

<b>Description of the service</b>	<b>REQUEST FOR PROPOSAL FOR THE PURCHASE OF SUITABLE OFFICE ACCOMMODATION FOR THE CIDB PROVINCIAL OFFICE IN NELSPRUIT, MPUMALANGA</b>
<b>Date of issuance</b>	11/04/2025
<b>Closing date and time</b>	22/05/2025 @11:00
<b>RFP number</b>	CIDB/003/2526
<b>Telephone number</b>	087 100 2432

<b>CONTACT PERSONS</b>	
All enquiries may be directed to:	Sphiwe Mlangeni 012 482 7328 <a href="mailto:SphiweM@cidb.org.za">SphiweM@cidb.org.za</a>

<b>TERMS</b>	
Delivery terms	RFPs response documents to be deposited in the box situated at delivery address
Validity period	90 days
Briefing session	No briefing session

<b>LOGISTICAL (DELIVERY ADDRESS) INFORMATION</b>	
Name of the Office	Construction Industry Development Board (cidb)
Contact Telephone Number	087 100 2432
Physical street address	1267 Gordon Hood Road, Centurion, Pretoria, South Africa Between Centurion Mall and Anew Hotel
City and Province	Centurion, Gauteng

## Table of Contents

<b>1. INVITATION TO BID (SBD 1)</b>	<b>5</b>
1.1. BID SUBMISSION REQUIREMENTS	6
1.2. BID SUBMISSION INSTRUCTIONS	6
1.3. BID SUBMISSION CONDITIONS	7
1.4. TAX COMPLIANCE REQUIREMENTS	8
1.5. RFP LIAISON STRUCTURE	8
1.6. LEGAL FRAMEWORK OF THE PROJECT	8
1.7. PROPOSAL VALIDITY	9
1.8. BRIEFING SESSION	9
1.9. QUALIFICATION AND EVALUATION	9
1.10. DETERMINATION AND ANNOUNCING OF SUCCESSFUL BIDDER	14
1.11. CONFIDENTIAL INFORMATION	14
1.12. INTELLECTUAL PROPERTY	15
1.13. INDEMNITY	15
1.14. GOVERNING LAWS AND RULES	15
1.15. FORMAT OF SUBMISSIONS	18
1.16. IDENTIFICATION OF PROPOSAL DOCUMENT	18
<b>2. TERMS OF REFERENCE</b>	<b>19</b>
2.1. ASSIGNMENT OBJECTIVE	19
2.2. DEFINITIONS	19
2.3. LEGISLATIVE REQUIREMENTS	21
2.4. DESCRIPTION OF THE BUILDING	21
2.6. SECURITY	22
2.7. IT REQUIREMENTS	23
<b>3. PRICING (SDB 3.1)</b>	<b>24</b>
<b>4. BIDDER'S DISCLOSURE (SDB 4)</b>	<b>25</b>
4.1. PURPOSE OF THE FORM	25
4.2. BIDDER'S DECLARATION	25
4.3. DECLARATION	26

<b>5. PREFERENTIAL PROCUREMENT CLAIM FORM (SBD 6.1)</b>	<b>28</b>
5.1. GENERAL CONDITIONS FOR THE PREFERENCE POINT SYSTEMS	28
5.2. DEFINITIONS	28
5.3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES	29
5.4. FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT	29
5.5. POINTS AWARDED FOR SPECIFIC GOALS	30
<b>6. GENERAL CONDITIONS OF CONTRACT (GCC)</b>	<b>33</b>
6.1. DEFINITIONS	33
6.2. APPLICATION	35
6.3. GENERAL	36
6.4. STANDARDS	36
6.5. USE OF CONTRACT DOCUMENTS AND INFORMATION INSPECTION	36
6.6. PATENT RIGHTS	36
6.7. PERFORMANCE SECURITY	37
6.8. INSPECTIONS, TESTS AND ANALYSES	37
6.9. PACKING	38
6.10. DELIVERY AND DOCUMENTS	38
6.11. INSURANCE	39
6.12. TRANSPORTATION	39
6.13. INCIDENTAL SERVICES	39
6.14. SPARE PARTS	40
6.15. WARRANTY	40
6.16. PAYMENT	41
6.17. PRICES	41
6.18. VARIATION ORDERS	41
6.19. ASSIGNMENT	41
6.20. SUB- CONTRACTS	42
6.21. DELAYS IN SUPPLIER PERFORMANCE	42

6.22.	PENALTIES .....	42
6.23.	TERMINATION FOR DEFAULT .....	43
6.24.	ANTIDUMPING AND COUNTERVAILING DUTIES AND RIGHTS .....	43
6.25.	FORCE MAJEURE .....	43
6.26.	TERMINATION FOR INSOLVENCY .....	44
6.27.	SETTLEMENT OF DISPUTES.....	44
6.28.	LIMITATION OF LIABILITY .....	44
6.29.	GOVERNING LANGUAGE .....	45
6.30.	APPLICABLE LAW.....	45
6.31.	NOTICES.....	45
6.32.	TAXES AND DUTIES.....	45
6.33.	TRANSFER OF CONTRACTS .....	45
6.34.	AMENDMENT OF CONTRACTS .....	46
6.35.	PROHIBITION OF RESTRICTED PRACTICES .....	46
7	CERTIFICATE OF AUTHORITY FOR SIGNATORY.....	47
7.1.	CERTIFICATE FOR COMPANY .....	47
7.2.	CERTIFICATE FOR CLOSE CORPORATION .....	47
7.3.	CERTIFICATE FOR PARTNERSHIP .....	48
7.4.	CERTIFICATE FOR JOINT VENTURE.....	48
7.5.	CERTIFICATE FOR SOLE PROPRIETOR.....	49
8.	RECORD OF ADDENDA TO TENDER DOCUMENTS .....	50
9.	PROOF OF REGISTRATION WITH THE NATIONAL TREASURY CENTRAL SUPPLIER DATABASE...	51
10.	ACTIVE REGISTRATION WITH COMPANY INTELLECTUAL PROPERTY COMMISSION (CIPC CERTIFICATE).....	52
11.	A JOINT VENTURE AGREEMENT (IN CASE OF A JOINT VENTURE) .....	53
	ANNEXURE A - PROPERTY OWNERSHIP .....	54
	ANNEXURE B - PROPERTY SIZE.....	55
	ANNEXURE C - LOCATION AND DETAILS OF THE BUILDING .....	56
	ANNEXURE D – DUE DILIGENCE.....	57

## 1. INVITATION TO BID (SBD 1)

### Bidder's Information

Name of Company	
Physical address	
Postal Address	
Telephone number	
e-mail address	
VAT number	
Total Bid Price	

### Bidder Compliance Status

Tax Compliance PIN		OR	Central Supplier Database number	MAAA
B-BBEE Status Level Verification Certificate		OR	B-BBEE Status level sworn affidavit	

**PLEASE NOTE:** A valid B-BBEE status level verification certificate / sworn affidavit (for EME's and QSE's) must be submitted in order to qualify for preference points for B-BBEE.

	YES	NO
Is the entity a resident of the Republic of South Africa (RSA)?		
Does the entity have a branch in the RSA?		
Does the entity have a permanent establishment in the RSA?		
Does the entity have any source of income in the RSA?		
Is the entity liable in the RSA for any form of taxation?		
<b>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)</b>		

## **1.1. Bid Submission Requirements**

- 1.1.1. Bids must be delivered by the stipulated closing date and time to the correct address.
- 1.1.2. No late submissions will be accepted by the cidb
- 1.1.3. All bidders are required to accept the general conditions of contract (GCC) and, if applicable any special conditions of contract
- 1.1.4. Signing requirements of a consortium or joint venture
- 1.1.5. Proposals submitted by a consortium, or a joint venture shall be signed by the lead Member so as to legally bind all the constituent members of the consortium.
- 1.1.6. Proof of the authorisation of the lead Member to act on behalf of the consortium or a joint venture shall be included in the proposal submitted.
- 1.1.7. The lead Member shall be the only authorised party to make legal statements and receive instruction for and on behalf of any and all partners of the consortium or the joint venture.
- 1.1.8. A copy of the agreement entered into by the consortium partners or the joint venture partners for the formation of the consortium or joint venture shall be submitted with the Proposal.
- 1.1.9. In addition, every signatory shall make a written declaration to the effect that all documentation signed by him or her is factually correct and true.

## **1.2. Bid Submission Instructions**

- 1.2.1. The cidb provides the information which is contained in or sent with this RFP or which is made available in connection with any further enquiries or in subsequent Briefing Notes, in good faith.
- 1.2.2. This document (which expression shall include all other information, written or oral, made available during the procurement process) is being made available by the cidb to potential Bidders on the condition that it is used solely for this procurement process and for no other purpose. The cidb is not obliged to accept any response to this RFP.
- 1.2.3. Bidders to this RFP will be deemed to have satisfied themselves as to the authority of the cidb to procure the Project and to be fully acquainted with the laws of South Africa (including without limitation all statutes and regulations on a national, provincial and municipal level).
- 1.2.4. Bidders are therefore, at any stage of the Project, not entitled to request any additional information, advice or opinion from any of the officials of the cidb.
- 1.2.5. Each Bidder to whom this RFP (and other related documents) is made available must make his, her or its own independent assessment of the Project.
- 1.2.6. While reasonable care has been taken in preparing this RFP and other related documents, it does not purport to be comprehensive or to have been verified by the cidb, its officials, employees, advisors or any other person. The cidb, its officials, employees or any of its advisors do not accept

any liability or responsibility for the adequacy, accuracy or completeness of any of the information or opinions stated in this RFP or other related documents.

- 1.2.7. No representation or warranty, express or implied, is or will be given by the cidb, or any of its officers, employees, servants, agents or advisors with respect to the information or opinions contained in this RFP or other related documents. Any liability in respect of such representations or warranties, howsoever arising is hereby expressly disclaimed.
- 1.2.8. The cidb reserves the right to amend, modify or withdraw this RFP, or to amend, modify or terminate any of the procedures or requirements of the RFP at any time and from time to time, without prior notice and without liability to compensate or reimburse any Bidder.
- 1.2.9. If any Bidder or Bidder, its employees, advisors or agents make or offer to make any gift to any public official or employee of the cidb, consultant to the cidb on the Project either directly or through an intermediary then, such Bidders or Bidder will be disqualified forthwith from participating in the procurement of the Project.

### **1.3. Bid Submission Conditions**

- 1.3.1. The original proposal will be the legal and binding document that will be used for the purposes of evaluation. The cidb will not assume any liability for disqualifying a bidder due to the information not being contained in the original proposal submitted by the bidder.
- 1.3.2. The successful bidder will be required to enter into a written contract for the delivery of the goods / services / works awarded to them.
- 1.3.3. The cidb reserves the right to disqualify any Bid/proposal that is not submitted in accordance with any of the instructions prescribed above.
- 1.3.4. The cidb reserves the right to request the administrative returnable documents after the closing date and time, in instances where the Bidder has not returned the documents. However, the cidb is under no obligation to request such documents or information and may elect to disqualify the Bidder that has not returned the requisite document.
- 1.3.5. The cidb reserves the right to conduct a due-diligence exercise to evaluate the Bidder's capabilities to meet the requirements specified in the RFP and supporting documents.
- 1.3.6. Where applicable, The cidb reserves the right to conduct benchmarks on prices and/or product/services offered during and after the evaluation
- 1.3.7. Where the RFP calls for already available solutions, bidders who offer to provide future based solutions will/may be disqualified.
- 1.3.8. Failure or neglect by the cidb to (at any time) enforce any of the provisions of this RFP shall not in any manner, be construed to be a waiver of any of the cidb's rights in that regard and in terms of this RFP. Such failure or neglect shall not, in any manner, affect the continued, unaltered validity of this RFP or prejudice the right of the cidb to institute action or to exercise any other right available to the cidb by law

#### 1.4. Tax Compliance Requirements

- 1.4.1. Bidders must ensure compliance with their tax obligations.
- 1.4.2. Bidders are required to provide their unique personal Identification Number (PIN) issued by SARS to enable the cidb to verify the taxpayer's profile and tax status.
- 1.4.3. Application for Tax Compliance Status (TCS) may be made via e-filing through the SARS website, [www.sars.gov.za](http://www.sars.gov.za)
- 1.4.4. Bidders may also submit a hard copy TCS certificate with their bid
- 1.4.5. In bids where a consortium, joint venture or sub-contractors are involved, each part must submit a separate TCS PIN / CSD registration number.
- 1.4.6. No bids will be accepted from government employees, companies with directors who are government employees or closed corporations with members who are government employees.

#### 1.5. RFP Liaison Structure

- 1.5.1. The cidb has implemented a liaison structure whereby the Project has been allocated a Project Officer, Elenore Downing.

- 1.5.1.1. Bidders are advised to address all correspondence relating to this Project to the following person as indicated below:

**Technical Queries and Bidding Process: Sphiwe Mlangeni**

Telephone: +27(12) 482 7328

E-mail: [SphiweM@cidb.org.za](mailto:SphiweM@cidb.org.za)

- 1.5.2. All correspondence from the Bidder should be addressed to the Project Officer and must be signed by an authorised person or persons, legally binding the Bidder. All such signatures must indicate the name(s) of the person(s) signing them, their position(s) and the name of their organisation.
- 1.5.3. Any additional information, responses to queries and/or changes to the RFP will be communicated to Bidders in the form of Briefing Notes. Bidders are advised to ensure that they have received all issued Briefing Notes.
- 1.5.4. Bidders may ask for clarification on this RFP invite up to 5 (five) business days before the closing date specified for this RFP.

#### 1.6. Legal framework of the project

- 1.6.1. It is the intention of the cidb upon receipt of proposals to consider and evaluate the proposals from bidders, Successful Bidder, having regard to the extent to which each proposal is likely to achieve the Project objectives and goals, applying the qualification and evaluation criteria set out below.
- 1.6.2. Finalising the Offer To Purchase Agreement
  - 1.6.2.1. Bidders may only make comments and mark-up the Offer To Purchase Agreement on commercial issues. In the event that bidders have made any such comments or mark-ups their response should be attached as **Annexure BB** (Comments and Mark-ups on Commercial Issues).

- 1.6.2.2. Mark-ups and Comments to the Offer To Purchase Agreement should be marked-up
- 16.2.2.1. Documents should be marked up with track changes, documents that have not been marked-up with tracked changes will not be considered.
  - 16.2.2.2. Each mark-up is to be motivated by way of a consecutively numbered footnote to the change.
  - 16.2.2.3. word processor changes should be in the following format:
    - (a) deletion - strike through and tracked.
    - (b) insertions - underlined, in bold and tracked.
    - (c) comments/ reasons for changes - footnote, to be inserted immediately after the proposed change, and inserted as an "Insertion" (i.e. underlined, in bold and tracked).
  - 16.2.2.4. Bidders are not allowed to re-number any provisions of the Offer To Purchase Agreement.
  - 16.2.2.5. Bidders must submit details of their preferred Conveyancer, together with a quote for the cost of transfer and proof of trust account banking details, into which monies for the purchase price including transfer and conveyancing costs will be paid

## **1.7. Proposal Validity**

### **1.7.1. Validity Period**

Proposals shall remain valid and open for acceptance for a period 90 calendar days from the closing date, and any agreed extension of the validity period.

### **1.7.2. Extensions to the Validity Period**

The cidb may request the Bidder for an extension of the validity period, prior to the expiry of the original proposal validity period. The request and the response thereto shall be made in writing. A Bidder agreeing to the request will not be permitted to modify its Proposal.

## **1.8. Briefing session**

1.8.1. No briefing session.

## **1.9. Qualification and Evaluation**

### **1.9.1. Evaluation Structure**

The cidb has formed a series of bodies to undertake the evaluation process against the stated evaluation criteria. There will be a 3 (three) tier approach, being:

- 1.9.1.1. The Bid Evaluation Committee, comprised of officials from the cidb and any other government official(s) or external expert(s), who may be appointed by the Accounting Officer in writing, to provide professional advice and input regarding the, technical, financial, and BBBEE aspects of the proposals, reporting to the delegated authority. The Bid Evaluation Committee, assisted by its sub-committees on technical, financial, and BBBEE aspects, shall evaluate the proposals received from the Bidders.
- 1.9.1.2. The delegated authority will consider the recommendations from the Bid Evaluation Committee on the Successful Bidder. The delegated authority will, based on the recommendations received

from the Bid Evaluation Committee, further recommend to the Accounting Officer the outcome of the Bid Evaluation Committee's report

- 1.9.1.3. The Accounting Officer reserves the right to modify and amend the above procedures, subject to applicable law at its discretion in appropriate circumstances. Bidders will be notified of any material changes.

## 1.9.2. Evaluation Approach

- 1.9.2.1. The cidb has adopted a four (4) stage approach in assessing, analysing and evaluating Proposals, being:

1.9.2.1.1. **First stage: Administrative/Mandatory requirements [Table 1 & 2]**

1.9.2.1.2. **Second Stage: Price and Preferential Procurement**

1.9.2.1.3. **Third stage: Due Diligence**

### First stage: Administrative/Mandatory requirements

**Table 1: Mandatory requirements**

Annexures	Documents to be submitted	Mandatory Non-submission <u>WILL</u> result in disqualification	Check								
A	PROPERTY OWNERSHIP	Yes									
A1.	Title Deed or Bank Documents ( <i>if property still bonded</i> ) and Deeds office property search print out ( <i>most recent, not more than 1 (one) month old</i> ).										
A2.	the Bidder must be the owner <b>OR</b> have the legal mandate to negotiate the sale and the selling of the building. A copy of the mandate together with documentation as per										
B	PROPERTY SIZE	Yes									
B1	The building must comprise a minimum of 309 m <sup>2</sup> . (GLA) depending on the configuration, measured according to the latest SAPOA Method for Measuring Floor Areas (MOMFA) for Offices.										
B2	The building must have a minimum of 06 parking bays (05 covered and 1 disabled)										
C	LOCATION AND DETAILS OF THE BUILDING	Yes									
	The building must be as per clause 2.5.1.1 and 2.5.1.5., excluding industrial and residential areas.  Attach the following as proof:										
	<table><tr><td></td><td>Description of particulars required</td></tr><tr><td>C1</td><td>GPS location</td></tr><tr><td>C2</td><td>Physical address</td></tr><tr><td>C3</td><td>Stand/ERF number</td></tr></table>				Description of particulars required	C1	GPS location	C2	Physical address	C3	Stand/ERF number
	Description of particulars required										
C1	GPS location										
C2	Physical address										
C3	Stand/ERF number										

**Table 2: Administrative requirements.**

No	Document that must be submitted	Non-submission <b>MAY</b> result in disqualification	Check
1.	SDB 1 - Tender notice and invitation to bid. Provide MAAA number.	Complete and sign the supplied pro forma document	
2.	SBD2 – Tax compliant with SARS	SARS (to be verified through CSD or SARS). Attach a copy of Tax Compliance status Pin.	
3.	SBD3.1 – Pricing data	Submit full details of the pricing proposal. Complete and sign the supplied pro forma document	
4.	SBD4 – Bidders Declaration	Complete and sign the supplied pro forma document	
5.	SBD 6.1 – Preference Points Claim form.	A certified copy of B-BBEE status level verification certificate or an original sworn affidavit signed by the EME representatives AND attested by Commissioner of Oath Non-submission will lead to a zero (0) score on BBEE (if applicable)	
6.	General Conditions of Contract (GCC)	Complete and sign the supplied pro forma document	
7.	Certificate of Authority for signatory /Delegation of authority	Complete and sign the supplied pro forma document	
8.	Record of Addenda issued (if any)	Complete and sign the supplied pro forma document	
9.	Proof of registration with the National Treasury Central Supplier Database	The bidder must be registered as a service provider on the Central Supplier Database (CSD). If you are not registered proceed to complete the registration of your company prior to submitting your proposal. Visit <a href="https://secure.csd.gov.za/">https://secure.csd.gov.za/</a> to obtain your vendor number. Submit proof of registration.	
10.	Active Registration with Company Intellectual Property Commission Certified copies of South African Identity Documents or Valid Passports of Members. Directors / owner (In a case of a sole proprietor or Partnership)	(to be verified through CSD and CIPC). Attach a copy of CIPC/CIPRO certificate. Attach certified copies	
11.	A Joint Venture Agreement (in case of a Joint Venture)	Attach Joint Venture agreement	

## Second Stage: Price and Preferential Procurement (refer to SDB 3.1)

- (a) Subsequent to the evaluation of essential minimum Criteria and functional criteria, the third stage of evaluation of the pricing will be in respect of price and preferential procurement only.
- (b) In terms of regulation 4 of the Preferential Procurement Regulations pertaining to the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000), responsive bids will be adjudicated by the State on the 80/20-preference point for Specific goals in terms of which points are awarded to bidders on the basis of:

- (i) The bid price (maximum 80 points)
- (ii) Specific goals (maximum 20 points)

- (c) The following formula will be used to calculate the points for price in respect of bidders.

**80/20**

$$P_s = 80 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

**Where:**

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

- (d) A maximum of 20 points may be awarded to a bidder for the specific goal specified for the bid. The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places. Subject to section 2(1)(f) of the Act, the contract must be awarded to the bid scoring the highest points.
- (e) The Specific goals for the bid and points claimed are indicated per the table below.

**Table 3: Preferential goals.**

	Specific goals	Points	Required proof/ documents to be submitted for evaluation purposes
1.	51% owned by people who are women (ownership)	5	<ul style="list-style-type: none"><li>• Company Registration Certification (CIPC)</li><li>• Certified identification documentation of company director/s</li><li>• CSD report/ CSD registration number (MAAA number)</li></ul>
2.	51 % owned by Black people (ownership)	5	
3.	51% owned by youth (ownership)	5	

4.	5% owned by people living with disabilities	5	
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**\*NB: Points will be allocated based on % ownership to the Company (main bidding entity). Please attach proof/ required documents.**

### Third Stage: Due Diligence

In respect of the due diligence, should the cidb uncover items that are material, this constitutes a ground for disqualification. **A building that scores less than 70 will not be considered**

**Table 4: Due diligence Evaluation**

SERVICES			
Building fabric/Architectural			
Internal floor finishes	5	25	
Internal and external wall finishes	5		
Doors, Windows, and Ironmongery	5		
Sanitary fittings	5		
Ceilings	5		
Structural work			
Roof slab / Roof structure	5	10	
Walls	5		
Civil and external Works			
Paving, external concrete and kerbs	5	15	
Covered parking	5		
Stormwater drainage	5		
Electrical Works			
Emergency power	5	20	
Distribution Boards	5		
Internal Lighting	5		
External Lighting	5		
Electronic Works			
Smoke & Fire detection system	5	5	
Mechanical			

	HVAC	5	5
	Wet (incl. Fire) Services		
	Plumbing	5	15
	Bulk water	5	
	Fire water	5	
	Other special services		
	Fire equipment installation	5	5
TOTAL SCORE			100

**Table 5: Rating sheet for technical due diligence**

RATING	STATUS	COLOUR CODING	DEFINITION OF RATING/ CONDITION OF INSTALLATION
5	Excellent	Green	<ul style="list-style-type: none"> <li>No defects.</li> <li>As new condition and appearance.</li> </ul>
4	Good	Blue	<ul style="list-style-type: none"> <li>Minor defects.</li> <li>Superficial wear and tear.</li> <li>Some deterioration to finishes.</li> <li>Major maintenance not required.</li> </ul>
3	Fair	Yellow	<ul style="list-style-type: none"> <li>Average condition.</li> <li>Significant defects are evident.</li> <li>Functional but requires service.</li> <li>Deferred maintenance work exists.</li> </ul>
2	Poor	Orange	<ul style="list-style-type: none"> <li>Badly deteriorated.</li> <li>Inferior appearance.</li> <li>Major defects.</li> <li>Components fail frequently.</li> <li>Obsolete.</li> <li>Environmental, health, safety and occupational hazards exist.</li> </ul>
1	Very Poor	Red	<ul style="list-style-type: none"> <li>Equipment failed and non-operational.</li> <li>Unsafe for use.</li> <li>Obsolete.</li> <li>Environmental, health, safety and occupational hazards exist.</li> </ul>

#### 1.10. Determination and announcing of Successful Bidder

The cidb, through the accounting officer shall determine and select a Successful Bidder, after having considered the recommendations prepared by the Bid Evaluation Committee and the report(s) of the Delegate Authority based on the Bid Evaluation Committee's recommendations.

#### 1.11. Confidential Information

1.11.1. Bidders agree to keep information provided pursuant to this RFP confidential ("**Confidential Information**").

- 1.11.2. All Confidential Information provided (including all copies thereof) remains the property of the cidb and must be delivered to the cidb on demand.
- 1.11.3. By receiving this RFP each Bidder and each of its Members agree to maintain its submission in response to this RFP confidential from third parties other than the cidb and its officials, officers and advisors who are required to review the same for the purpose of the procurement of the Project.
- 1.11.4. The Confidential Information provided by the cidb may be made available to a Bidder's Relevant Entity, members, employees and professional advisors who are directly involved in the appraisal of such information (who must be made aware of the obligation of confidentiality).
- 1.11.5. Bidder's Relevant Entity, members, employees and professional advisors shall not be entitled to, either in whole or in part; copy, reproduce, distribute or otherwise make available to any other party the Confidential Information without the prior written consent of the cidb.
- 1.11.6. The Confidential Information may not be used for any other purpose than that for which it is intended.
- 1.11.7. All Confidential Information provided (including all copies thereof) remains the property of the cidb and must be delivered to the cidb on demand.

## **1.12. Intellectual Property**

All materials and data which are submitted by Bidders shall become the sole property of the cidb, with the exception of copyrighted material, trade secrets or other proprietary information clearly identified as such by Bidders.

## **1.13. Indemnity**

Bidders shall be deemed by their submission of a proposal to agree to indemnify the cidb and hold it harmless from any claim or liability and defend any action brought or legal step against the cidb for its refusal to disclose materials marked confidential, trade secret or other proprietary information to any person seeking access thereto.

## **1.14. Governing laws and Rules**

- 1.14.1. The primary enabling legislation for the Project is the PFMA together with the cidb Act, which regulate and create the competency of the cidb to procure and implement the Project.
- 1.14.2. This RFP is issued by the cidb in terms of the cidb Act and SCM read with the PFMA, as the formal step of the procurement process.
- 1.14.3. Procurement of the Project will be carried out following prescribed legislation, which includes the Constitution, the Preferential Procurement Policy Framework Act, Number 5 of 2000 and the PFMA.
- 1.14.4. Bidder's Responsibilities
  - 1.16.5.1. If a Bidder identifies any ambiguities, errors or inconsistency between the various documents that form part of this RFP, the Bidders should notify the cidb and the cidb will provide clarification as to the intended position.
  - 1.16.5.2. To the extent that any inconsistency exists between the terms of the General Conditions of Contract and any other provision in the RFP, but such inconsistency is not identified by any Bidder and/or clarified by the cidb prior to submission of the Bidder's Proposal, the terms of the General Conditions of Contract shall prevail.

#### **1.14.5. Contact Policy**

- 1.14.5.1. Bidders and their constituent Members, as well as their agents and advisors and related parties may not contact the employees, advisors of the cidb or any other cidb's official(s) who may be associated with this solicitation (other than the Project Officer), without the prior written approval of the Project Officer save in the case of pre-existing commercial relationships, in which case contact may be maintained only with respect thereto and, in making such permitted contact, no party may make reference to this solicitation or procurement.
- 1.14.5.2. This no-contact policy does not apply to any information deemed to be in the public domain, or which is readily available from public bodies within the Republic of South Africa where such information is not Project specific and is not under the control of the cidb.
- 1.14.5.3. Bidders, Members, their agents, advisors and related parties may not contact the employees, advisors of the cidb or any of the cidb official(s) engaged in the Project, with a view to offering, whether directly or indirectly, any one or more of them an employment opportunity with the Bidder or any Member thereof.

#### **1.14.6. Corruption**

- 1.14.6.1. The cidb is committed to ethical and clean business practice and will not tolerate any impropriety in any respect and in particular with regard to the Project.
- 1.14.6.2. If any Bidder, Member or their employees, shareholders, representatives, advisors or agents make or offers to make any gift or other gratuity to any public official or employee of the cidb, relevant authority, or consultant to the cidb on the Project either directly or through an intermediary, the cidb reserves the right to terminate its relationship, without prejudice to any of Government's rights, with that Bidder or responsible party or entity.
- 1.14.6.3. The cidb and each Bidder must give an undertaking that everything possible would be done to avoid irregularities, bribery and corruption. The cidb reserves the right to appoint an independent probity auditor to monitor in this regard the procurement process and the activities during the contract period.

#### **1.14.7. No partnership, No offer**

- 1.14.7.1. This RFP initially is not an offer to enter into contractual relations but merely a solicitation of proposals to select a Successful Bidder and to conclude negotiations with such Successful Bidder. Thereafter the Successful Bidder together with the cidb shall enter into a Service Level Agreement.

#### **1.14.8. Independent Submission**

- 1.14.8.1. By responding to this RFP each Bidder and its constituent Members certifies that:
- 1.14.8.2. its proposal has been submitted independently, without consultation, communication, or agreement for restricting competition, with any other Bidder or to any other competitor or potential competitor.
- 1.14.8.3. unless otherwise required by law, the relevant proposal has not been knowingly disclosed by it and will not knowingly be disclosed by it prior to opening, directly or indirectly to any other Bidder, member of another Bidder or to any competitor or potential competitor; and
- 1.14.8.4. no attempt has been made or will be made by it to induce any other person or firm to submit a proposal for the purpose of restricting competition
- 1.14.8.5. The attention of each Bidder and their constituent Members is also drawn to Section 4(1) (b) (iii) of the Competition Act Number 89 of 1998, which prohibits 'collusive tendering'.

- 1.14.8.6. Any material failure on the part of a Bidder to comply with the Mandatory Response Requirements and Essential Minimum Requirements in this RFP, to the extent that same are not waived by the cidb, may result in a proposal being treated as non-compliant. Non-compliant responses may be rejected without being further evaluated.

**1.14.9. Grounds for Disqualification**

- 1.14.9.1. The following events, in addition to any other events contained in this RFP, constitute (without being exhaustive) grounds upon which a Bidder (or if appropriate in the cidb's determination, any Member thereof) may be disqualified at any stage of the Project procurement process:
- 1.14.9.1.1. an infringement of the confidentiality undertaking by any Bidder, Member or any director, officer, agent, trustee or advisor of the Bidder and/or Member.
  - 1.14.9.1.2. past, present, or future participation by any Bidder, Member or any director, officer, agent, trustee or advisor of the Bidder and/or Member in any activity which may constitute corruption, bribery or impropriety, during the Project procurement process, or any other government procurement process.
  - 1.14.9.1.3. an infringement by any Bidder, Member or any director, officer, agent, trustee or advisor of the Bidder and/or Member of any one or more of the provisions of Contact Policy, Independent Submission, or Corruption or any portion of such section(s).
  - 1.14.9.1.4. Any Bidder and/or their constituent Member(s) that engages or communicates with any of the officials, agents or advisors to the Project on any matter concerning the Project at any time during the Project procurement process, without due authority of the Project Officer, shall be disqualified from further participation in the procurement process.
  - 1.14.9.1.5. Bidders are required to submit correct and true information. Failure to provide correct and true information constitutes a ground for disqualification.
  - 1.14.9.1.6. Any change in composition, control or structure of a Bidder or any one or more of its members from that set out in their response to the RFP, without the prior written consent for the cidb constitutes a ground for disqualification.

**1.14.10.**

**Undertaking by Bidders**

- 1.14.10.1. By signing a submission in response to this RFP, each Bidder signatory warrants that save as disclosed in writing to the cidb, the response to the RFP and the information supplied by it (and its constituent members) remains true and warrants further that, save for any disclosures in writing to the cidb, each Member of the Bidder has:
- 1.14.10.1.1. not passed a resolution nor is the subject of an order by the court for the company's winding-up.
  - 1.14.10.1.2. not been convicted of a criminal offence relating to the conduct of its business or profession.
  - 1.14.10.1.3. not committed an act of grave misconduct in the course of its business or profession.
  - 1.14.10.1.4. fulfilled obligations relating to the payment of taxes under the laws of the Republic of South Africa.
  - 1.14.10.1.5. not made any misrepresentation in providing any of the information required in relation to the above; and
  - 1.14.10.1.6. not had any of their directors and/or shareholders listed on the Register of Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act Number 12 of 2014, as a person prohibited from doing business with the public sector.

### 1.15. Format of submissions

- 1.15.1. Bidders are requested to submit their bids in a clearly structured way. All parts of the proposal are to be clearly headed, pages should be numbered, and a detailed content listing is to be provided. The bids should follow a consistent numbering system (volumes, sections, headings, paragraphs, sub-paragraphs, etc.) that allows for easy cross-referencing, both within the proposal and also in terms of clarification questions, etc.
- 1.15.2. All proposals should be submitted in the format as prescribed (in PDF and MS Word) and according to the following instructions:
- 1.15.2.1. 1 (one) original printed and in an arch lever file and one (1) soft copy
  - 1.15.2.2. Only proposals completed in English will be accepted.
  - 1.15.2.3. The onus is on the Bidder to submit all relevant information.
  - 1.15.2.4. Bidders are requested to avoid unnecessary duplication or repetition of information, and not to submit irrelevant information.

### 1.16. Identification of proposal document

Bidders should prepare and submit proposals that are clearly and visibly identifiable as a Proposal for Tender Number **CIDB/003/2526** and include the following information on the outside of the Proposal:

**Name of the Bidder;**  
**Tender number;**  
**Bid description;**  
**“Original” or “Copy” clearly indicated;**  
**Date of submission; and**  
**Identification of each Proposal parcel.**

**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.....

#### NOTE

Blacklisted companies appearing on the National Treasury database and prohibited from conducting business with public entities, shall not be considered.

For verification, cidb reserves the right to conduct site visits and interview officials whose CVs have been submitted as part of this bid.

Late bids or part thereof, shall not be considered.

## 2. TERMS OF REFERENCE

### 2.1. ASSIGNMENT OBJECTIVE

2.1.1. The purpose of this Request for Bid (RFB) is to invite proposals for the purchase of suitable, quality office accommodation for the cidb's provincial office in Mpumalanga.

### 2.2. DEFINITIONS

Term	Definition
<b>“Bidders”</b>	Has the same meaning as defined Instruction to bidders
<b>“Building”</b>	The premises to be acquired by the cidb for the purpose of its office accommodation.
<b>“Building Regulations”</b>	The South African National Building Regulations and Building Standards as amended from time to time.
<b>“Property”</b>	Commercial building intended for profit purposes, e.g., office space excluding buildings used for residential properties
<b>“CCTV”</b>	Closed circuit television.
<b>“Common Areas”</b>	Are the areas defined as meeting space, cafeteria, all access and circulation areas, main entrance, atriums in the building and auditorium and shared meeting facility.
<b>“DB”</b>	Electrical distribution board.
<b>“DSTV”</b>	Digital satellite television.
<b>“ESD”</b>	Environmentally Sustainable Development
<b>“GBA”</b>	Gross Building Area, is the total area of the building's footprint, all enclosed floor space of the building including basements, garages, mechanical equipment, floors et al are included and specifically includes structural space such as walls and columns.
<b>“GLA”</b>	Gross Leasable Area is the amount of floor space available to be rented in a commercial property, which includes the common areas in a Building. Typically, GLA is measured from the centre of a wall.

<b>“GG Norm”</b>	Space Planning Norms and Standards for Office Accommodation by Organs of State published in the Government Gazette Notice 1665 of 2005.
<b>“HVAC”</b>	Heating Ventilation and Air –Conditioning.
<b>“ICT”</b>	Information and Communication Technology, including all telephony and network equipment.
<b>“ICT Infrastructure”</b>	Infrastructure for information and communication technology, including all telephony and network equipment.
<b>“Internet”</b>	The world wide web.
<b>“ISO”</b>	International Standards Organisation.
<b>“Lux”</b>	The level of intensity of light on the work plane or measured at a particular point
<b>“LV”</b>	Low Voltage.
<b>“MV”</b>	Medium Voltage.
<b>“NB requirements”</b>	National Building requirements as contained in various SANS codes
<b>“NBR”</b>	National Building Regulations of South Africa
<b>“OHS Act”</b>	Occupational Health and Safety Act, of South Africa
<b>“Technical Output Specification”</b>	This document which set out the specific requirements for the cidb accommodation
<b>“Offer to Purchase”</b>	The legal document for the purchase of the Kwa-Zulu Natal PROVINCIAL OFFICE building
<b>“Offer to Purchase Agreement”</b>	As defined in the Offer to Purchase agreement.
<b>“Seller”</b>	As defined in the Offer to Purchase agreement.
<b>“RFP”</b>	Means the request for proposal issued to the Bidder.
<b>“SANS”</b>	South African National Standards or where they do not apply international best practice standards for a particular item.
<b>“UPS”</b>	Uninterrupted power supply.

### 2.3. LEGISLATIVE REQUIREMENTS

The office accommodation must comply with the following and any other applicable legislation:

- i. All build drawings, including original design AND the municipal approved drawings.
- ii. Geological report
- iii. SAPS report
- iv. Flood report
- v. Certificate of Occupancy (National Building Regulations and Standards Act, No. 103 of 1997 (administered by the local municipality
- vi. Certificate of Fitness (fire/ emergency bylaw)
- vii. Certificate of registration for flammable substances (fire/ emergency bylaw)
- viii. Emergency response plan (fire/ emergency bylaw)
- ix. Electricity Regulations Act (electricity bylaw, Electricity Supply Bylaw, 2010)
- x. Building Assessment, not older than the five years (Construction Regulations 9 (4)
- xi. Refrigeration/ Air conditioning units (Driven Machinery Regulation, 1988 Section 15)
- xii. Certificate of Compliance (Electricity Installation Regulations, Section 7 (1)
- xiii. Certificate of Electrical machinery and Hazardous Locations (Electrical Machinery Regulations, 1988 Section 8 (2)
- xiv. Earthing Certificates (Machinery Regulations, 1988, Section 8 (2)
- xv. Installation Certificate for Energisers (Electrical Machinery Regulations, 1988, Section 13 (1)
- xvi. Illumination Reports/ certificates (Environmental Regulations for Workplaces, 1987, Section 3 (1) for General and Section 3 (4) and (5) for Emergency Lighting
- xvii. Ventilation assessments (Environmental Regulations for Workplaces, 1987
- xviii. Fire Equipment Certificates, Environmental Regulations for Workplaces, 1987, Section 9, SABS 10287
- xix. Supervisor of Machinery Appointment (General Machinery Regulations, 1988, Section 2 (1)
- xx. Lift inspection certificate (Lift, Escalator and Passenger Conveyor Regulations, 1994, Section 5 (1) for inspections and Section 5 (2) for appointment
- xxi. Pressure Equipment Certificates (Pressure Equipment Regulations, Section 6, Section 12

### 2.4. DESCRIPTION OF THE BUILDING

#### 2.4.1. Office Building and Parking

- 2.4.1.1. The size of the building must be a minimum of **309 m<sup>2</sup>**.
- 2.4.1.2. The office accommodation for our Mpumalanga Provincial Office must be **within a 50 km** range of the **City Hall**, excluding industrial and residential areas.
- 2.4.1.3. The office must be a SAPOA Grade B or higher office facility.
- 2.4.1.4. Ablution facilities available to staff and clients should preferably be separate or otherwise, located in the public area and easily accessible to staff. The minimum number of bathrooms/ hand basins must be 7 for general use and 1 for disabled persons.
- 2.4.1.5. The bidder must confirm that the building is asbestos free.
- 2.4.1.6. The parking should include the **05** covered Parking Bays and **01** disabled bay. **Total number of parking bays 06.**

#### **2.4.2. Site and Building Accessibility.**

- 2.4.2.1. Must be a stand-alone building or in an office park.
- 2.4.2.2. Close to Public Transport routes.
- 2.4.2.3. Building must be reconfigurable.

#### **2.5. SERVICES**

2.5.1. The infrastructure in the building must comply with National Building Regulations and should include the following:

- i. HVAC and Mechanical ventilation.
- ii. Electrical reticulation.
- iii. Lifts (where applicable).
- iv. Plumbing and toilets.
- v. Security equipment.
- vi. Building Fabric.
- vii. Building Finishes.
- viii. Fire protection and fire detection.
- ix. Energy and utilities supply.
- x. Overall site landscaping.
- xi. Building security measures.
- xii. Waste management and recycling areas.
- xiii. Corridors, parking and general building areas.
- xiv. UPS and alternative emergency power solution. The emergency power solution must be able to provide 10 hours of electrical supply.
- xv. Alternative water resources for use during water shedding (services only).

#### **2.5.2. Architectural and Urban Environment Output Specifications**

**2.5.2.1.1.** Fixed assets register of all equipment in the building.

#### **2.6. SECURITY**

2.6.1. The building should be in a safe, secure and tranquil environment that does not present a high security risk to cidb staff members even if they work after hours. Supported by the local SAPS incident report for the specific area.

2.6.2. The cidb will provide their own security solution with the exception of:

- 2.6.2.1. Burglar proofing and safety gates which has to be in good working condition;
- 2.6.2.2. Burglar proofing and safety gates should be commercial type and not domestic brands;
- 2.6.2.3. Security fencing / electrical fencing around the perimeter;
- 2.6.2.4. Adequate lighting in the parking area for officials working late, as per regulations
- 2.6.2.5. Guard house (where applicable) must comply with SAPS user requirements for permanent guard huts (with specific reference to SANS 10400, SANS 1263, and SANS 10389).

## **2.7. IT REQUIREMENTS**

- 2.7.1. The proposed office accommodation **must** be within a 50 (fifty) m radius of an existing fibre termination point.
- 2.7.2. The building should allow for ICT installation and make allowance for core drilling in respect of ICT infrastructure.
- 2.7.3. Cables exposed to the outside plant should be protected and comply with fire stopping material.
- 2.7.4. All fibre installation cabling should be in appropriate trunking.

### 3. PRICING (SDB 3.1)

- 3.1. Price proposals must be submitted in South African Rand including Value Added Tax (VAT)
- 3.2. The cidb reserves the right to negotiate price with the recommended bidder(s).
- 3.3. The bidder shall provide the price proposal as follows:

(A) Total size of <b>property</b> building in m <sup>2</sup>	m <sup>2</sup>
Total office space (GLA, m <sup>2</sup> )	m <sup>2</sup>
Size of parking area (m <sup>2</sup> )	m <sup>2</sup>
Size of any additional areas (m <sup>2</sup> )	m <sup>2</sup>
(B) Cost of building per m <sup>2</sup>	R
(C) Total cost of building (A x B)	R
(D) VAT if applicable	R
(E) Transfer costs	R
(F) Total Price <u>(C+D+E)</u>	R

**PLEASE NOTE: BIDDERS THAT OMIT AN ITEM FROM THE PRICING SCHEDULE CANNOT ADD THE ITEM ONCE THE TENDER HAS BEEN AWARDED**

#### 4. BIDDER'S DISCLOSURE (SDB 4)

##### 4.1. 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 Suppliers, that person will automatically be disqualified from the bid process.

##### 4.2. Bidder's declaration

4.2.1. 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**

4.2.2. 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

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

4.2.4. If so, furnish particulars:

.....  
.....

4.2.5. 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**

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<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.

4.2.6. If so, furnish particulars:

.....  
.....

### 4.3. 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:

- 4.3.1. I have read and I understand the contents of this disclosure;
- 4.3.2. I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 4.3.3. 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.
- 4.3.4. 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.
- 4.3.5. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 4.3.6. 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.
- 4.3.7. 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

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<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.

**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

## 5. PREFERENTIAL PROCUREMENT CLAIM FORM (SBD 6.1)

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.

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

### 5.1. General Conditions for the preference point systems

5.1.1. The following preference point systems are applicable to all bids:

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

5.1.2. To be completed by the organ of state

- (a) The applicable preference point system for this tender is the 80/20 preference point system.
- (b) The 80/20 preference point system will be applicable in this tender. The lowest/ highest acceptable tender will be used to determine the accurate system once tenders are received.

5.1.3. 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.

#### 5.1.4. To be completed by the organ of state:

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	80
SPECIFIC GOALS	20
Total points for Price and SPECIFIC GOALS	100

5.1.5. Failure on the part of the Bidder 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.

5.1.6. The cidb reserves the right to require of a Bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim with regards to preferences, in any manner required by the cidb.

### 5.2. 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).

### 5.3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

#### 5.3.1. POINTS AWARDED FOR PRICE

5.3.1.1. THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

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

$$\begin{array}{ccc}
 \text{80/20 or} & & \text{90/10} \\
 P_s = 80 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right) & \text{or} & P_s = 90 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)
 \end{array}$$

**Where:**

$P_s$  = Points scored for price of bid under consideration

$P_t$  = Price of bid under consideration

$P_{\min}$  = Price of lowest acceptable bid

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

#### 5.4.1. POINTS AWARDED FOR PRICE

5.4.1.1. THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

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

$$\begin{array}{ccc}
 \text{80/20} & \text{or} & \text{90/10}
 \end{array}$$

$$Ps = 80 \left( 1 + \frac{Pt - P_{max}}{P_{max}} \right) \text{ or } Ps = 90 \left( 1 + \frac{Pt - P_{max}}{P_{max}} \right)$$

**Where:**

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmax = Price of highest acceptable tender

## 5.5. Points awarded for specific goals.

5.5.1. 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 bid. For the purposes of this bid the bidder 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:

5.5.2. 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.

**Table 1: Specific goals**

The specific goals allocated points in terms of this tender	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (To be completed by the tenderer)
51% owned by people who are women (ownership)	5	

100 % owned by Black people (ownership)	5	
51% owned by youth (ownership)	5	
5% owned by people living with disabilities	5	

5.5.3. Name of company/firm.....

5.5.4. Company registration number: .....

**5.5.5. 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]

5.5.6. 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 5.1.4 and 5.4.2, 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

.....  
SIGNATURE(S) OF BIDDERS(S)

NAME AND  
SURNAME.....

DATE: .....

ADDRESS  
.....  
.....

.....

## 6. GENERAL CONDITIONS OF CONTRACT (GCC)

### 6.1. Definitions

The following terms shall be interpreted as indicated:

- 6.1.1. **"Closing time"** means the date and hour specified in the tender documents for the receipt of Tenders.
- 6.1.2. **"Contract"** means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- 6.1.3. **"Contract price"** means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
- 6.1.4. **"Corrupt practice"** means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.
- 6.1.5. **"Countervailing duties"** are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
- 6.1.6. **"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.
- 6.1.7. **"Day"** means calendar day.
- 6.1.8. **"Delivery"** means delivery in compliance with the conditions of the contract or order.
- 6.1.9. **"Delivery ex stock"** means immediate delivery directly from stock actually on hand.
- 6.1.10. **"Delivery into consignees store or to his site"** means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the goods are so delivered and a valid receipt is obtained.

- 6.1.11. **"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.
- 6.1.12. **"Force majeure"** means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- 6.1.13. **"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 Tender submission) designed to establish Tender prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.
- 6.1.14. **"GCC"** means the General Conditions of Contract.
- 6.1.15. **"Goods"** means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 6.1.16. **"Imported content"** means that portion of the tender price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the goods covered by the Tender will be manufactured.
- 6.1.17. **"Local content"** means that portion of the tender price, which is not included in the imported content provided that local manufacture does take place.
- 6.1.18. **"Manufacture"** means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 6.1.19. **"Order"** means an official written order issued for the supply of goods or works or the rendering of a service.
- 6.1.20. **"Project site,"** where applicable, means the place indicated in tender documents.

6.1.21. **“Purchaser”** means the organization purchasing the goods.

6.1.22. **“Republic”** means the Republic of South Africa.

6.1.23. **“SCC”** means the Special Conditions of Contract.

6.1.24. **“Services”** means those functional services ancillaries to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.

6.1.25. **“Supplier”** means the successful bidder who is awarded the contract to maintain and administer the required and specified service(s) to the State.

6.1.26. **“Tort”** means in breach of contract.

6.1.27. **“Turnkey”** means a procurement process where one service provider assumes total responsibility for all aspects of the project and delivers the full end product / service required by the contract.

6.1.28. **“Written”** or **“in writing”** means hand-written in ink or any form of electronic or mechanical writing.

## **6.2. Application**

6.2.1. These general conditions are applicable to all Tenders, contracts and orders including Tenders for functional and professional services (excluding professional services related to the building and construction industry), sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the tender documents.

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

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

### **6.3. General**

- 6.3.1. Unless otherwise indicated in the tender documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a Tender. Where applicable a non-refundable fee for documents may be charged.
- 6.3.2. Invitations to Tender are usually published in locally distributed news media and on the municipality/municipal entity website.

### **6.4. standards**

- 6.4.1. The goods supplied shall conform to the standards mentioned in the tender documents and specifications.

### **6.5. Use of contract documents and information inspection**

- 6.5.1. The supplier shall not, without the purchaser's prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 6.5.2. The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 6.5.1. except for purposes of performing the contract.
- 6.5.3. Any document, other than the contract itself mentioned in GCC clause 6.5.1. shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so required by the purchaser.
- 6.5.4. The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

### **6.6. Patent rights**

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

6.6.2. When a supplier developed documentation / projects for the municipality / municipal entity, the intellectual, copy and patent rights or ownership of such documents or projects will vest in the municipality / municipal entity payments due by either party under this agreement shall be made at such bank account in the Republic of South Africa as the other party may specify

#### **6.7. Performance security**

- 6.7.1. 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.
- 6.7.2. The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.
- 6.7.3. 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 tender documents or another form acceptable to the purchaser; or
  - (b) a cashier's or certified cheque
- 6.7.4. The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified. The effective date, all the risks and benefits of ownership of the property, shall pass to the Purchaser.

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

- 6.8.1. All pre-tender testing will be for the account of the bidder.
- 6.8.2. If it is a Tender condition that goods to be produced or services to be rendered should at any stage be subject to inspections, tests and analyses, the bidder or contractor's premises shall be open, at all reasonable hours, for inspection by a representative of the purchaser or organization acting on behalf of the purchaser.
- 6.8.3. If there are no inspection requirements indicated in the tender 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.

- 6.8.4. If the inspections, tests and analyses referred to in clauses 6. 8.2 and 6.8.3 show the goods to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
- 6.8.5. Where the goods or services referred to in clauses 6.8.2 and 6.8.3 do not comply with the contract requirements, irrespective of whether such goods or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 6.8.6. Goods and services which are referred to in 6.8.2 and 6.8.3 and which do not comply with the contract requirements may be rejected.
- 6.8.7. Any contract goods 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 goods shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with goods, which do comply with the requirements of the contract. Failing such removal, the rejected goods shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute goods forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected goods, purchase such goods as may be necessary at the expense of the supplier.
- 6.8.8. The provisions of clauses 6.8.4 to 6.8.7 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 6.22 of GCC.

## **6.9. Packing**

- 6.9.1. The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and 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.
- 6.9.2. 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, and in any subsequent instructions ordered by the purchaser.

## **6.10. Delivery and Documents**

- 6.10.1. Delivery of the goods and arrangements for shipping and clearance obligations shall be made by the supplier in accordance with the terms specified in the contract. Each party shall,

within 7 (seven) days of being called upon to do so by the conveyancer, sign all documents required to be signed, and furnish all documents required to be furnished by that party, to enable transfer of the property to be given to the Purchaser.

#### **6.11. Insurance**

6.11.1. 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 of any monies due to any party in terms of the adjustment account shall not constitute part of the purchase price and shall be affected separately from the payment of the purchase price.

#### **6.12. Transportation**

6.12.1. Should a price other than an all-inclusive delivered price be required, this shall be specified.

#### **6.13. Incidental Services**

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

- (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 supplier of any warranty obligations under this contract; and
- (e) Training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.

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

6.13.3. Seller confirms hereby that it is an Investment Company and not a Trader as contemplated in Section 34 of the Insolvency Act, 1936, as amended ("the Insolvency Act") and the parties hereto

agree that notice of this transaction will not be required to be published as contemplated in Section 34 of the Insolvency Act.

#### **6.14. Spare Parts**

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

- (a) Such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and
- (b) In the event of termination of production of the spare parts:
  - (i) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
  - (ii) Following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested demand specific performance of this agreement and to take such action as may be necessary in order to implement and fulfil its rights in terms hereof and to recover any damage which it may suffer as a result of the defaulting party's breach of contract.

#### **6.15. Warranty**

6.15.1. The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act Or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.

6.15.2. 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.

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

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

6.15.5. If the supplier, having been notified, fails to remedy the defect(s) within the period specified, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

## **6.16. Payment**

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

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

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

6.16.4. Payment will be made in Rand unless otherwise stipulated.

## **6.17. Prices**

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

## **6.18. Variation Orders**

6.18.1. In cases where the estimated value of the envisaged changes in purchase does not vary more than 15% of the total value of the original contract, the contractor may be instructed to deliver the goods or render the services as such. In cases of measurable quantities, the contractor may be approached to reduce the unit price, and such offers may be accepted provided that there is no escalation in price.

## **6.19. Assignment**

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

## **6.20. Sub- Contracts**

6.20.1. The supplier shall notify the purchaser in writing of all subcontracts awarded under these contracts if not already specified in the Tender. Such notification, in the original Tender or later, shall not relieve the supplier from any liability or obligation under the contract

## **6.21. Delays in Supplier Performance**

6.21.1. Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.

6.21.2. If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.

6.21.3. The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the goods are required, or the supplier's services are not readily available.

6.21.4. Except as provided under GCC Clause 6.25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 6.22, unless an extension of time is agreed upon pursuant to GCC Clause 6.22.2 without the application of penalties.

6.21.5. Upon any delay beyond the delivery period in the case of a goods contract, the purchaser shall, without cancelling the contract, be entitled to purchase goods of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to

## **6.22. Penalties**

6.22.1. Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its

other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 6.23.

#### **6.23. Termination for default**

6.23.1. The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:

- (a) If the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 6.21.2.
- (b) If the supplier fails to perform any other obligation(s) under the contract; or
- (c) If the supplier, in the judgement of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

6.23.2. In the event the purchaser terminates the contract in whole or in part, the purchase may procure, upon such terms and in such manner, as it deems appropriate, goods works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.

#### **6.24. Antidumping and countervailing duties and rights**

6.24.1. When, after the date of Tender, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of a provisional payment or antidumping 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 supplier to the purchaser or the purchaser may deduct such amounts from moneys (if any) which may otherwise be due to the supplier in regard to goods 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.

#### **6.25. Force Majeure**

6.25.1. Notwithstanding the provisions of GCC Clauses 6.22 and 6.23, the supplier 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.

6.25.2. If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

#### **6.26. Termination for insolvency**

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

#### **6.27. Settlement of Disputes**

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

6.27.2. 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 supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.

#### **6.28. Limitation of Liability**

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

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

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

(b) The purchaser shall pay the supplier any monies due the supplier for goods delivered and / or services rendered according to the prescripts of the contract.

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

- (a) The supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and
- (b) The aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

#### **6.29. Governing language**

6.29.1. 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.

#### **6.30. Applicable law**

6.30.1. The contract shall be interpreted in accordance with South African laws, unless otherwise specified.

#### **6.31. Notices**

6.31.1. Every written acceptance of a Tender shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his Tender or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice.

6.31.2. 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.

#### **6.32. Taxes and duties**

6.32.1. A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.

6.32.2. A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.

6.32.3. No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a Tender SARS must have certified that the tax matters of the preferred bidder are in order.

6.32.4. No contract shall be concluded with any bidder whose municipal rates and taxes and municipal services charges are in arrears.

#### **6.33. Transfer of contracts**

6.33.1. The contractor shall not abandon, transfer, cede assign or sublet a contract or part thereof without the written permission of the purchases.

#### **6.34. Amendment of contracts**

6.34.1. No agreement to amend or vary a contract or order or the conditions, stipulations or provisions thereof shall be valid and of any force unless such agreement to amend or vary is entered into in writing and signed by the contracting parties. Any waiver of the requirement that the agreement to amend or vary shall be in writing, shall also be in writing.

#### **6.35. Prohibition of restricted practices**

6.35.1. 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.

6.35.2. 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 section 59 of the Competition Act No. 89 of 1998.

6.35.3. 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.

#### **WITNESSES**

1. ....

2. ....

.....  
**SIGNATURE(S) OF BIDDERS(S)**

DATE.....

ADDRESS.....

.....

.....

## 7 CERTIFICATE OF AUTHORITY FOR SIGNATORY

The tenderer must complete the certificate set out below for the relevant category, and attach their **Registration Certificates for Companies**, Close Corporations and Partnerships, or **Agreements and Powers of Attorney for Joint Ventures**, or **ID documents** to the page provided at the end of this form.

### 7.1. Certificate for company

I, ..... chairperson of the Board of Directors of

Company name:

hereby confirm that by resolution of the Board (**Copy attached**) taken on ..... 20.....,  
Mr/Ms

Name and Surname.....

acting in the capacity of.....

was authorized to sign all documents in connection with the tender for Contract No.....  
and any contract resulting from it, on behalf of the company.

**Chairman:**

As Witnesses: 1. ....

2. ....

Date: .....

### 7.2. Certificate for close corporation

**We, the undersigned, being the key members in the business trading as:**

Close corporation name:

**hereby authorize Mr./Ms**

Name and Surname.....

acting in the capacity of.....

to sign all documents in connection with the tender for Contract No ..... and

NAME	ADDRESS	SIGNATURE	DATE

any contract resulting from it, on our behalf.

**This certificate is to be completed and signed by all of the key members upon whom rests the direction of the affairs of the Close Corporation as a whole.**

### 7.3. Certificate for partnership

**We, the undersigned, being the key partners in the business trading as:**

partnership name:

**hereby authorize Mr./Ms**

Name and Surname:.....

acting in the capacity of:.....

to sign all documents in connection with the tender for Contract No ..... and any contract resulting from it, on our behalf.

**Note : This certificate is to be completed and signed by all of the key partners upon whom rests the direction of the affairs of the partnership as a whole.**

### 7.4. Certificate for joint venture

**We, the undersigned, being the Joint Venture in the business trading as:**

company name:

**hereby authorize Mr./Ms**

Name and Surname:.....  
acting in the capacity of:.....

to sign all documents in connection with the tender for Contract No ..... and  
any contract resulting from it, on our behalf.

**Note: This certificate is to be completed and signed by all of the key partners upon whom rests**

#### **7.5. Certificate for sole proprietor**

I, \_\_\_\_\_, hereby confirm that I am the sole owner of the business  
trading as \_\_\_\_\_

Signature of Sole owner:

As Witnesses:

1. \_\_\_\_\_

2. \_\_\_\_\_

## 8. RECORD OF ADDENDA TO TENDER DOCUMENTS

We confirm that the following communications received from the Employer before the submission of this tender offer, amending the tender documents, have been taken into account in this tender offer:

	Date	Title or Details
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10		

SIGNATURE: .....

DATE: .....  
(of person authorized to sign on behalf of the Tenderer)

## **9. PROOF OF REGISTRATION WITH THE NATIONAL TREASURY CENTRAL SUPPLIER DATABASE**

**10. ACTIVE REGISTRATION WITH COMPANY INTELLECTUAL PROPERTY COMMISSION  
(CIPC certificate)**

## **11.A JOINT VENTURE AGREEMENT (in case of a Joint Venture)**

## **ANNEXURE A - PROPERTY OWNERSHIP**

**Title Deed or Bank Documents (*if property still bonded*)  
and Deeds office property search print out (*most recent, not more than 1 (one) month old*).**

**the Bidder must be the owner OR have the legal mandate to  
negotiate the sale and the selling of the building.  
A copy of the mandate**

## ANNEXURE B - PROPERTY SIZE

### B1. Property size

The building must comprise a minimum of 309 m<sup>2</sup> (GLA) depending on the configuration, measured according to the latest SAPOA Method for Measuring Floor Areas (MOMFA) for Offices.

### B2. Parking bays

Covered Parking Bays	
Open / Uncovered Parking Bays	
Covered parking bays for persons with disabilities, close to office entrance / complex entrance	
Covered bays for motorcycles.	
Provision for delivery vehicles through a separate entrance to a goods delivery bay	

## ANNEXURE C - LOCATION AND DETAILS OF THE BUILDING

The building must be as per clause 1.7, excluding industrial and residential areas  
Attach the following as proof:

	Description of particulars required
C1	GPS location (Google Maps satellite print out clearly identifying the building)
C2	Physical address
C3	Stand/ERF number

## ANNEXURE D – DUE DILIGENCE

**NB: The following information will only be requested from bidders who have qualified on stage 1 and Stage 2. The information below will be required by the cidb team to conduct the due diligence:**

Annexures			Check
	<b>LEGAL requirements</b>		
	<b>In respect of Legal due diligence, the Bidders mark ups to the Offer to Purchase will be reviewed and taken into consideration. The legal due diligence must be addressed prior to signing of the Offer to Purchase.</b>		
<b>1</b>	Marked up Offer to Purchase Agreement.		
<b>2</b>	Copy of zoning certificates in respect of the Property.		
<b>3</b>	Up to date Municipal account not older than three (3) months and not over three (3) months in arrears for the Property		
<b>4</b>	Up to date Levy Statement not older than three (3) months and not over three (3) months in arrears for the Property		
<b>5</b>	Declaration of any liens against the property		
<b>6</b>	A schedule of existing legal/litigation disputes involving the property		
<b>7</b>	Declaration of threatened litigation (involving the property).		
<b>8</b>	Security agreement or guarantees involving the property		
<b>9</b>	Declaration of existing occupants/tenants/employees in the building and plan to exit from existing agreements		
<b>10</b>	No liens against the property		
<b>11</b>	No legal/litigation disputes involving the property (pending		
<b>12</b>	No threatened litigation (involving the property)		
<b>13</b>	No security agreement or guarantees involving the property		

14	No existing occupants/tenants in the building or plan to exit from existing agreements.		
15	Copies of servitudes registered		
	<b>LEGISLATIVE requirements</b>	Required for the building offered?	
16	Certificate of Occupancy (National Building Regulations and Standards Act, No. 103 of 1997 (administered by the local municipality		
17	Certificate of registration for flammable substances (if applicable) (fire/ emergency bylaw)		
18	Certificate of Compliance (Electricity Installation Regulations, Section 7 (1)		
19	Building Assessment Report, not older than the five years (Construction Regulations 9 (4)		
20	Certificate of Fitness (fire/ emergency bylaw)		
21	Refrigeration/ Air conditioning units schedule and proof of maintenance (Driven Machinery Regulation, 1988 Section 15)		
22	Emergency response plan (fire/ emergency bylaw)		
23	Certificate of Electrical machinery and Hazardous Locations (if applicable) (Electrical Machinery Regulations, 1988 Section 8 (2)		
24	Earthing Certificates (Machinery Regulations, 1988, Section 8 (2)		
25	Installation Certificate for Energisers (if applicable) (Electrical Machinery Regulations, 1988, Section 13 (1)		
26	Illumination Reports/ certificates (Environmental Regulations for Workplaces, 1987, Section 3 (1) for General and Section 3 (4) and (5) for Emergency Lighting		
27	Ventilation assessment reports (Environmental Regulations for Workplaces, 1987		
28	Fire Equipment Certificates, Environmental Regulations for Workplaces, 1987, Section 9, SABS 10287		
29	Lift inspection certificate (if applicable) (Lift, Escalator and Passenger Conveyor Regulations, 1994, Section 5 (1) for inspections and Section 5 (2) for appointment		

<b>30</b>	Pressure Equipment Certificates (if applicable) (Pressure Equipment Regulations, Section 6, Section 12)		
<b>GENERAL requirements (description of the building)</b>			
<b>31</b>	The building being a Grade B or higher.		
<b>32</b>	Confirmation that the building contains no asbestos components.		
<b>33</b>	All building drawings, including original design AND the municipal approved drawings.		
<b>34</b>	Certificate of Occupancy (National Building Regulations and Standards Act, No. 103 of 1997 (administered by the local municipality		
<b>35</b>	The proposed office accommodation within a <b><u>50 (fifty) m</u></b> radius of an existing fibre termination point.		



*DEVELOPMENT THROUGH PARTNERSHIP*

**REQUEST FOR PROPOSAL FOR THE PURCHASE OF SUITABLE OFFICE  
ACCOMMODATION (PROVINCIAL OFFICES) FOR THE CIDB**

# OFFER TO PURCHASE

*in respect of the Sale of Property*

*between*

---

*"the Seller"*

*and*

**CONSTRUCTION INDUSTRY DEVELOPMENT BOARD ("CIDB")**

*"the Purchaser"*

The  
Purchaser

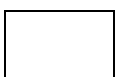
Witness

The Seller

Witness

## 1. Table of Contents

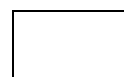
NO.	CLAUSE HEADING	PAGE
1.	THE PARTIES	3
2.	RECORDAL	3
3.	DEFINITIONS AND INTERPRETATION	3
4.	CONDITION PRECEDENT / SUSPENSIVE CONDITIONS	7
5.	DUE DILIGENCE AND INSPECTION OF PROPERTY	8
6.	SALE	9
7.	PURCHASE PRICE AND PAYMENT	10
8.	INVOICING AND PAYMENT	11
9.	PLACE OF PAYMENT	11
10.	VACANT OCCUPATION	11
11.	RISK	12
12.	LIABILITIES	13
13.	COSTS	13
14.	TRANSFER	13
15.	WARRANTIES	15
16.	NOTICE OF SALE	17
17.	BREACH	17
18.	NOTICES	18
19.	INDULGENCES	19
20.	VARIATION AND CANCELLATION	19
21.	ENTIRE AGREEMENT	20
22.	JURISDICTION	20
23.	PROFESSIONAL FEE (IF APPLICABLE)	20
24.	CESSION AND DELEGATION	20
25.	SIGNATURE	21
ANNEXURE "A"		22



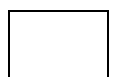
The  
Purchaser



Witness



The Seller



Witness

DESCRIPTION OF THE PROPERTY .....	22
ANNEXURE "B" .....	23

The  
Purchaser

Witness

The Seller

Witness

## 1. THE PARTIES

1.1. The parties to this agreement are:

1.1.1. the Seller being \_\_\_\_\_;

Registration Number/Identity Number: \_\_\_\_\_

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

Address: \_\_\_\_\_

1.1.2. the Purchaser being the Construction Industry Development Board ("the cidb"), a body which is a schedule 3A public entity, which promotes regulatory and development in the construction industry established in terms of the Construction Industry Development Board Act, Act 38 of 2000 which conducts business at 01 Gordon Hood Road, Centurion, Pretoria, South Africa.

## 2. RECORDAL

2.1. The Seller is the owner of the Property and is desirous of selling the property to the Purchaser.

2.2. The Purchaser wishes to purchase the Property from the Seller, and the Seller is prepared to sell the Property to the Purchaser, on the terms and subject to the conditions contained herein.

2.3. The Parties wish to record in writing their agreement in respect of the above and matters ancillary thereto.

## 3. DEFINITIONS AND INTERPRETATION

3.1. In this Agreement, unless the context indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings:

3.1.1. **"Adverse Consequences"** means all adverse consequences of whatever description including, but not limited to, all actions, applications, suits, proceedings, hearings, investigations, charges, complaints, claims,

The  
Purchaser

Witness

The Seller

Witness

demands, interdicts, judgments, orders, decrees, directives, rulings, damages, dues, penalties, fines, costs, reasonable amounts paid in settlement, liabilities, environmental liabilities, obligations, tax, liens, losses, compensation (including compensation paid or payable to any employee), expenses and fees, including reasonable fees and expenses of attorneys, counsel, accountants, consultants and experts;

3.1.2. “Agent” means a person who has been legally empowered to act on behalf of another person or an entity.

3.1.3. “**Agreement**” means the agreement contained in this document.

3.1.4. “**Companies Act**” means the Companies Act, 2008, as amended.

3.1.5. “**Condition Precedent / Suspensive Condition**” means the suspensive conditions set out in clause 4.1;

3.1.6. “**Conveyancer**” means the preferred Conveyancer by of the Purchaser.

3.1.7. “**Insolvency Act**” means the Insolvency Act, 1936, as amended.

3.1.8. “**LPA**” means the Legal Practice Council Act 28 of 2014.

3.1.9. Occupational rent is the term used for when a property is being rented during the property transfer process for a certain period

3.1.10. “**Parties**” means the Seller and the Purchaser.

3.1.11.

3.1.12. “**Property**” means the **property** with the name as stated on Annexure “A” hereto which the Seller wishes to sell.

3.1.13. Professional Fees means the the charges or compensation that professionals receive for their expertise and services given to clients or customers

3.1.14. “**Property**” means \_\_\_\_\_,  
situated at \_\_\_\_\_, measuring  
approximately \_\_\_\_\_, including all improvements thereon.

The  
Purchaser

Witness

The Seller

Witness

- 3.1.15.** “**Purchase Price**” means the purchase price as recorded in clause 7;
- 3.1.16.** “**SARS**” means the South African Revenue Services.
- 3.1.17.** “**Signature Date**” means the date of signature of this agreement by the party signing last in time.
- 3.1.18.** “**Transfer Date**” means the date of transfer of the Property into the name of the Purchaser.
- 3.1.19.** “**VAT**” means value-added tax as provided for in the VAT Act.
- 3.1.20.** “**VAT Act**” means the Value-Added Tax Act, 1991, as amended; and
- 3.1.21.** “**Warranties**” means the warranties in clause 15 and otherwise expressly given by the Seller to the Purchaser in terms of this Agreement.

- 3.2.** Headings in this agreement are for reference purposes and accordingly do not form part of this agreement and shall not be used for interpreting or construing any word, sentence, sub-clause or clause of this agreement.
- 3.3.** Any provision contained in any definition or recordal in or annexure to this agreement, which confers rights or imposes obligations on any party, shall be deemed to be a substantive provision of this agreement even if no reference is made to such provision in the body of this agreement and effect shall be given to such provision as if it were a substantive clause in the body of this agreement.
- 3.4.** Any reference in this Agreement to “days” shall be construed as business days unless qualified by the word “Calendar”.
- 3.5.** Where the day on or by which anything is to be done is not a business day, it shall be done on or by the first business day thereafter.
- 3.6.** If any period is referred to in this agreement by way of reference to a number of days, the days shall be reckoned exclusively of the first and inclusively of the last day, unless the last day falls on a Saturday, Sunday or public holidays, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday, excepting that the foregoing shall not apply to the calculation of interest.

The  
Purchaser

Witness

The Seller

Witness

- 3.7. Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 3.8. A reference to any statutory enactment shall be construed as a reference to that enactment as at the Signature Date of this Agreement and as amended, substituted or re-enacted from time to time.
- 3.9. The use of the word “including” followed by a specific example/s shall not be construed as limiting the meaning of the general wording preceding it and the *eiusdem generis* rule shall not be applied in the interpretation of such general wording or such specific example/s.
- 3.10. Unless the context clearly indicates a contrary intention, an expression which denotes:
- 3.10.1. any gender includes the other gender.
- 3.10.2. a natural person is a person that is an individual human being.
- 3.10.3. a juristic person an entity, such as a corporation, that is recognized as having legal personality, ie it is capable of enjoying and being subject to legal rights and duties.); and
- 3.10.4. the singular includes the plural (and vice versa).
- 3.11. Words and expressions which are defined in any sub-clause shall, for the purposes of the clause of which that sub-clause forms part, bear the meaning assigned to such words and expressions in that sub-clause.
- 3.12. For the purpose of this Agreement “writing” means legible writing and in English and includes any communication by telefax or email.
- 3.13. This agreement shall be governed by and construed and interpreted in accordance with the laws of the Republic of South Africa.
- 3.14. Annexures to this agreement shall be deemed to have been incorporated herein and shall form an integral part hereof.
- 3.15. A reference to:
- 3.15.1. a party in a document shall include that party's successors and permitted assigns.

The  
Purchaser

Witness

The Seller

Witness

3.15.2. an enactment is to that enactment as at the date of signature of this agreement and as amended or re-enacted from time to time.

3.15.3. a document includes an amendment or supplement to, or replacement or novation of that document.

3.16. Where value added tax is payable in respect of any transaction recorded in this agreement and the agreement is silent on the matter, then the purchase consideration reflected in this agreement shall be inclusive of such value added tax.

#### **4. CONDITION PRECEDENT / SUSPENSIVE CONDITIONS**

4.1. The sale of the Property shall be subject to the fulfilment of the following suspensive conditions within **30 (thirty) days** of the signing date:

4.1.1. the conclusion by the Purchaser to its reasonable satisfaction of a due diligence investigation into the Property, the scope of which investigation shall be in the sole discretion of the Purchaser.

4.1.2. that written confirmation is given by the Purchaser to the Seller within 10 (ten) days of actual receipt of the due diligence documents as provided for in clause 5 below, that the Purchaser has approved the due diligence investigation referred to in clause 5.

4.1.3. the Seller has not granted any real right in respect of the property other than of which the Purchaser is aware.

4.1.4. where applicable, the Shareholders of the Seller's Company passing a resolution in terms of Section 112/115 of the Companies Act 71/2008 (as amended), agreeing to the terms and conditions of this Agreement, ratifying and authorising the sale contemplated herein.

4.1.5. the Conveyancer will prepare a mandate letter to be signed by the Conveyancer, Purchaser and Seller whereby the terms and conditions of engaging the Conveyancer are set up.

4.1.6. where applicable, the members of the Board of the Purchaser's Entity passing a resolution in terms of Section 112/115 of the Companies Act

The  
Purchaser

Witness

The Seller

Witness

71/2008 (as amended), agreeing to the terms and conditions of this Agreement, ratifying and authorising the sale contemplated herein; and

4.1.7. the due delivery of the duly passed resolutions referred to above.

4.2. The Condition Precedents have been inserted for the benefit of the Purchaser, who shall be entitled to waive or extend the period for the fulfilment of the Condition Precedents in whole or in part for a further period of 10 (ten) days, on writing notice to the Seller prior to the expiry of the time period set out in 4.1.1 to 4.1.2 above.

4.3. If any of the suspensive conditions contain in this clause 4 are not fulfilled or waived as provided for above, then this Agreement shall automatically terminate and be of no further force and effect and the Parties shall have no claim against each other for any reason whatsoever.

4.4. The Parties shall use their reasonable endeavours, and the Parties will co-operate in good faith to procure the fulfilment of the Condition Precedent as soon as reasonably possible after Signature Date.

4.5. The Seller shall make available to the Purchaser and its authorised representatives all books, records, documents and information pertaining to the property as they may reasonably require for the purposes of conducting the due diligence investigation.

## **5. DUE DILIGENCE AND INSPECTION OF PROPERTY**

5.1. The Seller hereby agrees that the Purchaser shall be entitled to investigate all aspects of the Property for the purposes of satisfying itself as to the nature of the Property and all financial factors associated therewith. The Seller agrees to give the Purchaser all documents which the Purchaser shall reasonably require for the relevant investigation which documents shall include, but not limited to those referred to in clause 5.2 below:

5.2. the following documentation in respect of the Property shall be provided to the Purchaser by the Seller by no later than 7(seven) calendar days from the Signature Date, or such later date as may agree to by the Parties in writing:

5.2.1. Copy of title deed of the Property.

5.2.2. Copy of local authority, electricity, water and other “usage” accounts covering the most recent 6 (six) month period.

The  
Purchaser

Witness

The Seller

Witness

- 5.2.3. Copy of approved plans of the Property and improvements thereon.
- 5.2.4. Copy of occupancy certificate (issued in terms of section 14 of the National Building Regulations and Building Standards Act 103 of 1977) in respect of the Property.
- 5.2.5. Copy of the rates statements/certificates.
- 5.2.6. Copy of rates clearance certificates; and
- 5.2.7. Copy of zoning certificates in respect of the Property.

- 5.3. The Purchaser shall carry out such due diligence as it in its sole discretion deems necessary or required in order to satisfy itself as to all the facts and circumstances surrounding the Property.
- 5.4. The Seller agrees to give the Purchaser reasonable assistance in answering queries with regard to the Property and giving the Purchaser copies of documents regarding the Property which are in the Seller's possession, and which are not set out above for purposes of the Purchasers due diligence exercise.
- 5.5. The Seller will provide the Purchaser access to the Property for purposes of inspection thereof, with the relevant qualified professionals (if so appointed to assist with the inspection) on a date mutually agreed upon between the Parties and within 5 (five) days of request for inspection. Access to the Property for purposes of inspection shall not be withheld by the Seller.
- 5.6. In the event that the Purchaser decides not to proceed with this transaction neither Party (including the Agencies) shall not have any claim against the other Party and the Purchaser shall not be obliged to give the Seller any reason for this decision. The Purchaser to notify the Seller in writing that it shall not be proceeding with the purchase of the Property. If the Purchaser wishes to proceed with the transaction the Purchaser shall notify the Seller in writing as provided in clause 4 and 5 failing which this Agreement will be null and void, save as provided for in 4.1 above.

## 6. SALE

- 6.1. The Seller hereby sells to the Purchaser the Property, who purchases the Property, with effect from the Signature Date and subject to the Condition Precedent being fulfilled.

The  
Purchaser

Witness

The Seller

Witness

6.2. It is specifically recorded that in the event that this transaction attracts VAT then in that event:

6.2.1. the Seller is a registered as a vendor for purposes of VAT in terms of the VAT Act;

6.2.2. accordingly, VAT will be levied on the Standard Rate in terms of the VAT Act.

6.3. The Property is sold free of any liabilities and debts whatsoever relating to and arising from the Property and which arose before the Transfer Date, and the Seller to that end shall be liable for all liabilities prior to the Transfer Date as and when they fall due and hereby indemnifies the Purchaser in respect of the aforementioned liabilities.

6.4. The acquisition of the property shall be subject to:

6.4.1. all the conditions, encumbrances, restrictions and servitudes contained in the title deeds of the property.

6.4.2. any other conditions, encumbrances and restrictions disclosed by the Seller by the Purchaser in terms of the provisions of this agreement.

## 7. PURCHASE PRICE AND PAYMENT

7.1. The purchase price of the enterprise shall be the sum of R \_\_\_\_\_ (\_\_\_\_\_). The purchase price is inclusive of VAT.

7.2. The purchase price shall be payable as follows:

7.2.1. Payment of a deposit in the amount of R \_\_\_\_\_ (\_\_\_\_\_) and within 10 (ten) days from Signature Date hereof into the trust bank account of the Conveyancing Attorneys so appointed within 7 (seven) days from Signature Date if this Agreement; and

7.2.2. The balance of the Purchase Price in the amount of R \_\_\_\_\_ (\_\_\_\_\_) shall be payable within 30 (thirty) days from request for payment by the Conveyancer.

The  
Purchaser

Witness

The Seller

Witness

- 7.3. The Conveyancer shall hold the deposit as well as the balance of the Purchase Price, pending the Transfer Date, in an interest-bearing trust account, in terms of the LPA, for the benefit of the Purchaser; and
- 7.4. The Purchase Price shall be paid to the Seller upon successful registration of the property into the name of the Purchaser on the Transfer Date and fulfilment of the suspensive condition, with the interest accruing to the Purchaser.

## **8. INVOICING AND PAYMENT**

- 8.1. All payments to the Conveyancer shall be made in South African Rands.
- 8.2. Payment of the Purchase Price to the Seller shall be affected on the Signature Date and upon receipt of proof from the Conveyancer that the transfer of property to the Purchaser is finalised.
- 8.3. Payment of the Purchase Price to the Seller will be effected within 2 (two) days after registration of the Property to allow for the Conveyancer to prepare the necessary reconciliation to the Seller and the Purchaser in terms of money received and paid for purposes of transfer.
- 8.4. Bank Account details of the Conveyancer shall be that which is provided to the Purchaser when requesting payment of the Purchase Price and costs associated with transfer. When making payment, Parties are to contact the office of the Conveyancer and confirm the banking details provided telephonically to avoid any potential threats of fraud.

## **9. PLACE OF PAYMENT**

All payments due by either party under this agreement shall be made at such bank account in the Republic of South Africa as the other party may specify

## **10. VACANT OCCUPATION**

- 10.1. Should the Purchaser take vacant occupation of the property prior to the Transfer Date, he shall pay the Seller, occupational rent the amount of R\_\_\_\_\_ (\_\_\_\_\_), until registration takes place, and on a pro rata basis, which occupational rental shall include all electricity and water consumption on the Property during the period.

The  
Purchaser

Witness

The Seller

Witness

- 10.2. The vacant occupation date in respect of 10.1 above shall be \_\_\_\_\_.
- 10.3. Should the Seller vacate the Property before the date of vacant occupation, the Seller shall be obliged to continue to maintain the Property in good order and condition until the date of vacant occupation.
- 10.4. Should vacant occupation be granted to the Purchaser prior to the Transfer date, the Purchaser shall not be permitted to effect alterations and/or improvements to the Property without the prior written consent of the Seller.
- 10.5. Any alternations, improvements, renovations to the Property shall be subject to 10.4 above and such alterations, improvements, renovations to the property will be co-ordinated through the professional FM service provider being **2BLN Engineering (Pty) Ltd**, who will provide the technical specifications for purposes of such alteration, improvement or renovation.
- 10.6. Should the Seller remain in occupation of the Property after the Transfer date, the Seller shall be liable for payment of the occupational rental to the Purchaser, to be calculated on a pro-rata basis from the Transfer date to the date of vacant occupation.

## 11. RISK

- 11.1. As from the Transfer Date, all the risks and benefits of ownership of the property, shall pass to the Purchaser, from which date all benefits and risks in respect of the Property, including liability for payment of all rates, taxes and levies levied on the Property, shall pass to the Purchaser, subject to anything to the contrary that may be contained in Clause 10 above.
- 11.2. The Seller shall deliver to the Purchaser all keys and other movable property relating to the property in the possession or under the control of the Seller on the Transfer Date alternatively Vacant Occupation Date should the Purchaser take occupation prior to the Transfer Date.
- 11.3. The Seller shall not be responsible for insuring any of the improvements established on the Property by the Purchaser, nor will the Seller accept any responsibility for any such improvements irrespective of the date of vacant occupation, the date of possession or the registration date.

The  
Purchaser

Witness

The Seller

Witness

## 12. LIABILITIES

- 12.1. The Seller shall procure that all liabilities prior to the Transfer Date, which are not expressly taken over by the Purchaser, are discharged by the Seller in full, timeously, and without any recourse to the Purchaser.
- 12.2. Accordingly, without any prejudice to any of the rights of the Purchaser arising from any of the provisions of this agreement, the Seller hereby indemnifies the Purchaser against all loss, liability, damage or expense arising from the liabilities incurred prior to the Transfer Date and not assumed by the Purchaser and/or from any failure to discharge any of them timeously or at all.

## 13. COSTS

- 13.1. The Purchaser shall be liable for and shall on receipt of their account pay to the Conveyancer, within 7 (seven) days of receipt of their account:
- 13.1.1. the legal costs of and incidental to the transfer of the property to the Purchaser as per quote submitted by the Conveyancer appointed by the Purchaser;
- 13.1.2. VAT, if applicable in terms of clause 6.4.1, against delivery of an appropriate VAT invoice.
- 13.2. Save as set out in clause 6.9.1, each party shall bear its own costs of and incidental to the preparation and signature of this agreement and settling its terms and conditions.

## 14. TRANSFER

- 14.1. The Seller shall be liable for payment of all clearance figures payable in respect of the Property, in order to obtain the required certificate necessary to effect transfer (i.e rates clearance certificates etc (and as indicated by the Conveyancer)
- 14.2. Transfer of the property to the Purchaser shall be given to the Purchaser within a reasonable time after the purchase price and as well as the transfer costs payable by the Purchaser have been secured or paid in terms of this Agreement and all Condition Precedents have been met.
- 14.3. Transfer shall be effected by the conveyancer.

The  
Purchaser

Witness

The Seller

Witness

- 14.4. Each party shall, within 7 (seven) days of being called upon to do so by the conveyancer, sign all documents required to be signed, and furnish all documents required to be furnished by that party, to enable transfer of the property to be given to the Purchaser.
- 14.5. The Seller shall at its own expense, on demand, prior to the Transfer Date:
- 14.5.1. deliver to the Purchaser a valid certificate of compliance in respect of the electrical installation on the property, which certificate shall be issued by an accredited person, as required in terms of the Electrical Installation Regulations 1992 (as amended) promulgated in terms of the Occupational Health and Safety Act, 1993, as amended;
  - 14.5.2. cause to be done whatever may be necessary in order to ensure timeous compliance with clause 14.5.1 above, including, without limiting the generality of the a foregoing, the carrying out of such inspection as may be necessary and, where applicable, the implementation of such repairs and/or improvements to such electrical installation as may be necessary to enable such accredited person to issue such certificate of compliance.
  - 14.5.3. The Seller hereby undertakes at his/its own costs to furnish to the Conveyancer, prior to the occupation date, or transfer, whichever is earlier, with a valid:
    - 14.5.3.1. Certificate of Electrical Compliance from an accredited electrical contractor in terms of the regulations of the Occupational Health and Safety Act No. 85 of 1993, as amended.
    - 14.5.3.2. Certificate issued by a registration gas installer to the effect that all the gas installations on the Property complies with the industry standard (if applicable).
    - 14.5.3.3. An electric fence compliance certificate in terms of Regulation 12 of the Electrical Machinery Regulations issued in terms of the Occupational Health and Safety Act, Act 85 of 1993 (if applicable).
  - 14.5.4. The Seller warrants that no additions or alternations will be made to any of the electrical or gas installations on the Property after the issue of the

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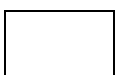
relevant Certificates and prior to occupation by the Purchaser, or transfer, whichever is earlier.

- 14.5.5. Should the Seller fail to furnish the Purchaser with the required Certificates timeously, the Purchaser shall be entitled to obtain the same and the Seller, by appending his/its signature hereto, authorises the Conveyancer to reimburse the Purchaser by deducting the costs thereof from the proceeds of the sale.

## **15. WARRANTIES**

- 15.1. The Seller warrants to the Purchaser that as at the signing date and as at the effective date:

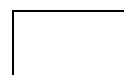
- 15.1.1. the property has been registered in the name of the Seller for a period of 6 (six) months or more prior to the publication of the tender wherein the Purchaser has sought suitable office accommodation;
- 15.1.2. the property is not subject to any options or rights of pre-emption;
- 15.1.3. the property is not subject to any servitude or other real rights not reflected in the title deed thereof as at the signing date;
- 15.1.4. all information provided by the Seller in respect of the property to the Purchaser is true and correct in all material respects;
- 15.1.5. the property is not the subject of any expropriation or rezoning proceedings whatsoever, nor is the Seller aware of any steps which may give rise to any such proceedings;
- 15.1.6. the property is zoned appropriately for the present use thereof and all improvements to the property have been erected in full compliance with the provisions of the relevant Town Planning Scheme;
- 15.1.7. the improvements in, on and to the property:
- 15.1.7.1. comply in all material respects with the requirements of the local or any other relevant authorities and no changes or alterations requiring the approval of the relevant authorities have been effected to the property without such approval being first had



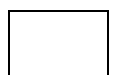
The  
Purchaser



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The Seller



Witness

and obtained in writing nor is the Seller under any obligation to any such authority to make any alteration, addition or repair to the property;

15.1.7.2. do not encroach any other property;

15.1.7.3. comply with all relevant legislation;

15.1.7.4. have been constructed in accordance with approved plans;

15.1.8. the Property will have no employees whatsoever and there are no outstanding liabilities arising out of employment issues due to any previous employee of the Property;

15.1.9. any employees of any managing or other agent of the Seller are employed by such managing or other agent as principal and not as agent for the Seller;

15.1.10. the property is not the subject of any legal proceedings and, in particular, any attachment, foreclosure or sale in execution proceeding;

15.1.11. the property is not subject to any claim under any of the following legislation:

15.1.11.1. the Restitution of Land Rights Act;

15.1.11.2. the Land Reform (Labour Tenants) Act;

15.1.11.3. the Extension of Security of Land Tenure Act;

15.1.11.4. the Interim Protection of Informal Land Rights Act;

15.1.11.5. the Upgrading of Land Tenure Rights Act;

15.1.11.6. the National Monuments Act;

15.1.12. all information, whether documentary or oral, disclosed to the Purchaser in terms of the due diligence investigation is true and correct.

15.2. The Seller warrants that its signatory to this agreement has the necessary authority to so bind it to this agreement.

15.3. Without prejudice to any rights of the Purchaser in terms of this agreement, the Seller indemnifies the Purchaser against any loss, liability, damage or expense which the

The  
Purchaser

Witness

The Seller

Witness

Purchaser may sustain as a result of a breach of any warranty contained in this agreement.

15.4. It is agreed that:

15.4.1. insofar as any of the warranties is promissory or relates to a future event, it shall be deemed to be given as at the due date for the fulfilment of the promise or the happening of the event, as the case may be;

15.4.2. each warranty is a separate warranty and is not restricted by reference to or inference from any other warranty.

15.5. The Seller further warrants to the Purchaser that if, between the signing date and the effective date, there is any material adverse change to the property, it shall advise the Purchaser thereof in writing. In such event the Purchaser shall be entitled to terminate this agreement.

## 16. NOTICE OF SALE

16.1. It is recorded that the Parties have agreed not to publish the appropriate notices in respect of the Sellers business activities pursuant to the provisions of section 34 of the Insolvency Act 24 of 1936. However, should it be found that the transaction contemplated herein cannot be completed without the said notices being published, then the Seller undertakes to comply with the requirements of Section 34 and publish the required notices as soon as reasonably possible.

16.2. The Seller indemnifies and holds the Purchaser harmless against any harm or loss the Purchaser might suffer by reason of any claim being made against the Purchaser or any part of the Rental Enterprise being sold in terms hereof by reason of the non-publication of the said notices or in respect of any claim being made against the Purchaser or any part of the Rental Enterprise being sold in terms hereof by any third party creditor, including but not limited to SARS.

## 17. BREACH

17.1. In the event of either party failing to comply with the conditions of this agreement promptly and on due date and remaining in default for a period of 14 (fourteen) days after receipt by it of a written notice calling upon it to remedy its breach, the party suffering under the breach shall have the right or option either:



The  
Purchaser



Witness



The Seller



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- 17.2. to demand specific performance of this agreement and to take such action as may be necessary in order to implement and fulfil its rights in terms hereof and to recover any damage which it may suffer as a result of the defaulting party's breach of contract;
- 17.3. forthwith to cancel this agreement and claim such damages as the party suffering the default may have suffered as a result of the other party's breach of contract;
- 17.4. the parties hereto acknowledge and agree that the conveyancer will be entitled to charge wasted costs in the event of cancellation of breach of the agreement by either party at the rate as prescribed by the Legal Practice Council. The parties irrevocably agree that the wasted costs may be paid from any deposit, and hereby indemnifies the conveyancer against any claims for damages or otherwise, that may be instituted by any party for reason of deducting such wasted costs in accordance with this clause.

## 18. NOTICES

- 18.1. The parties hereby respectively choose domicilium citandi et executandi at their respective physical addresses as set out below, at which addresses all notices, correspondence and legal processes in relation to this agreement or any action arising there from may be effectually delivered or served:

### 18.1.1. Purchaser

physical street address:

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email address:

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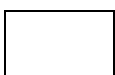
telephone number:

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### 18.1.2. Seller

physical street address:

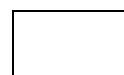
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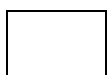
The  
Purchaser



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The Seller



Witness

email address:

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telephone number:

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18.2. Any notice given by one of the parties to the other ("the addressee") which:

18.2.1. is delivered by hand or sent by facsimile, shall be presumed to have been received by the addressee, unless the contrary is proved, at the time of delivery or at the time of despatch by facsimile as the case may be;

18.2.2. is posted by prepaid registered post from an address within the Republic of South Africa to the addressee, shall be presumed to have been received by the addressee, unless the contrary is proved, on the seventh day after the date of posting.

18.3. Either party shall be entitled on written notice served by registered post to the other, to change its address as set out above, provided that such address is a physical street address.

## 19. INDULGENCES

19.1. No indulgence which either party ("the grantor") may grant to the other ("the grantee") shall constitute a waiver of any of the rights of the grantor, who shall not thereby be precluded from exercising any rights against the grantee which may have arisen in the past or which may arise in the future.

## 20. VARIATION AND CANCELLATION

20.1. It is recorded that there exists no collateral and/or other agreements with regard to the matters dealt with herein, and that this is the sole agreement entered into by and between the parties.

20.2. No agreement, implicitly or by conduct or otherwise, between the Purchaser and the Seller to:

20.2.1. cancel, alter, add to or delete from this agreement;

The  
Purchaser

Witness

The Seller

Witness

20.2.2. waive any right to enforce any term of this agreement,

shall be binding upon the parties to this agreement or be of any force or effect unless reduced to writing and signed by all the parties hereto or on their behalf by their respective duly authorised agents.

## **21. ENTIRE AGREEMENT**

21.1. The parties hereby acknowledge that this agreement records the entire agreement between them and that there are no conditions, express or implied or warranties, save and except those herein contained, binding on the parties, unless set out in a written document signed by both parties.

## **22. JURISDICTION**

22.1. The parties hereby consent to the jurisdiction of the High Court for any action instituted by any party to this agreement, arising from this agreement.

## **23. PROFESSIONAL FEE (IF APPLICABLE)**

23.1. The professional fee or agent commission (hereinafter referred to as professional fee) as set out in Annexure "B" hereto, is included in the Purchase Price and is payable by the Seller to the agent upon date of transfer.

23.2. The professional fee shall be deemed to have been earned upon date of transfer, and will be calculated at a rate of \_\_\_\_\_ %, totalling R \_\_\_\_\_ (inclusive/exclusive) of VAT, as set out in Annexure "B" hereto.

23.3. The parties agree that the agent shall affix a "Sold" board to the Property for a period of three (3) months from the date upon which all suspensive conditions in terms of this agreement have fulfilled.

## **24. CESSION AND DELEGATION**

24.1. The Purchaser shall, at all times, be entitled to cede its rights and delegate its obligations in terms of this agreement to any third party, provided that it shall have first procured the approval of the Seller, which approval shall not unreasonably be withheld or delayed.

The  
Purchaser

Witness

The Seller

Witness

**25. SIGNATURE**

- 25.1. This Agreement may not be signed in counterparts nor by way of electronic signature. The Agreement is to be signed in ink on paper. The original of which to be provided to the Conveyancer and copies to be held in the possession of the Seller, Purchaser and agent where applicable.

Signed by the Seller at \_\_\_\_\_ on \_\_\_\_\_ 202...

Witness

\_\_\_\_\_

\_\_\_\_\_

**obo the Seller**

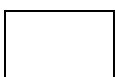
Signed by the Seller at \_\_\_\_\_ on \_\_\_\_\_ 202..

Witness

\_\_\_\_\_

\_\_\_\_\_

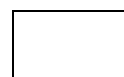
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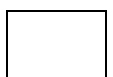
The  
Purchaser



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The Seller



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**ANNEXURE “A”****DESCRIPTION OF THE PROPERTY**

<b>Description of property</b>

**PURCHASE PRICE**

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**SELLER’S DOMICILIUM**

Physical address:	
Postal address:	
Facsimile number:	
Telephone number:	

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The  
Purchaser

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Witness

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The Seller

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Witness

**ANNEXURE "B"****PROFESSIONAL FEE AGREEMENT**

Whereas the Seller is the registered owner of the Property which has been sold by the agent in terms of the agreement to which this annexure forms part of.

Now therefore, I hereby instruct the Conveyancer to irrevocably and unconditionally pay the professional fee as set out below as a first charge against the Purchase Price of the abovementioned Property directly to the agent, immediately upon registration of transfer of the Property into the name of the Purchaser.

**The Professional Fee is calculated as follows:**

<b>(a) Purchase Price</b>	<b>R</b>
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(b) Net Professional Fee (excl VAT)	%	of (a)	R
(c) VAT @ 15% of the Net Professional Fee (b x 15 / 100)			R
(d) Gross Professional Fee (incl VAT) (b+c)			R

<b>(e) Balance of Purchase Price paid to Seller (a-d)</b>	<b>R</b>
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The parties hereto confirm the content of paragraph 23 of the agreement and,

**DETAILS OF AGENT:**                      **SIGNATURE:** \_\_\_\_\_

**NAME :** \_\_\_\_\_

**TEL :** \_\_\_\_\_

**CONTRACT AGENT PAYE NUMBER FOR SARS  
CLEARANCE PURPOSES:**

The  
Purchaser

Witness

The Seller

Witness