**

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

**3.1.2.2.1 BROAD-BASED BLACK ECONOMIC EMPOWERMENT (B-BBEE) STATUS LEVEL CERTIFICATES**

* Bidders are required to, together with their bids, submit original and valid B-BBEE Status Level Verification Certificates or certified copies thereof to substantiate their B-BBEE rating claims.
* Bidders who do not submit B-BBEE Status Level Verification Certificates do not qualify for preference points for B-BBEE but **will not be disqualified from the bidding process.**

**3.1.2.2.1.1 (A) Verification Certificates In Respect Of Exempted Micro Enterprises (EME’S)**

* In terms of the Generic Codes of Good Practice, an enterprise with annual total revenue of R10 million or less qualifies as an EME.
* An Exempted Micro Enterprise is deemed to have a B-BBEE status of “Level Four Contributor”.
* An EME which is at least 51% Black owned, qualifies for elevation to “Level Two Contributor”
* An EME which is 100% Black owned, qualifies for elevation to “Level One Contributor”
* An EME is allowed to be measured in terms of the QSE scorecard should they wish to maximise their points and move to a higher B-BBEE recognition level
* An EME is only required to obtain a sworn affidavit on an annual basis confirming the following:-
* Annual total revenue of R10 million or less
* Level of Black ownership

Any misrepresentation in terms of the above constitutes a criminal offence as set out in the

B-BBEE Act as amended

**3.1.2.2.1.2 (B) Verification Certificates In Respect Of Qualifying Small Enterprises (QSE’S)**

* In terms of the Generic Codes of Good Practice, a Measured Entity with annual total revenue of between R10 million and R50 million qualifies as a QSE.
* A QSE must comply with all of the elements of B-BBEE for the purposes of measurement.
* A QSE which is at least 51% Black owned qualifies for Level Two B-BBEE recognition level
* A QSE which is 100% Black owned qualifies for a Level One B-BBEE recognition
* A QSE is only required to obtain a sworn affidavit on an annual basis confirming the following:-
* Annual total revenue of R50 million or less
* Level of Black ownership

Any misrepresentation in terms of the above constitutes a criminal offence as set out in the

B-BBEE Act as amended

A QSE is required to comply with Ownership as a compulsory priority element and ***either*** Skills development ***or*** Enterprise and Supplier Development

**3.1.2.2.1.3 (C) Verification Certificates In Respect Of Start-up Enterprises (SUE’s)**

* Start-up Enterprises must be measured as an EME for the first year following their formation or incorporation, regardless of the expected total revenue of the Start-up Enterprise.
* A SUE is deemed to have a B-BBEE status of “Level Four Contributor”.
* A SUE which is at least 51% Black owned, qualifies for elevation to “Level Two Contributor”
* A SUE which is 100% Black owned, qualifies for elevation to “Level One Contributor”
* A SUE must provide an independent confirmation of its status confirming the following:-
* Annual total revenue
* Level of Black ownership

Any misrepresentation in terms of the above constitutes a criminal offence as set out in the

B-BBEE Act as amended

* A SUE must submit a QSE scorecard when tendering for any contract or any other economic activity with a value higher than R10 million but less than R50 million
* A SUE must submit a Generic scorecard when tendering for contracts R50 million or more

**3.1.2.2.1.4 B-BBEE Status Level Verification Certificates**

Any representation made by an Entity about its B-BBEE compliance must be supported by suitable evidence or documentation. A Measured Entity that does not provide evidence or documentation supporting any initiative must not receive any recognition for that initiative.

Accounting Officers must ensure that the B-BBEE Status Level Verification Certificates submitted are issued by the following agencies:

* **Bidders other than EME’s, QSE’s and SUE’s**

(a) Verification Agencies accredited by the South African National Accreditation System (SANAS); or

(b) Registered auditors approved by the Independent Regulatory Board of Auditors (IRBA).

* **Trusts and public entities**

A trust, consortium or joint venture must obtain and submit a consolidated B-BBEE Status Level Verification Certificate for every separate bid.

Public entities and tertiary institutions must also submit B-BBEE Status Level Verification Certificates together with their bids.

* **Verification Agencies accredited by SANAS**

As a minimum requirement, all valid B-BBEE Status Level Verification Certificates should have the following information detailed on the face of the certificate:

* The name and the physical location of the measured entity;
* The registration number and, where applicable, the VAT number of the measured entity;
* The date of issue and date of expiry;
* The certificate number for identification and reference;
* The scorecard that was used (for example EME, QSE or Generic);
* The name and / or logo of the Verification Agency;
* The SANAS logo;
* The certificate must be signed by the authorized person from the Verification Agency; and
* The B-BBEE Status Level of Contribution obtained by the measured entity.
* **Verification Agencies accredited by IRBA**

The format and content of B-BBEE Status Level Verification Certificates issued by registered auditors approved by IRBA must:

* Clearly identify the B-BBEE approved registered auditor by the auditor’s individual registration number with IRBA and the auditor’s logo;
* Clearly record an approved B-BBEE Verification Certificate identification reference in the format required by the SASAE;
* Reflect relevant information regarding the identity and location of the measured entity;
* Identify the Codes of Good Practice or relevant Sector Codes applied in the determination of the scores;
* Record the weighting points (scores) attained by the measured entity for each scorecard element, where applicable, and the measured entity’s overall B-BBEE Status Level of Contribution; and
* Reflect that the B-BBEE Verification Certificate and accompanying assurance report issued to the measured entity is valid for 12 months from the date of issuance and reflect both the issuance and expiry date.
* **Accounting Officers as contemplated in section 60(4) of the Closed Corporations Act**

The certificates should be issued on the Accounting Officer’s letterhead with the practice number and contact number clearly specified on the face of the certificate.

The content of B-BBEE Status Level Verification Certificates issued by Accounting Officers as contemplated in the CCA is detailed below:

When confirming the validity of a certificate in respect of an EME, the following should be detailed on the face of the certificate:

* The Accounting Officer’s or Registered Auditor’s letter head with full contact details;
* The Accounting Officer’s or Registered Auditor’s practice numbers;
* The name and the physical location of the measured entity;
* The registration number and, where applicable, the VAT number of the measured entity;
* The date of issue and date of expiry;
* The B-BBEE Status Level of Contribution obtained by the measured entity; and
* The total black shareholding and total black female shareholding.
  1. **BID DECLARATION**

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

|  |  |
| --- | --- |
| **B-BBEE status level of contribution claimed** | |
| B-BBEE status level of contribution |  |
| Points claimed (maximum of 10) |  |

* + 1. **SUB-CONTRACTING**

Will any portion of the contract be sub-contracted? (Please tick)

|  |  |
| --- | --- |
| **Yes** |  |
| **No** |  |

If yes, indicate:

|  |  |
| --- | --- |
| **What percentage of the contract will be subcontracted?** |  |
| **The name of the sub-contractor?** |  |
| **The B-BBEE status level of the sub-contractor?** |  |

* 1. **DEFINITIONS**
  + **"all applicable taxes"** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
  + **"B-BBEE"** means broad-based black economic empowerment as defined in section 1 of the Broad -Based Black Economic Empowerment Act;
  + **"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;
  + **"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;
  + **"Broad-Based Black Economic Empowerment Act"** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
  + **"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;
  + **"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;
  + **"contract"** means the agreement that results from the acceptance of a bid by an organ of state;
  + **"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;
  + **"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, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
  + **"non-firm prices"** means all prices other than **"firm"** prices;
  + **"person"** includes a juristic person;
  + **"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;
  + **“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;
  + **"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;
  + **"trust"** means the arrangement through which the property of one person is made over or 3 bequeathed to a trustee to administer such property for the benefit of another person; and
  + **"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.

1. **TAX CLEARANCE CERTIFICATE (COMPULSORY TO SUBMIT)**
   1. You must submit an original and valid Tax Clearance Certificate with the bid or proof that you applied for the document. The Tax Clearance Certificate must be valid at the closing date of the bid. A Tax Clearance Certificate will be regarded as invalid if it expired before the closing date of the bid. Failure to submit an original and valid Tax Clearance Certificate with your bid documents may disqualify your offer.
   2. Each party to a Consortium/Joint Venture must submit a separate original and valid Tax Clearance Certificate with the bid. Failure to submit will invalidate your bid.
   3. The Trading name or Legal name reflected on the Tax Clearance Certificate must correspond with the name indicated on the bid documentation.
2. **JOINT VENTURE AGREEMENT (IF APPLICABLE)**
   1. In the event that a joint venture bid is submitted, a joint venture agreement, witnessed by a registered Attorney at Law must be submitted with the bidding document.
   2. Failure to submit the said agreement will render the bid non-responsive and your offer will be disqualified.
3. **PAYMENT TO SUPPLIERS**
   1. Payments will be handled as prescribed by the PFMA and will normally be effected within 30 days of receipt of all the required documentation, which should be correct in every respect.
   2. Companies that are awarded bids must ensure that the income tax number and VAT number (where applicable) are indicated on the Invoice
   3. Invoices to be accompanied by completed duty register, signed off by campus manager.
4. **LEGISLATION LAWS**
   1. Bidders must comply with the provisions of Labour Legislation as well as any other relevant legislation or legal requirement.
5. **VALIDITY PERIOD OF BID**
   1. The period for which offers are to remain valid and binding (in order for the College to finalize it), is indicated in the bid documents and is calculated from the closing time on the understanding that offers are to remain in force and binding until the close of business on the last day of the period calculated and if this day falls on a Saturday, Sunday or public holiday, the bid is to remain valid and binding until the close of business on the following working day.

Bid validity applicable to this bid = 90 days

1. **QUANTITIES**
   1. Where quantities are specified in the bid documents the College cannot guarantee that they will be ordered as such, as it depends on College needs. The College is not liable for any damages that the contractor might suffer as a result of the College not ordering specified quantities (no of guards).
2. **SPECIFICATION — BIDDERS RESPONSE**
   1. Where a specification provides for the bidders response to the different points of specification, the form must be properly completed. Where items deviate from the requirement, the deviation must be indicated.
3. **QUALIFICATIONS OF BIDDERS**
   1. The Accounting Officer does not bind himself/herself to accept either the offer scoring the highest point or any bid and reserves the right to accept or cancel the bid which he/she deems to be in the best interest of the College even if it implies a waiver by the Accounting Officer of certain bid requirements which the Accounting Officer considers to be of minor importance and not complied with by a bidder.
   2. The College will ignore any bid from a bidder whose name appears on the national list of restricted bidders/suppliers/persons.
   3. The College will terminate the contract and service level agreement in whole or in part if the supplier and/or representatives of the supplier, in the judgment of the College, committed or has engaged in corrupt or fraudulent practices during the bidding process or the execution of that service level agreement that benefited that supplier.
   4. The College reserves the right to allocate a bid to a service provider who has not necessarily scored the highest points, in the interest of advancing economic empowerment.
4. **COMPLIANCE WITH SERVICE LEVEL AGREEMENT**
   1. The College will monitor compliance with the service level agreement after adjudication of the bid that include, but need not be limited to, site inspections and the request for documentary proof of compliance.
5. **MAXIMUM DELIVERY PERIOD**
   1. As indicated in specification list.
6. **PENALTIES**
   1. If detected that a preference had been obtained on a fraudulent basis or any specified goals are not attained in the performance of the service level agreement, an organ of state may:
   2. Recover all costs, losses or damages resulting from the above-mentioned service level agreement.
   3. Cancel the service level agreement and claim damages.
   4. Impose a financial penalty, more severe than the theoretical financial preference associated with the claim which was made.
   5. Restrict the contractor, its shareholders and directors from obtaining business from any organ of state for a period not exceeding 10 years.
7. **SUCCESSFUL BIDDERS**
   1. The successful bidders will be obliged to sign a service level agreement with the College.
   2. The successful bidder will be expected to provide the required services at the bid prices as reflected in the pricing schedule.
8. **AWARDING BIDS TO GOVERNMENT OFFICIALS** 
   1. Government officials who bid should declare on the form that he/she is an employee of the state.
   2. Written proof that appropriate authority exists for him or her to undertake remunerative work outside his or her employment in the public service should be submitted with the bid document.
   3. Failure to declare on the declaration of interest form and submit a written approval from the HOD for remunerative work outside his or her employment in the public sector will invalidate the offer.
9. **DECLARATIONS**
   1. A bidder must declare that:
      1. Information provided is true and correct.
      2. The signatory to the bid document is duly authorized.
      3. Documentary proof regarding any bid issue, when required, must be submitted to the satisfaction of the College.
10. **THE BIDDER MUST COMPLETE THE FOLLOWING:**

This is to certify that the above conditions have been read and the bidder undertakes to comply herewith for the full duration of the service level agreement/bid. It is further accepted that any deviation from the bid conditions, requirements and specifications may result in the termination of service level agreement prior to expiry.

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

Name of company/firm \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

VAT registration number \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Company registration number \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Type of company/ firm (tick applicable box)

Describe principal business activities  
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

|  |  |
| --- | --- |
| **Manufacturer** |  |
| **Supplier** |  |
| **Professional service provider** |  |
| **Other service providers, e.g. transporter, etc.** |  |

Company classification (Tick applicable box)

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

I/we, the undersigned, who is / are duly authorized to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBEE status level of contribution indicated of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and we acknowledge that:

* + - The information furnished is true and correct
    - The preference points claimed are in accordance with the General Conditions
      * In the event of a contract being awarded as a result of points claimed the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
      * 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 disqualify the person from the bidding process;
      * recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
      * 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;
      * 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
    - forward the matter for criminal prosecution

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**BIDDER: FULL NAME & SURNAME CAPACITY**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**SIGNATURE DATE**

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**WITNESS 1: SIGNATURE DATE**

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**WITNESS 2: SIGNATURE DATE**

**SPECIFICATION LIST**

**SCOPE FOR TENDER WT 2018/0004**

**Supply & delivery of Engineering Drawing kits to engineering campuses for a period of 12 months.**

**BACKGROUND**

Westcol College is a public TVET college situated in the West Rand providing training in the further-education and vocational sector.

**GOAL**

To obtain a reputable, experienced supplier providers responsible for the supply of Engineering drawing kits comprising of good quality drawing instruments & stationery to Westcol Engineering campuses for a period of 1 year.

**TERMS OF REFERENCE**

**Requirement:**

WESTCOL requires an experienced supplier to supply Engineering drawing kits to all Westcol Engineering campuses for a period of 12 months.

**Scope of service required:**

* Ordering of kits will be linked to student numbers. Westcol reserve the right to amend final order quantities at their own discretion.
* Bulk order (quantity /3) delivery for kits will be required as follows:

January 2019

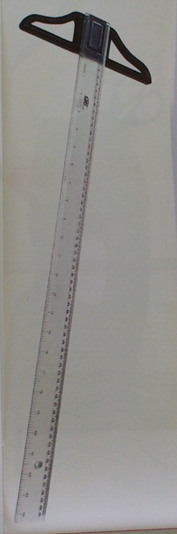
April 2019

August 2019

Top up orders for lesser quantities to be expected. Unit price for kit will remain fixed irrespective of quantity.

* Westcol reserve the right to request a sample kit as per quote to evaluate conformance with specifications as communicated prior to issuing of an order.
* A sample request does not automatically reflect the outcome of the tender nor any commitment. Sample evaluation will form part of evaluation of bid process.
* Inferior quality of equipment upon evaluation will result in disqualification of bid. No communication will be entered into.
* Quality of equipment to be fit for professional drawing usage.
* Comprehensive specifications including brands to be provided along with pictures to ensure effective of evaluation of conformability with communicated specifications.
* Westcol reserve the right to award the tender in whole or part at their own discretion.
* Westcol reserve the right not to award the tender at their own discretion.

Attached pictures to serve as guide to size, packaging and quality of instruments required only.















The Bidder will be required to price on the following:

1) Bidders must price to supply to all Campuses.

1. All costs to be included in unit costs. No additional delivery charges will be accepted. No minimum delivery quantities will be accepted.
2. Deliveries to be made between 08:00 – 12:00.(Monday – Friday)
3. Delivery to be to the campus as per order ( Krugersdorp West, Randfontein, Carletonville, Westonaria)
4. Campus physical addresses:

Krugersdorp West Campus: c/o Flemming & Figulus ave, Krugersdorp West

Randfontein: 14 Kiewiet Street, Helikon Park, Randfontein

Carletonville: 20 South Street, Carletonville

Westonaria: 106 Botha street, Westonaria

1. No minimum order / delivery quantities will be accepted.
2. No deposit will be paid. No upfront payments will be entertained
3. Unit cost per kit will be fixed for the duration of the contract. All orders will be issued using the unit cost as supplied in this document, VAT included.
4. Westcol reserves the right to amend the composition of the kit should it be deemed necessary by the Engineering faculty. Item unit cost is therefor compulsory as per table 3.3.4.3 (page 25)
5. Delivery as per order to the specified campus, No partial deliveries will be accepted.
6. No upfront payments (30 days payment terms from date of receipt of invoice)
7. Delivery quantity confirmation window of 48 Hours from delivery required.
8. In order to ensure timeous checking of delivered goods, same titles to be packed together.
9. Delivery to bookshops on campus (ground level) by delivery team. No Westcol staff member will assist with offloading of deliveries.
10. No mechanical offloading equipment on any of the campuses.

The estimated **total** quantities of kits per Campus over the contact period (12 months) in the table below (Table 3.3.4.2) are provided for information in this table and are to be priced in the pricing schedule for all campuses .

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Table 3.3.4.2** |  |  |  |  |  |
| Item | Specification | Krugersdorp West | Randfontein | Westonaria | Carletonville |
| **Engineering Drawing Kit** | All drawing instruments to be of good quality suitable for engineering drawing practice. |  |  |  |  |
| Clutch Pencil - 0,5mm | 0.5mm clutch pencil as per picture, Steel clip, steel sleeve, Brass mechanism Plastic mechanism will not be accepted. | 676 | 488 | 140 | 565 |
| Compass Full Set | 2 piece compass set including compass, divider & spare tip & lead, 150mm with steel body, spring loaded | 676 | 488 | 140 | 565 |
| Eraser | Pencil eraser, 63x23x12.5mm, High Polymer, White | 676 | 488 | 140 | 565 |
| Flexicurve | Blue plastic coated Flexicurve ruler,40cm, as per picture | 676 | 488 | 140 | 565 |
| Lead - 2H – 0,5mm | 2H, 0.5mm tube of 12, **High Polymer**, ISO accredited. Pentel or equivalent | 676 | 488 | 140 | 565 |
| Masking Tape | 12mm x 40m, Hi Glue quality, **80 degree high temperature masking tape** | 676 | 488 | 140 | 565 |
| Protractor | 15cm x 180°, see through plastic (clear) | 676 | 488 | 140 | 565 |
| Scale Ruler | Flat plastic ruler as per picture, **Minimum** 4 scales, Scale 1:1, 1:2, 1:5, 2:1 | 676 | 488 | 140 | 565 |
| Set Square 45º | Big, for drafting as per picture, 240mm, No bevel, With Hatching line guide, transparent | 676 | 488 | 140 | 565 |
| Set Square 60º | Big, for drafting as per picture, 240mm, No bevel, border line holes included, transparent | 676 | 488 | 140 | 565 |
| T- Square | 650mm as per picture, 2 Piece, clear plastic, mm calibration | 676 | 488 | 140 | 565 |
| Nut & Bolt stencil | Stencil to include side views M2 – M20 + radii (r1 – r25 mm) | 676 | 488 | 140 | 565 |
| Heat sealed Plastic bag | Approximate size of 24cm (b) x 30cm (l) Plastic bag with sticker indicating DRAWING KIT. | 676 | 488 | 140 | 565 |
|  |  |  |  |  |  |

The estimated quantities of materials (goods) are to be priced in the pricing table below (Tables 3.3.4.3) by providing a unit price and the price per material (estimated no. of units per material multiplied by the unit price). The proposed product to be supplied must also be detailed in the pricing schedule.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Table 3.3.4.3: All campuses** | | | | |
| **Material** | **Est no. of units** | **Unit price (R.cc)** | **Price per quantity (R.cc)** | **Details of material offered (manufacturer/brand, product name, package type, e.g. BuyMore, HB pencils. 🡻 🡻 🡻 🡻** |
| Clutch Pencil - 0,5mm | 1869 |  |  |  |
| Compass Full Set | 1869 |  |  |  |
| Eraser | 1869 |  |  |  |
| |  | | --- | | Flexicurve | | 1869 |  |  |  |
| |  | | --- | | Lead - 2H - 0,5mm | | 1869 |  |  |  |
| Masking Tape | 1869 |  |  |  |
| Protractor | 1869 |  |  |  |
| Scale Ruler | 1869 |  |  |  |
| Set Square 45º | 1869 |  |  |  |
| Set Square 60º | 1869 |  |  |  |
| Nut & bolt stencil including radii | 1869 |  |  |  |
| T- Square | 1869 |  |  |  |
| Plastic heat sealed bag | 1869 |  |  |  |
| |  |  |  | | --- | --- | --- | | **Sum of all the prices per year per material for all campuses** |  |  | |  |  |  |  |

**Proposed approach**

The proposal submitted must address each of the elements mentioned above as well as evaluation criteria (p9) in detail.

All pricing must be inclusive of VAT.

Proof of experience: Proposals must include at least 3 verifiable references. Current clients and clients where contracts expired in 2014 – 2017. Testimonials may be included as supporting document.

Specifications / description of items proposed to be provided in the space above. Pictures of equipment that will be supplied may be provided.

Official company quotation to accompany this submission, clearly reflecting the detailed item description, unit cost & quantity.

**Appointment:**

WESTCOL reserves the right to:

* Not to appoint any service provider
* Benchmark prices charged to ensure no excessive inflation of prices.

**Functional evaluation criteria:**

See point 2.4 on page 9.

**General:**

The successful service provider must enter into a service level agreement with WESTCOL.

WESTCOL will reserve the right to cancel such agreement by giving 1 month’s notice.

The service level agreement will include invoicing conditions and maximum invoicing periods.

WESTCOL reserves the right to amend the final quantities of titles ordered as determined by registration numbers.

**PRICING SCHEDULE:**

**Pricing schedule – The detailed pricing schedules must accompany your bid documents**

**TENDER PRICE: Engineering Drawing kits as per estimated quantities**

**Randfontein Campus: R ………………………………….**

**Krugersdorp West Campus: R ……………………………**

**Carletonville Campus: R …………………………………..**

**Westonaria Campus: R …………………………………..**

**TOTAL FOR ALL CAMPUSES: R…………………………………..**

**Note: Official company quotation to accompany this submission confirming component totals, unit prices of items**

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

**The Bidder will be required to price to deliver the kits to the relevant campus as per TOR stipulation.**

Note: Quantities supplied are estimations and subject to change depending on student registrations. WESTCOL reserve the right to amend final order quantities at their own discretion. Delivery required as follows:

1. **All prices must be VAT inclusive and must be quoted in South African Rand (ZAR).**
2. **All prices reflected above to be fixed for the contract period (12 months)**

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**BIDDER: FULL NAME & SURNAME CAPACITY**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**SIGNATURE DATE**

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**WITNESS 1: SIGNATURE DATE**

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**WITNESS 2: SIGNATURE DATE**

|  |  |  |  |
| --- | --- | --- | --- |
| **CHECKLIST: TENDER DOCUMENTS** | | | |
| **No** | **Description** | **Checked by Bidder** | **Checked by**  **WESTCOL College** |
| 1. | Tender document (completed in black ink, initialled and signed) 1 submission only, no additional copies |  |  |
| 2. | **Addendum documents** |  |  |
| 2.1 | SBD 4 Declaration of Interest (available on Westcol website) |  |  |
| 2.2 | SBD 8 Declaration of Bidder’s Past Supply Chain Management Practices (available on Westcol website) |  |  |
| 2.3 | SBD 9 Certificate of Independent Bid Determination (available on Westcol website) |  |  |
| 2.4 | SBD 6.1 Preference points claimed |  |  |
| 3. | **The following mandatory documents must be submitted** |  |  |
| 3.1 | Company registration documents and id(s) of owners/directors (certified copies) |  |  |
| 3.2 | Valid Original Tax Clearance Certificate – SARS (or letter of arrangement from SARS) |  |  |
| 3.3. | Tax Compliance Status certificate |  |  |
| 3.4 | CSD Registration summary report |  |  |
| 3.5 | Functionality Evaluation – Relevant documentation including proposal (page 9 & registration certificate on Central Supplier Database |  |  |
| 3.6 | Broad-Based Black Economic Empowerment (B-BBEE) Certificates For Evaluation |  |  |
| 4. | The detailed pricing schedules including company quotation and specifications |  |  |

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**BIDDER: FULL NAME & SURNAME CAPACITY**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**SIGNATURE DATE**

**Westcol TVET College – Tender Document Control**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**FULL NAME & SURNAME CAPACITY**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**SIGNATURE DATE**

|  |  |
| --- | --- |
| **SECTION 4**  **CONDITIONS OF CONTRACT** |  |

1. The Conditions of Contract that will govern the contractual relationship between WESTCOL and the successful bidder consist of the following documents:

1.1 Section 4.1 - General Conditions of Contract;

1.2 Section 4.2 - Special Conditions of Contract for the Supply of Goods; 1.3 Section 4.3 – Contract Form; and

1.3 Section 5 – Specification.

1. The terms of the Conditions of Contract are firm. No additions, deletions or variations thereto shall be entertained.

|  |  |
| --- | --- |
| **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 into 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 actually on hand.

1.10. “Delivery into consignees store or to his site” means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.

1.11. “Dumping” occurs when a private enterprise abroad market its 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 of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.

1.16. “Imported content” means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well 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 ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.

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

1. **Application**

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

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

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

1. **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](http://www.treasury.gov.za).

1. **Standards**

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

1. **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.

1. **Patent rights**

6.1. The supplier shall indemnity 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.

1. **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:

1. a bank guarantee or an irrevocable letter or 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
2. 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 analyzed 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.

1. **Packing**

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

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

1. **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.

1. **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.

1. **Transportation**

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

1. **Incidental services**

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

1. performance or supervision of on-site assembly and/or commissioning of the supplied goods;
2. furnishing of tools required for assembly and/or maintenance of the supplied goods;
3. furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
4. performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
5. training of the purchaser’s personnel, at the supplier’s plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.

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

**14. Spare parts**

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

1. 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
2. in the event of termination of production of the spare parts:
3. Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
4. 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 mission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.

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

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

15.4. Upon receipt of such notice, the supplier shall, 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.

1. **Payment**

16.1. The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.

16.2. The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.

16.3. Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.

16.4. Payment will be made in Rand unless otherwise stipulated in SCC.

1. **Prices**

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

1. **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.

1. **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.

1. **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.

1. **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 no 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.

1. **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.

1. **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:

1. 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;
2. if the Supplier fails to perform any other obligation(s) under the contract; or
3. 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:

1. the name and address of the supplier and / or person restricted by the purchaser;
2. the date of commencement of the restriction;
3. the period of restriction; and
4. 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.

1. **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 of 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.

1. **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.

1. **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.

1. **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 much 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,

1. the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
2. the purchaser shall pay the supplier any monies due the supplier.

**28. Limitation of liability**

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

1. 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
2. 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.

1. **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.

1. **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.

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| **SECTION 4.2**  **SPECIAL CONDITIONS OF CONTRACT** |  |

**SPECIAL CONDITIONS OF CONTRACT (“SCC”) FOR THE PROVISION OF GOODS & SERVICES**

**SECTION 1: DETAILS REQUIRED BY THE GOVERNMENT PROCUREMENT GENERAL**

**CONDITIONS OF CONTRACT (“*GCC*”)**

|  |  |  |
| --- | --- | --- |
| **GCC CLAUSE** | **TOPIC** | **DETAILS** |
| **7.1** | Amount of the performance security | **N/A** |
| **9.2** | Additional packing requirements | **N/A** |
| **10.1** | Details of shipping and other documents | **All deliveries shall be accompanied by a delivery note (in duplicate) detailing the description of the goods and the specific quantities delivered. The goods shall be checked against the delivery note by WESTCOL in the presence of the Service Provider.**  **If both parties are satisfied with the correctness of the delivery note, the representatives of both parties shall sign the delivery note (in duplicate) and WESTCOL shall retain a copy of the delivery note and the Service Provider shall retain the original.** |
| **13.1** | Additional Services | **Goods shall be delivered into the bookshop of the respective campus of WESTCOL at the address specified for delivery.**  **48 Hour window required for the checking of delivered stock.** |
| **14.1** | Spare parts | **N/A** |
| **15.2** | Warranty | **All goods to be of good quality . No damaged goods will be accepted.** |
| **15.4** | Warranty | ***The Supplier*** shall rectify all claims made under the warranty within a period of 5 **(five) days** from receipt of ***WESTCOL’s*** notice to do so. |

**SECTION 2 – *SCC***

**1. INTERPRETATION 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 in clause 5 of the Contract Form, in that order of priority;

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 ***WESTCOL***;

1.1.6. “WESTCOL” means the Western College for FET, 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 ***WESTCOL’s*** rights and obligations may be assigned and devolve upon;

1.1.7. “***Goods***” means the goods and / or services specified in ***the 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*** 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*** attached to the tender document at section 5 of the tender document;

1.1.13. “***Supplier***” means the party described as such in the ***Contract Form***, or in lieu of a ***Contract Form*** the party described as ***the Supplier*** in the Purchase Order issued by ***WESTCOL*** (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 eiusdem 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 taken into account in its interpretation.

1.10. Recordals 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 recordal, 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***.

1. **RECORDAL**

2.1. The ***SCC*** is WESTCOL’Sstandard terms and conditions of contract and constitutes part of ***this Agreement*** between ***WESTCOL*** and ***the Supplier***, or in lieu of a ***Contract Form***, constitutes part of the Purchase Order issued by ***WESTCOL*** to ***the Supplier*** (whichever is applicable).

2.2. The details and requirements of ***the Goods*** to be provided to ***WESTCOL*** 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.

1. **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 WESTCOL.

**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*** 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 ***WESTCOL’s*** established internal procedures;

4.1.4. it shall provide ***the Goods*** or parts thereof as the case may be, by the relevant dates;

4.1.5. ***the Goods*** 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 ***WESTCOL***;

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 ***WESTCOL*** 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 ***WESTCOL*** and within the time period specified by ***WESTCOL*** 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 ***WESTCOL’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 WESTCOLand 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 WESTCOLin the defects notice, WESTCOLshall 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*** in compliance with the terms and conditions of ***this Agreement***;

5.1.2. attend to the delivery of the ***Goods*** 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*** 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***;

5.1.4. comply with all reasonable directions of ***the Purchaser*** relating to the manufacture and supply of the ***Goods***;

5.1.5. ensure that the manufacture and supply of the ***Goods*** reach the required status by the relevant dates, as required by ***this Agreement***;

5.1.6. ensure that the ***Goods*** 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***;

5.1.7. provide ***the Purchaser’s*** employees with training in the operation and maintenance of the ***Goods***, if applicable;

5.1.8. provide ***the Purchaser*** with comprehensive details regarding the ***Goods*** 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 ***Goods*** from the approved design;

5.1.10. provide all equipment, apparatus, appliances and/or materials necessary for the manufacture and supply of the ***Goods*** 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*** 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***, 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*** 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***;

5.1.16. on becoming aware of any matter which may delay the manufacture and supply of the ***Goods***, 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*** and supply any documentation reasonably requested and/or required by ***the Purchaser*** to use and/or operate the ***Goods*** 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***;

5.1.19. undertake the manufacture and supply of the ***Goods*** 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*** 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.

1. **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*** 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***.

1. **SUBCONTRACTING**

7.1. ***The Supplier*** shall not subcontract to any third party ("***Subcontractor***") any portion of ***the Goods*** that must be provided under ***this Agreement*** without ***WESTCOL’s*** prior written consent.

7.2. ***WESTCOL*** shall not be under any obligation to consent to a request by ***the Supplier*** to subcontract to a ***Subcontractor*** any portion of ***the Goods*** that must be provided under ***this Agreement***.

7.3. ***WESTCOL*** shall, when giving consideration to 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 ***WESTCOL*** by ***the Supplier***;

7.3.2. An original Declaration of Interest completed and signed by the ***Subcontractor*** and furnished to ***WESTCOL*** by ***the Supplier***; and

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

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

7.5. Notwithstanding that ***WESTCOL*** may elect to consent to a request contemplated in clause 7.1 above, such consent by ***WESTCOL*** 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***.

1. **NON-PERFORMANCE OF THE SUPPLIER**

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*** 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***.

1. **PAYMENT**

9.1. An original and detailed tax invoice must be submitted after ***WESTCOL*** 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 ***WESTCOL*** by the 25st 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 effected.

9.5. ***The Supplier*** shall be required to verify its bank account details by furnishing ***WESTCOL*** with a letter

from its bank with a bank stamp, alternatively it shall furnish ***WESTCOL*** 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 ***WESTCOL*** 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 ***WESTCOL***.

9.7. ***WESTCOL*** 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 ***WESTCOL*** from separately recovering from ***the Supplier*** any debt owed by ***the Supplier*** to ***WESTCOL*** under ***this Agreement***.

9.8. If an invoice and supporting documentation is submitted to ***WESTCOL*** 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 effected once the correct and complete documents are received and only when ***WESTCOL*** 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, ***WESTCOL*** will not be obliged to pay ***the Supplier*** any amounts in addition to those specifically described in ***this Agreement***.

9.11. Payment shall be effected by electronic bank transfer or any other method of payment decided to be used by ***WESTCOL*** from time to time and at ***WESTCOL’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.

1. **PENALTIES**

10.1. ***The Supplier*** acknowledges that ***WESTCOL*** will be prejudiced should ***the Supplier*** fail to strictly comply with the terms of ***this Agreement*** and ***the Specification***.

10.2. In the event that ***the Supplier*** fails to strictly comply with the terms of ***this Agreement*** and ***the Specification***, ***WESTCOL*** shall be entitled to levy the penalties stipulated in ***the Specification***.

10.3. Notwithstanding anything to the contrary, ***WESTCOL*** may in its sole discretion elect to waive a penalty and pursue a claim for damages instead.

10.4. ***The Supplier*** shall credit ***WESTCOL*** with the penalties due to ***WESTCOL*** for a particular month in the invoice issued for payment in respect of that month. If all outstanding invoices have already been paid by ***WESTCOL***, ***WESTCOL*** shall be entitled to payment of the penalties due within 30 days of demand on ***the Supplier*** by ***WESTCOL***.

10.5. ***WESTCOL*** shall be entitled to call on the performance security in order to recover penalties from ***the Supplier***.

1. **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 ***WESTCOL*** to recover damages from ***the Supplier***.

1. **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 ***WESTCOL*** 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 ***WESTCOL*** 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 ***WESTCOL***.

1. **CESSION AND ASSIGNMENT**

***The Supplier*** 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 ***WESTCOL***.

1. **NON-EXCLUSIVE AGREEMENT**

***WESTCOL*** is not obliged to make exclusive use of ***the Supplier***. Nothing in ***this Agreement*** shall be interpreted as precluding ***WESTCOL*** 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 ***WESTCOL***.

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.

1. **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.

1. **LIMITATION OF LIABILITY AND INDEMNIFICATION**

17.1. ***WESTCOL*** 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 ***WESTCOL*** 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 ***WESTCOL*** or any of its employees, consultants, agents, representatives or sub-contractors or by any other cause whatsoever.

17.2. ***The Supplier*** indemnifies ***WESTCOL*** 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 delictually. 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 ***WESTCOL*** harmless from and against any claims arising against ***WESTCOL*** 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.

1. **INSURANCE**

18.1. Without limiting ***WESTCOL*** 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***, ***WESTCOL*** 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 ***WESTCOL*** submit proof to the satisfaction of ***WESTCOL*** that ***the Supplier*** is insured under the Compensation for Occupational Injuries and Diseases Act by providing ***WESTCOL*** 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 ***WESTCOL***.

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

1. **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 ***WESTCOL’s*** employees in any way whilst provided ***the Goods*** and/or are present at ***WESTCOL’s*** premises;

19.1.4. accepts responsibility for compliance with the duties, obligations and prohibitions imposed by the OHS Act and expressly absolves ***WESTCOL*** 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 ***WESTCOL*** with a copy of such written assignment.

19.2. ***WESTCOL*** shall be entitled to request ***the Supplier*** to remove any employee, agent, consultant or ***Subcontractor*** from its team if ***WESTCOL*** 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 ***WESTCOL***. ***The Supplier*** indemnifies ***WESTCOL*** against any claims that might arise due to such removal.

1. **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 ***WESTCOL’s*** employees, consultants or sub­contractors.

20.2. Such an act shall constitute a material breach of ***this Agreement*** and ***WESTCOL*** shall be entitled to terminate ***this Agreement*** forthwith, without prejudice to any of its rights in terms of ***this Agreement*** or in law.

1. **MEETINGS**

21.1. If the nature of ***the Goods*** provided to ***WESTCOL*** 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.

* 1. ***The Supplier*** shall not be entitled to payment from ***WESTCOL*** for time spent attending the aforementioned meetings.

1. **CHANGE ORDER**

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 WESTCOL*,* for purposes of executing a ***Change Order***, is ***WESTCOL’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****.*

1. **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 ***WESTCOL*** 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 that 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, ***WESTCOL*** 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 ***WESTCOL*** 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 beach which will entitle ***WESTCOL***, at its sole election, to cancel ***this Agreement*** forthwith, without prejudice to any other rights which ***WESTCOL*** may have in terms of ***this Agreement*** or in law.

1. **INTELLECTUAL PROPERTY RIGHTS**

24.1. ***The Supplier*** agrees to assign to ***WESTCOL*** 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 ***WESTCOL*** 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 ***WESTCOL***, ***the Supplier*** undertakes, on request, to do all things and sign all documents necessary to ensure that ***WESTCOL*** 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, ***WESTCOL*** grants ***the Supplier*** a licence to use the ***Created Intellectual Property*** for the performance of ***the Goods*** in terms of ***this Agreement***.

1. **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).

1. **TERMINATION**

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

26.2. ***WESTCOL*** 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 ***WESTCOL*** under this clause 26, ***WESTCOL*** 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. ***WESTCOL*** shall not be liable for any consequential loss resulting from the termination or suspension of ***this Agreement*** by ***WESTCOL*** 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. ***WESTCOL*** 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.

1. **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 Sandton, 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.

1. **DOMICILIUM AND NOTICE 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).

1. **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 ***WESTCOL*** 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. ***WESTCOL*** 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.

32.3. 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 25of this agreement.

**SECTION 4.3**

**CONTRACT FORM**

**SUPPLY & DELIVERY OF ENGINEERING DRAWING KITS**

**FOR A PERIOD OF 12 MONTHS ON AN AS AND WHEN REQUIRED BASIS**

This Contract Form has to be signed by the Bidder, and the signed Contract Form must be submitted together with the tender documents.

The Effective Date of this Contract will be the date on which WESTCOL’s authorised representative signs this Contract Form.

The Implementation Date shall be the date specified in the Specification, alternatively, if no Implementation Date is stipulated, the Implementation Date shall be the date on which WESTCOL’s authorised representative signs this Contract Form.

ENTERED INTO BY AND BETWEEN

**WESTCOL**

("THE PURCHASER")

AND

("THE SUPPLIER")

1. **Interpretation**

1.1. The clause headings in this Contract Form have been inserted for convenience only and shall not be taken into account in interpreting it.

1. **Parties**

2.1. The Parties to this Agreement are the Purchaser and the Supplier.

1. **Recordal**

3.1. It is recorded that the Parties have entered into an agreement as evidenced by this Contract Form.

1. **Contract Price**

4.1. The Contract Price is as set out in the proposal or subsequently agreed between the parties..

1. **The Contract**

5.1. This contract between the Parties comprises the following documents, which shall have the order of

precedence as listed below:

5.1.1. Section 5 – Specification

5.1.2. Contract Form

5.1.3. Section 4.2 – Special Conditions of Contract

5.1.4. Section 4.1 – General Conditions of Contract

5.1.5. Bidder’s Proposal

5.1.6. Section 1 - Bid Data

5.1.7. Section 2 - Instructions to Bidders

5.1.8. Section 3 - Bidder's Particulars

1. **Parties' obligations**

6.1. The Supplier undertakes to fulfill its obligations in terms of this contract, and the Purchaser undertakes to fulfill its obligations in terms of this contract, which includes the obligation to make payment to the Supplier.

Signed at on this \_\_\_\_ day of .

For: **BIDDER** Witness

Bidder’s Name: Name:

Name of Signatory:

Capacity:

Signed at Randfontein on this \_\_\_\_ day of .

For: WESTCOLWitness

Name:

Capacity: CEO

|  |  |
| --- | --- |
| **SECTION 5**  **SPECIFICATION** |  |

1. Background to WESTCOL

Western College for FET (WESTCOL) is a schedule 3A Public Entity established in terms of the provisions of the FET Act 16 of 2006 (as amended 2012), Its mandate is the provision of further education & training to all persons within the borders of South Africa

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

2. Background to the Project

WESTCOL has decided to secure a supplier to provide WESTCOL Engineering campuses with Engineering drawing kits for a period of 12 months. A major consideration for this approach is to ensure that the service rendered & goods delivered of a high and consistent standard.

1. Scope of Work

Supplier will be responsible to supply & deliver drawing kits as per specifications to the relevant campus as per order

4. Specific Contract Terms

4.1. Delivery of goods shall be done within ten (10) business days of receipt of a urgent delivery request. Normal allowed livery period of maximum 30 days will apply to standard orders.

4.2. Where the contractor fails to deliver as requested or indicates an inability to meet the delivery time, WESTCOL reserves the right to purchase the item(s) and to recover any price difference from the contractor.

4.3. **Penalties**

4.3.1. For the purpose of this agreement:

4.3.1.1. Amount at Risk means the maximum amount of all penalties, in aggregate, during the subsistence of this Agreement. This amount shall not exceed or 30% (thirty percent) of any particular invoice.

4.3.1.2. Penalty / ies means the monetary penalty which the Service Provider shall incur and which WESTCOL may elect to recover in the event of a Service Level Default.

4.3.1.3. Service Level Default means, in respect of each Deliverable, a failure by the Service Provider to meet a service level target.

4.3.2. The Parties agree that the service levels specified in this Specification are fair and serves to achieve a fair, accurate and consistent measurement of the Service Provider’s performance of its

obligations in terms of this Agreement. Accordingly, the Parties agree that the service levels shall be used to determine and measure the Service Provider’s performance.

4.3.3. Penalties shall be calculated based on the number of days which a specific Deliverable remains outstanding and in accordance with the table set out below:

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **ITEM** | ***DAYS* DELAY VS PENALTY AS PERCENTAGE OF AGREED FEE \*** | | | | | | | | | |
| **1** | **2** | **3** | **4** | **5** | **6** | **7** | **8** | **9** | **10+** |
| **DELIVERY OF GOODS** | 3% | 6% | 9% | 12% | 15% | 18% | 21% | 24% | 27% | 30% |
| **REPLACEMENT / REPAIR UNDER WARRANTY** | 3% | 6% | 9% | 12% | 15% | 18% | 21% | 24% | 27% | 30% |

**\*** “Agreed Fee” means the fee outlined in schedule.

**\*** Penalties in respect of any one matter shall not exceed, in aggregate, 30% of the Agreed Fee.

4.3.4. The Service Provider shall, as part of the standard monthly reporting provided to WESTCOL, include a report on Service Level Defaults.

4.3.5. Without prejudice to any other rights that WESTCOL may have in law, WESTCOL shall be entitled to recover damages from the Service Provider in lieu of the prescribed penalty.

4.3.6. WESTCOL agrees that the Service Provider shall not be held liable for failure to meet the Service Levels: and accordingly no penalties will accrue:

4.3.6.1. where such failure to meet such service level is as a result of the Service Provider being obliged to work with third party contractors, appointed by WESTCOL;

4.3.6.2. where such failure is due to an event attributable to WESTCOL; and

4.3.6.3. where the end user of WESTCOL is not available when the Service Provider requires the end user to be available.

4.4. All goods supplied shall conform to the applicable SABS standards where such a standard exists.