



Request for Proposal (RFP)

NATIONAL YOUTH DEVELOPMENT AGENCY (NYDA) 54 MAXWELL DRIVE BUILDING A WOODMEAD 2191	
Description	APPOINTMENT OF A SERVICE PROVIDER TO PROVIDE UMBRELLA FUND (PROVIDENT FUND, RISK BENEFITS AND MEDICAL AID CONSULTING) SERVICES FOR THE NYDA FOR FIVE (5) YEARS RENEWABLE FOR THREE PERIODS OF FIVE (5) YEARS BASED ON PERFORMANCE
Tender Number	RFP2022/11/NYDA
Tender Issue Date	15 June 2023
Briefing Session Date and time	A compulsory briefing session will be held on 28 June 2023 @10:00am via Microsoft TeamViewer Click here to join the meeting . Prospective bidders are advised to download Microsoft TeamViewer prior to the time of the meeting. Bidders can access the briefing session at Click here to join the meeting which is also available on the NYDA Website as well as the National e-tender portal of this tender advert
Closing Date	The closing date for submission of proposals is as follows Date: 20 July 2023
Closing Time	The closing time for submission of proposals is as follows: Time 11:00am Bidders must ensure that bids are delivered timeously to the correct address. As a rule, if a bid is late or delivered to the incorrect address, it will not be accepted for consideration.
Tender Validity Period	120 Business days from closing date.
Enquiries	Tenders Email : tenders@nyda.gov.za
Name of the Tenderer	
Total Price inclusive of Value Added Tax:	

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**PART A
 INVITATION TO BID**

SBD 1

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NATIONAL YOUTH DEVELOPMENT AGENCY)					
BID NUMBER:	RFP2023/11/NYDA	CLOSING DATE:	20 July 2023	CLOSING TIME:	11:00am
DESCRIPTION	APPOINTMENT OF A SERVICE PROVIDER TO PROVIDE UMBRELLA FUND (PROVIDENT FUND, RISK BENEFITS AND MEDICAL AID CONSULTING) SERVICES FOR THE NYDA FOR FIVE (5) YEARS RENEWABLE FOR THREE PERIODS OF FIVE (5) YEARS				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
NATIONAL YOUTH DEVELOPMENT AGENCY					
54 MAXWELL DRIVE					
WOODMEAD					
WOODMEAD NORTH OFFICE PARK, BLOCK A					
NYDA BUILDING					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	Eugene Moore		CONTACT PERSON	Eugene Moore	
TELEPHONE NUMBER			TELEPHONE NUMBER		
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS	tenders@nyda.gov.za		E-MAIL ADDRESS	tenders@nyda.gov.za	
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] ☐ Yes ☐ No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX] ☐ Yes ☐ No
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	☐ Yes ☐ No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?		☐ Yes ☐ No [IF YES, ANSWER PART THE QUESTION BELOW]
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS					

IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?	☐ YES ☐ NO
DOES THE ENTITY HAVE A BRANCH IN THE RSA?	☐ YES ☐ NO
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?	☐ YES ☐ NO
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?	☐ YES ☐ NO
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?	☐ YES ☐ NO

IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.

**PART B
TERMS AND CONDITIONS FOR BIDDING**

• BID SUBMISSION: ○ BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION. ○ ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT. ○ THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT. ○ THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).
• TAX COMPLIANCE REQUIREMENTS • BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS. • BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS. • APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA. • BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID. • IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER. • WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED. • NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

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

SIGNATURE OF BIDDER:

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

DATE:

NB: NYDA reserves the right to cancel this tender without prior notice and not to appoint any service provider.

B. TENDER NOTICE AND INVITATION TO TENDER

Description	ADVERTISEMENT OF THE APPOINTMENT OF A SERVICE PROVIDER TO PROVIDE UMBRELLA FUND (PROVIDENT FUND, RISK BENEFITS AND MEDICAL AID CONSULTING) SERVICES FOR THE NYDA FOR A PERIOD OF TWENTY (20) YEARS
Tender Advert	The National Youth Development Agency invites service providers for tender advertisement of the appointment of a service provider to provide umbrella fund (provident fund), risk benefits and medical aid consulting services for the NYDA for five (5) years renewable for three periods of five (5) years. Tender documents are available for downloading on the NYDA website: www.nyda.gov.za .
RFP Downloading	An electronic copy of the bid document will be available for download directly from the National Treasury's e-Tender Publication Portal at www.etenders.gov.za , and National Youth Development Agency at www.nyda.co.za . At no cost
Communication	
BRIEFING SESSIONS	A compulsory briefing session will be held as follows: Microsoft teams: Online on 28 June 2023 at 10:00 Venue: Online (Microsoft-TeamViewer) Link: Click here to join the meeting Prospective bidders are advised to download Microsoft TeamViewer prior to the time of the briefing session. Bidders can access the briefing session at Click here to join the meeting which is also available on the NYDA Website as well as the National e-tender portal of this tender advert. Queries relating to the issue of these documents or technical enquiries may be addressed to Mr. Eugene Moore via e-mail: tenders@nyda.gov.za on or before 4 July 2023 @ 16h00.
CLOSING DATE AND TIME	The closing date and time for submission of proposals is as follows: Date: 20 July 2023 Time 11:00am Tenderers must ensure that tender is delivered timeously to the correct address. As a rule, if a tender is late or delivered to the incorrect address, it will not be accepted for consideration. Tenders may only be submitted on the tender documentation that is issued by NYDA. The retyping of the tender document is not permitted. The tenders must be inserted into the Tender Box available at the Reception Area of NYDA Head Office, 54 Maxwell Drive, Woodmead (Woodmead North Office Park, Block A, NYDA Building) by 11:00 am on 20 July 2023 . Telegraphic, telephonic, telex, facsimile, e-mail, and late tenders will not be accepted.
Tender offer validity	NYDA requires a validity period of (120 Business days) from closing date against this RFP, excluding the first day and including the last day. NYDA may at any time prior to the expiry of the bid validity period, extend the above validity period by 60 days written notice in the NYDA website and E-tender website, on the same terms and conditions. In that event, NYDA will not require consent from the bidders, and bidders will not be required or permitted to amend any of their proposals. However, bidders are not obliged to extend the validity period. In the case where bidders are not in agreement with the validity extension, they must inform NYDA in writing and their proposals will be considered non responsive. Once the adjudication body has approved the process and award of the business to the successful bidder(s), the validity of the successful bidder(s)' bid will be deemed to remain valid until a final contract.

C. TENDER DATA AND CONDITIONS OF TENDER

The Conditions of Tender are the General Conditions of Contract issued by the National Treasury. The purpose of the Conditions is to:

- 1.1 Draw special attention to certain general conditions applicable to government bids, contracts and orders; and
- 1.2 To ensure that bidders are familiar with regard to the rights and obligations of all parties involved in doing business with government.
- 1.3 NYDA reserves the right to amend any conditions of this Tender including but not limited projected number of employees and the term of the agreement,

The Standard Conditions of Tender make several references to the Tender Data which specifically applies to this tender. The Tender Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the Standard Conditions of Tender. Each item of Tender Data given below is cross-referenced to the relevant clause in the standard Conditions of Tender.

Clause Number	Clause Heading	Data / Wording
1.3.1	The Employer is:	The Employer is: National Youth Development Agency (NYDA). 54 MAXWELL DRIVE, WOODMEAD, 2191 (Woodmead North Office Park, Block A, NYDA Building)
1.3.2	Employer's Agent is:	Mr. Eugene Moore Tel: (087) 158 5718 E-mail: tenders@nyda.gov.za
1.3.3	Eligibility or RFP Instructions	The National Youth Development Agency reserves the right to reject bids which are non-responsive, including, without limitation, bids which contain the following defects: • Late or incomplete bids; • Failure to conform to the rules or requirements contained in the Tender document; • Proof of collusion among Bidders, in which case all proposals involved in the collusive action will be rejected; and • Non-compliance with applicable law, unauthorized additions or deletions, conditional bids or material irregularities. Tenderers will be disqualified if the entity or any of its directors is listed on the register of Bid Defaulters in terms of the Prevention and Combating of Corruption Activities Act of 2004 as a person prohibited from doing business
1.3.4	JOINT VENTURES OR CONSORTIUMS	Joint Ventures / Consortiums are eligible to submit tenders provided that:

		- Where bids are consortia / Joint ventures / S-contractors are involved, each party must submit a separate TCS certificate / Pin / CSD number; - A Joint Venture Agreement is signed by the JV Partners and attached to this tender document. Tenders who do not meet the requirements above will be immediately disqualified from the tendering process. A Joint Venture / Consortium must also submit a Joint Venture BBEE Verification Certificate.
1.3.5	Returnable Documents	Tenderers to submit fully completed and signed returnable documents as stipulated. Tenders must only be submitted on original tender documentation which is issued by the NYDA and completed in black ink. Tender documents may not be retyped or reproduced. <u>COMMERCIAL RETURNABLES</u> The following Standard Bidding Documents are duly completed and signed 1. ESSENTIAL ADMINISTRATIVE RETURNABLE DOCUMENTS: - SBD Documents 1 Original and Electronic copy on USB Disk - Company registration documents - Certified copy/copies of all Directors ID's (not older than 3 months) - CSD - Current Tax Pin Status - Current B-BBEE Affidavit/Certificate - Latest Annual Financial Statement or in case of companies with less than 12 months, latest management accounts - Proof of business location i.e. letter from the landlord, rental agreement, copy of utilities bill in the name of the company or director, proof of ownership etc. - Select preferred province (NYDA reserve the rights to use qualified bidders) - Certified copy/copies of all Directors ID's (not older than 3 months)
1.3.6	Number of copies of tender offers to be submitted to the Employer	The returnable part of the tender offer communicated on paper shall be submitted as a 1 original and electronic copy on USB Disk. No documents are to be retyped or reproduced. Any tender documents that are retyped or reproduced will be disqualified.
1.3.7 1.3.8	Sealing of tender offers	Tender should be sealed and externally endorsed as follows: - Tender number and description should be clearly stated/written. - All envelopes should be clearly marked in case of two-envelop system (i.e., Financial/Commercial Proposal and/or Technical/Functionality).
1.3.9	National treasury's supplier database (CSD) registration	Bidders must submit proof of registration on the National Treasury's Central Supplier Database (CSD). A Tenderer that is selected as a preferred Tenderer but is not registered on the Central Supplier Database (CSD) of the National Treasury, shall not be awarded the Tender. Failure to submit such proof of registration, as requested, shall result in their tender being disqualified.

		- Bidders are requested to register on the National Treasury CSD and include the copy of supplier number in order to enable the institution to verify the supplier's tax status on CSD. - Registration can be completed online at www.csd.gov.za
1.3.10	Tax Compliance	Bidders are required to submit their Tax Unique Personal Identification number (pin) issued by SARS to enable NYDA to verify the taxpayer's profile and tax status.
1.3.11	Clarification on submitted information	During the evaluation of the bids, clarification may be requested in writing from bidders only for the purpose of clarifying aspects mentioned in the bid. Replies to such requests must be submitted, within two (2) working days or as otherwise indicated.
1.3.12	Two-Envelope System	A two-envelope system will be followed.

D. PROCUREMENT TIMELINES

*PROCUREMENT TIMELINE	DATE	TIME
RFP release date	15 June 2023	08h00 to 16h00
Compulsory Briefing Session	28 June 2023	10h00
Written questions of clarification – closing date	4 July 2023	16h00
Written response to all clarifications	7 July 2023	16h00
Closing date	20 July 2023	11h00
*Anticipated Completion of bid evaluations	18 August 2023	
*Anticipated letter of Award	31 August 2023	
Commencement Date	1 October 2023	

***Indicative dates**

E. NYDA BACKGROUND AND INTRODUCTION

The National Youth Development Agency (NYDA) is a South African based agency established primarily to tackle challenges that the nation's youth are faced with. The NYDA was established by an Act of parliament, act no 54 of 2008. The institution was established to be a single, unitary structure, established to address youth development issues at National, Provincial and Local government level. The existence of the NYDA should be located within the broad context of South Africa's development dynamics. Similar to many developing countries, South Africa has a large population of youth, those between the ages 14-35; represent 42% of the total population. Given the youthful nature of the South African population much of the socio-economic challenges faced by the nation, i.e. poverty, inequality and joblessness, poor health etc, are borne by the youth. The gravity of challenges South Africa is faced with, require multi - pronged efforts, that simultaneously promote the development of sustainable livelihoods, reduce poverty, inequality and prioritise the development of policies which create an enabling environment for youth development.

The NYDA plays a lead role in ensuring that all major stakeholder's, i.e., government, private sector, and civil society, prioritise youth development and contribute towards identifying and implementing lasting solutions which address youth development challenges. Furthermore, the NYDA designs and implements programmes aimed at improving lives and opportunities available to youth. These programmes could be clustered as follows:

At an individual level (Micro level), the NYDA provides direct services to youth in the form of information provision, mentorship, skills development & training, entrepreneurial development & support, health awareness programmes and involvement in youth initiatives. At a community level (Meso Level), the NYDA encourages young people to be catalysts for change in their communities through involvement in community development activities, social cohesion activities and national youth service programmes and dialogue.

At a Provincial and National level (Macro Level), through its policy development, partnerships and research programmes, the NYDA facilitates the participation of youth in developing key policy inputs, which shape the socio-economic landscape of South Africa.

The National Youth Development Agency derives its mandate from the legislative frameworks, including the NYDA Act (54 of 2008), the National Youth Policy (2009-2020) and the draft Integrated Youth Development Strategy as adopted by the Youth Convention of 2006. The NYDA activities could be summarized as follows:

- 1.1 Lobby and advocate for integration and mainstreaming of youth development in all spheres of government, private sector and civil society.
- 1.2 Initiate, implement, facilitate and coordinate youth development programmes.
- 1.3 Monitor and evaluate youth development intervention across the board and mobilise youth for active participation in civil society engagements.

F. TERMS OF REFERENCE ADVERTISEMENT OF THE LEASE OF A SERVICE PROVIDER TO PROVIDE UMBRELLA FUND (PROVIDENT FUND), RISK BENEFITS AND MEDICAL AID CONSULTING SERVICES FOR THE NYDA FOR FIVE YEARS RENEWABLE FOR THREE PERIODS OF FIVE (5) YEARS.

1. PURPOSE AND OBJECTIVES OF THIS SUBMISSION

The purpose of this document is to request for tender for the of a service provider to provide umbrella fund (provident fund), risk benefits and medical aid consulting services for the NYDA for five (5) years renewable for three periods of five years based on performance.

2. BACKGROUND AND SCOPE OF WORK REQUIREMENTS

2.1 The NYDA intends appointing a service provider to render services for the following:

- 2.1.1. Provident Fund Administration,
- 2.1.2. Risk Benefit Administration, and
- 2.1.3. Consulting Medical Aid Services to the Agency

2.2 The Umbrella Fund, Risk Benefit and Medical Aid Consulting must meet the following:

2.2.1 Provident Fund Services
Assistance for the NYDA employees in terms of their provident fund portfolios.
Consulting services which include, but not limited to: • Regular product presentations and training, and • Communication, including newsletters, hot topics etc.
Strategic services which should include: • Year-end revision process, • Review of Profile of members, • Fund portfolio and option comparisons, • Legislative review and updates, and • Market trend analysis and forecasting. Reporting which should include, but not limited to: • Billing results and analysis quarterly (bidder to submit quarterly reports) • Submit members option reports quarterly, • Risk management, • Executive reporting, and • Benchmarking review.
Membership and contribution management.
Provide unique value-added services.
Submission of annual financial statements for NYDA Provident Fund.

2.2.2 Risk Benefit Services
Assistance for the NYDA employees in terms of their risk cover portfolios.
Consulting services which include, but not limited to: • Regular product presentations and training, and • Communication, including newsletters, hot topics etc.

Strategic services which should include:
• Year-end revision process, • Review of Profile of members, • Risk cover portfolio and option comparisons, • Legislative review and updates, and • Market trend analysis and forecasting.
Reporting which should include, but not limited to:
• Billing results and analysis, • Submit members option reports quarterly, • Risk management, • Executive reporting, and • Benchmarking review.
Membership and contribution management.
Provide unique value-added services.

2.2.3 Health Care Services /Medical aid services
Health Care consulting to the NYDA and its employees.
Medical aid membership consulting of the NYDA which should include, but not limited to, time on site, help desk services for the NYDA members, escalated query assistance, face-to-face consultations regarding membership options, site visits to address member's queries.
Consulting services which include, but not limited to:
• Independent broker advice (provide information on relationships with medical aid schemes), • Assistance for the NYDA employees in terms of their medical aid portfolios. • One-on-one consultation pertaining to medical aid cover, • Induction and on-going training, • Escalated query assistance, • Regular product presentations and training, and • Communication, including newsletters, hot topics etc. • Wellness day services
Strategic services which should include:
• Year-end revision process, • Review of Profile of members, • Scheme and option comparisons, • Legislative review and updates, and • Market trend analysis and forecasting.
Billing results and analysis,
• Submit members option reports quarterly, • Risk management, • Executive reporting, and • Benchmarking review.
Membership and contribution management.
Medical aid bill consolidation services.
Provide unique value-added services.

3. PROPOSAL CONTENT

3.1 Below Question Information (QI) should be responded on your proposal document /each bidder should submit a technical proposal that covers the following:

3.1.1 Company Structure / Profile / National Servicing Reach

- Please provide an organogram of your business services structure.
- Please provide an organogram of your business services structure expanded to the relevant team who would be dealing with the account.
- Consulting branch structure.
- Where is your head office situated?
- Do you have additional offices throughout South Africa? If so, please specify locations.
- From where will this account be serviced from for each of the services you provide?

3.1.2 Employment Equity / B-BBEE / Corporate Social Investments (CSI)

- Please provide a copy of your latest B-BBEE Scorecard.
- What is the level of your Fidelity Insurance?
- Are you restricted in the number of Fidelity Insurance claims you may lodge in a specific period?
- Please provide a copy of your Fidelity Insurance policy schedule.
- Do you have Professional Indemnity Cover? if so, please provide a copy of your policy schedule, showing your sum assured.
- Are you restricted in the number of Professional Indemnity claims you may lodge in a specific period?
- Does your liability limitation above (if applicable), affect the cover provided?

3.1.3 Corporate Governance

- Provide information on the Delegation of Authority within your organization.
- What are your procedures for resolution of client or member complaints?
- Please describe how your company complies with the principles described in the King IV report?

3.1.4 Reputational Issues / Clients Lost / References / Illegal Practices

- Within the last twelve months, how many times have you had to compensate a client financially, for an error in the provision of consulting services to their fund?
- Within the last twelve months, how many funds that you provide consulting services to, have had to pay fines to the Registrar for late submission of returns?
- Within the last twelve months, how many funds that you provide services to, have incurred penalties in respect of the late submission of PAYE, VAT or Tax on Retirement Funds?
- Within the last two years, how many times have you had to compensate a client financially, for incorrect advice given?

- Within the last two years, how many complaints have been submitted to the Pension Funds Adjudicator relating to any of your consulting services?
- How many clients have you gained in each of the last two years?
- How many clients have you lost in each of the last two years?
- Please provide reasons for each lost client (you need not mention client names).
- Please provide a disclosure statement of past and current bulking practices, including monetary gain derived thereon and steps taken to address the situation (bulking is the new buzzword in questionable practices among pension funds and their administrators. Bulking is when pension administrators put all their members' funds together to obtain preferential rates or to lower costs).

3.1.5 Main Focus Area / Target Market / Experience

- What is your core business focus?
- Which size of customer do you focus on?
- How many customers do you have in each of the business services you offer?
- How long have you been providing each of your business services?
- Please supply full details of the scope of all services that you are able to provide.
- How many consulting clients do you have in the following membership bands, split between defined benefit and defined contribution?
- How many health care clients do you consult to?

3.1.6 Human Capital / Retention Plans / Succession Planning

- How do you retain key staff in each of your business services (eg. Actuaries, Consultants, Investment Consultants)?
- Please describe how you do succession planning in each of your business services (e.g. Actuaries, Consultants, Investment Consultants)?
- Do you envisage employing additional staff if your bid for this account is successful?
- How do you ensure continuity of knowledge of clients' funds over a period of time, given that staff may leave your company and that you may attract new clients requiring re-allocation of resources?

3.1.7 Staff Education / Knowledge Resources / Participation in Industry Forums

- Does your company provide / offer financial support / provide bursaries to staff to further their industry-related qualifications
- Please describe your research capability.
- Do you hold seminars / training workshops / conferences?
- Do you publish industry related publications or newsletters?

3.1.8 Contribution to The Industry / Involvement / Innovation

- Does your company / Senior Staff actively participate and contribute on a technical level to industry forums like the Principal Officer association (POA), Pension Lawyers Association (PLA), Institute of Retirement Funds (IRF), Financial Planning Institute (FPI), etc? If so, please provide reasons why / why not? Answers should exclude sponsorships
- What innovative / industry first services or products have you brought into the industry for the benefit of the industry?

3.1.9 Achievements / Recognition / Awards / Distinguishing Factors / References / Competitive Advantage

- Please provide details of awards / industry recognition received by your company over the past 2 years
- What distinguishes your company from its competitors?

3.1.10 Fund details

- Umbrella Fund commencement date?
- FSB Fund Registration number?
- Privately Administered / Underwritten?
- Pension / Provident Fund?
- Number of Trustees?
- Number of Participating Employers?
- Number of Members?
- Total Assets?
- Service providers / Trustees / Fund officials
- Who is the Sponsor of the fund?
- Who administers the fund?
- Can the administration function be moved to another Administrator?
- Who provides consulting services to the fund / Trustees? Please provide name, qualifications, and experience and employer details.
- Can a participating employer also have their own benefit consultant?
- Who provides investment consulting service to the fund / Trustees? Please provide name, qualifications, experience and employer details.
- Can a participating employer also have their own investment consultant?
- Who is the fund's valuator? Please provide name, qualifications, and experience and employer details.
- Who is the Employer / Sponsor Trustees? Please provide name, qualifications and experience.

- Who are the Member Trustees / Independent Trustees? Please provide name, qualifications, and experience. (Please disclose any current or previous roles Employer / Sponsor).
- Please describe the process of how they are elected / appointed.
- Who are the fund's auditors and how and by whom are they appointed?
- Who is the fund's Principal Officer? Please provide name, qualifications and experience and describe any current or previous roles Employer / Sponsor.

3.1.11 Fund Management

- How frequently do the Trustees meet?
- Do the trustees have sub committees? If so, name these.
- How often does the subcommittee meet?
- Are management committees created for each participating employer? If so, are these optional?
- How often are management committees required to meet?
- Is there a forum in place such as an annual general meeting where member representatives can question the trustees on their performance and plans?

3.1.12 Fund investments

- Do the Trustees have an Investment Policy Statement (IPS) in place?
- Are fund investment decisions made solely by the Trustees or does each employer specific management committees have carte blanche to make investment portfolio decisions?
- Is there a default portfolio in place? If so, please describe its type and the investment managers used.
- How many different investment portfolios are allowed? Please detail what the cost implication on admin fees would be if more than say 5 investment managers are used.
- Are there any investment managers / portfolios that are not allowed? Please provide their names and reasons?
- Can daily pricing for certain clients be accommodated?
- Are there any asset-based fees payable to the administrator, the fund's benefit consultant, the fund's investment consultant or the participating employer's benefit consultant? If so, please provide detail of these fees under the "Costs" section.

3.1.13 Contributions

- How are contributions to the umbrella fund done, per fixed rand amount plans, as % of salary, etc.?
- How are costs deducted, inclusively or exclusively from employer's contribution?
- May members select flexible contribution levels?
- May additional voluntary contributions (AVC's) be made into the fund?

- Are employer reserve accounts allowed for?

3.1.14 Insured Risk Benefits

- Can each participant employer place risk with their own chosen underwriter, or is one underwriter used for the Fund?
- Are risk rates determined based on employer specific region / industry / other (please specify) criteria, or is a standard rating used for all participating employers?
- Will the administrator pay across risk premiums to the applicable insurers?

3.1.15 Communication

- How often are compliant benefit statements issued by the Fund?
- How often are Trustee reports issued to the members of the Fund?
- Do members and employers have internet access to benefit information?
- Does the Fund or its administrator have a member call-centre?
- What other communication is done by the Trustees?
- What communication will the members receive?
- What communication will the Management Committee receive?
- Does the sponsor/administrator receive any fees from any of the Asset Managers?
- Please provide a schedule of your service standards i.r.o the range of services you provide and turnaround times.
- How are the costs of the following items funded? (Paid for from investment earnings as and when they are incurred or pre-funded from contributions into an expense reserve):
 - Auditing:
 - Actuarial:
 - Consulting:
 - Trustees:
 - Any other costs:
- Are any of the above costs included in the fees levied by the fund?
- Provide details of any costs that will be levied to establish participation and transfer existing benefits from another fund.

3.1.16 Day-To-Day Consulting Standards and Turnaround Times

- Provide details of your standard turnaround times.
- Can clients influence these standards?
- How are clients kept informed of achievement of performance in relation to these standards?

3.1.17 Benefit Consulting

Detail the services you provide in respect of benefit consulting (for both defined benefit and defined contribution funds), as well as your consulting on general industry trends and the retirement fund environment.

3.1.18 Risk Benefit Consulting

Detail the services you provide in respect of risk benefits.

3.1.19 Secretarial Services

Detail the secretarial services you provide and, if not previously mentioned, the time standards associated with each aspect of this service

3.1.20 Transitional Arrangements

The Tenderer must in the implementation plan indicate timelines, milestones including how they will manage the transition from the current service provider.

4. ACCREDITATIONS COMPANY AND INDIVIDUALS

4.1 The Bidder must be accredited with the Council for Medical Schemes (CMS) and bidders are required to provide proof of registration / CMS accreditation (for the Company).

4.2 The Key Individuals of the Bidder must be fully and validly accredited with the Council for Medical Schemes and bidders are required to provide proof of registration / CMS accreditation (full Broker/ Apprentice).

4.3 The Bidder must be registered as a Financial Service Provider with the health benefits product and must provide proof of registration / Financial Sector Conduct Authority (FSCA) previously known as Financial Service Board (FSB) - and as well as:

4.3.1 Pension Funds Act Section 13B of the Pension Funds Act of 1956 requires persons who administer the investments of a pension fund on that fund's behalf to obtain the approval of the Registrar, and to comply with such conditions as the Registrar may prescribe. Valid Section 13B license (Key Individual (KI) accreditation and relevant consultants' accreditation)

4.3.2 FSCA Licences (Key Individual (KI) accreditation and relevant consultants' accreditation)

4.3.3 FSCA/FSB (Rep register) – manage updated register.

4.3.4 Record of Advice System/Compliance.

4.3.5 Regulatory Exams (RE) Accreditation - National Qualification Framework (NQF) Level 5 (minimum) - (Key Individual (KI) accreditation and relevant consultants' accreditation).

5. Tender submission Requirements

- One hardcopy must be the original submission, clearly marked "1 original and electronic copy on USB Disk
- All submissions must be delivered in individual envelopes.
- Bidders should take particular care to ensure that there are no discrepancies between all submissions to the NYDA. NYDA reserves the right to reject any tenders if there are discrepancies.
- Each individual envelope must be clearly marked with the following information:

- i. Description of the Submission: advertisement of the appointment of a service provider to provide umbrella fund (provident fund), risk benefits and medical aid consulting services for the NYDA for five (5) years renewable for three periods of five (5) years.
 - ii. Submission Tender Number: **RFP2022/06/RFP**
- Submissions that are faxed, sent via telex, and/ or electronic mail delivery will not be accepted.
 - All submissions received by NYDA will become the property of the NYDA and will not be returned to the respondent.
 - The submissions must be inserted into the **TENDER BOX** available at the Reception Area of NYDA Head Office, 54 Maxwell Drive Woodmead, Johannesburg. Woodmead North Office Park, Block A, NYDA Building between 08h00 am and 17h00 pm weekdays.
 - Respondents are invited to observe the closing date and time of the submission as per the advertisement.
 - Unsuccessful submissions will be informed in writing when the process is concluded.
 - A submission will be considered late if received after the specified date and time. Respondents are therefore strongly advised to ensure that submissions be despatched allowing enough time for any unforeseen events that delay the delivery of the submission.

6. PROPOSAL EVALUATION METHOD

STEP 1: Compliance/Eligibility

STEP 2: Technical/Functionality

STEP 3 PRICE and SPECIAL GOAL

6.1 COMPLIANCE/ELIGIBILITY EVALUATION

Bidders who do not meet the requirements below will be immediately disqualified.

NO	DESCRIPTION
1	A proof of registration as a vendor on the National Treasury Central Supply Database (CSD), which can be found at https://secure.csd.gov.za/ in compliance with National Treasury compliance paragraph 4.2 with instruction note 4a of 2016/2017
2	A proof that the bidder is in good standing with SARS. Such information will be verified through Central Supply Database (CSD) or using SARS e-filing pin in National Treasury compliance with instruction note 9 of 2017/2018 prior to the award of the bid.
3	SBD1 - Invitation to bid

NO	DESCRIPTION
4	SBD 4 - A fully completed and duly signed disclosure form. Should a conflict of interest be declared or identified, the bid would be declared non-responsive. NB Bidder must ensure all pages are complete and all questions answered, and to indicate not applicable (N/A) where appropriate.
5	A completed and signed pricing schedule using the template provided.
6	Proof of business location i.e. letter from the landlord, rental agreement, copy of utility bill in the name of the company or director, proof of ownership etc.
9	Submission of one (1) original and electronic copy on USB Disk
10	Proof of registration or Council for Medical Schemes (CMS) accreditation for the company
11	Valid Financial Sector Conduct Authority (FSCA) OR Financial Service Board accreditations (FSB) for Key Individuals
12	Key Individuals must have 13B License accreditation and relevant consultants' accreditation

6.2 Evaluation stage two (2): Functional evaluation

The bid/proposal will be evaluated for functionality and be rated as follows:

Category	Sub criteria	Total score	Score	Form of Evidence
Company experience for Medical Service, Provident fund and risk cover to corporate clients				
This sub criterion covers the Company Experience	Three references for each scope of work: (5 points for one reference per scope of work) a. Medical Services to corporate clients, b. Provident Fund Administration and c. Risk Cover provision.	45	45	Bidders must provide their current and past clients signed contactable reference letters for the similar work over the past 10 years.
	No references for each scope of work		0	
Personnel and Qualifications				
This criterion covers <u>Umbrella Fund Administrator</u>	<u>Umbrella Fund Administrator</u> Bidder must submit the following: - Curriculum Vitae (CV) indicating more than 7 years' experience; - Must have Qualifications – Financial Services / Wealth Management NQF L6 or higher and FSCA accreditation	25	10	Detailed Curriculum Vitae of the fund Administrator/ Broker / account manager with years of experience in group life/ insurance/ and or provident fund administration.
This criterion covers <u>Senior Administrator for Medical Aid Portfolio</u>	<u>Senior Administrator for Medical Aid Portfolio</u> . Bidder must submit the following: - Curriculum Vitae (CV) indicating more than 5 years' experience; - Must have Qualifications - registration with the Council of Medical Schemes (CMS). Proof that the individual has completed Regulatory Exam Level 5 and must be certified as wealth Manager.		5	
This criterion covers <u>Risk Cover Administrator</u>	<u>Risk Cover Administrator</u> Bidder must submit the following: - Curriculum Vitae (CV) indicating more than 7 years' experience and; - Must have a Qualifications - NQF L6 or higher and FSCA accreditation		10	
	No information provided		0	
Methodology and approach				
This criterion covers the acceptable level of quality control of medical services, Retirement Fund Administration and Risk Cover	The proposal is comprehensive, innovative and responded to all questions in section 3.1	30	30	Methodology and approach detailing the description of quality review processes in section 3.1 of the
	The proposal is good, responded to most (more than 51%) questions in section 3.1		20	

Category	Sub criteria	Total score	Score	Form of Evidence
	The proposal is adequate, address at least 40% of the questions in section 3.1		10	proposal content (3.1.1 to 3.1.18)
	No proposal or the proposal is poor, address less than 40% of the questions in section 3.1			
Total			100	

Bidder(s) are required to achieve a minimum of **80** points out of **100** points to proceed to stage 6.2 (Presentation to the NYDA).

6.3 PRESENTATION

Presentation criteria to the NYDA Evaluation Committee by short-listed bidders will be based on the following:

Table 2

ITEM	EVALUATION CRITERIA	DETAILED DESCRIPTION
1	Understanding of the Medical Aid industry and its trends.	Thorough understanding of the medical aid processes and functionality. Kept abreast of the latest development in the industry.
2	Understanding of the Retirement Fund industry and its trends.	Thorough understanding of the Retirement Fund processes and functionality. Kept abreast of the latest development in the industry.
3	Understanding of the Risk Cover industry and its trends.	Thorough understanding of the Risk Cover processes and functionality. Kept abreast of the latest development in the industry.
4	Methodology – Medical Aid	The proposed tried and tested approach and methodology of managing Medical Aid options and changes.
5	Methodology – Retirement Fund	The proposed tried and tested approach and methodology of managing Retirement Fund options and changes.
6	Methodology – Risk Cover	The proposed tried and tested approach and methodology of managing Risk Cover options and changes.
7.	Success evaluation criteria	A clear plan of how to educate and advise staff on medical aid benefits, Provident Fund and Risk Cover.

7. Evaluation stage three (3): Pricing and Specific Goals Assessment

7.1 Price instruction

- 7.1.1 Bidder must price according to the price schedule provided;
- 7.1.2 Breakdown on costs should be provided, where necessary;
- 7.1.3 The price schedule must be completed in non-erasable ink and the use of correction fluid/tape is not permitted;
- 7.1.4 All prices quoted will remain fixed and firm for the first twelve (12) months, thereafter the annual increase will be determined by Consumer Price Index (CPI) or negotiated with the successful bidder.
- 7.1.5 Prices tendered must be valid for 120 days;
- 7.1.6 Bidders are to bring the total amount from the pricing schedules above to the final summary and add the provision for tenant installation costs to total bid price
- 7.1.7 Pricing should include VAT and must be in South African Rand.
- 7.1.8 There are no cost implications for the NYDA and its employees for MEDICAL AID bidding.
- 7.1.9 The compensation of the successful bidder shall be as per the provisions of the Medical Aid Scheme Act, Act No. 131 of 1998.
- 7.1.10 Umbrella Fund and Risk Cover - All costs must be quoted as a rate including VAT based on staff complement. See Annexure B for number of employees for all the below items:
- 7.1.11 NYDA minimum staff complement is 605 employees **(see Annexure B)**.

7.2 Provident Fund:

Details	Year 1	Total Percentage
	Rate including VAT based on an average staff complement of 605	
Provident Fund		
Rate / Percentage (%)		

7.3 Risk

Benefits:

Details	Year 1	Total Percentage
	Rate including VAT based on an average staff complement of 605	
Death Benefit:		
Rate / Percentage (%)		
Educational Benefit:		
Rate / Percentage (%)		
Disability Benefit:		

Rate / Percentage (%)			
Funeral Benefit:			• Rate
Rate			for other
Total Percentage			items not
			listed above
			should be

- clearly spelled out.
- All rates must be VAT inclusive for all the above and other items quoted.

7.4 Investments

- Please provide TER (Total Expense Ration) and TIC (Total Income Cost).
- Please provide returns as at end of 30 March 2023, net and gross of Fees.

7.5 Price Evaluation

The tender with the lowest acceptable price will receive the maximum points allocated for price. The other tenderers will receive proportionately lesser points based on the following formula:

$$Ps = 80(1-(Pt-Pmin)/Pmin)$$

- Where: Ps = Points scored for comparative price of tender or offer under consideration;
- Pt = Comparative price of tender or offer under consideration; and
- Pmin = Comparative price of lowest acceptable tender or offer.

For Medical Aid Brokerage there are no cost implications for NYDA and its employees for this bid. The compensation of the successful Bidder shall be as per the provisions of the Medical Aid Scheme Act No. 131 of 1998.

7.6 SPECIFIC GOALS

A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender. 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 Preferential Procurement Policy Framework Act, the contract must be awarded to the tenderer scoring the highest points, unless objective criteria justify the award to another tenderer.

Specific Goals	Points
51% and more Youth Owned EME and or QSE	10 points
51% and more Women Owned EME and or QSE	5 points
51% and more owned by Disabled people	5 points

The following documents are required to claim preference points,

- Proof of ownership / shareholding (preferably CIPC documentation) inclusive of shareholding breakdown
- Shareholder Certificates
- Certified ID copies of shareholder(s)

- Proof of Disability (where applicable)

Tenderer failing to provide documentation for the allocation of preference points will not be disqualified, but'

- May only score point out of 80 for price
- Scores 0 points out of 10 for specific goals

8. SPECIAL CONDITION

- 8.1 NYDA reserves the right to withdraw or amend terms of reference/specifications by notice in writing by advertising in the media in which the tender was originally advertised prior to the closing date.
- 8.2 NYDA reserves the right not to award any of the tenders submitted.
- 8.3 The cost of preparing the tenders will not be reimbursed.
- 8.4 Shortlisted bidders may be invited for presentations.
- 8.5 Successful bidder will be required to sign a confidentiality/non-disclosure agreement.
- 8.6 NYDA reserves the right NOT to appoint any Service Provider or to withdraw this request for bids.
- 8.7 NYDA reserves the right to withdraw the awarding of the bid if the organisation and the successful bidder are unable to agree on the terms and conditions of a lease agreement within 60 calendar days of the awarding of this bid.
- 8.8 All contracts entered into by the organisation are subject to the attached general conditions of contract.
- 8.9 Any plans to prepare the premises to be fully legally compliant must be submitted as part of the required returnable documentation.
- 8.10 The successful bidder/ landlord must be prepared to execute the fit-out of the premises as a turnkey solution as per designs and specifications prepared by its Professional team as instructed by NYDA.

9. REASONS FOR REJECTION

- 9.1 NYDA reserves the right to contact references during the evaluation and adjudication process. Any effort by a bidder to influence the evaluation, comparison or award decisions in any manner, may result in rejection of the quote/proposal concerned.
- 9.2 Bidders shall not contact NYDA on any matter pertaining to the tender from the time the tender is closed to the time the tender has been adjudicated. The results of all tenders will be published by the NYDA in the municipality website. Any effort by a tenderer to influence the tender evaluation, tender comparisons, or tender award decisions in any matter, may result in rejection of the bidder concerned.
- 9.3 Bidders shall not contact NYDA on any matter pertaining to the tender from the time the tender is closed to the time the tender has been adjudicated. The results of all tenders will be published by the NYDA in the municipality website. Any effort by a tenderer to influence the tender evaluation, tender comparisons, or tender award decisions in any matter, may result in rejection of the bidder concerned.
- 9.4 The NYDA shall reject a submission if the bidder has committed a proven fraud and/or corrupt act in competing for a particular contract.
- 9.5 NYDA may disregard the bid of any Tenderer if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.

10. REVIEW PEOCESS

- 10.1 In order to evaluate and adjudicate bids effectively, it is imperative that bidders submit responsive bids. To ensure a bid will be regarded as responsive it is imperative to comply with all conditions pertaining to the bid and to complete all the mandatory fields and questionnaires.
- 10.2 Documents submitted on time by bidders shall not be returned and shall remain the property of the NYDA.
- 10.3 All bids duly lodged will be evaluated in accordance with the evaluation criteria.
- 10.4 NYDA may require presentations from short-listed bidders as part of the bid process.
- 10.5 All tenders duly lodged as per the submission requirements will be evaluated in accordance with the stipulated evaluation criteria.

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.

2. Bidder's declaration

- 2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest¹ in the enterprise, employed by the state?
- YES/NO
- 2.1.1 If so, furnish particulars of the names, individual identity numbers, and, if applicable, state employee numbers of sole proprietor/ directors / trustees / shareholders / members/ partners or any person having a controlling interest in the enterprise, in table below.

Full Name	Identity Number	Name of State institution

- 2.2 Do you, or any person connected with the bidder, have a relationship with any person who is employed by the procuring institution?
- YES/NO
- 2.2.1 If so, furnish particulars:
-
-
- 2.3 Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract?
- YES/NO
- 2.3.1 If so, furnish particulars:
-
-

3 DECLARATION

¹ 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.

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

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium² will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.
- 3.6 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 and 3 ABOVE IS CORRECT.
I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

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

² 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.

SBD 6.1

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

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

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

1. GENERAL CONDITIONS

- 1.1 The following preference point systems are applicable to invitations to tender:
- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
 - the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).
- 1.2 **To be completed by the organ of state**
(delete whichever is not applicable for this tender).
- a) The applicable preference point system for this tender is the **80/20** preference point system.
- 1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:
- (a) Price; and

(b) Specific Goals.

1.4 To be completed by the organ of state:

The maximum points for this tender are allocated as follows:

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

- 1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.
- 1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

2. DEFINITIONS

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

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

3.1.1 THE 80/20 PREFERENCE POINT SYSTEMS

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

80/20

$$Ps = 80 \left(1 - \frac{Pt - P_{min}}{P_{min}} \right)$$

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

P_{min} = Price of lowest acceptable tender

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

3.2.1. **POINTS AWARDED FOR PRICE**

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

80/20

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

Where

P_s = Points scored for price of tender under consideration
P_t = Price of tender under consideration
P_{max} = Price of highest acceptable tender

4. **POINTS AWARDED FOR SPECIFIC GOALS**

- 4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:
- 4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—
- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
 - (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,
- then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

Table 1: Specific goals for the tender and points claimed are indicated per the table below.
(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.
Note to tenderers: The tenderer must indicate how they claim points for each preference point system.)

The specific goals allocated points in terms of this tender	Number of points allocated (80/20 system)	Number of points claimed (80/20 system)
---	--	--

	(To be completed by the organ of state)	(To be completed by the tenderer)
At least 51% owned by people that are women	10	
At least 50% owned by disabled people	05	
At least 51% owned by black people that are youth	05	

DECLARATION WITH REGARD TO COMPANY/FIRM

- 4.3. Name of company/firm.....
- 4.4. Company registration number:
- 4.5. TYPE OF COMPANY/ FIRM
- ☐ Partnership/Joint Venture / Consortium
 - ☐ One-person business/sole propriety
 - ☐ Close corporation
 - ☐ Public Company
 - ☐ Personal Liability Company
 - ☐ (Pty) Limited
 - ☐ Non-Profit Company
 - ☐ State Owned Company
- [TICK APPLICABLE BOX]
- 4.6. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I acknowledge that:
- i) The information furnished is true and correct;
 - ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
 - iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
 - iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
 - (a) disqualify the person from the tendering process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted

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

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

SIGNATURE(S) OF TENDERER(S)

SURNAME AND NAME:
DATE:
ADDRESS:
.....
.....
.....
.....

ANNEXURE A

GOVERNMENT PROCUREMENT
GENERAL CONDITIONS OF
CONTRACTNOTES

The purpose of this document is to:

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

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

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

TABLE OF CLAUSES

- 1. Definitions**
- 2. Application**
- 3. General**
- 4. Standards**
- 5. Use of contract documents and information; inspection**
- 6. Patent rights**
- 7. Performance security**
- 8. Inspections, tests and analysis**
- 9. Packing**
- 10. Delivery and documents**
- 11. Insurance**
- 12. Transportation**
- 13. Incidental services**
- 14. Spare parts**
- 15. Warranty**
- 16. Payment**
- 17. Prices**
- 18. Contract amendments**
- 19. Assignment**
- 20. Subcontracts**
- 21. Delays in the supplier's performance**
- 22. Penalties**
- 23. Termination for default**
- 24. Dumping and countervailing duties**
- 25. Force Majeure**
- 26. Termination for insolvency**
- 27. Settlement of disputes**
- 28. Limitation of liability**
- 29. Governing language**
- 30. Applicable law**
- 31. Notices**
- 32. Taxes and duties**
- 33. National Industrial Participation Programme (NIPP)**

General Conditions of Contract

1. Definitions - The following terms shall be interpreted as indicated:

1.1 “Closing time” means the date and hour specified in the bidding documents for the receipt of bids.

1.2 “Contract” means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.

1.3 “Contract price” means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.

1.4 “Corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.

1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.

1.6 “Country of origin” means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.

1.7 “Day” means calendar day.

1.8 “Delivery” means delivery in compliance of the conditions of the contract or order.

1.9 “Delivery ex stock” means immediate delivery directly from stock actually on hand.

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

1.11 "Dumping" occurs when a private enterprise abroad markets its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.

1.12 "Force majeure" means an event beyond the control of the 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.

1.13 "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.

1.14 "GCC" means the General Conditions of Contract.

1.15 "Goods" means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.

1.16 "Imported content" means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.

1.17 "Local content" means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.

1.18 "Manufacture" means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.

1.19 "Order" means an official written order issued for the supply of **goods or works or the rendering of a service.**

1.20 "Project site," where applicable, means the place indicated in **bidding documents.**

1.21 "Purchaser" means the organization purchasing the goods.

1.22 "Republic" means the Republic of South Africa.

1.23 "SCC" means the Special Conditions of Contract.

1.24 "Services" means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance,

training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.

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

2. Application -

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

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

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

3. General –

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

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

4. Standards -

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

5. Use of - contract documents and information; inspection.

5.1 The 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.

5.2 The supplier shall not, without the purchaser’s prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.

5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier’s performance under the contract if so required by the purchaser.

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

6. Patent - rights

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.

7. Performance - security

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

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

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

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

(b) a cashier's or certified cheque

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

8. Inspections, tests – and analyses **8.1** All pre-bidding testing will be for the account of the bidder.

8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department.

8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.

8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract

requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.

8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 donot comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connectionwith these inspections, tests or analyses shall be defrayed by the supplier.

8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.

8.7 Any contract supplies may on or after delivery be inspected, tested or analyzed and may be rejected if found not to comply withthe requirements of the contract. Such rejected supplies shall be heldat the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returnedat the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.

8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of theconditions thereof, or to act in terms of Clause 23 of GCC.

9. Packing -

9.1 The supplier shall provide such packing of the goods as is requiredto 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 transitand exposure to extreme temperatures, salt and precipitation duringtransit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods'final destination and the absence of heavy handling facilities at all points in transit.

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

10. Delivery and document -

10.1 Delivery of the goods shall be made by the supplierin accordance with the terms specified in the contract. The details of shipping and/or other documents to be furnished by the supplier are specified in SCC.

- 11. Insurance -** **10.2 Documents to be submitted by the supplier are specified in SCC.**
11.1 The goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the SCC.
- 12. Transportation -** **12.1** Should a price other than an all-inclusive delivered price be required, this shall be specified in the SCC.
- 13. Incidental services -** **13.1** The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:
- 13.1.1 performance or supervision of on-site assembly and/or commissioning of the supplied goods;
 - 13.1.2 furnishing of tools required for assembly and/or maintenance of the supplied goods;
 - 13.1.3 furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
 - 13.1.4 performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
 - 13.1.5 training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.
- 13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.**
- 14. Spare parts -** **14.1** As specified in SCC, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:
- (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.
- 15. Warranty -** **15.1** The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship

(except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal

use of the supplied goods in the conditions prevailing in the country of final destination.

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

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

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

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

16. Payment -

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

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

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

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

17. Prices -

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

**18 Contract –
Amendments**

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

19. Assignment -

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

20. Subcontracts -

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

**21. Delays in the –
supplier's performance**

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

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

21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.

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

21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.

21.6 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without cancelling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods 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 claim damages from the supplier.

22. Penalties -

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

**23. Termination –
for default**

23.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the 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 21.2;
- (b) if the Supplier fails to perform any other obligation(s) under the contract; or
- (c) if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

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

23.3 Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.

23.4 If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the intended penalty as not objected against and may impose it on the supplier.

23.5 Any restriction imposed on any person by the Accounting Officer / Authority will, at the discretion of the Accounting Officer / Authority, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Accounting Officer / Authority actively associated.

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

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

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

24. Anti-dumping – duties and rights

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

25. Force Majeure - 25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the 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.

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.

26. Termination – for insolvency

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

**27. Settlement of –
Disputes**

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

27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by 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.

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

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

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

- (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
- (b) the purchaser shall pay the supplier any monies due the supplier.

**28. Limitation –
of liability**

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

- (a) the 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.

**29. Governing –
language**

29.1 The contract shall be written in English. All correspondence and **other documents pertaining to the contract that is exchanged by the parties shall also be written in English.**

30. Applicable law -

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

31. Notices -

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

31.2 The time mentioned in the contract documents for performing anyact after such aforesaid notice has been given, shall be reckoned fromthe date of posting of such notice.

32. Taxes and duties - 32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.

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

32.3 No contract shall be concluded with any bidder whose tax mattersare not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.

33. National - 33.1 The NIP Programme administered by the Department of Trade andIndustrial Industry shall be applicable to all contracts that are subject to the NIP **Participation** obligation.
(NIP) Programme

General Conditions of Contract (revised February 2008)