



## **REQUEST FOR QUOTES – DATA & INFORMATION BACKUP SERVICES**

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**CTT/2023-2024/003/Data & Information Backup Services**

**Date Issued: 10 October 2023**

**Closing date and time: 11:00am 31 October 2023**

**Bid Validity Period: 90 days**

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## **1 INTRODUCTION**

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The Competition Tribunal (the Tribunal) is a public entity reporting to The Department of Trade Industry and Competition, and is constituted in terms of the Competition Act, 1998 (Act No. 89 of 1998). Its role is to promote and maintain competition in the economy.

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## **2 PURPOSE**

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The purpose of this Request for Quote (RFQ) is to solicit proposals from potential bidders to provide cloud backup services for all server-based Tribunal data and information.

This RFQ does not constitute an offer to do business with the Tribunal but merely serves as an invitation to bidders to facilitate a requirements-based decision process.

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## **3 LEGISLATIVE FRAMEWORKS OF THE BID**

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### **3.1 Tax Legislation**

- a) It is a condition of this bid that the tax matters of the successful bidder be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the bidder's tax obligations.
- b) The Tax Compliance status requirements are also applicable to foreign bidders / individuals who wish to submit bids.
- c) It is a requirement that bidders grant a written confirmation when submitting this bid that SARS may on an ongoing basis during the tenure of the contract disclose the bidder's tax compliance status and by submitting this bid such confirmation is deemed to have been granted.
- d) Bidders are required to be registered on the Central Supplier Database and the National Treasury shall verify the bidder's tax compliance status through the Central Supplier Database.

### **3.2 Procurement Legislation**

The Tribunal has a detailed evaluation methodology premised on Treasury Regulation 16A3 promulgated under Section 76 of the Public Finance Management Act, 1999 (Act, No. 1 of 1999), the Preferential Procurement Policy Framework Act 2000 (Act, No.5 of 2000), the Preferential Procurement Regulations 2022, and the Broad-Based Black Economic Empowerment Act, 2003 (Act, No. 53 of 2003).

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## **4 TIMELINES OF THE BID PROCESS**

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The period of validity of tender and the withdrawal of offers, after the closing date and time is 90 days. The project timeframes of this bid are set out below:

<b>Activity</b>	<b>Due Date</b>
Submission of Questions	20 October 2023
Bid closing date	11:00am 31 October 2023

All dates and times in this bid are South African standard time.

Any time or date in this bid is subject to change at the Tribunal's discretion. The establishment of a time or date in this bid does not create an obligation on the part of the Tribunal to take

any action or create any right in any way for any bidder to demand that any action be taken on the date established.

The bidder accepts that, if the Tribunal extends the deadline for bid submission (the Closing Date) for any reason, the requirements of this bid otherwise apply equally to the extended deadline.

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## 5 CONTACT AND COMMUNICATION

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- a) A nominated official of the bidder can make enquiries **in writing** (via email), to the following specified person, Ms Paddy Froude (SCM Officer) [PaddyF@comptrib.co.za](mailto:PaddyF@comptrib.co.za).
- b) Responses to questions relating to the bid specifications received by the nominated official will be addressed on the Tribunal's website [www.comptrib.co.za](http://www.comptrib.co.za) on 23 October 2023
- c) The delegated official of the Tribunal may communicate with bidders where clarity is sought in the bid proposal.
- d) Any communication to an official or a person acting in an advisory capacity for the Tribunal in respect of the bid between the closing date and the award of the bid by the bidders is discouraged.
- e) All communication between the bidders and the Tribunal must be done in writing.
- f) Whilst all due care has been taken in connection with the preparation of this bid, the Tribunal makes no representations or warranties that the content of the bid or any information communicated to or provided to bidders during the bidding process is, or will be, accurate, current, or complete.
- g) The Tribunal, and its employees and advisors will not be liable with respect to any information communicated which may not be accurate, current, or complete.
- h) If a bidder finds or reasonably believes it has found any discrepancy, ambiguity, error or inconsistency in this bid or any other information provided by the Tribunal (other than minor clerical matters), the bidder must promptly notify the Tribunal in writing of such discrepancy, ambiguity, error, or inconsistency to afford the Tribunal an opportunity to consider what corrective action is necessary (if any).
- i) Any actual discrepancy, ambiguity, error or inconsistency in the bid or any other information provided by the Tribunal will, if possible, be corrected and provided to all bidders without attribution to the bidder who provided the written notice.
- j) All persons (including bidders) obtaining or receiving the bid and any other information in connection with the Bid, or the Tendering process must keep the contents of the Bid and other such information confidential, and not disclose or use the information except as required for the purpose of developing a proposal in response to this Bid.

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## 6 LATE BIDS

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Bids received after the closing date and time, at the address indicated in the bid documents, **will not** be accepted for consideration.

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## 7 COUNTER CONDITIONS

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Bidders' attention is drawn to the fact that amendments to any of the Bid Conditions or setting of counter conditions by bidders or qualifying any Bid Conditions will result in the invalidation of such bids.

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## **8 FRONTING**

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- a) The Tribunal supports the spirit of broad based black economic empowerment and recognizes that real empowerment can only be achieved through individuals and businesses conducting themselves in accordance with the Constitution and in an honest, fair, equitable, transparent, and legally compliant manner. Against this background the Tribunal condemns any form of fronting.
- b) The Tribunal, in ensuring that bidders conduct themselves in an honest manner will, as part of the bid evaluation processes, conduct, or initiate the necessary enquiries/investigations to determine the accuracy of the representation made in bid documents.
- c) Should any of the fronting indicators as contained in the Guidelines on Complex Structures and Transactions and Fronting, issued by the Department of Trade and Industry, be established during such enquiry / investigation, the onus will be on the bidder / contractor to prove that fronting does not exist. Failure to do so within a period of 14 days from date of notification may invalidate the bid / contract and may also result in the restriction of the bidder /contractor to conduct business with the public sector for a period not exceeding ten years, in addition to any other remedies the Tribunal may have against the bidder/contractor concerned.

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## **9 SUPPLIER DUE DILIGENCE**

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The Tribunal reserves the right to conduct supplier due diligence prior to final award or at any time during the contract period. This may include site visits and requests for additional information.

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## **10 SUBMISSION OF PROPOSALS**

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- a) Bid documents must be emailed to [PaddyF@comptrib.co.za](mailto:PaddyF@comptrib.co.za).
- b) Bid documents will only be considered if received by the Tribunal before the closing date and time.
- c) Bidders are required to submit one (1) proposal by 11:00am on the 31<sup>st</sup> of October 2023.
- d) Bidders are requested to initial each page of the tender document on the top right-hand corner.
- e) All responses to this bid must be submitted on the official forms provided – (not to be re-typed) or in the manner prescribed in the bid document.
- f) Service providers are required to submit 1 (one) submission all pages to be numbered and must include a table of contents and contact details by the closing date.
- g) 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.

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## **11 DURATION OF THE CONTRACT**

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The Tribunal will enter a three-year (36 month) contract with the successful service provider to provide cloud-based backup services for all server-based Tribunal data and information.

The contract is subject to acceptable performance reviews and the service provider remaining tax compliant with the State and completing annual returns as requested by the Tribunal.

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## 12 TERMS OF REFERENCE

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### 12.1 Scope of Work

The scope of work comprises a backup service to ensure that the Tribunal data and information is backed-up in a safe and secure manner and that integrity testing takes place.

The backup device must be placed in the Tribunal's server room in the Tribunal's server cabinet, the device must replicate all information to the cloud-based backup location.

**Annexure A** provides a list of the servers that need to be backed up indicating whether they are business critical or not and the estimated storage size of each server.

At a minimum the list of services below must be provided; service providers must ensure that the line items are listed on the quotation:

- a) Business critical and non-business critical backup requirements
- b) Disaster recovery testing
- c) Onsite and cloud storage requirements
- d) Weekly restoration test
- e) Server hardware
- f) Reporting

### 12.2 Backup Services

#### 12.2.1 Business Critical and Non-Business Critical Backup Requirements

The Tribunal separates its applications, services, and servers into business critical and non-business critical categories.

For the business-critical category, the Tribunal requires a high-availability backup solution that allows data and information to be fully recovered/restored and online within **five hours** of the Tribunal contacting the service provider.

For the non-business critical category data and information must be fully recovered/restored and online within **twelve hours** of the Tribunal contacting the service provider.

Backups are required to be made on a daily, weekly, and monthly basis for business critical and non-business critical systems. All backups must be integrity tested before being committed to storage.

In addition, backups made throughout the contract period must be kept for 60 days after the contract has reached its end date or after any date from which there has been a breach of contract between either of the parties.

#### 12.2.2 Disaster recovery testing

The Tribunal wishes to test the disaster recovery solution and its own IT Disaster Recovery Plan at least once annually.

The backup service provider's role in this test is to recover all business-critical systems and services as indicated in **Annexure A** within the timeframes set out in section 12.2.1 above. The date of any such disaster recovery test will be predetermined and arranged with the service provider on a time and date suitable for both the Tribunal and the service provider.

Furthermore, the disaster recovery test location will in most cases be at the Tribunal offices. The service provider will be required to bring the recovered data and information on a server(s) or provide access to an online location where the servers and applications are ready for use for testing to take place by Tribunal employees.

### **12.2.3 Onsite and cloud storage requirements**

All Tribunal data and information must be held onsite and must be duplicated to a secure cloud-based facility daily. The service provider must provide a backup device that is placed in the Tribunal's data centre to perform the backups.

Cloud based backups must be stored at a secure location where access is only available to authorised personnel.

All backup data and information must be moved/copied to the cloud location through the use of online services provided by the backup service provider.

The backup solution **must not** include a process where backups take place on removable media that must be rotated (taken offsite) on weekly or monthly basis.

### **12.2.4 Weekly restoration test**

A restoration test of the past week's backups must be completed once per week whereby the service provider restores a file or folder to a location specified by the IT Administrator.

The file/folder will be opened and tested by the IT Administrator and feedback will be provided via e-mail.

### **12.2.5 Server hardware**

In the event of an actual disaster, the service provider must provide hardware at a location specified by the Tribunal to be used to run the full production systems of the Tribunal for a period of 30 days.

The Tribunal may request the service provider to keep the hardware for an extended period, the service provider can charge a daily rate for the hardware to be kept onsite after the period of 30 days.

### **12.2.6 Reporting**

The Tribunal will require the following reports from the service provider:

- a) A weekly backup report indicating successful backups, failed backups and any issues encountered regarding backups within the given week.
- b) A monthly report summarising the events on the weekly backups that took place and indicating issues encountered during the week.
- c) A bi-annual report must be sent to the IT Administrator indicating the total storage size backed up by the service provider. The report must also indicate if there will be an increase in cost if the storage size increases.

### 12.3 Pricing schedule for evaluation

Service providers are required to complete the pricing schedule attached as **Annexure B**

Quotes **will not** be considered if **Annexure B** is not completed for ALL categories of information requested.

## 13 EVALUATION AND SELECTION CRITERIA

The Tribunal has set minimum standards (Stages) that a bidder needs to meet to be evaluated and selected as a successful bidder. The minimum standards consist of the following:

Pre-qualification Criteria (Stage 1)	Functionality (Stage 2)	Price & Preference Points (Stage 3)
Bidders must submit all documents as outlined in Table 1. Only bidders that comply with <b>ALL</b> these criteria will proceed to Stage 2.	Bidders will be required to obtain a minimum of 60 points out of 100 points to proceed to Stage 3	Bidders will be evaluated out of 100 points

### 13.1 Stage 1: Pre-qualification Criteria

Without limiting the generality of the Tribunal other critical requirements for this RFQ, bidders must submit the documents listed in **Table 1**.

All documents must be completed and signed by the duly authorised representative of the prospective bidder.

During this phase bidders' responses will be evaluated based on compliance with the listed administration and mandatory RFQ requirements.

The proposal **will** be disqualified for non-submission of any of the documents reflected in Table 1.

**Table 1: Documents that must be submitted for Pre-qualification**

Document that must be submitted	Non-submission will result in disqualification	
<b>Cover Letter</b>	NO	Stating the name and contact details of the bidder and the bidder's representative.
<b>Index</b>	NO	For ease of reference an indexed table of contents
<b>SBD1</b>	YES	Invitation to Bid – Complete and sign the supplied document
<b>Tax Status</b>	YES	Provide <b>one</b> of these listed below: <ul style="list-style-type: none"> <li>Unique personal identification number (PIN) issued by SARS. Application for tax compliance status (TCS) pin may be made via e-filing through the SARS website <a href="http://www.sars.gov.za">www.sars.gov.za</a>.</li> </ul>

Document that must be submitted	Non-submission will result in disqualification	
		<ul style="list-style-type: none"> <li>A printed Tax Clearance Certificate (TCS)</li> </ul> CSD Registration number
<b>SBD4</b>	YES	Declaration of Interest – Complete and sign the supplied document
<b>SBD6.1</b>	NO	Preference Point Claim Form – Complete and sign the supplied document. <b>Non-submission will lead to a zero (0) score for preference points</b>
<b>B-BBEE Certificate or Sworn Affidavit</b>	NO	Original and valid B-BBEE certificate – (Verified by accredited SANAS agencies). EMEs (Sworn affidavit signed by the EME representative and attested by a Commissioner of Oaths; <b>Non-submission will lead to a zero (0) score for preference points</b>
<b>SBD8</b>	YES	Declaration of Bidder’s Past Supply Chain Management Practices – Complete and sign the supplied document
<b>SBD9</b>	YES	Certificate of Independent Bid Determination – Complete and sign the supplied document
<b>CSD Registration Report</b>	YES	The bidder must be registered on the Central Supplier Database (CSD). Submit proof of registration.
<b>General Conditions of Contract</b>	YES	<b>NB</b> - All pages to be signed as proof of review and returned with your proposal
<b>Company Profile</b>	YES	This should provide details about the company, for example time in business and what services are on offer.
<b>Reference Letters</b>	YES	Provide reference letters from at least three (3) contactable existing/recent clients (within past 3 years) which are of a similar size to the Tribunal. The letter must include company name, contact name, address, phone number, and duration of contract, a brief description of the services that you provided and the level of satisfaction.
<b>Company Proposal</b>	YES	Provide a proposal detailing your response to section 12 scope of work
<b>Annexure B</b>	YES	<b>NB:</b> Pricing Schedule – Complete and sign attached document.
<b>Annexure C</b>	YES	Technical Evaluation Scorecard
<b>Annexure D</b>	YES	Declaration - Complete and sign the supplied document

### 13.2 Stage 2: Technical Evaluation Criteria = 60 points

All bidders are required to respond to the technical evaluation criteria scorecard. Refer to **Annexure C** for detailed information

Only bidders that have met the Pre-Qualification Criteria in (Stage 1) will be evaluated in Stage 2 for functionality.

Desktop Technical Evaluation – Bidders will be evaluated out of 100 points and are required to achieve minimum average of 60 points

### 13.3 Stage 3 - The 80/20 Preference Point System

Only bidders that have met the minimum threshold of 60 points in Stage 2 will be evaluated in Stage 3.

Price and B-BBEE will be evaluated as follows:

#### Points Awarded for Price

Criteria	Points
<b>Price Evaluation</b> $P_s = 80 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$	80

The following formula will be used to calculate the points for price:

$P_s$  = Points scored for comparative price of bid under consideration  
 $P_t$  = Comparative price of bid under consideration  
 $P_{\min}$  = Comparative price of lowest acceptable bid

#### Points Awarded for Specific Goals

A maximum of 20 points is allocated for specific goals.

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. For the purposes of this Tender the service provider will be allocated points based on the goals stated and must be supported by proof/ documentation.

Specific goals for the RFQ and points claimed are indicated in the table below.

1. Black Owned	Points for specific goals	Maximum points
91% - 100%	8	8
81% - 90%	7	
71% - 80%	6	
61% - 70%	5	
51% - 60%	4	
41% - 50%	3	
0% - 40%	0	

<b>2. SMME's and B-BBEE Status Level of Contributor</b>	<b>Points for specific goals</b>	<b>Maximum points</b>
Level 1 - EME/QSE	4	4
Level 2 - EME/QSE	3	
Level 3 EME/QSE	2	
Level 4 - EME/QSE	1	
Level 5 - 8 and non-compliant - EME/QSE	0	
<b>3. Black Women Ownership</b>	<b>Points for specific goals</b>	<b>Maximum points</b>
91% - 100%	8	8
81% - 90%	7	
71% - 80%	6	
61% - 70%	5	
51% - 60%	4	
41% - 50%	3	
0% - 40%	0	

**(80 + 20 = 100 points)**

The points scored for specific goals will be added to the points scored for price.

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#### **14 GENERAL CONDITIONS OF CONTRACT**

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Any award made to a Bidders under this bid is conditional, amongst others, upon –

- a) The Bidders accepting the terms and conditions contained in the General Conditions of Contract as the minimum terms and conditions upon which The Tribunal is prepared to enter a contract with the successful Bidders.
- b) The bidder submitting the General Conditions of Contract to the Tribunal together with its bid, each page duly initialled by an authorised representative of the bidder.**

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#### **15 SERVICE LEVEL AGREEMENT**

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- a) Upon award the Tribunal and the successful bidder will conclude a Service Level Agreement regulating the specific terms and conditions applicable to the services being procured by the Tribunal.
- b) The Tribunal reserves the right to vary Service Level Indicators during negotiations with a bidder

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#### **16 SPECIAL CONDITIONS OF THIS BID**

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The Tribunal reserves the right:

- a) To award this tender to a bidder that did not score the highest total number of points, only in accordance with section 2(1)(f) of the PPPFA (Act 5 of 2000)
- b) To negotiate with one or more preferred bidders identified in the evaluation process, regarding any terms and conditions, including price without offering the same opportunity to any other bidders who has not been awarded the status of the preferred bidders.

- c) To accept part of a tender rather than the whole tender.
- d) To carry out site inspections, product evaluations or explanatory meetings to verify the nature and quality of the services offered by the bidders, whether before or after adjudication of the Bid.
- e) To correct any mistakes at any stage of the tender that may have been in the Bid documents or occurred at any stage of the tender process.
- f) To cancel and/or terminate the tender process at any stage, including after the closing date and/or after presentations have been made, and/or after tenders have been evaluated and/or after the preferred bidders have been notified of their status as such.
- g) Award to multiple bidders based either on size or geographic considerations.

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## **17 DECLARATION REQUIREMENTS**

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In the bidder's technical response, Bidders are required to declare that they:

- a) Will act honestly, fairly, and with due skill, care, and diligence, in the interests of the Tribunal.
- b) Have and effectively employ the resources, procedures, and appropriate technological systems for the proper performance of the services.
- c) Will act with circumspection and treat the Tribunal fairly in a situation of conflicting interests.
- d) Will comply with all applicable statutory or common law requirements applicable to the conduct of business.
- e) Will make adequate disclosures of relevant material information including disclosures of actual or potential own interests, in relation to dealings with the Tribunal.
- f) Will avoid fraudulent and misleading advertising, canvassing, and marketing.
- g) Will conduct their business activities with transparency and consistently uphold the interests and needs of the Tribunal as a client before any other consideration.
- h) Will ensure that any information acquired by the Bidders from the Tribunal will not be used or disclosed unless written consent has been obtained to do so.
- i) Did not have access to any Tribunal proprietary information or any other matter that may unfairly place them in a preferential position in relation to any of the other bidders.

### **See Annexure D**

The successful service provider on appointment will be required to sign a non-disclosure agreement that remains in place for three years after the contract has expired.

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## **18 CONFLICT OF INTEREST, CORRUPTION AND FRAUD**

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The Tribunal reserves its right to disqualify any bidder who either itself or any of whose members (save for such members who hold a minority interest in the bidder through shares listed on any recognised stock exchange), indirect members (being any person or entity who indirectly holds at least a 15% interest in the bidder other than in the context of shares listed on a recognised stock exchange), directors or members of senior management, whether in respect of the Tribunal or any other government organ or entity and whether from the Republic of South Africa or otherwise ("Government Entity")

- a) engages in any collusive tendering, anti-competitive conduct, or any other similar conduct, including but not limited to any collusion with any other bidder in respect of the subject matter of this bid.
- b) seeks any assistance, other than assistance officially provided by a Government Entity, from any employee, advisor, or other representative of a Government Entity to obtain

- any unlawful advantage in relation to procurement or services provided or to be provided to a Government Entity.
- c) makes or offers any gift, gratuity, anything of value or other inducement, whether lawful or unlawful, to any of the Tribunal's officers, directors, employees, advisors, or other representatives.
  - d) makes or offers any gift, gratuity, anything of any value or other inducement, to any Government Entity's officers, directors, employees, advisors, or other representatives to obtain any unlawful advantage in relation to procurement or services provided or to be provided to a Government Entity.
  - e) accepts anything of value or an inducement that would or may provide financial gain, advantage, or benefit in relation to procurement or services provided or to be provided to a Government Entity.
  - f) pays or agrees to pay to any person any fee, commission, percentage, brokerage fee, gift, or any other consideration, that is contingent upon or results from, the award of any tender, contract, right or entitlement which is in any way related to procurement or the rendering of any services to a Government Entity.
  - g) has in the past engaged in any matter referred to above; or
  - h) has been found guilty in a court of law on charges of fraud and/or forgery, regardless of whether a prison term was imposed and despite such bidder, member or director's name not specifically appearing on the List of Tender Defaulters kept at National Treasury.

During the period of the contract the successful service provider will be required to sign an anti-fraud statement prepared by the Tribunal.

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## **19 MISREPRESENTATION DURING THE LIFECYCLE OF THE CONTRACT**

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The bidder should note that the terms of its tender will be incorporated in the proposed contract by reference and that the Tribunal relies upon the bidder's tender as a material representation in making an award to a successful bidder and in concluding an agreement with the bidder.

It follows therefore that misrepresentations in a tender may give rise to service termination and a claim by the Tribunal against the bidder notwithstanding the conclusion of the Service Level Agreement between the Tribunal and the bidder for the provision of the Service in question.

In the event of a conflict between the bidder's proposal and the Service Level Agreement concluded between the parties, the Service Level Agreement will prevail.

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## **20 PREPARATION COSTS**

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The bidder will bear all its costs in preparing, submitting, and presenting any response or tender to this bid and all other costs incurred by it throughout the bid process.

Furthermore, no statement in this bid will be construed as placing the Tribunal, its employees, or agents under any obligation whatsoever, including in respect of costs, expenses or losses incurred by the bidders in the preparation of their response to this bid.

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## **21 INDEMNITY**

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If a bidder breaches the conditions of this bid and, as a result of that breach, the Tribunal incurs costs or damages (including, without limitation, the cost of any investigations, procedural impairment, repetition of all or part of the bid process and/or enforcement of intellectual property rights or confidentiality obligations), then the bidder indemnifies and holds

the Tribunal harmless from any and all such costs which the Tribunal may incur and for any damages or losses the Tribunal may suffer.

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## **22 PRECEDENCE**

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This document will prevail over any information provided during any briefing session whether oral or written, unless such written information provided, expressly amends this document by reference.

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## **23 LIMITATION OF LIABILITY**

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A bidder participates in this bid process entirely at its own risk and cost. The Tribunal shall not be liable to compensate a bidder on any grounds whatsoever for any costs incurred or any damages suffered because of the bidder's participation in this bid process.

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## **24 TAX COMPLIANCE**

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It is essential to ensure that persons conducting business with the State are tax compliant at the time of awarding of price quotations or competitive bids. No price quotations or competitive bids shall be awarded to businesses or persons who are not tax compliant.

The successful service provider will be notified of their non-compliance status in writing and will have seven (7) working days to submit written proof from SARS of their tax compliance status or proof that they have made an arrangement to meet their outstanding tax obligations. The service provider should thereafter provide the procurement officer with proof of their tax compliance status which will be verified

The Tribunal reserves the right to withdraw an award made, or cancel a contract concluded with a successful bidder if 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 Tribunal, or whose verification against the Central Supplier Database (CSD) proves non-compliant.

The Tribunal further reserves the right to cancel a contract with a successful bidder if such bidder does not remain tax compliant for the full term of the contract.

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## **25 TENDER DEFAULTERS AND RESTRICTED SUPPLIERS**

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No tender shall be awarded to a bidder whose name (or any of its members, directors, partners, or trustees) appear on the Register of Tender Defaulters kept by National Treasury, or who have been placed on National Treasury's List of Restricted Suppliers.

The Tribunal reserves the right to withdraw an award, or cancel a contract concluded with a Bidder should it be established, at any time, that a bidder has been blacklisted with National Treasury by another government institution.

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## **26 GOVERNING LAW**

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South African law governs this bid and the bid response process. The bidder agrees to submit to the exclusive jurisdiction of the South African courts in any dispute of any kind that may arise out of or in connection with the subject matter of this bid, the bid itself and all processes associated with the bid.

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## **27 RESPONSIBILITY FOR SUB-CONTRACTORS AND BIDDER'S PERSONNEL**

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A bidder is responsible for ensuring that its personnel (including agents, officers, directors, employees, advisors, and other representatives), its sub-contractors (if any) and personnel of its sub-contractors comply with all terms and conditions of this bid.

If the Tribunal allows a bidder to make use of sub-contractors, such sub-contractors will always remain the responsibility of the bidder and the Tribunal will not under any circumstances be liable for any losses or damages incurred by or caused by such sub-contractors.

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## **28 CONFIDENTIALITY**

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Except as may be required by operation of law, by a court or by a regulatory authority having appropriate jurisdiction, no information contained in or relating to this bid or a bidder's tender(s) will be disclosed by any bidder or other person not officially involved with the Tribunal's examination and evaluation of a tender.

No part of the bid may be distributed, reproduced, stored, or transmitted, in any form or by any means, electronic, photocopying, recording or otherwise, in whole or in part except for the purpose of preparing a tender. This bid and any other documents supplied by the Tribunal remain proprietary to the Tribunal and must be promptly returned to the Tribunal upon request together with all copies, electronic versions, excerpts, or summaries thereof or work derived there from.

Throughout this bid process and thereafter, bidders must secure the Tribunal's written approval prior to the release of any information that pertains to

- a) the potential work or activities to which this bid relates; or
- b) the process which follows this bid.

Failure to adhere to this requirement may result in disqualification from the bid process and civil action.

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## **29 THE TRIBUNALS PROPRIETARY INFORMATION**

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Bidders as part of the declaration in **Annexure D** are required to declare that they did not have access to any of the Tribunal's proprietary information or any other matter that may have unfairly placed that bidder in a preferential position in relation to any of the other bidders.

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## **30 AVAILABILITY OF FUNDS**

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Should funds no longer be available to pay for the execution of the responsibilities of this bid the Tribunal may terminate the Agreement at its own discretion or temporarily suspend all or part of the services by notice to the successful bidder.

The successful service provider shall immediately plan to stop the performance of the services and minimize further expenditure: Provided that the successful bidder shall thereupon be entitled to payment in full for the services delivered, up to the date of cancellation or suspension.

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## **31 PAYMENT PROCESS**

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The successful service provider appointed will receive payment based on the pricing and time frames agreed to by the service provider and the Tribunal.

Invoices must be VAT inclusive and will be paid via EFT once verified by the Tribunal's Procurement Division.

The Tribunal pays its service providers twice monthly and has a 30-day payment policy. To expedite payments, the Tribunal asks that invoices are submitted timeously in PDF format to [CorporateServices2@comptrib.co.za](mailto:CorporateServices2@comptrib.co.za).

The successful service provider appointed will be required to complete what the Tribunal refers to as a Contractors Questionnaire before the contract is signed and formally approved. This questionnaire assists the Tribunal in verifying the tax status of the service provider. Completion of this is an annual requirement.