



YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE COUNCIL FOR MEDICAL SCHEMES					
BID NUMBER:	RFQ/CMS/ITT/01112025	CLOSING DATE:	21 <sup>st</sup> November 2025	CLOSING TIME:	11:00 AM
DESCRIPTION	Appointment of Bidders for the Provision of Managed Security Services (MXDR Solution) for a period of 12 months				
<b>BID/QUOTATION RESPONSE DOCUMENTS MUST BE DELIVERED TO THE FOLLOWING ADDRESS:</b>					
Block A, Eco Glades 2 Office Park, 420 Witch-Hazel Avenue, Eco Park, Centurion, 0157					
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>			<b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>		
CONTACT PERSON	Mpho Mmethi		CONTACT PERSON	Maria Stebe	
TELEPHONE NUMBER	012 431 0484		TELEPHONE NUMBER	066 29109826	
FACSIMILE NUMBER	N/A		FACSIMILE NUMBER	N/A	
E-MAIL ADDRESS	<a href="mailto:m.mmethi@medicalschemes.co.za">m.mmethi@medicalschemes.co.za</a>		E-MAIL ADDRESS	<a href="mailto:m.stebe@medicalschemes.co.za">m.stebe@medicalschemes.co.za</a>	
<b>BIDDER INFORMATION</b>					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
BIDDER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL BIDDER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	[TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES &amp; QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]</b>					
<b>ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES/WORKS OFFERED?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		<b>ARE YOU A FOREIGN BASED BIDDER FOR THE GOODS /SERVICES /WORKS OFFERED?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER PART B:3 ]	

**QUESTIONNAIRE TO BIDDING FOREIGN BIDDERS**

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

**1. BID SUBMISSION:**

- 1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
- 1.2. **ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.**
- 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
- 1.4. **THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).**

**2. TAX COMPLIANCE REQUIREMENTS**

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

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

SIGNATURE OF BIDDER: .....

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

DATE: .....

## 1. BACKGROUND OF THE COUNCIL FOR MEDICAL SCHEMES

The Council for Medical Schemes is a statutory body established by the Medical Schemes Act (131 of 1998) to provide regulatory supervision of private health financing through medical schemes, and functions as a Schedule 3A Public Entity.

### VISION

An efficient, effective, high quality, agile and trusted South African regulator generating sustainable stakeholder value.

### MISSION

Achieving our purpose of protecting the interests of members and beneficiaries by:

- **Controlling and co-ordinating the functioning and governance** of all entities conducting the business of medical schemes in a manner that is complementary to national health policy
- **Investigating complaints and settling disputes** in relation to the affairs of medical schemes
- **Collecting, disseminating information, and collaborating** with stakeholders about private health care
- **Making recommendations and advising the Minister** on the criteria for the measurement of quality and outcomes of health services provided by medical schemes, and related matters

## 2. SCOPE OF WORK

2.1. The Council for Medical Schemes hereby invites **prospective bidders** to submit proposals for the provision of **Managed Security Services**. The appointed service provider must be able to deliver the following key services:

### 2.1.1. Threat Monitoring and Detection

2.1.1.1. The bidder must provide a **Managed Extended Detection and Response (MXDR)** service that includes:

- **24/7 monitoring** of systems, networks, and endpoints for suspicious or malicious activity.
- A fully managed, **AI-driven security service** integrating detection, response, and automation across endpoints, networks, and cloud.
- **Behavioral analytics** and AI-driven threat detection with automated response capabilities.
- **Broad visibility** across endpoints, cloud, identity, network, and applications.
- Implementation of **Security Orchestration, Automation, and Response (SOAR)** to ensure alerts from various security tools are prioritized and managed efficiently.

### 2.1.2. Incident Response

2.1.2.1. The bidder must provide:

- **Rapid response** to security breaches, including containment, eradication, and recovery.
- **Forensic analysis** to identify and understand the root cause of incidents.

- Development and execution of **Incident Response Playbooks** to ensure a standardized approach, reduce errors, and ensure compliance with security policies.

### 2.1.3. Threat Intelligence

2.1.3.1. The bidder must deliver:

- Continuous **insights into emerging threats and vulnerabilities**.
- **Proactive security measures** informed by global threat intelligence feeds.

### 2.1.4. Integration and Orchestration

2.1.4.1. The proposed solution must:

- Allow seamless **integration with existing security tools and infrastructure**, enabling orchestration and automation of security workflows.
- Integrate with **threat intelligence feeds and services** to enrich analytics and enhance detection capabilities.
- Support **integration with external intelligence sources** to improve proactive response to emerging threats.

### 2.1.5. License and Support Requirements – Table 1

Number of Licenses	Components	Description
300 (Servers & Workstations)	XDR (Extended Detection and Response)	Comprehensive endpoint protection, threat detection, and response that exceeds traditional antivirus and EDR functionalities.
300 (Servers & Workstations)	Advanced Support	Includes online Support Portal, Customer Community, Knowledgebase, and Administration Console access, as well as 24x7x365 telephone support.
5	Training	Five-day online training sessions for engineers on the application.
<b>The license must be valid for 12 months.</b>		

## 3. EVALUATION CRITERIA PROCESS

### 3.1. Table 2 – Evaluation Process and Criteria

Evaluation of bids will be conducted in four (4) phases as follows:

Stage	Details
<b>Phase 1</b>	Administrative evaluation criteria: The purpose of these criteria is to evaluate the bidders' s completeness of the tender documents.
<b>Phase 2</b>	Mandatory criteria: The purpose of this criterion is to evaluate the bidders on their eligibility and compliance with applicable laws and regulations. <b>Bidders who fail Phase 2 will not proceed to</b>

	<b>Phase 3.</b>
<b>Phase 3</b>	Technical/Functional Evaluation Criteria: The purpose of this criterion is to evaluate bidders on their technical competencies. <b>Bidders who fail Phase 3 will not proceed to Phase 4.</b>
<b>Phase 4</b>	Price and Specific Goals evaluation criteria: The purpose of this criterion is to evaluate the bidders based on the bid price and Specific Goals.

### 3.2. Phase 1 - Administrative Evaluation Criteria

The Bidder must meet all the following requirements to pass the Administrative Evaluation:

- (a) The Bidder must fully comply with the Instruction for Submitting Proposals, outlined in **Section 4**, and must ensure that they complete and sign all the bidding documents in this section.
- (b) All the documents listed in **paragraphs 14 and 15** of the RFP documents must be submitted and completely signed. Failure to submit and sign the requested documents may result in disqualification at this stage.
- (c) Any Bidder that fails to meet the Administrative Evaluation Criteria may be disqualified and may not be considered for further evaluation.

### 3.3. Phase 2 - Mandatory Technical Evaluation Criteria

- a) Bidders must meet all the following criteria to be considered for further evaluation. Failure to meet all the following criteria will lead to automatic disqualification:

#### 3.3.1. Table 2 – Mandatory Criteria

Mandatory Criteria	Comply	Does not Comply	X-Cross reference Comments (Bidder to complete this column)
<b>1. OEM / Reseller Accreditation</b> <ul style="list-style-type: none"> <li>• The bidder must submit <b>proof of accreditation</b> as an authorised <b>reseller from the Original Equipment Manufacturer (OEM)</b> of the proposed solution, <b>or</b> proof that they are the <b>OEM</b> of the solution being offered.</li> <li>• The proof of reseller accreditation must: <ul style="list-style-type: none"> <li>○ Be <b>valid at the time of submission</b>.</li> <li>○ The <b>issue date</b> of the registration must be valid at the time of submission of this RFP</li> </ul> </li> </ul>			

<ul style="list-style-type: none"> <li>The CMS reserve the right to verify the validity of the certificate or letter with the relevant OEM. Failure to provide valid proof will result in the bidder being deemed <b>non-compliant</b>.</li> </ul>			
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**3.3.2. Failure to submit and meet all the above stipulated requirements will lead to automatic disqualification from the evaluation process of Price & Specific Goals:**

### 3.4. Phase 3 - Functional/ Technical Evaluation Criteria

Bidders will be evaluated in terms of the prevailing supply chain policy applicable to Council for Medical Schemes, and it should be noted that:

- A minimum of **70** points out of 100 points on technical capability will be the cut-off to qualify for further evaluation of Price and specific goals.
- The Council for Medical Schemes will analyse and assess technical capability, and therefore the bidder should demonstrate the following:

**Table 3 - Weighted Functional/ Technical Evaluation Criteria**

CRITERIA	SUB-CRITERIA	WEIGHTING and MAXIMUM POINTS	CROSS- REFERENCE TO RESPONSE SUPPORTING
<b>A) Experience, Capabilities and Qualification of the Proposed Team (Attach CV and Qualifications)</b>	<p>1. The bidder must submit abbreviated CVs of key project team members, highlighting relevant experience in MXDR / cybersecurity services <b>(25 Points)</b></p> <p><b>1.1. The Project Manager</b> must have relevant experience in MXDR / cybersecurity services attach CV/ Profile) <b>(10 Points)</b>:</p> <ul style="list-style-type: none"> <li>5 years and more experience in the implementation, installation, configuration and support MXDR / cybersecurity services <b>(10 Points)</b></li> <li>3- 4 years experience in the implementation, installation, configuration and support MXDR / cybersecurity services <b>(7 Points)</b></li> </ul>	<b>25</b>	

	<ul style="list-style-type: none"> <li>• 1-2 years of experience in the implementation, installation, configuration and support of MXDR / cybersecurity services <b>(4 Points)</b></li> <li>• 0 to 11 months of experience in the implementation, installation, configuration and support of MXDR/ cybersecurity services <b>(0 Point)</b></li> </ul> <p><b>1.2. The Proposed Team</b> must have relevant experience in MXDR / cybersecurity services and attach a CV/ Profile. <b>(15 Points):</b></p> <ul style="list-style-type: none"> <li>• 5 years and more experience in the implementation, installation, configuration and support of MXDR / cybersecurity services <b>(15 Points)</b></li> <li>• 3- 4 years of experience in the implementation, installation, configuration and support of MXDR / cybersecurity services <b>(10 Points)</b></li> <li>• 1-2 years of experience in the implementation, installation, configuration and support of MXDR / cybersecurity services <b>(5 Point)</b></li> <li>• 0 to 11 months of experience in the implementation, installation, configuration and support of MXDR/ cybersecurity services <b>(0 Point)</b></li> </ul>		
<p><b>B) Detail approach and methodology</b></p>	<p><b>1. Bidders must provide a comprehensive project implementation plan detailing how the installation and commissioning will be carried out (10 Points)</b></p> <ul style="list-style-type: none"> <li>• The project team structure and roles <b>(05 Points)</b></li> <li>• The timeline and milestones for implementation <b>(5 Points)</b></li> </ul> <p><b>2. The bidder must provide a comprehensive overview of the proposed Extended Detection and Response (XDR) solution. The overview should include, at a minimum, the following details (50 Points):</b></p>	<p><b>60</b></p>	

	<p>2.1. Solution description that will include <b>(30 Points)</b>:</p> <ul style="list-style-type: none"> <li>• A description of the solution <b>(10 Points)</b></li> <li>• Architecture <b>(10 Points)</b></li> <li>• The deployment model <b>(10 Points)</b></li> </ul> <p>2.2. How the solution works when it comes to <b>(20 Points)</b></p> <ul style="list-style-type: none"> <li>• Collection and correlation <b>(10 Points)</b></li> <li>• Analyse data across different security layers (endpoints, network, servers, etc). <b>(10 Points)</b></li> </ul>		
<b>Company Experience</b>	<p>The bidder must submit <b>two (2) reference letters</b> from previous clients in the public or private sector, issued on official company letterhead, dated <b>within the last five (5) years</b>, and related to Managed Security / MXDR services <b>(15 Points)</b>:</p> <ul style="list-style-type: none"> <li>• 3 and above reference letters <b>(15 Points)</b></li> <li>• 2 reference letters <b>(10 Points)</b></li> <li>• 1 reference letter <b>(05 Points)</b></li> <li>• non-submission of reference letters <b>(0 Point)</b></li> </ul> <p>Letters must be signed and include the organisation's name, website address, the contact person's name, and their contact details.</p>	<b>15</b>	

### 3.5. Price and Specific Goal

3.5.1. To facilitate a transparent selection process that allows an equal opportunity to all bidders, Council for Medical Schemes has a Supply Chain Management policy that will be adhered to. Quotations will be evaluated in terms of the prevailing Supply Chain Management policy applicable to Council for Medical Schemes, and it should be noted that proposals will be assessed using the 80/20 formula (Preference Points System) for **Price and Specific Goals** as indicated in the PPPFA Regulations.

**Table 4- Price and Specific Goals**

CRITERIA	SUB-CRITERIA	WEIGHTING/ POINTS
Price	Detailed budget breakdown	80

**(a) Historically Disadvantaged Individuals (5 Points)**

80% - 100% Black Owned	5 Points
50% - 79.99 Black Owned	4 Points
20% - 49.99% Black Owned	3 Points
1% - 19.99 Black Owned	1 Point
Below 1% Black Owned	0 Point

**(b) Size of the Company (3 Points)**

EME	3 Points
QSE	2 Points
Generic Enterprise	1 Points

**(c) Black Woman Owned Enterprise (5 Points)**

75% - 100% Black Women Owned	5 Points
51% - 74,99% Black Women Owned	3 Points
1% - 50,99% Black Women Owned	1 Point
Below 1% Black Owned Women	0 Point

**(d) Ownership by People with Disabilities (3 Points)**

75% - 100% Ownership by People with Disabilities	3 Points
51% - 74,99% Ownership by People with Disabilities	2 Points
1% - 50,99% Ownership by People with Disabilities	1 Point
Below 1% Ownership by People with Disabilities	0 Point

Specific Goals

20

<b>(e) Ownership by Youth (under 35 years) (4 Points)</b>	
75% - 100% Ownership by Youth	4 Points
51% - 74,99% Ownership by Youth	3 Points
20% - 50,99% Ownership by Youth	2 Point
1% - 19,99% Ownership by Youth	1 Point
Below 1% Ownership by Youth	0 Point
<b>TOTAL</b>	<b>100</b>

### 3.5.2. General Conditions to specific goals

3.5.2.1. Only a bidder who has completed and signed the declaration (SBD 6.1.) part of the RFQ documentation will be considered for preference points.

3.5.2.2. CMS may, before a RFQ is adjudicated or at any time, require a bidder to substantiate claims it has made with regard to preference.

### 3.5.3. Submission of mandatory documents

3.5.3.1. Bidders must submit the following documents for verification of specific goals points:

- Attach certified copy/ copies of South African ID of Directors/ Owners/ Shareholders to claim points for **Historically Disadvantaged Individuals (HDI)**
- B-BBEE Certificate and Sworn Affidavit to claim points for **Size of the Company**
- Attach medical certificate/ letter from the accredited Health Professional to claim points for **Ownership for People Disability**
- Attach copy of B-BBEE Certificate/ sworn affidavit, certified ID copy/ copies, CIPC document to claim points for **Black Women Owned Enterprise.**
- Attach copy of B-BBEE Certificate/ sworn affidavit, certified ID copy/ copies, CIPC document to claim points for **Youth Owned Enterprise.**
- Fully completed and signed **SBD 6.1.**

3.5.3.2. Failure on the part of a bidder to submit proof and above-mentioned documentation, complete and sign as required in SBD 6.1. in terms of this bid to claim points for specific goals with the bid, will interpret to mean that the preference points for specific goals are not claimed.

## 4. TERMS AND CONDITIONS

### 4.1. Bid Submission

4.1.1. All proposals/ quotations must be submitted to the address and instruction stipulated in the SBD1 of the RFQ document.

4.1.2. Proposals/ quotations, including the requested documents and the signed SBD documents must be submitted by the stipulated closing date and time. Late submissions will not be accepted.

4.1.3. Bidders are required to register on the **Central Bidder Database (CSD)** and to include CSD number on the SBD1 for verification purposes when submitting their quotations/ proposals.

4.1.4. Documents submitted via cloud solutions such as: **WeTransfer, Google Drive, Dropbox**, etc. will not be considered.

### 4.2. Other Terms and Conditions

4.2.1. The Council for Medical Schemes reserves the right, under exceptional circumstances, to extend the closing date. All proposals and all subsequent information received from bidders will not be returned.

4.2.2. The adjudication process does not represent a commitment on the part of Council for Medical Schemes to proceed further with that proposal or of any other bidder.

4.2.3. The bidder warrants by signing the RFQ/RFP document that the bidder has read, understands and agrees with the terms and conditions of this RFQ/ RFP.

4.2.4. Received proposals/ quotations will be considered and evaluated in terms of the evaluation criteria stipulated in the RFQ/ RFP document. All bidders must provide all information requested in this RFQ/ RFP for evaluation purposes.

4.2.5. It is important to note that the successful bidder will work under the supervision of a Council for Medical Schemes representative, abide by Council for Medical Schemes' Code of Conduct, and other organizational guidelines.

4.2.6. Council for Medical Schemes reserves the right not to enter into any relationship and no correspondence pertaining to submissions will be entered into.

4.2.7. If the Council for Medical Schemes does not accept any proposal, it will declare this RFQ call process closed and may then elect to:

- Proceed on a completely different basis; and
- Not appoint any respondent in the event it deems proposals not appropriate.

4.2.8. The Council for Medical Schemes will not accept any responsibility for costs incurred by bidders in preparing and submitting proposals.

4.2.9. The Council for Medical Schemes reserves the right to engage in a process to validate all claims made in the proposal.

4.2.10. The Council for Medical Schemes reserves the right to cancel the award if it is determined that the bidder/bidders recommended for award, has engaged in corrupt or fraudulent activities in competing for the contract in question. For the purposes of this RFP/RFT, RFQ, "fraudulent practice" means a misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the accounting officer/authority, and includes collusive practices among bidders/contractors (prior to or after submission of proposals) designed to establish prices at artificial, non-competitive levels and to deprive the accounting officer/authority of the benefits of free and open competition.

4.2.11. The selection of the qualifying bid/quotation will be at Council for Medical Schemes' sole discretion. Council for Medical Schemes does not bind itself to accept any bid/quotation and reserves the right not to appoint the bidder.

### **4.3. Changes to this RFQ document**

4.3.1. Council for Medical Schemes reserves the right to make changes on this RFQ Document. All changes will be communicated to those firms that have responded to the RFQ. No reliance shall be placed on other information or comment from any other person.

### **4.4. Validity Period**

4.4.1. The validity period of the RFQ/RFP is **ninety (90)** days. Request for extension of validity period will be communicated to those bidders who responded to the RFQ/ RFP.

### **4.5. Confidentiality**

4.5.1. Any information relating to the submissions, through the process or otherwise shall be treated in strict confidence.

### **4.6. Tax Compliance**

4.6.1. CMS will not award any bid to any bidder who is not tax compliant. If a recommended bidder is not tax compliant, the bidder will be notified in writing of their non-compliant status and the bidder will be requested to submit written proof from SARS of their tax compliant status or proof that they have made an arrangement to meet their outstanding tax obligations within seven (7) working days. Should the bidder fail to do so or submit proof that their tax matters are compliant, CMS will reject their bid.

4.6.2. CMS reserves the right to withdraw an award made, or cancel a contract concluded with a successful bidder in the event that it is established that such bidder was in fact not tax compliant at the time of the award or has submitted a fraudulent Tax Clearance Certificate to the CMS, or whose verification against the Central Bidder Database (CSD) proves non-compliant.

#### 4.7. Costs for Preparation of the Bid

CMS will not be liable for any costs incurred by a bidder in the process of responding to this invitation, including briefing session, site visits and submission of the proposal/ quotations.

#### 4.8. Rejection of Bids

4.8.1. CMS reserves the right to **reject any bid** or **not to appoint a bidder** under the following conditions:

##### 4.8.1.1. Past Fraudulent Activity or Misrepresentation

4.8.1.1.1. If it is established that the bidder, or any of its directors, members, shareholders, or related parties:

- Has been convicted of fraud, corruption, collusion, or any related criminal offence within the past five (5) years;
- Has submitted false or misleading information in any procurement process, whether with this institution or any other public sector entity.
- Has been blacklisted or listed on the National Treasury's database of **restricted bidders** or **tender defaulters**.

##### 4.8.2. Listing on the National Treasury Database

4.8.2.1. Any bidder currently listed on the **National Treasury's list of restricted bidders or tender defaulters**, in terms of Sections 28 and 29 of the Preferential Procurement Regulations, will be disqualified.

##### 4.8.3. Reputational Risk

4.8.3.1. CMS reserves the right not to appoint a bidder where past conduct poses a significant reputational or operational risk, even if the bidder meets technical and price criteria.

##### 4.8.4. Right Not to Appoint

4.8.4.1. CMS reserves the right not to appoint any bidder and to cancel the procurement process without incurring any liability, particularly where integrity concerns exist.

## 5. PAYMENT STRUCTURE

5.1. CMS undertakes to pay in full within thirty (30) days after receipt of an original tax invoice from the bidder, all valid claims for work done to its satisfaction upon presentation of a substantiated claim/invoice.

5.2. Payments will only be made based on the work completed (milestones/ deliverables) as per the project implementation plan to be agreed on the inception of the project.

5.3. All invoices must be emailed to [creditors@medicalschemes.co.za](mailto:creditors@medicalschemes.co.za)

5.4. The Purchase Order number must always be referenced in all invoices submitted to CMS against the Purchase Order placed against the successful bidder. No goods and/or services shall be delivered to the CMS without an official Purchase Order from the CMS's Supply Chain Management Unit/ Representative.

## 6. SUBMISSION OF COMPLIANCE DOCUMENTS

6.1. Interested bidders must submit the following documents for administrative and evaluation purposes:

6.1.1. SARS PIN Document.

6.1.2. National Treasury Central Bidder Database Report

6.1.3. Valid BEE Certificate or Sworn Affidavit (for EME's and QSE's)

6.1.4. Complete the attached **SBD 1, 4 and 6.1**. Failure to complete and sign the SBD 1, 4 and 6.1. may lead to automatic disqualification from the evaluation process. Bidders that failed to submit the RFQ document, including the SBD1, 4 and 6.1. will not be considered.

7. The bidder must compile and submit their documents in a clear, formal, and well-organised manner. All submissions must be indexed appropriately and in a logical sequence to facilitate ease of evaluation, in the following manner:

- Annexure A/ 1 – Completed and signed RFQ document, including SBD documents
- Annexure B/ 2 – Mandatory Evaluation Documents as prescribed in this RFQ document.
- Annexure C/3 – Technical evaluation criteria as prescribed in this RFQ document.
- Annexure D/ 4 – Specific Goals Documents (**Proposed Pricing/Fees, CIPC, ID Copy/ Copies of Owners/ Directors, Letter of Disability and Valid BEE Certificate or Sworn Affidavit**).
- Annexure E/ 5 – Other documents indicated in this RFP, including the Company Profile.

## BIDDER'S DISCLOSURE –: ANNEXURE A

### 1. PURPOSE OF THE FORM

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

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

### 2. Bidder's declaration

2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest<sup>1</sup> in the enterprise,  
employed by the state? **YES/NO**

2.1.1 If so, furnish particulars of the names, individual identity numbers, and, if applicable, state employee numbers of sole proprietor/ directors / trustees / shareholders / members/ partners or any person having a controlling interest in the enterprise, in table below.

Full Name	Identity Number	Name of State institution

2.2

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

2.2.1 If so, furnish particulars:

.....

<sup>1</sup> the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person /s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.

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

**YES/NO**

- 2.3.1 If so, furnish particulars:

.....  
 .....

### 3 DECLARATION

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

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium<sup>2</sup> will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.

<sup>2</sup> Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

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

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

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

.....	.....
Signature	Date
.....	.....
Position	Name of bidder

**SBD 6.1. ANNEXURE B****PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022**

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

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

## 1. GENERAL CONDITIONS

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

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

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

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

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

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

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

The maximum points for this tender are allocated as follows:

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

1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific

goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.

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

## 2. DEFINITIONS

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

## 3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

### 3.1. POINTS AWARDED FOR PRICE

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

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

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

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

#### 3.2.1. POINTS AWARDED FOR PRICE

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

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmax = Price of highest acceptable tender

### 4. POINTS AWARDED FOR SPECIFIC GOALS

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

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

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

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

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

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

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

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

The specific goals allocated points in terms of this tender	Number of points allocated (90/10 system) (To be completed by the organ of state)	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (90/10 system) (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)
a) Historically Disadvantaged Individuals	N/A	<b>5 Points:</b> <ul style="list-style-type: none"> <li>• 80% - 100% Black Owned – <b>5 Points</b></li> <li>• 50% - 79.99 Black Owned - <b>4 Points</b></li> <li>• 20% - 49.99% Black Owned <b>3 Points</b></li> <li>• 1% - 19.99 Black Owned - <b>1 Point</b></li> <li>• Below 1% Black Owned - <b>0 Points</b></li> </ul>	N/A	
Size of the Company/ Enterprise	N/A	<b>3 Points:</b> <ul style="list-style-type: none"> <li>• Exempted Medium Enterprise- <b>3 Points</b></li> <li>• Qualifying Exempted Enterprise – <b>2 Points</b></li> <li>• Generic Enterprise - <b>1 Point</b></li> </ul>	N/A	
Black Women Owned Enterprise	N/A	<b>5 Points:</b> <ul style="list-style-type: none"> <li>• 75% - 100% Black Women Owned - <b>5 Points</b></li> </ul>	N/A	

		<ul style="list-style-type: none"> <li>• 51% - 74,99% Black Women Owned – <b>3 Points</b></li> <li>• 1% - 50,99% Black Women Owned - <b>1 Point</b></li> <li>• Below 1% Black Owned Women-<b>0 Point</b></li> </ul>		
Ownership by People with Disabilities	N/A	<b>3 Points:</b> <ul style="list-style-type: none"> <li>• 75% - 100% Ownership by People with Disabilities – <b>3 Points</b></li> <li>• 51% - 74,99% Ownership by People with Disabilities - <b>2 Points</b></li> <li>• 1% - 50,99% Ownership by People with Disabilities - <b>1 Point</b></li> <li>• Below 1% Ownership by People with Disabilities-- <b>0 Point</b></li> </ul>	N/A	
Ownership by Youth (under 35 years)	N/A	<b>4 Points:</b> <ul style="list-style-type: none"> <li>• 75% - 100% Ownership by Youth- <b>4 Points</b></li> <li>• 51% - 74,99% Ownership by Youth-<b>3 Points</b></li> <li>• 20% - 50,99% Ownership by Youth-<b>2 Points</b></li> <li>• 1% - 19,99% Ownership by Youth- <b>1 Points</b></li> <li>• Below 1% Ownership by Youth-<b>0 Points</b></li> </ul>	N/A	

**DECLARATION WITH REGARD TO COMPANY/FIRM**

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

4.4. Company registration number: .....

4.5. TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

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

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

organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and

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

(b)

(c) .....

(d) **SIGNATURE(S) OF TENDERER(S)**

(e)

(f) **SURNAME AND NAME:** .....

<b>DATE:</b> .....
<b>ADDRESS:</b> .....
.....
.....
.....

## GOVERNMENT PROCUREMENT – ANNEXURE C

### GENERAL CONDITIONS OF CONTRACT July 2010

#### NOTES

The purpose of this document is to:

- (i) Draw special attention to certain general conditions applicable to government bids, contracts and orders; and
- (ii) To ensure that clients be familiar with regard to the rights and obligations of all parties involved in doing business with government.

In this document words in the singular also mean in the plural and vice versa and words in the masculine also mean in the feminine and neuter.

- The General Conditions of Contract will form part of all bid documents and may not be amended.
- Special Conditions of Contract (SCC) relevant to a specific bid, should be compiled separately for every bid (if applicable) and will supplement the General Conditions of Contract. Whenever there is a conflict, the provisions in the SCC shall prevail.

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1. Definitions
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## 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 bidder, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- 1.3. "Contract price" means the price payable to the bidder under the contract for the full and proper performance of his contractual obligations.
- 1.4. "Corrupt practice" means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.
- 1.5. "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
- 1.6. "Country of origin" means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
- 1.7. "Day" means calendar day.
- 1.8. "Delivery" means delivery in compliance of the conditions of the contract or order.
- 1.9. "Delivery ex stock" means immediate delivery directly from stock actually on hand.
- 1.10. "Delivery into consignees store or to his site" means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the bidder bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
- 1.11. "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.

- 1.12. "Force majeure" means an event beyond the control of the bidder and not involving the bidder's fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- 1.13. "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.
- 1.14. "GCC" means the General Conditions of Contract.
- 1.15. "Goods" means all of the equipment, machinery, and/or other materials that the bidder 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 bidder or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.
- 1.17. "Local content" means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- 1.18. "Manufacture" means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.19. "Order" means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20. "Project site," where applicable, means the place indicated in bidding documents.
- 1.21. "Purchaser" means the organization purchasing the goods.
- 1.22. "Republic" means the Republic of South Africa.
- 1.23. "SCC" means the Special Conditions of Contract.
- 1.24. "Services" means those functional services ancillaries to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the bidder covered under the contract.
- 1.25. "Written" or "in writing" means handwritten in ink or any form of electronic or mechanical writing.

## 2. Application

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

## 3. General

- 3.1. Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.

3.2. With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from [www.treasury.gov.za](http://www.treasury.gov.za)

#### **4. Standards**

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

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

5.1. The bidder 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 bidder in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.

5.2. The bidder 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 bidder's performance under the contract if so, required by the purchaser.

5.4. The bidder shall permit the purchaser to inspect the bidder's records relating to the performance of the bidder and to have them audited by auditors appointed by the purchaser, if so, required by the purchaser.

#### **6. Patent rights**

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

#### **7. Performance security**

7.1. Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.

7.2. The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the bidder's failure to complete his obligations under the contract.

7.3. The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:

a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or

b) a cashier's or certified cheque

7.4. The performance security will be discharged by the purchaser and returned to the bidder not later than thirty (30) days following the date of completion of the bidder's performance obligations under the contract, including any warranty obligations, unless otherwise specified in SCC.

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

8.1. All pre-bidding testing will be for the account of the bidder.

- 8.2.** If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department.
- 8.3.** If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4.** If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
- 8.5.** Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the bidder.
- 8.6.** Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.
- 8.7.** Any contract supplies may on or after delivery be inspected, tested or analysed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the bidder 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 bidders cost and risk. Should the bidder fail to provide the substitute supplies forthwith, the purchaser may, without giving the bidder further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the bidder.
- 8.8.** The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of GCC.

## **9. Packing**

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

## **10. Delivery and documents**

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

## **11. Insurance**

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

## **12. Transportation**

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

### 13. Incidental services

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

- a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
- b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
- c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
- d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the bidder of any warranty obligations under this contract; and
- e) training of the purchaser's personnel, at the bidder'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 bidder 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 bidder for similar services.

### 14. Spare parts

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

- a) such spare parts as the purchaser may elect to purchase from the bidder, provided that this election shall not relieve the bidder of any warranty obligations under the contract; and
- b) in the event of termination of production of the spare parts:
  - ✓ advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
  - ✓ 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 bidder 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 bidder further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the bidder, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.

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

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

15.4. Upon receipt of such notice, the bidder shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.

- 15.5. If the bidder, 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 bidder's risk and expense and without prejudice to any other rights which the purchaser may have against the bidder under the contract.

## **16. Payment**

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

## **17. Prices**

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

## **18. Contract amendments**

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

## **19. Assignment**

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

## **20. Subcontracts**

- 20.1. The bidder 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 bidder from any liability or obligation under the contract.

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

- 21.1. Delivery of the goods and performance of services shall be made by the bidder 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 bidder or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the bidder 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 bidder's notice, the purchaser shall evaluate the situation and may at his discretion extend the bidder's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.
- 21.3. No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.

- 21.4. The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the bidder's point of supply is not situated at or near the place where the supplies are required, or the bidder's services are not readily available.
- 21.5. Except as provided under GCC Clause 25, a delay by the bidder in the performance of its delivery obligations shall render the bidder liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.
- 21.6. Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without cancelling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the bidder'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 bidder.

## 22. Penalties

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

## 23. Termination for default

- 23.1. The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the bidder, may terminate this contract in whole or in part:
- a) if the bidder fails to deliver any or all the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
  - b) if the Bidder fails to perform any other obligation(s) under the contract; or
  - c) if the bidder, 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 bidder shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the bidder 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 bidder by prohibiting such bidder 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 bidder or any person associated with the bidder, the bidder 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 bidder 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 bidder.
- 23.5. Any restriction imposed on any person by the Accounting Officer / Authority will, at the discretion of the Accounting Officer / Authority, also be applicable to any other enterprise or any partner, manager, director or other person who

wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Accounting Officer / Authority actively associated.

- 23.6. If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:
- i. the name and address of the bidder and / or person restricted by the purchaser;
  - ii. the date of commencement of the restriction
  - iii. the period of restriction; and
  - iv. the reasons for the restriction.

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

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

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

- 24.1. When, after the date of bid, provisional payments are required, or antidumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference shall on demand be paid forthwith by the contractor to the State or the State may deduct such amounts from moneys (if any) which may otherwise be due to the contractor in regard to supplies or services which he delivered or rendered, or is to deliver or render in terms of the contract or any other contract or any other amount which may be due to him

#### **25. Force Majeure**

- 25.1. Notwithstanding the provisions of GCC Clauses 22 and 23, the bidder shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.
- 25.2. If a force majeure situation arises, the bidder shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the bidder shall continue to perform its obligations under the contract as far as is reasonably practical and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

#### **26. Termination for insolvency**

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

## **27. Settlement of Disputes**

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

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

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

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

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

(a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and

(b) the purchaser shall pay the bidder any monies due the bidder.

## **28. Limitation of liability**

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

a) the bidder shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the bidder to pay penalties and/or damages to the purchaser; and

b) the aggregate liability of the bidder 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 bidder 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 bidder 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 bidder shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- 32.3. No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.

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

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

**34. Prohibition of Restrictive practices**

- 34.1. In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).
- 34.2. If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.
- 34.3. If a bidder(s) or contractor(s), has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.