



REQUEST FOR QUOTATIONS

RFQ2023/ 285

TERMS OF REFERENCE: APPOINTMENT OF A ENGINEERING CONSULTING COMPANY TO CONDUCT AN INSTITUTION WIDE FIRE AUDIT AT DURBAN UNIVERSITY OF TECHNOLOGY (DUT) 7 CAMPUSES

Contact person	Lindokuhle Philane Nsibande LindokuhleN3@dut.ac.za
Closing date and time for Submission	12 December 2023 at 11 am.
Suppliers who are interested in supplying the services as specified herein are requested to prepare a quotation and send it via email for the attention of Director: Procurement.	
NB: Only Bids e-mailed to rog@dut.ac.za will be accepted and considered.	
Enquiries relating to the bid may be addressed to the DUT contact person listed below:	

1. INTRODUCTION

The Durban University of Technology (DUT) invites all suitably qualified and experienced engineering company to submit quotations to conduct the risk-based compliance audit on the fire systems at the seven campuses in KZN.

DUT has seven campuses namely; ML Sultan, Ritson, Steve Biko, City Campus, Brickfield, Indumiso and Riverside Campus. The campuses consist of multipurpose buildings which includes but not limited to; office space, lecture halls, residential areas, laboratories, cafeterias etc. Each building within these campuses is equipped with fire systems which are categorized as; fire detection, extinguishing and suppression in line with the risk profile of each building. These systems are complex and require specialised knowledge for effective annual auditing, servicing, repairs and certification in line with the applicable statutory requirements.

The Occupational Health and Safety Act 85 of 1993 specifies that the employer must always ensure safety of its employees by implementing an effective health and safety system in the workplace, this includes having necessary precautions in place to prevent or eliminate workplace disasters including fire. Hence the need for the audit which should address all the short comings relating to latest regulatory requirements compliance for all fire systems employed at DUT campuses.

The mechanical Engineer consultant is required to have the relevant skills, experience, and capacity to deliver the scope of work within the shortest possible time frames.

2. SCOPE OF WORK

The proposed scope of work for Risk-Based Audit at DUT Campuses entails **(but is not limited to)**:

- Conducting a comprehensive risk-based compliance audit in line with statutory requirements and applicable laws and standards at the seven DUT campuses.
- The audit should include but not limited to;
 - Review the institution disaster & fire management strategy
 - Review the fire prevention, detection, and extinguishing/suppression systems in place inline with each building risk profile and regulatory requirements
 - Review building plans for adequate fire safety systems and equipment installation.
 - Test existing fire prevention system; Exit doors and Emergency Lighting
 - Fire Detection System and Sound systems
 - Fire Suppression, Extinguishers, Hose reels, Sprinklers systems
 - Records keeping/storage room (registry and library)

- Present the audit finding report with recommendations and action plan to the DUT and to the Health and Safety committee.

3. DELIVERABLES AND COST SCHEDULE

The following deliverables are expected:

#	Description	Unit	Qty	Rate/Campus	Total cost
1	Review overall disaster & fire management strategy for the institution & upraise on limitations (lump sum)	sum	1		
2	Conduct risk-based Assessment on the prevention, detection and suppression systems per campus & upraise on the limitations	sum	7		
3	Compile & present a comprehensive risk-based report per campus to relevant committee. The report should have action items with budget estimates	sum	7		
TOTAL AMOUNT (To be carried over to the Form of Offer page)					

4. NOTES

- Applicants are to ensure that they have adequate resources to undertake the work under stringent timeframes.
- Tenderers are required to take cognisance of the role of the other professionals appointed on this project and work coherently with them where required.
- DUT reserves the right to ask tenderers to replace any member/s of the Proposed team if they do not meet the DUT requirements.
- Tenderers must note that they will be required as and when necessary, to attend (a) presentations arranged by DUT (b) progress meetings: and (c) consultations with, relevant persons and authorities including site visits. This needs to be taken into consideration in the fee proposal.
- Fees must include standard disbursements such as typing, drawings, reproduction, copying, binding of documents, telephonic/ electronic and facsimile communications, courier, local travel, and accommodation etc.
- DUT reserves the right to request new or additional information regarding each bidder and any individual or other persons associated with its proposal.

- DUT may require responsive bidders to present and discuss their proposals in person.
- DUT reserves the right not to make any appointment from the proposals submitted.
- Bidders shall not issue any press release or other public announcement pertaining to details of their project proposal without the prior written approval of DUT.
- Disputes that may arise between DUT and a bidder must be settled by means of mutual consultation, mediation (with or without legal representation) or, when unsuccessful, through arbitration and as last resort in a South African court of law

5. EVALUATION PROCESS

Submissions will be evaluated in three phases:

5.1 Phase 1: Submission of compulsory documents. Failure to submit will render the submission non responsive and shall not be evaluated further

Bidders need to submit all seven (7) documents listed above in order to be evaluated in Phase 2.

1	The Tax compliance status PIN (TCS PIN) must be submitted. Should the Bidders tax clearance status not be in order at close of the evaluation of the bid, this will lead to the invalidation of the bid document. (Compulsory).
2	Completed Form of Offer (# 7)
3	CSD MAAA number: CSD unique reference number (36 digits long and includes alphabets and numbers)
4	Forms 5 to 8 completed and signed.
5	Initialed General and special conditions of contract.
6	Company registration documents (CIPC).
7	Last sets (with comparative figures) of duly signed and audited or independently reviewed financial statements for companies who qualify in terms of the Companies Act, (Not more than two years old)

5.2 Phase 2: Technical / Functional Criteria

With regards to technicality / functionality, the following criteria are applicable. The maximum points of each criteria are indicated in the table below:

Key Aspect of Criterion	Basis for Points Allocation			Minimum Score	Max. Point s	Verification Method
Company profile plus Professional Indemnity Insurance	Submission of profile plus Valid professional Indemnity of R 3 million rands and above			Maximum 10 points		Company profile with related scope services Valid professional Indemnity letter from insurance company
	No Submission			0	0	No Submission
Relevant experience of key personnel	Cv of Registered Mechanical Engineer	15 or more years	20 Point s		20	Cv of registered Engineer
		14 – 10 Years	15 Point s			
		9 - 5 Years	10 Point s			
		4 - 1 Years	5 Point s			
		Below 1 years	0 points			
Qualifications and relevant experience of key personnel	Bachelor’s degree/ Btech or Masters in Mechanical Engineering PLUS Registratio n with ECSA		20	Maximum 20 Points		Certified Copy of Qualification to be attached PLUS ECSA Registration

Key Aspect of Criterion	Basis for Points Allocation			Minimum Score	Max. Point s	Verification Method
	National Diploma in mechanical engineering	0	0			
Relevant Experience Proven track record in Conducting Technical Audits/ safety & security Plan or risk assessment in engineering/ fire. Reference letters must be signed and on a letter head wit with contact details to be included for verification.	4 letters or more of reference with start & completion dates – (Each letter = 5 points)				20	Signed letter of reference
	3 letters of reference with start & completion dates (Each letter = 5 points)			15		
	2 letters of reference with start & completion dates (Each letter = 5 points)			10		No Submission
	1 letter of reference with start & completion dates (Each letter = 5 points)					
Method Statement and systems to be adopted (relevant to the tender project – maximum 5 pages). The method statement must include the following sub-headings: 1. Approach Method/execution strategy, 2. Timelines & organogram	Method statement meets all the requirements, Demonstrates the bidder’s extensive understanding of the client’s brief & above-mentioned topics. 5 points per heading x 6 = 30 points				30	Brief (5 Pages Maximum)
	Meets only five of the six expectations. = 25 points					
	Meets only four of the six expectations= 20 points					
	Meets only three of the six expectations= 15 points					

Key Aspect of Criterion	Basis for Points Allocation	Minimum Score	Max. Points	Verification Method
3. Reporting & applicable legislations, 4. Potential risks to Project Objectives and how to mitigate the risks included. 5. Deployment of digital tools and how they will collaborate with the client body. 6. Key stakeholders and the rest of the professional team.				
Maximum total points			100	
Bidders that score less than 75 points of the mark for Quality and Functionality will be eliminated from further consideration.				

Curriculum Vitae (CV) Format:

Please provide the organogram of the team to be deployed on the project and indicate on the organogram the key staff to be evaluated against the above-mentioned criteria. The following CV to be completed for all the key staff to be deployed on the project.

Surname:	
Nationality:	
Date of Birth:	
Current Residence:	

Name of current Employer and position in enterprise:	
Qualifications: <i>(degrees, diplomas, grades of membership of professional engineering council of South Africa and professional registrations)</i>	
Project Job Description: <i>(roles and responsibilities for this particular contract)</i>	
Outline of recent assignments / experience that has a bearing on the scope of work:	

Company Experience:

Complete the following as a statement of similar services successfully executed in the last 8 years related to technical audits in buildings/facilities/engineering works.

Project	Description of Project	Duration and Date Completed	Employer, contact person and contact details

Methodology and Approach:

The bidder is to provide a clearly articulated methodology demonstrating how the project will be executed. The aim of the methodology, among others is to also demonstrate the bidder's understanding of the scope of work,

knowledge and expertise in the area the bidder is to be appointed for, innovation and collaboration with other service providers in the seamless delivery of the project.

6.2 Price and BBBEE

Evaluation criteria		Points
1.	Price	80
2.	BBBEEE	20
Total		100

7. FORM OF OFFER:

7.1 Pricing should be based on the breakdown below:

- The Service Provider must submit a fee proposal to render the full scope of services as outlined above.
- Fees must include standard disbursements such as typing, drawings, reproduction, copying, binding of documents, telephonic / electronic and facsimile communications, courier, local travel, and accommodation, etc.

Professional Fees:	
Disbursements:	
Value Added Tax (Add: 15% VAT)	
Total Price: (Including VAT)	

Signed Date.....

Name..... Position.....

Tenderer.....

8. FORM 5: CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying proposal:

in response to the invitation for proposals made by:

DURBAN UNIVERSITY OF TECHNOLOGY

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

I certify, on behalf of: _____ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate.

I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect.

I am authorised by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder.

Each person whose signature appears in the accompanying bid has been authorised by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder.

2. For the purposes of this Certificate and the accompanying bid, I understand that the word “competitor” shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
- a) has been requested to submit a bid in response to this bid invitation;
 - b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - c) Provides the same goods and services as the bidder and/or is in the same line of business as the bidder.

3. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium¹ will not be construed as collusive bidding.

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

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

11. I note that the following terms of this Expression of Interest have the following meaning:

¹ Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

- a. Bid means Submission
- b. Bidder means Respondent
- c. Bidding means Submission
- d. Directors means directors/shareholders/partners/sole proprietors

Name of Bidder/Respondent	Signature	Date	Position

9. FORM 6: DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

[THIS IS A NATIONAL TREASURY SCM REQUIREMENT WHICH DUT ADOPTS AS IT IS PARTLY FUNDED FROM PUBLIC FUNDS]

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

Item	Question	Yes	No
4.1	Is the Bidder or any of its directors listed on the National Treasury's database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector? (Companies or persons who are listed on this database were informed in writing of this restriction by the National	Yes <input type="checkbox"/>	No <input type="checkbox"/>

	<p>Treasury after the <i>audi alteram partem</i> rule was applied).</p> <p>The database of Restricted Suppliers now resides on the National Treasury's website (www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.</p>		
4.1.1	If so, furnish particulars:		
4.2	<p>Is the Bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?</p> <p>The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.</p>	<p>Yes</p> <input type="checkbox"/>	<p>No</p> <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	<p>Was the Bidder (Respondent) or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?</p>	<p>Yes</p> <input type="checkbox"/>	<p>No</p> <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
4.4	<p>Was any contract between the Bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?</p>	<p>Yes</p> <input type="checkbox"/>	<p>No</p> <input type="checkbox"/>
4.4.1	If so, furnish particulars.		
5.	<p>I note that the following terms of this Expression of Interest have the following meaning:</p> <ul style="list-style-type: none"> a. Bid means Submission b. Bidder means Respondent c. Bidding means Submission d. Directors means directors/shareholders/partners/sole proprietors 		

CERTIFICATION

I, THE UNDERSIGNED (FULL NAME)

.....
CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS TRUE AND CORRECT.

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

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

10. FORM 7: CONFIDENTIALITY AND INDEMNITY UNDERTAKING

- 1) The Bidder hereby undertakes to abide by and adhere to the undertaking set out in this agreement.
- 2) Reference to the Bidder shall include its directors, officers, employees, agents, sub-contractors, advisors or any other person appointed by it in connection with the submission of its bid).
- 3) The Bidder undertakes to ensure that each party, to whom confidential information is disclosed, is made aware of and is bound by the terms of this confidentiality undertaking.
- 4) This undertaking must be read together with the disclaimers contained in the Bid Document.
- 5) In order to regulate the disclosure to the Bidder of confidential information, the Bidder:-
 - a) acknowledges and undertakes that all information of whatsoever nature (whether oral, written or in any other form), including information to the generality of the foregoing data, know how, trade secrets, software techniques, procedures, unpublished financial statements and information, licenses, price lists, policies, marketing techniques, suppliers and customers, planning, business and financial documents, as well as intellectual property at any kind (which information is referred to collectively and individually as “confidential information”) which is disclosed by the DUT or any other Bidder participating in this process, shall be held in complete confidence by the Bidder and shall not, without the DUT prior written consent, be disclosed to any other person, nor used for any other purposes, other than in connection with the submission of its bid;

- b) acknowledges that the confidential information is being made available to it solely for the authorised bid process purpose and for no other purpose whatsoever, and that such information would not have been made available to it but for this confidentiality undertaking;
 - c) acknowledges that all such confidential information is valuable proprietary information to which the DUT retains exclusive rights of dissemination and reproduction, and that all copyrights and such confidential information vests in DUT;
 - d) agrees that any documentation or records relating to the confidential information which comes into the possession of the Bidder shall:
 - i) be deemed to form part of the confidential information of DUT;
 - ii) be deemed to be the property of DUT;
 - iii) not be copied, produced, published or circulated by the Bidder unless otherwise agreed to in writing by DUT;
 - iv) be surrendered to the DUT and/or destroyed on demand in the event that the Bidder no longer participates in the proposed transaction;
 - e) undertakes that, save as required by law, it will not disclose, or permit to be disclosed, confidential information to any persons other than those persons authorised in terms of this undertaking and then only to the extent necessary for the authorised purpose;
 - f) warrants that it has adequate procedures in place for the protection of all confidential information; and,
 - g) warrants that it shall keep accurate and up to date records of the confidential information furnished to it, and of the location of such confidential information, as well as the list of names of all persons receiving or entitled to access of confidential information.
6. This undertaking shall not apply to any confidential information which was lawfully in the Bidder's possession prior to the disclosure by DUT, or which lawfully becomes available to the Bidder from the source other than DUT.
7. If proceedings are commenced or action taken which could result in the Bidder becoming compelled to disclose confidential information, it undertakes to immediately advise the DUT of such proceedings, and to take all reasonable steps to resist or avoid such proceedings or actions, including such steps that the DUT may reasonably request the Bidder to take.
8. The Bidder undertakes not to request the confidential information submitted as part of any other bid submission by any other Bidder whether such information has been designated as confidential or not, and for

the purposes of this clause, the entire contents of any competing Bidder's bid submission will be regarded as confidential.

9. This undertaking shall also apply, with the necessary changes, to the confidential information of any other Bidder and its Bid Submissions

10. This undertaking shall survive the termination of any negotiations or contractual relationship between the DUT and the Bidder

11. I note that the following terms of this declaration have the following meaning:

- a. Bid means Submission
- b. Bidder means Respondent
- c. Bidding means Submission
- d. Directors means directors/shareholders/partners/sole proprietors

INDEMNITY UNDERTAKING

I/We _____

(insert Bidder's name) (herein known as the Bidder) hereby indemnify and hold DUT harmless in respect of all costs that may be incurred by my/us for the submission or performance of this bid.

I/We further indemnify DUT in respect of all legal and other expenses as they are incurred by DUT in examining, resisting or settling any damages, injuries or loss that may be occasioned by work necessary in terms of this bid.

Signed at _____ this ____ day of _____ 20____.

Name of Bidder : _____

Name of Bidder's representative : _____

Title of Bidder's representative : _____

Signature : _____

Signature of Witness : _____

Name of Witness : _____

II. FORM 8: DECLARATION OF INTEREST

- I. Any legal person, including persons employed² by DUT, or persons having a kinship with persons employed by DUT, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes an, advertised competitive bid, a limited bid, a proposal or written price quotation). In view of possible allegations of favoritism, should the resulting bid, or part thereof, be awarded to persons employed by DUT, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/ adjudicating authority where –
 - I.1. The bidder or any of its members or employees are employed by DUT; and/or
 - I.2. The legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.
2. In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.
 - 2.1. Full Name of bidder or his or her representative: _____
 - 2.2. Identity Number: _____

¹ “Employed” in this context is a broad terms and it includes members of DUT council, the auditors from time to time or any other advisors or tribunal associated with DUT.

2.3. Position occupied in the Company
(director, trustee,
shareholder³):

.....

2.4. Company Registration Number:

.....

2.5. Tax Reference Number:

.....

2.6. VAT Registration Number:

.....

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

2.7. Are you or any person connected with the bidder presently employed by DUT?

YES	NO
-----	----

2.7.1. If so, furnish the following particulars

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

.....

☐ Name of DUT institution or
department at which you or the
person connected to the bidder
is employed:

.....

☐ Position occupied in the
institution or department:

.....

Any other particulars:

.....

2.7.2. If you are presently employed by DUT, did you obtain the appropriate authority to undertake remunerative work outside employment?

YES	NO
-----	----

2.7.2.1. If yes, did you attach proof of such authority to the bid document?

YES	NO
-----	----

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

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

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

2.8. Did you or your spouse, or any of the company's directors/ trustees/ shareholders/ members or their spouses conduct business with DUT in the previous twelve (12) months?

YES	NO
------------	-----------

2.8.1. If so, furnish the particulars.

2.9. Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by DUT and who may be involved with the evaluation and or adjudication of this bid?

YES	NO
------------	-----------

2.9.1. If so, furnish particulars.

2.10. Are you, or any person connected with the bidder, aware of any relationship (family, friend, other) between any other bidder and any person employed by DUT who may be involved with the evaluation and or adjudication of this bid?

YES	NO
------------	-----------

2.10.1. If so, furnish particulars.

.....

.....

- 2.11. Do you or any of the directors/ trustees/ shareholders/ members of the company have any interest in any other related companies whether or not they are bidding for this contract?

YES	NO
------------	-----------

- 2.11.1. If so, furnish particulars.

.....

.....

.....

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

Full Name	Identity Number	Personal Tax Reference No	State Employee Number/ PERSAL Number

- 3.1. Note that the following terms have the following meaning:

- a. Bid means Submission
- b. Bidder means Respondent
- c. Bidding means Submission
- d. Directors means directors/shareholders/partners/sole proprietors

DECLARATION

I, THE UNDERSIGNED (NAME)

.....

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 AND 3 ABOVE IS CORRECT FOR EACH OF THE JOINT VENTURE/CONSORTIUM PARTNERS OF THIS SUBMISSION. I ACCEPT THAT DUT MAY REJECT THE BID OR ACT AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

Signature

Date

Position

Name of Bidder



10. GENERAL CONDITIONS OF CONTRACT FOR GOODS AND SERVICES

1. DEFINITIONS

1.1 In the GENERAL CONDITIONS the words defined shall have the meanings assigned to them hereunder, except where the context indicates to the contrary :-

1.1.1 the "SUPPLIER" the person, firm, partnership, association, company, close corporation, trust or other trading entity supplying the goods and/or providing the services to the UNIVERSITY;

1.1.2 the "UNIVERSITY" Durban University Of Technology;

1.1.3 the "SUPPLIES" the goods and/or services to which this document relates;

1.1.4 the "TENDER" the SUPPLIER'S written tender, which shall be on the form supplied by the UNIVERSITY for the SUPPLIES;

1.1.5 the "ORDER" the UNIVERSITY'S written order on its official order form placed by the PROCUREMENT DEPARTMENT with the SUPPLIER for the DELIVERY of the SUPPLIES;

1.1.6 the "PROCUREMENT DEPARTMENT" the division of the UNIVERSITY responsible for accepting the Tender and/or issuing the ORDER to which this document relates;

1.1.7 "DELIVERY" the delivery of goods and/or the rendering of services;

1.1.8 "DULY AUTHORISED RECEIVING CLERKS" those persons, designated by the UNIVERSITY from time to time, who are the only persons authorised by the University to accept DELIVERY of SUPPLIES to the UNIVERSITY and such persons shall include, in the case of a DELIVERY made to a student's residence at the UNIVERSITY, the residence manager at that residence;

1.1.9 "SPECIAL CONDITIONS" where applicable, those conditions stipulated by the UNIVERSITY which pertain to and form a part of the TENDER and/ or the ORDER;

1.1.10 "STIPULATED DELIVERY

PERIOD "the period stipulated by the UNIVERSITY within which the SUPPLIES shall be DELIVERED by the SUPPLIER and, if no period is stipulated, then it shall mean a reasonable period of time;

1.1.11 "VAT" means Value-Added Tax payable in terms of the Value-Added Tax Act, no 89 of 1991, as amended or substituted from time to time;

1.1.12 "EXTRAORDINARY INCREASE" an increase in the cost to the SUPPLIER of providing the SUPPLIES arising out of State or Government imposition of charges which are of an extraordinary nature in that they arose due to circumstances beyond the control of the SUPPLIER which could not reasonably have been contemplated by it at the time the TENDER was submitted or the ORDER was accepted and which have not been taken into account in the determination of the price.

1.2 The headings in this agreement are for convenience only and are not to be taken into account when interpreting the agreement.

1.3 Unless the context indicates to the contrary, words importing one gender shall include the other gender and words importing the singular shall include the plural and *vice versa*.

2. CONSTITUTION OF CONTRACT

2.1 The contract between the UNIVERSITY and the SUPPLIER is constituted by the acceptance by the UNIVERSITY of the TENDER submitted by the SUPPLIER and/or the acceptance by the SUPPLIER of the ORDER and is upon the terms and conditions which are set out in the TENDER and/or the ORDER and in these GENERAL CONDITIONS,

2.2 The SPECIAL CONDITIONS, if any, will also form part of the contract between the UNIVERSITY and the SUPPLIER.

2.3 No person other than the duly authorised person of the PROCUREMENT DIVISION has authority to place an order and/or to accept a tender.

3. PRICE

3.1 The price shall be as stated in the TENDER and/or ORDER, as the case may be, and is an all-inclusive price in that it includes VAT, delivery costs, custom charges (duty and surcharge), royalties and any other costs incurred in connection with the SUPPLIES.

4. EXTRAORDINARY INCREASE

4.1 If, after of one(1) year service , there has been an EXTRAORDINARY INCREASE, the SUPPLIER may apply to the UNIVERSITY in writing to increase its price so as to be able to cover such EXTRAORDINARY INCREASE. In doing so it shall provide proof that such increase is an EXTRAORDINARY INCREASE.

4.2 The UNIVERSITY shall not be obliged to consider any application for an increase which is not an EXTRAORDINARY INCREASE.

4.3 After considering the application relating to an EXTRAORDINARY INCREASE, the UNIVERSITY shall be entitled to :-

4.3.1 accept the increase in the price in whole or, if agreed with the SUPPLIER, in part; or

4.3.2 to refuse to accept the price increase in whole or in part and, should the SUPPLIER refuse to DELIVER the SUPPLIES at the price originally accepted by the UNIVERSITY, then the UNIVERSITY shall have the right to immediately cancel the contract in whole or in part.

4.3.3 The extraordinary increase will be decided on the CPI at the time of the request.

4.4 In the event of the UNIVERSITY cancelling this contract in accordance with the provisions of this paragraph 4 :-

4.4.1 then the SUPPLIER shall have no claim whatsoever against the UNIVERSITY; and

4.4.2 the UNIVERSITY may obtain the SUPPLIES elsewhere and any additional expenditure so incurred will be claimed from the SUPPLIER.

5. IMPORTED SUPPLIES

5.1 Where the SUPPLIES are imported then, subject to the provisions of the SPECIAL CONDITIONS, the SUPPLIER shall :-

5.1.1 when submitting the TENDER or offer or quotation, specify the price in the foreign currency and the rate of exchange which shall have been fixed immediately before the aforesaid submission;

5.1.2 not later than 7 (SEVEN) days after the SUPPLIER receives notification of acceptance of his TENDER and/or receives the ORDER, as the case may be, the SUPPLIER shall arrange through its bankers for the foreign commitment to be covered forward down to the rand, in order to fix the rate of exchange, exercising due care in consultation with the said bankers to ensure that the forward exchange is taken out on such terms as will provide the best possible exchange rate;

5.1.3 the UNIVERSITY shall then be notified in writing of the rate of exchange which has been fixed on such forward exchange.

5.2 Should the SUPPLIER fail to arrange the aforesaid cover within a period of 7 (SEVEN) days after receiving notification of acceptance of his TENDER or accepting the ORDER, as the case may be, then the UNIVERSITY shall be entitled to elect the rate of exchange, most favourable to it, from the following rates of exchange, namely :-

5.2.1 the rate of exchange specified in the SUPPLIER'S TENDER or offer or quotation; or

5.2.2 the rate of exchange specified in the notice referred to in sub-paragraph 5.1.3, if any; or

5.2.3 the rate of exchange which the UNIVERSITY'S bankers may fix as being the rate existing at any time within a period of 7 (SEVEN) days after notification of acceptance of the TENDER and/or after receipt of the ORDER.

The UNIVERSITY shall not be obliged to make its election of the rate of exchange until the date of DELIVERY.

6. PAYMENT

6.1 Payment by the UNIVERSITY to the SUPPLIER shall be made in accordance with the conditions of payment prescribed in the TENDER or ORDER. Where no conditions of payment are prescribed therein, payment for SUPPLIES DELIVERED to and accepted by the UNIVERSITY shall be made within THIRTY (30) days from the date upon which a statement and, where applicable, a tax invoice is received by the UNIVERSITY, provided that all the terms of the contract shall have been duly observed by the SUPPLIER and that the relevant invoices are addressed to and received by the UNIVERSITY'S Finance Department, P O Box 1334, Durban, 4000, Republic of South Africa.

6.2 It is also a condition of payment by the UNIVERSITY to registered VAT vendors that no payment for SUPPLIES DELIVERED shall be processed unless a tax invoice (complying with Section 20 of the Value Added Tax Act, No.89 of 1991, as amended), is received from the SUPPLIER.

6.3 For the purposes of this paragraph and the provisions of Section 20 of the Value Added Tax Act, No. 89 of 1991, as amended, the SUPPLIER shall be deemed to have received a request for tax invoices upon the date that the SUPPLIES have been DELIVERED.

7. DELIVERY

7.1 Each DELIVERY shall be deemed to be a separate contract in respect of the SUPPLIES forming the subject matter of such DELIVERY.

7.2 All SUPPLIES shall be DELIVERED in terms of the contract.

7.3 Time is of the essence of this contract and SUPPLIES must accordingly be DELIVERED within the STIPULATED DELIVERY PERIOD. Should the SUPPLIES not be DELIVERED within that period, then the UNIVERSITY shall be entitled to cancel the contract in whole or in part.

7.4 If any DELIVERY by the SUPPLIER to the UNIVERSITY has not been made within the STIPULATED DELIVERY PERIOD, then the UNIVERSITY shall also have the right, until such DELIVERY has been made, to suspend payment of any amount due and payable under this and/or any other contract then in force between the UNIVERSITY and the SUPPLIER.

7.5 Where the contract relates to the purchasing of goods by the UNIVERSITY, the risk in the goods shall only pass to the UNIVERSITY upon:-

7.5.1 the goods being DELIVERED to a DULY AUTHORISED RECEIVING CLERK at the place of delivery as stipulated in the TENDER or ORDER and, if not stipulated therein, to the UNIVERSITY at 41/43 Centenary Road, Durban; and

7.5.2 the delivery note being signed by a DULY AUTHORISED RECEIVING CLERK on behalf of the UNIVERSITY. The person making delivery of the GOODS shall be responsible for ensuring that only a DULY AUTHORISED RECEIVING CLERK accepts delivery of the GOODS and signs the Delivery Note. The person making delivery shall be entitled to request identification or make any other enquiries at the UNIVERSITY in order to establish that such person is a DULY AUTHORISED RECEIVING CLERK. The UNIVERSITY shall not be liable for any loss or damage arising from a failure to deliver the GOODS to a DULY AUTHORISED RECEIVING CLERK.

8. CLAIMS FOR LOSS OR DAMAGE

8.1 It shall be the obligation of the SUPPLIER, and not the UNIVERSITY, to make any claims against any carrier for loss of the whole or part of any consignment of SUPPLIES or for damage to goods accepted by the carrier for DELIVERY or for a delay by the carrier in effecting DELIVERY. The SUPPLIER shall ensure that any claims are made within the period prescribed by law and in accordance with the appropriate regulations and the SUPPLIER shall notify the UNIVERSITY of the claim which is being made by delivering to the UNIVERSITY a copy of the claims sent to the carrier.

8.2 The SUPPLIER shall pay all royalties and expenses and be liable for all claims in respect of the use of patent rights, trademarks or other protected rights, and the SUPPLIER indemnifies the UNIVERSITY against all claims (including legal costs) arising therefrom.

8.3 The SUPPLIER shall be liable to the UNIVERSITY or to any third party for death of, or injury to, or illness sustained by any person (hereinafter referred to as "INJURY") or loss of, or damage to property (hereinafter referred to as "DAMAGE") caused by or arising from the SUPPLIES, any defect in the SUPPLIES or the DELIVERY of the SUPPLIES. The SUPPLIER indemnifies the UNIVERSITY against any claims for INJURY or DAMAGE (including legal costs) of whatsoever nature arising from or caused by the SUPPLIES, any defect in the SUPPLIES or the DELIVERY of the SUPPLIES.

9. DIFFERENCE OR DISCREPANCIES

9.1 Where the UNIVERSITY has provided specifications, which will describe the principal feature of the goods and/or services, the SUPPLIES must be delivered exactly in accordance with those specifications. It is recorded that the specifications do not purport to indicate every detail of construction or arrangements of goods and services necessary

to meet the UNIVERSITY's requirements and any such omissions shall not relieve the SUPPLIER of his responsibility for carrying out the work as required under the contract.

9.2 Where samples or patterns have been provided, then the SUPPLIES which are DELIVERED shall be equal in all respects to those samples or patterns.

9.3 The PROCUREMENT DIVISION shall determine, in its sole discretion, whether the SUPPLIES have been DELIVERED either exactly in accordance with the specifications or exactly equal in all respects to samples or patterns which were provided, and the decision of the PROCUREMENT DIVISION shall be *prima facie* binding on the parties and the onus shall be on the SUPPLIER to prove otherwise.

9.4 Tests and analysis of the SUPPLIES may be made as deemed necessary by the UNIVERSITY, and the cost thereof shall be borne by the SUPPLIER if the SUPPLIES which have been DELIVERED are not of the specified quality.

9.5 The SUPPLIER shall not be relieved of his obligations with respect to the sufficiency of the materials and workmanship and the specified quality of the SUPPLIES which have been DELIVERED by reason of no objection having been taken thereto by the UNIVERSITY's representative at the time the SUPPLIES were DELIVERED, or by reason of the acceptance of samples in sound condition.

9.6 If, at any time after DELIVERY of the SUPPLIES, the UNIVERSITY shall be dissatisfied with the SUPPLIES whether in whole or in part on account of a decision of the PROCUREMENT DIVISION referred to in sub-paragraph 9.3 above or on account of materials being faulty or of inferior quality or inferior workmanship or of bad design, then, where the defect is capable of being remedied, the UNIVERSITY shall notify the SUPPLIER immediately and require that the defect be remedied free of charge within a reasonable time. Should the SUPPLIER be unable or unwilling or fail to remedy the defect within the reasonable time stipulated by the UNIVERSITY, then the UNIVERSITY may have the necessary remedial work carried out by any third party. The costs of the remedial work shall be borne by the SUPPLIER and such costs may be deducted from any amounts which may be due and payable to the SUPPLIER.

9.7 Where the defect referred to in sub-paragraph 9.6 above is not capable of being remedied, the UNIVERSITY shall notify the SUPPLIER that the SUPPLIES have been rejected and the contract cancelled. The SUPPLIER shall, immediately upon receipt of such notification, arrange for the SUPPLIES to be removed and until the time of their removal, the SUPPLIES shall be held at the risk and expense of the SUPPLIER. The SUPPLIER shall, immediately upon receipt of such notification, also refund all payments made by the UNIVERSITY for those SUPPLIES together with interest thereon at the prime overdraft rate, charged by the UNIVERSITY'S bankers from time to time, from the date of receipt of such notification to the date of payment.

9.8 Where goods are being sold by mass or measure, same shall be supplied by nett mass and/or metric measure.

9.9 Any quantities which are stated in the order form are based upon estimated probable requirements of the UNIVERSITY during the period of the contract and the UNIVERSITY accordingly reserves the right, at any time prior to DELIVERY of the full quantity stated, to reduce the quantities it requires to be DELIVERED in which case only the reduced quantities shall be DELIVERED and charged for by the SUPPLIER. The SUPPLIER shall have no claim whatsoever against the UNIVERSITY after it has reduced the quantities to be DELIVERED.

10. DEFAULT

10.1 The UNIVERSITY shall have the right forthwith to cancel this contract, in whole or in part, under any of the following circumstances:-

10.1.1 if the SUPPLIER fails to DELIVER any SUPPLIES to the UNIVERSITY within the STIPULATED DELIVERY PERIOD;

10.1.2 if the SUPPLIER fails to fulfil any of its obligations in terms of this contract;

10.1.3 if the SUPPLIER is sequestrated, liquidated or placed under judicial management, provisionally or finally, voluntarily or compulsorily;

10.1.4 if the SUPPLIER commits any act of insolvency or enters into any compromise or arrangement with or assignment for the benefit of its creditors or fails to satisfy any final judgment granted against it within TEN (10) days after the date of the judgment;

10.1.5 if the SUPPLIER changes the identity of its owner;

10.1.6 if the SUPPLIER disposes of any of its assets other than in the ordinary course of its business.

10.2 If it appears to the PROCUREMENT DIVISION that the SUPPLIER is not executing the contract in accordance with the true intent and meaning thereof or that it is refusing or delaying to execute the contract or that it is not carrying on the contract at such rate of progress as to ensure DELIVERY within the STIPULATED DELIVERY PERIOD, then in any of such events the PROCUREMENT DIVISION may give written notice to the SUPPLIER of the cause of complaint. Should the SUPPLIER fail, within a reasonable time stipulated in the notice, to satisfy the PROCUREMENT DIVISION, in its reasonable discretion, that the contract is being and will be properly executed as agreed and/or that DELIVERY will be made within the STIPULATED DELIVERY PERIOD, then the UNIVERSITY shall have the right forthwith to cancel this contract.

10.3 Any cancellation by the UNIVERSITY, whether in whole or in part, shall be without prejudice to any accrued claims against the SUPPLIER and claims which the UNIVERSITY may have for damages arising out of such cancellation. The SUPPLIER shall have no claim whatsoever against the UNIVERSITY after the contract has been cancelled.

11. LIQUIDATED DAMAGES

11.1 It is recorded that time is of the essence of this contract and the SUPPLIES must be DELIVERED and all work completed by the SUPPLIER within the STIPULATED DELIVERY PERIOD.

11.2 If the SUPPLIER fails to DELIVER the SUPPLIES or any part thereof within the STIPULATED DELIVERY PERIOD, the SUPPLIER shall pay such sum as is stated in the SPECIAL CONDITIONS as liquidated damages to the UNIVERSITY. The UNIVERSITY shall be entitled to deduct such liquidated damages from any monies which may be due and payable to the SUPPLIER. The provisions of this paragraph shall be without prejudice to any other remedies or claims which the UNIVERSITY may have against the SUPPLIER arising out of this contract or at law and the UNIVERSITY may have recourse to such claims or remedies in addition to or in lieu of its rights to liquidated damages.

12. VAT

Where the SUPPLIER is a registered VAT vendor, the SUPPLIER shall :-

12.1 state the amount of VAT separately on the invoice; and

12.2 state its VAT registration number.

13. APPLICABLE LAW

The law of the Republic of South Africa shall be applicable to and govern in every respect this contract and the relations between the parties and, without in any way limiting the generality of the foregoing, the law of the Republic of South Africa shall be applied when this contract is construed, interpreted or implemented in any way and for the purpose of resolving any dispute which may arise between the parties.

13. ATTORNEYS CHARGES

In the event of the UNIVERSITY instructing its attorneys to institute legal proceedings against the SUPPLIER for any claim arising out of these GENERAL CONDITIONS or upon their cancellation, the SUPPLIER shall pay the costs of the UNIVERSITY'S attorneys on the attorney and own client scale, including collection commission.

14. CONFLICTING CONDITIONS

14.1 In the event of there being any conflict between the terms and conditions of the SPECIAL CONDITIONS and these GENERAL CONDITIONS, then the terms and conditions of the SPECIAL CONDITIONS shall prevail.

14.2 In the event of there being any discrepancy or conflict between any of these GENERAL CONDITIONS and any conditions contained in or printed or written upon any contract, stationery or document used by the SUPPLIER for the purpose of or in connection with the conclusion of this contract or the DELIVERY of SUPPLIES, then these GENERAL CONDITIONS shall prevail. The SUPPLIER acknowledges that the UNIVERSITY would not have entered into this contract with it unless these GENERAL CONDITIONS were to prevail and the SUPPLIER accordingly waives, renounces and abandons any conflicting conditions printed or written upon any contract, stationery or documents used by it, regardless of whether such contracts, stationery or documents contain a similar condition to this paragraph 15 in favour of the SUPPLIER. For the purposes of this sub-paragraph 15.2, reference to "these GENERAL CONDITIONS" shall be deemed to include the SPECIAL CONDITIONS.

15. ENTIRE CONTRACT AND NON-VARIATION

This contract records the entire agreement entered into between the parties and no alteration, variation or cancellation of this contract or waiver of rights or obligations by either party shall be of any force and effect unless committed to writing and signed by both parties.

16. CESSION AND ASSIGNMENT

Since this contract is personal to the SUPPLIER, the SUPPLIER shall not be entitled to cede or assign its rights or obligations under the contract or to transfer this contract to any third party without the prior consent of the UNIVERSITY and subject to such conditions as the UNIVERSITY may approve.

17. SEVERABILITY

Should any portion or provision of this contract be held to be void, invalid or unenforceable, for any reason whatsoever, then such provision or portion shall be deemed to be severable and excluded from this contract, and all the remaining terms shall continue to remain in full force and effect.

19. BBBEE Policy

A Comprehensive BBBEE policy and SANAS or IRBA approved BBBEE certificate of the tenderer must accompany the tender documents.



11. SPECIAL CONDITIONS OF CONTRACT FOR GOODS AND/OR SERVICES

(the "SPECIAL CONDITIONS")

1) TENDER FORM AND CLOSING DATE

- a) Tenders must be made out on the enclosed Tender Form which shall be signed by or on behalf of the Tenderer, addressed to the Tender Committee and marked with the appropriate tender number. Tenders must be submitted in duplicate, be properly sealed and placed in the tender box at the Procurement Department, 41/43 Centenary Road, Durban, 4001 not later the time and date stated in the public advertisement inviting tenders or closed tender documents.
- b) There will be a non-refundable fee charged for tender documents and to be paid in the form of cash, bank guaranteed cheques or money orders as stated in the advertisement.
- c) The Tender Committee shall not accept tenders for consideration if:-
 - i) the tenders have been submitted by telegram, telex or telefax; or
 - ii) the tenders have not been submitted in duplicate; or
 - iii) the tender is received after the closing date and time advertised for the receipt thereof (in which case same shall be returned to the Tenderer by the Procurement Division); or
 - iv) alterations have been made to the tender documents in pencil, erasable ink or if alterations have been overwritten on alteration fluid (that is, any alteration shall be neatly made in ink and signed by the Tenderer in order that the Tender Committee accept the tender for consideration).
- d) If any person who has been invited to submit a tender is unable to tender for any reason, then a nil return should be submitted.

2) ACCEPTANCE OF TENDER

- a) The University reserves the right to split the tender, accept any tender or any part of a tender and any decision by the University on regarding the award of a tender shall be final. The University shall not be obliged to accept the lowest or any tender and the University shall also not be obliged to assign any reason for the acceptance or rejection of a tender.
- b) The tender shall be based upon drawings and/or specifications which shall be contained in a separate document, which document shall be deemed to be incorporated in and form part hereof.
- c) Where specifications, SABS/CKS standards, specifications, codes of practice or standard methods are referred to in the separate document referred to in sub-paragraph 2.2, these, together with any drawings, must be strictly adhered to:
 - i) Clause 14(1) states that if any requirements in respect of any or safety equipment or for the use or application thereof by employers or users of machinery have been prescribed, no person shall sell such machinery or safety equipment unless it complies with these requirements;
 - ii) for the purpose of this Section and Section 31(5) any part of machinery or safety equipment shall be deemed to be machinery or safety equipment.
- d) Tenders must be valid for a period of 120 days after the closing date.
- e) The tenderer will be notified of the University's acceptance of a tender, whether in whole or in part, either by notice in writing from the University or by the University placing a written order on its official order form.

3) **DIFFERENCE OR DISCREPANCIES**

- a) Should there be any difference or discrepancy between the prices or price contained in the official Tender Form and those contained in any covering letter or other document from the Tenderer, the prices or price contained in the official Tender Form shall prevail.
- b) Any alteration effected upon any of the tender documents submitted to the Tender Committee must be clearly shown by means of a handwritten entry in ink and such alteration must be signed by the Tenderer.

4) **PREFERENCES**

In order to assist the University in determining the degree of preference to be accorded to supplies produced, manufactured or assembled within the Republic of South Africa, Tenderers are required to state:-

- a) the country of origin of the goods.
- b) the country in which the goods are manufactured or assembled; and
- c) the industrial development points and the concentration points under the State Incentive Scheme or Industrial Development in which the goods are manufactured or assembled, where applicable.

5) **SPECIAL CONDITIONS OF TENDER**

If there are any further special conditions pertaining to this tender, then a document containing those special conditions will be attached to this document, marked Annexure "A", and will be deemed to form part hereof. In the event of there being any conflict between the terms and conditions of this document or the GENERAL CONDITIONS OF

CONTRACT FOR GOODS AND/OR SERVICES and Annexure "A", then the terms and conditions of Annexure "A" shall prevail.

6) **OTHER INFORMATION**

The Tenderer shall also provide the following information, namely:-

- a) full details of all discounts and whether such discounts are trade or settlement;
- b) a comprehensive company profile must accompany the tender, including banking details; and
- c) a full service backup must be provided as indicated on the original tender and should advise, *inter alia*, whether:-
- i) the Tenderer is the accredited agent in the Republic of South Africa for the manufacturer of the equipment offered;
- d) the Tenderer has supplied the type of equipment offered to other institutions in the Republic of South Africa and, if so, a list of the names of those other institutions should be provided.
- i) a full range of spares is carried for the equipment offered; and
- ii) service facilities by factory trained staff are available and, if so, where such services are available and on what conditions.

7) **LEGAL STATUS OF TENDERER AND AUTHORITY OF SIGNATORY**

- a) All Tenderers shall state, on the Tender Form under "Name and Address of Tenderer":-
 - i) their full legal status, that is, whether they are a natural person, firm, partnership, association, company, close corporation, trust or other trading entity;
 - ii) in the case of a juristic person, its full registered name(s), its registration number and its trading name(s), if any, must be stated;
 - iii) in the case of a natural person, the full names must be stated together with that person's identity number, the trading name of the business, if any, and an indication as to whether that person is the owner, proprietor, partner etc; and
 - iv) the addresses of its registered office and principal place of business in the case of a juristic person or the residential address and business address in the case of a natural person.
- b) The signatory shall indicate in what capacity and under what authority the tender documents were signed by him or her. Documentary proof of the authority to sign the tender document shall also be submitted, for example, in the case of a company or close corporation, a certified copy of the resolution of that company or close corporation authorising the signatory to sign the tender documents on behalf of the company or close corporation, shall be submitted.