

**PART A
INVITATION TO BID**

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)					
BID NUMBER:	CSOS003-2021	CLOSING DATE: 25 MAY 2021		CLOSING TIME:	12:00PM
DESCRIPTION	THE APPOINTMENT OF A PANEL OF ATTORNEYS TO ASSIST THE COMMUNITY SCHEMES OMBUD SERVICE FOR A PERIOD OF TWO (2) YEARS.				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
Building 4 Berkley Office Park, 8 Bauhinia Street, Highveld Techno Park, Centurion					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	Jabulile Sithole		CONTACT PERSON	Lihle Ntombela	
TELEPHONE NUMBER	(010) 593 0533/ 066 302 5937		TELEPHONE NUMBER	(010) 593 0533/ 067 417 0581	
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS	tenders@csos.org.za		E-MAIL ADDRESS	Lihle.Ntombela@csos.org.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 B:3]
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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

1. BID SUBMISSION:

- 1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
- 1.2. **ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED– (NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.**
- 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
- 1.4. **THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).**

2. TAX COMPLIANCE REQUIREMENTS

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

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

SIGNATURE OF BIDDER:

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

DATE:

TAX CLEARANCE CERTIFICATE REQUIREMENTS

It is a condition of bid that the taxes of the successful bidder must be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the bidder's tax obligations.

- 1 In order to meet this requirement bidders are required to complete in full the attached form TCC 001 "Application for a Tax Clearance Certificate" and submit it to any SARS branch office nationally. The Tax Clearance Certificate Requirements are also applicable to foreign bidders / individuals who wish to submit bids.
- 2 SARS will then furnish the bidder with a Tax Clearance Certificate that will be valid for a period of 1 (one) year from the date of approval.
- 3 The original Tax Clearance Certificate must be submitted together with the bid. Failure to submit the original and valid Tax Clearance Certificate will result in the invalidation of the bid. Certified copies of the Tax Clearance Certificate will not be acceptable.
- 4 In bids where Consortia / Joint Ventures / Sub-contractors are involved, each party must submit a separate Tax Clearance Certificate.
- 5 Copies of the TCC 001 "Application for a Tax Clearance Certificate" form are available from any SARS branch office nationally or on the website www.sars.gov.za.
- 6 Applications for the Tax Clearance Certificates may also be made via eFiling. In order to use this provision, taxpayers will need to register with SARS as eFilers through the website www.sars.gov.za.

Application for a Tax Clearance Certificate

Purpose

Select the applicable optionTenders ☐ Good standing ☐

If "Good standing", please state the purpose of this application

Particulars of applicant

Name/Legal name (Initials & Surname or registered name)			
Trading name (if applicable)			
ID/Passport no		Company/Close Corp. registered no	
Income Tax ref no		PAYE ref no	7
VAT registration no	4	SDL ref no	L
Customs code		UIF ref no	U
Telephone no	CODE - NUMBER	Fax no	CODE - NUMBER
E-mail address			
Physical address			
Postal address			

Particulars of representative (Public Officer/Trustee/Partner)

Surname			
First names			
ID/Passport no		Income Tax ref no	
Telephone no	CODE - NUMBER	Fax no	CODE - NUMBER
E-mail address			
Physical address			

Tender number

Estimated Tender amount R ,

Expected duration of the tender year(s)

Date started	Date finalised	Principal	Contact person	Telephone number	Amount

Are you currently aware of any Audit investigation against you/the company?.....

If "YES" provide details

YES	NO
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I the undersigned confirm that I require a Tax Clearance Certificate in respect of or .

I hereby authorise and instruct to apply to and receive from SARS the applicable Tax Clearance Certificate on my/our behalf.

Signature of representative/agent

- -

Date

Name of representative/agent

I declare that the information furnished in this application as well as any supporting documents is true and correct in every respect.

Signature of applicant/Public Officer

C

C

Y

Y

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D

D

Date

Name of applicant/
Public Officer

1. It is a serious offence to make a false declaration.
2. Section 75 of the Income Tax Act, 1962, states: Any person who
 - (a) fails or neglects to furnish, file or submit any return or document as and when required by or under this Act; or
 - (b) without just cause shown by him, refuses or neglects to-
 - (i) furnish, produce or make available any information, documents or things;
 - (ii) reply to or answer truly and fully, any questions put to him ...As and when required in terms of this Act ... shall be guilty of an offence ...
3. **SARS will, under no circumstances, issue a Tax Clearance Certificate unless this form is completed in full.**
4. Your Tax Clearance Certificate will only be issued on presentation of your South African Identity Document or Passport (Foreigners only) as applicable.



TERMS OF REFERENCE

**REQUEST FOR PROPOSALS TO SERVE ON THE PANEL OF ATTORNEYS AND RENDER LEGAL SERVICES
TO THE COMMUNITY SCHEMES OMBUD SERVICE FOR A PERIOD OF TWO (2) YEARS.**

CLOSING DATE AND TIME: 25 May 2021 at 12h00pm

BID VALIDITY PERIOD: 120 DAYS

TENDER BOX ADDRESS:

Building 4

Berkley Office Park

No. 8 Bauhinia Street

Highveld Techno Park

Centurion

1. TERMS AND CONDITIONS

This Request for Proposal (RFP) has been compiled by the CSOS and is made available to Bidders subject to the following terms and conditions, which Bidders are deemed to acknowledge and accept:

- 1.1 A Bid submitted in response to this RFP will constitute a binding offer which will remain binding and irrevocable for a period of one hundred and twenty (120) Days from the date of submission to the CSOS.
- 1.2 Unless or until a binding contract is concluded between the CSOS and the successful Bidder, the offer constituted by the Bid will be deemed not to have been accepted and no agreement will be deemed to be reached with any Bidder.
- 1.3 The CSOS reserves the right to amend, modify, withdraw or terminate this RFP or any of the requirements set out herein at any time (and from time to time), without prior notice and without liability to compensate or reimburse any Bidder or person.
- 1.4 Should this RFP be amended, the CSOS undertakes to publicize or send each Bidder in writing the amended RFP. No oral amendments by the Bidder or the CSOS shall be considered.
- 1.5 It is compulsory for a Bidder submitting a bid to be registered on the National Treasury's Central Supplier Database ("the CSD") and ensure that it remains registered for the duration of the services and/or contract, if successful.
- 1.6 The Bidder needs to ensure that it is tax compliant at the time of submitting its Bid and remains tax compliant for the duration of the contract and/or services, if successful, and undertakes to provide supporting documentation issued by the South African Revenue Services ("SARS") confirming it is tax compliant upon request by the CSOS.
- 1.7 The CSOS reserves the right to conduct site inspections or call for supporting documentation in order to confirm any information provided by a Bidder in its response to this Bid.
- 1.8 This RFP is not intended to form the basis of a decision to enter into any transaction with the CSOS, and does not constitute an offer or recommendation to enter into such transaction, or an intention to enter into any legal relationship with any person.
- 1.9 Neither the CSOS or any of its respective directors, officers, employees, agents, representatives or advisors will assume any responsibility for any costs or expenses incurred by any party in or associated with preparing or submitting a Bid in response to this RFP.
- 1.10 No entity may be involved, whether directly or indirectly, in more than one Bid in response to this RFP. Failure to comply with this requirement may, within the sole discretion of the CSOS, result in disqualification of the relevant entity.

- 1.11 Any material change in the control and/or composition of any Bidder or any core member of a Bidder after submission of a Bid, shall be brought to the attention of the CSOS Supply Chain Management (“SCM”) Section in writing. The CSOS shall be the sole arbiter as to what constitutes a material change in the control and/or composition of any Bidder and may in its sole discretion disqualify the Bidder from any further participation in the bid process.
- 1.12 Any requirement set out in this RFP which stipulates the form and/or content of any aspect of a Bid, is stipulated for the sole benefit of the CSOS, and unless the contrary is expressed, may be waived by the CSOS in its sole discretion at any stage in the bid process.
- 1.13 The CSOS and its advisors shall rely on a Bid as being accurate and complete in relation to the information and proposals provided therein by the Bidders.
- 1.14 All Bids submitted to CSOS shall become the property of the CSOS and will not be returned to the Bidders. The CSOS will make all reasonable efforts to maintain information contained in proposals in confidence.
- 1.15 A Bid submitted by the Bidder shall be considered irregular if it shows any omissions, or irregularities of any kind. However, the CSOS reserves the right to waive any irregularities and to make an award in the best interest of the organization.
- 1.16 The CSOS reserves the right to accept or reject in part or whole any Bid submitted, and to waive any technicalities if this is in the best interest of the organization.
- 1.17 The CSOS reserves the right to require a Bidder to provide a formal presentation of its RFP at a date and time to be determined by the CSOS. The CSOS shall provide adequate instructions and clarification regarding the purpose and scope of the presentation. All expenses shall be borne by the Bidder.
- 1.18 In this RFP, the words “service provider”, “supplier” will be used interchangeably to refer to the Bidder.
- 1.19 All costs associated with the preparation and submission of the Bid remain the responsibility of the Bidder. The costs shall not be chargeable to the CSOS by the successful or unsuccessful Bidder.
- 1.20 All Bids must be formulated and submitted in accordance with the requirements of this RFP.
- 1.21 Bids received after the closing date and time as specified in this RFP shall be rejected.

2 INTRODUCTION

The Community Schemes Ombud (CSOS) Service is established in terms of the Community Scheme Ombud Service Act, 2011 [Act 9 of 2011) to regulate the conduct of parties within community schemes and to ensure their good governance. In order to deliver on its mandate, key amongst the priorities of the organisation are:

- To establish a world-class dispute resolution service within community schemes characterised by organisational excellence and a conducive organisational culture;
- To promote good governance of community schemes by developing and implementing appropriate guidelines to enhance stability and harmonious relations amongst the parties;
- To roll-out massive educational campaigns to educate and train stakeholders within community schemes and the public at large;
- To enhance community schemes tenure as alternative tenure option; and
- To develop and implement appropriate organisational systems, controls and measures to enhance financial, economic and organisational efficiency.

3. PROJECT PURPOSE

3.1 The CSOS seeks to establish a Panel of Attorneys by appointing firms of Attorneys with suitable knowledge and expertise to provide various legal services to the organization.

3.2 The Panel of Attorneys will ensure that the CSOS has easy access and availability, on an “as and when required” basis, to qualified law firms that will assist the CSOS execute its mandate in an efficient and effective manner.

3.3 The purpose of this RFP is, therefore, to outline the CSOS’s requirements and criteria for the appointment of such suitably qualified firms of Attorneys to the Panel of Attorneys for a period of two (2) years.

4 LEGAL EXPERTISE AND EXPERIENCE

4.1 The firm of Attorneys must have a working knowledge in, amongst others, any of the following areas of law and indicate their area(s) of specialization in their Proposals:

- 4.1.1 Public Finance Management Legislative Framework;
- 4.1.2 Debt Collection;
- 4.1.3 Constitutional and Administrative Law;
- 4.1.4 Information Technology Law;

- 4.1.5 Intellectual Property Law;
- 4.1.6 Sectional Title Schemes and Community Schemes Regulations;
- 4.1.7 Property Law and Conveyancing;
- 4.1.8 Labour Law;
- 4.1.9 Company Law;
- 4.1.10 Corporate Governance principles and best practices;
- 4.1.11 Insolvency Law;
- 4.1.12 Law of Contract;
- 4.1.13 Law of Insurance;
- 4.1.14 Law of Damages;
- 4.1.15 Consumer Law;
- 4.1.16 Interpretation of Statutes;
- 4.1.17 Access to Information Regulatory Framework; and
- 4.1.18 Protection of Personal Information Regulatory Framework.

5 SCOPE OF WORK

- 5.1 The successful firms of Attorneys will, as and when required by the CSOS, render legal services on a wide range of specialized areas, including but not limited to:
 - 5.1.1 Representing and acting on behalf of the CSOS in litigation matters before various Courts including handling applications for Interdicts against defaulting community schemes;
 - 5.1.2 Provision of Corporate, Commercial and Regulatory Compliance legal advice;
 - 5.1.3 Reviewing, Negotiating and Drafting Contracts;
 - 5.1.4 Chairing Employee Disciplinary Hearings;
 - 5.1.5 Representing the CSOS during Employee Disciplinary Hearings;
 - 5.1.6 Representing and acting on behalf of the CSOS at the Commission for Conciliation Mediation and Arbitration (CCMA) as well as Labour Courts;
 - 5.1.7 Representing and acting on behalf of the CSOS in Arbitrations and other Alternative Dispute Resolution platforms and Quasi-Judicial Forums;
 - 5.1.8 Representing and acting on behalf of the CSOS by chairing and resolving disputes lodged with the CSOS in terms of the Act;
 - 5.1.9 Investigation of cases or any matter falling within their area of specialization;
 - 5.1.10 Debt Collection;
 - 5.1.11 Legislative Review and Drafting;
 - 5.1.12 Training on various pieces of legislation and any other related legal issues; and

5.1.13 Conducting Legal Due Diligence.

6 DOCUMENTS TO BE SUBMITTED

- 6.1 **Bidders must submit the following Mandatory documents** and indicate if the documents have been submitted.
- 6.2 **All certified documents should not be older than 6 months from the date of closing of this tender and must be dated by the Commissioner of Oaths.**

NO.	DECSRIPTION	COMPLY (✓)	NOT COMPLY (✓)
6.1.1	<u>A company profile</u> of the firm stating when the firm was established <u>and its area(s) of specialization.</u>		
6.1.2	<u>Certified copies of Admission as an Attorney and a Right of Appearance in the High Court certificates</u> for each Lead Attorney (Director) and Team Members (where applicable).		
6.1.3	<u>A certified copy of a valid Attorney's Fidelity Fund certificate</u> issued in terms of the Legal Practice Act (Act No.28 of 2004 as amended) for the Lead Attorney (Director).		
6.1.4	<u>Certified copy of a B-BBEE Certificate or Sworn Affidavit</u>		
6.1.5	<u>Certified copy of a letter of good standing from the relevant Legal Practice Council</u> (not older than 6 months from the date of closing of this tender) for each Lead Attorney who will be attending to the CSOS matters.		

- 6.3 The Bidder must also submit the following documents:

- 6.3.1 Curriculum Vitae ("CV") of the Lead Attorney and Team members (together with certified copies of qualifications) containing the following:
- 6.3.1.1 Area specialization within the fields stated in section 3 above;
 - 6.3.1.2 Years of experience in the identified area of specialization;

6.3.1.3 A copy of a letter of Good Standing from the relevant Legal Practice Council for the Lead Attorney; and

6.3.1.4 Five (5) projects and/or matters undertaken by the Lead Attorney in the last three (3) years.

6.3.2 Five (5) reference letters(dated) from clients to whom the Bidder/Firm has provided legal services listed in the identified areas of specialization in the last three (3) years. Reference letters must be on the client's letterhead and signed off by an authorized delegated employee of the client, and should indicate the following, amongst others:

1	Overall quality of work delivered
2	Date of engagement
3	Turn around time
4	Matter management
5	Frequency of interactions between the attorneys and the client

6.4 Company Organogram indicating roles of key personnel; directors and supporting staff members.

6.5 A detailed proposal, outlining the intended/proposed approach and methodology which clearly addresses the bid requirements as stipulated in this RFP including skills transfer & development, the area of specialization and the scope of work.

6.6 Locality: The Firm of Attorneys must indicate their place of business within a province including other regional offices within the Republic of South Africa as follows:

Item No.	Province	Place of Business (Physical Address)	Contact Person	Office Number /Mobile Number	Email Address
1	Eastern Cape				
2	Free State				
3	Gauteng				

4	Kwa-Zulu Natal				
5	Limpopo				
6	Mpumalanga				
7	Northern Cape				
8	North West				
9	Western Cape				

7 SPECIAL TERMS AND CONDITIONS

7.1 The following are the special terms and conditions applicable to this bid:

- 7.1.1 The successful bidder's appointment to the Panel of Attorneys will be for a period of two (2) years, which shall be subject to performance review by the CSOS as set out in the Service Level Agreement concluded between the CSOS and the successful bidder.
- 7.1.2 Each successful bidder be required to sign a Service Level Agreement prior to providing the Services.
- 7.1.3 If the CSOS and the successful bidder do not reach consensus on the Service Level Agreement, the said firm will cease to be on the Panel of Attorneys with immediate effect ("Suspensive Condition").
- 7.1.4 The successful bidder will be instructed to provide Services as and when required. While the CSOS will use reasonable endeavours to achieve a fair allocation of work to the firms

of Attorneys on the Panel of Attorneys, the successful bidder acknowledges that their appointment to the Panel does not guarantee allocation of work.

- 7.1.5 The CSOS will as and when it requires the Services, in its sole discretion, issue an instruction letter to any firm of Attorneys on the Panel of Attorneys.
- 7.1.6 The CSOS may, in its sole discretion, instruct a matter or any part thereof to more than one firm of Attorneys.
- 7.1.7 A firm of Attorneys assigned any work may not cede, assign or sub-contract any part thereof to any third party unless with the prior written consent of the CSOS.
- 7.1.8 Where a firm of Attorneys, is required to appoint a correspondent attorney, it shall appoint Attorneys on the Panel and the correspondent fees shall not exceed the CSOS Tariff of Fees. In this regard, the CSOS will provide the firm of Attorneys with the relevant details of the firm of Attorneys on the Panel, who are located in the said area. Where there are no Attorneys on the Panel in a specific area, the instructed Attorneys shall endeavor to negotiate fees which do not exceed the CSOS Tariff of Fees.
- 7.1.9 Service delivery levels and quality of work will be a critical factor for allocating work to the firm of Attorneys on the Panel.
- 7.1.10 The successful firms of Attorneys shall report directly to the Legal Services Manager or any person delegated by the CSOS in writing with regard to finalizing court papers, further instructions, status update reports, all administration pertaining to any particular instruction and any matters arising from this RFP.
- 7.1.11 The CSOS shall be entitled in its sole discretion, to remove a successful firm of Attorneys from the Panel of Attorneys before the expiry of the two (2) years period by written notice for non-compliance with any obligation contained in this RFP, applicable laws and/or breach of the Service Level Agreement and recall all the files in the firm of Attorneys' possession.
- 7.1.12 Notwithstanding the establishment of a Panel of Attorneys, the CSOS reserves the right to procure the provision of legal services from any firm of Attorneys outside the Panel in accordance with applicable laws.

8 BROAD BASED BLACK ECONOMIC EMPOWERMENT

- 8.1 The CSOS is required to ensure that its procurement is consistent with the Preferential Procurement Policy Framework Act 5 of 2000, the Broad Based Black Economic Empowerment Act 53 of 2003 and the Regulations to the aforementioned legislative frameworks.
- 8.2 The CSOS recognizes Black Economic Empowerment as a key tool towards increasing meaningful participation of black owned businesses in the economy to ensure their sustainability and contribution to job creation. Black Economic Empowerment also builds the capacity of black businesses positioning to compete in a free market economy.
- 8.3 To that extent, the CSOS prioritizes procurement of goods and services from businesses owned by certain designated groups including businesses owned by black people and women.
- 8.4 As a result, Broad Based Black Economic Empowerment is a material business imperative for the CSOS and the successful firm of Attorneys acknowledges that the allocation of work on the Panel may, at the CSOS's sole discretion, be preferentially allocated to law firms with a higher B-BBEE rating at the time of issuing an instruction, with specific preference for firms of Attorneys owned by black people and women.
- 8.5 The CSOS may require a firm of Attorneys to include a black and/or female Attorney as Lead Attorney on any of the matters allocated to the firm of Attorneys.
- 8.6 The successful firm of Attorneys shall, notwithstanding the above, of its volition, endeavour to allocate or ensure inclusion of black and female Attorneys on matters allocated by the CSOS in order to further the objectives of B-BBEE.
- 8.7 The successful firm of Attorneys will, as part of a black empowerment imperative, also be expected to brief black and/or female Junior and/or Senior Advocates as requested from time to time. In this regard, the firm of Attorneys shall confer with the CSOS prior to briefing any Senior or Junior Advocate and on the respective fees.
- 8.8 The B-BBEE status of the firm of Attorneys is the level reflected in the Verification Certificate or sworn affidavit submitted with the firm's bid by the closing date thereof. In this regard, the successful firm of Attorneys shall be required annually, before or on the expiration of the Verification Certificate, to deliver to the CSOS, a renewed Verification Certificate.
- 8.9 If for any reason whatsoever there is a change in the B-BBEE status in the ownership composition of the firm of Attorneys at any time subsequent to its appointment on the Panel, that adversely affects its B-BBEE status (drops from the initial level), the firm shall immediately inform the CSOS of such change and the corrective measures it will implement to regain its initial B-BBEE status or improve thereon. In this regard, if there is an adverse change (drop from the initial level) to

the successful firm of Attorneys' B-BBEE status, the CSOS reserves its rights to terminate the Service Level Agreement, in its sole discretion.

8.10 As part of B-BBEE, the CSOS may in respect of certain instructions or matters, request a firm of Attorneys to enter into a twinning agreement with a small or medium size firm of Attorneys as determined by the CSOS from time to time.

9 TRAINING, SKILLS DEVELOPMENT AND SKILLS TRANSFER TO THE CSOS

9.1 The successful firm of Attorneys undertakes to provide the CSOS with continuous Legal Education and Training, on reasonable notice from the CSOS, which shall include but not be limited to the provision of seminars, lectures, newsletters, workshops and regular legislative, case law and other updates. The firm of Attorneys shall provide such continuous legal education and training at no cost to the CSOS.

9.2 The CSOS may invite other firms of Attorneys on the Panel to attend or present at such seminars, workshops or lectures.

9.3 The successful firm of Attorneys undertakes to contribute towards Skills Development and Skills Transfer at no additional costs to the CSOS. Such a skills development and transfer programme may take the form of but not limited to:

9.3.1 the absorption of CSOS legal interns and other staff for article of clerkship to enable them towards qualification for admission as an Attorney;

9.3.2 involving or working with CSOS Legal Staff to enable them to gain exposure, skills and experience in certain fields of law or transactions;

9.3.3 secondment of CSOS Legal Staff to work on certain matters together with appropriately qualified and experienced staff of the firm of Attorneys.

10 PRICE

10.1 The bidder should include their Fee Structure under the following categories:

Category	Post Admission Experience	Hourly Rate
Senior Director	10 Years and Above	R
Director	7 to 9 Years	R
Senior Associate	4 to 6 Years	R
Associate	1 to 3 Years	R
Candidate Attorney	0	R

10.2 The bidder acknowledges that its Fee Structure as per the above is indicative only and not binding on the CSOS but should be submitted with its Bid. To that extent, price will not be evaluated for this bid and therefore no points will be allocated for same.

10.3 Accordingly, the successful firm of Attorneys will be remunerated for services rendered to the CSOS, as per the Service Level Agreement, in accordance with the approved CSOS Tariff of Fees for both litigious and non-litigious matters.

10.4 The CSOS will share the Tariff of Fees with the successful firms of Attorneys during negotiation of the Service Level Agreement.

11 BID EVALUATION CRITERIA

11.1 In accordance with the CSOS Supply Chain Management Policy, the bid evaluation process shall be carried out in two (2) stages namely:

11.1.1 Stage 1: Compliance check of Mandatory Requirements.

11.1.2 Stage 2: Functional Evaluation.

11.2 B-BBEE and Preference Points

11.2.1 The Bids will not be evaluated for Preference Points but it is mandatory for the Bidder to submit its B-BBEE Certificate indicating its B-BBEE Status Level Contributor (as indicated in the Compliance check of Mandatory Requirements).

11.2.2 In order to achieve its Black Economic Empowerment Policy objectives, the CSOS will take the successful firm of Attorneys' B-BBEE Status Level Contributor into consideration, when allocating work.

12 Stage 1: Compliance check of Mandatory Requirements

All mandatory documents as per the SCM Mandatory Checklist in this RFP must be completed, signed and submitted with the Bidder's response to this RFP. Failure to comply with this requirement or submission of false, fraudulent or misleading information or documents may result in the disqualification of the Bidder or termination of the successful bidder's contract. In this regard, the CSOS reserves its rights to take appropriate legal action.

No.	Please note that the items marked with an (X) are mandatory requirements and failure to meet the requirements will result in your bid being disqualified.	Yes/No
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1.	X	SBD1 Invitation to bid which must be signed and completed.	
2.		SBD2 Tax Clearance Certificate which must be valid.	
3.	X	SBD 4 Declaration of interest must be signed and completed.	
4.	X	SBD 6.1 Preference claim form must be signed and completed regardless if points are claimed or not.	
5.	X	SBD 8 Declaration of Bidder's past supply chain management practices must be signed and completed.	
6.	X	SBD 9 Certificate of independent bid determination must be signed and completed.	
7.	X	B-BBEE Certificate and/or BEE sworn affidavit indicating the bidder's Status Level of Contributor	
8.	X	Other documents which are described as Mandatory on this RFP e.g documents listed in paragraph 6.1.	

12.1 Stage 2: Functionality in terms of the set technical evaluation criteria

Bids must fully comply with all the Mandatory Requirements for the **Stage 1: Compliance check of Mandatory Requirements** in order to qualify for **Stage 2: Functional Evaluation**. Bids which fail to comply with all the requirements of **Stage 1** will be invalidated or disqualified from the process or further evaluation.

Table 1: Below illustrates the breakdown of the evaluation scoring:

The following values will be applicable when evaluating the bid:

0= Non-compliance	1= Poor	2= Average	3= Good	4=Very good	5=Excellent
--------------------------	----------------	-------------------	----------------	--------------------	--------------------

Evaluation Criteria Score

Evaluation Criteria	Weight
Capacity and experience of the Firm of Attorneys	
a) Demonstrate ability in identified area of specialization	30

Evaluation Criteria	Weight
CV's of Key Staff/team members specifying areas of specialization as referred to in this RFP. The firm of Attorneys must at least have one (1) Key Staff/team member with three (3) years post admission working experience in the identified area of specialization. Certified copies of qualifications of the Key Staff members should be attached. • 0 Key Staff Member = 0 Points; • 1 or More Key Staff member with 1 – 2 Years' Experience = 1 Points; • 1 or More Key Staff member with 2 Years' Experience = 3 Points; • 1 or More Key Staff member with 3 or more Years' Experience = 5 Points.	
Infrastructure and other related resources (a) The firm of Attorneys should demonstrate the capacity to provide the infrastructure and resources required to provide the services such as an adequately equipped office, access to internet and tools of trade for its staff. Proof of the firm of Attorneys office location (b) The firm of Attorneys must submit a copy of any of the following : • a current signed lease agreement between the firm and the Landlord / Lessor; or • a Title Deed registered in the name of the firm in respect of the property where the firm of Attorneys office(s) is situated; or • a utility bill which is not older than three (3) months <u>from the date of closing of this tender</u> from) and is in the name of the firm of Attorneys reflecting the address at which the firm of Attorneys office is situated. The CSOS reserves the right to conduct site visits or otherwise verify the information submitted in this section. • No Proof of Office = 0 Points; • Proof of Office(s) = 5 Points.	10

Evaluation Criteria	Weight
PROPOSAL ON PROMOTION OF SKILLS TRANSFER AND DEVELOPMENT Demonstrate a clear commitment to provide transfer of skills to the CSOS Legal Team in accordance with paragraph 9.3 above. • Adequate skills transfer methodology and plan= 5 points • Inadequate commitment and/or unclear plan on skills development =3 points • No proposal submitted = 0 points	10
PROJECT METHODOLOGY The bidder must provide a detailed proposal, outlining the intended/proposed approach and methodology which clearly addresses the bid requirements as stipulated in this RFP including the area of specialization and the scope of work and include project and time management, task allocation, frequency of interactions between the Attorneys and the Client, quality assurance processes, progress reporting, risk management and how the bidder has successfully met tight deadlines in the past) • Approach is innovative, well-articulated and covers the details listed herein =5 Points • Approach is lacking on a few requirements listed herein and ability to deliver quality services timeously is unclear = 3 points • Non-submission or poor methodology and approach= 0 points	20
Total	100
Minimum Qualifying Score	70

Technical (Functional) Assessments' minimal acceptable requirements:

TOTAL SCORE = 100

A bidder is considered to have passed Stage 2 (Functional Requirements) if the TOTAL score is equal to, or greater than 70 percent.

The score sheet using the following value scale will apply:

The score sheet using the following value scale will apply:

Value	Description
5	Excellent
4	Very Good
3	Good
2	Average
1	Poor
0	Unacceptable/ Nonresponsive

13 PROPOSAL SUBMISSIONS

13.1 One (1) Original and three (3) copies of the Proposal pack must be sealed and hand delivered at the following address:

CSOS Reception, Ground Floor Building 4

Berkley Office Park

No. 8 Bauhinia Street

Highveld Techno Park

Centurion

13.2 There **will be no briefing session for this tender.**

For Technical enquiries: Ms Lihle Ntombela (lihle.Ntombela@csos.org.za), Tel: 067 417 0581

For SCM enquiries: Ms Jabulile Sithole (tenders@csos.org.za), Tel: 010 593 0533 / 066 302 5937



SPECIAL REQUIREMENTS AND CONDITIONS OF CONTRACT

**CSOS003-2021 THE APPOINTMENT OF A PANEL OF ATTORNEYS TO ASSIST THE
COMMUNITY SCHEMES OMBUD SERVICE FOR A PERIOD OF TWO (2) YEARS.**

CLOSING DATE: 25 MAY 2021 AT 12:00 PM

VALIDITY PERIOD:120 DAYS

S U P P L Y C H A I N M A N A G E M E N T

CSOS003-2021 THE APPOINTMENT OF A PANEL OF ATTORNEYS TO ASSIST THE COMMUNITY SCHEMES OMBUD SERVICE FOR A PERIOD OF TWO (2) YEARS.

A. SPECIAL CONDITIONS OF CONTRACT

This bid and all contracts emanating there from will be subject to the General Conditions of Contract issued in accordance with of the Treasury Regulations 16A published in terms of the Public Finance Management Act, 1999 (Act 1 of 1999). The Special Conditions of Contract are supplementary to that of the General Conditions of Contract. Where, however, the Special Conditions of Contract are in conflict with the General Conditions of Contract, the Special Conditions of Contract prevail.

B. EVALUATION PROCESS

- The evaluation process comprises of the following phases:

➤ INITIAL SCREENING PROCESS

During this phase bid documents will be reviewed to determine compliance with tax matters and whether original and valid tax clearance certificates or SARS tax pin letters have been submitted with the bid documents at closing date and time of bid.

➤ FIRST EVALUATION PHASE: SUBMISSION OF MANDATORY DOCUMENTS

The firm of Attorneys must submit the Mandatory documents and indicate if the documents have been submitted as stipulated in the terms of reference.

➤ SECOND EVALUATION PHASE: TECHNICAL

- Bids will be evaluated strictly according to the bid evaluation criteria stipulated in this section of the terms of reference. During this stage bidders' responses will be evaluated for functionality based on achieving a minimum score of 70 percent.
- Bidders must, as part of their bid documents, submit supportive documentation for all technical requirements as indicated hereunder. The panel responsible for scoring the respective bids will evaluate and score all bids based on their submissions and the information provided.
- Bidders will not rate themselves but need to ensure that all information is supplied as required. The Bid Evaluation Committee (BEC) will evaluate and score all responsive bids and will verify all documents submitted by the bidders.

CSOS003-2021 THE APPOINTMENT OF A PANEL OF ATTORNEYS TO ASSIST THE COMMUNITY SCHEMES OMBUD SERVICE FOR A PERIOD OF TWO (2) YEARS.

- The panel members will individually evaluate the responses received against the criteria as set out in the terms of reference.
- Each panel member will rate each individual criterion on the score sheet using the following scale:

Value	Description
5	Excellent
4	Very Good
3	Good
2	Average
1	Poor
0	Unacceptable/ Nonresponsive

- The value scored for each criterion will be multiplied with the specified weighting for the relevant criterion to obtain the marks scored for each criteria. These marks will be added and expressed as a fraction of the best possible score for all criteria.
- This score will be converted to a percentage and **only** bidders that have met or exceeded the minimum threshold of 70 percent for functionality will be appointed.
- Any proposal not meeting a minimum score of 70 percent technical proposal will be disqualified.

C. MANDATORY REQUIREMENTS

- Tax clearance certificate or SARS tax pin as per paragraph 4.

D. TAX CLEARANCE CERTIFICATE

An original and valid Tax Clearance Certificate issued by the South African Revenue Services certifying that the taxes of the bidder are in order must be submitted at the closing date and time. Bidders may submit valid pin numbers issued by SARS.

Failure to comply with this condition will invalidate the bid.

E. VALUE ADDED TAX

All bid prices must be inclusive of 15% Value-Added Tax.

CSOS003-2021 THE APPOINTMENT OF A PANEL OF ATTORNEYS TO ASSIST THE COMMUNITY SCHEMES OMBUD SERVICE FOR A PERIOD OF TWO (2) YEARS.

F. REGISTRATION

Latest proof of company registration from Companies and Intellectual Property Commission (CIPC) must be submitted in the form of certified copies of the relevant registration documents.

G. CLIENT BASE

- Bidders must have specific experience in submit at least three recent references (in a form of written proof (s) on their company's letterhead including relevant person (s), telephone, fax numbers and e-mails) of similar work undertaken.
- The CSOS reserves the right to contact references during the evaluation and adjudication process to obtain information.

H. SHAREHOLDERS/DIRECTORS PORTFOLIO

- The bidder shall submit copies of the company's shareholding portfolio with the bid documents at the closing date and time of the bid.

I. COMMUNICATION

Supply Chain Management will communicate with bidders for, among others, where bid clarity is sought, to obtain information or to extend the validity period. Any communication either by facsimile, letter or electronic mail or any other form of correspondence to any government official, department or representative of a testing institution or a person acting in an advisory capacity for the CSOS in respect of this bid between the closing date and the award of the bid by the bidder is prohibited.

J. COUNTER CONDITIONS

Bidders' attention is drawn to the fact that amendments to any of the Special Conditions by bidders will result in invalidation of such bids.

K. PROHIBITION OF RESTRICTIVE PRACTICES

- a. In terms of section 4(1) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder(s) is/ are or a contractor(s) was/were involved in:

CSOS003-2021 THE APPOINTMENT OF A PANEL OF ATTORNEYS TO ASSIST THE COMMUNITY SCHEMES OMBUD SERVICE FOR A PERIOD OF TWO (2) YEARS.

- directly or indirectly fixing a purchase or selling price or any other trading condition;
 - dividing markets by allocating customers, suppliers, territories or specific types of goods or services; or
 - collusive bidding.
- b. If a bidder(s) or contractor(s), in the judgment of the purchaser, has/have engaged in any of the restrictive practices referred to above, the purchaser may, without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered or terminate the contract in whole or in part and refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.

L. FRONTING

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

M. PRESENTATION/ BRIEFING SESSION

There will be no briefing session for this tender.

CSOS003-2021 THE APPOINTMENT OF A PANEL OF ATTORNEYS TO ASSIST THE COMMUNITY SCHEMES OMBUD SERVICE FOR A PERIOD OF TWO (2) YEARS.

N. TIMEFRAMES AND FORMAL CONTRACT

Successful bidder(s) will be required to enter into a formal contract with the CSOS.

O. PACKAGING OF BID

The bidder shall place both the sealed Technical Proposal and Price/ Financial Proposal envelopes into an outer sealed envelope or package, and must be clearly marked as follows:

➤ **FUNCTIONALITY/TECHNICAL PROPOSAL**

Bid No: CSOS003-2021

Description: The appointment of a panel of attorneys to assist the Community Schemes Ombud Service for a period of two (2) years.

Bid closing date and time: 25 MAY 2021 at 12h00 PM

Name and address of the bidder:

In this envelope, the bidder shall only address the technical aspects of the bid.

➤ **PRICE/ FINANCIAL PROPOSAL**

Bid No: CSOS003-2021

Description: The appointment of a panel of attorneys to assist the Community Schemes Ombud Service for a period of two (2) years.

Bid closing date and time: 25 MAY 2021 at 12h00 PM

Name and address of the bidder:

In this envelope, the bidder shall provide the price/ financial proposal.

Note: *The Technical Proposal envelope and the Price/ financial Proposal envelope must contain one original hard copy document, clearly marked "Original", and three (3) hardcopies, clearly marked "Copy and an electronic version of the original proposal on a memory stick"*

P. CONTACT DETAILS

Supply Chain Management Office:

Physical address: CSOS Reception, Ground Floor Building 4, Berkley Office Park

No. 8 Bauhinia Street, Highveld Techno Park Centurion



CSOS003-2021 THE APPOINTMENT OF A PANEL OF ATTORNEYS TO ASSIST THE COMMUNITY SCHEMES OMBUD SERVICE FOR A PERIOD OF TWO (2) YEARS.

For General SCM enquiries: Jabulile Sithole,

Contact: 010 593 0533 cell: 066 302 5937 or email: [**tenders@csos.org.za**](mailto:tenders@csos.org.za)

For Technical enquiries: Lihle Ntombela

Contact: 010 593 0533 cell: 067 417 0581 or email: [**Lihle.Ntombela@csos.org.za**](mailto:Lihle.Ntombela@csos.org.za)

PRICING SCHEDULE
(Professional Services)

NAME OF BIDDER: **BID NO: CSOS003-2021 THE APPOINTMENT OF A PANEL OF ATTORNEYS TO ASSIST THE COMMUNITY SCHEMES OMBUD SERVICE FOR A PERIOD OF TWO (2) YEARS.**

CLOSING TIME 12:00PM ON 25 MAY 2021.

OFFER TO BE VALID FOR 120 DAYS FROM THE CLOSING DATE OF BID.

ITEM NO	DESCRIPTION	BID PRICE IN RSA CURRENCY INCLUSIVE OF <u>VALUE ADDED TAX</u>
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DESCRIPTION: THE APPOINTMENT OF A PANEL OF ATTORNEYS TO ASSIST THE COMMUNITY SCHEMES OMBUD SERVICE FOR A PERIOD OF TWO (2) YEARS.

1. Services must be quoted in accordance with the attached terms of reference.

Services must be quoted in accordance with the attached terms of reference.

Total cost of the assignment (R inclusive VAT)

R.....

Category	Post Admission Experience	Hourly Rate
Senior Director	10 Years and Above	R
Director	7 to 9 Years	R
Senior Associate	4 to 6 Years	R
Associate	1 to 3 Years	R
Candidate Attorney	0	R

The financial proposal for this assignment should cover for all assignment activities as per terms of reference

2. Period required for commencement with project after acceptance of bid _____
3. Are the rates quoted firm for the full period? Yes/No
4. If not firm for the full period, provide details of the basis on which Adjustments will be applied for, for example consumer price index.

Technical enquiries regarding bidding procedures may be directed to:

Lihle Ntombela

Tel: (010) 593 0533

Cell: **067 417 0581**

E-mail address: Lihle.Ntombela@csos.org.za

Supply Chain queries may be directed to:

Jabulile Sithole

Cell: 066 302 5937

Email: tenders@csos.org.za

PLEASE REFER TO THE ATTACHED TERMS OF REFERENCE FOR MORE INFORMATION.

SBD 4

DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state¹, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes an advertised competitive bid, a limited bid, a proposal or written price quotation). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-
 - the bidder is employed by the state; and/or
 - the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.
2. **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**
 - 2.1 Full Name of bidder or his or her representative:
 - 2.2 Identity Number:.....
 - 2.3 Position occupied in the Company (director, trustee, shareholder², member):
 - 2.4 Registration number of company, enterprise, close corporation, partnership agreement or trust:
 - 2.5 Tax Reference Number:
 - 2.6 VAT Registration Number:
 - 2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / PERSAL numbers must be indicated in paragraph 3 below.

¹"State" means –

- (a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (b) any municipality or municipal entity;
- (c) provincial legislature;
- (d) national Assembly or the national Council of provinces; or
- (e) Parliament.

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

2.7 Are you or any person connected with the bidder presently employed by the state? **YES / NO**

2.7.1 If so, furnish the following particulars:

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

Name of state institution at which you or the person connected to the bidder is employed :

Position occupied in the state institution:

Any other particulars:

.....
.....
.....

2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector? **YES / NO**

2.7.2.1 If yes, did you attach proof of such authority to the bid document? **YES / NO**

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

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

.....
.....
.....

2.8 Did you or your spouse, or any of the company's directors / trustees / shareholders / members or their spouses conduct business with the state in the previous twelve months? **YES / NO**

2.8.1 If so, furnish particulars:

.....
.....
.....

2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

2.9.1 If so, furnish particulars.

.....

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

2.10.1 If so, furnish particulars.

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

YES/NO

2.11.1 If so, furnish particulars:

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

[illegible]

4 DECLARATION

I, THE UNDERSIGNED (NAME).....

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 3 ABOVE IS CORRECT.
I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME SHOULD THIS
DECLARATION PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of bidder

November 2011

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017

This preference form must form part of all bids invited. It contains general information and serves as a claim form for preference points for Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution

NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to all bids:

- 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

- a) The value of this bid is estimated to **exceed/not exceed** R50 000 000 (all applicable taxes included) and therefore the preference point system shall be applicable; or
- b) Either the 80/20 or 90/10 preference point system will be applicable to this tender (*delete whichever is not applicable for this tender*).

1.3 Points for this bid shall be awarded for:

- (a) Price; and
- (b) B-BBEE Status Level of Contributor.

1.4 The maximum points for this bid are allocated as follows:

	POINTS
PRICE	
B-BBEE STATUS LEVEL OF CONTRIBUTOR	
Total points for Price and B-BBEE must not exceed	100

1.5 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.

2. DEFINITIONS

- (a) **“B-BBEE”** means broad-based black empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (b) **“B-BBEE status level of contributor”** means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (c) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services, through price quotations, advertised competitive bidding processes or proposals;
- (d) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (e) **“EME”** means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (f) **“functionality”** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.
- (g) **“prices”** includes all applicable taxes less all unconditional discounts;
- (h) **“proof of B-BBEE status level of contributor”** means:
 - 1) B-BBEE Status level certificate issued by an authorized body or person;
 - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
 - 3) Any other requirement prescribed in terms of the B-BBEE Act;
- (i) **“QSE”** means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (j) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

3. POINTS AWARDED FOR PRICE

3.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

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

80/20

or

90/10

$$P_s = 80 \left(1 - \frac{Pt - P_{\min}}{P_{\min}} \right) \quad \text{or} \quad P_s = 90 \left(1 - \frac{Pt - P_{\min}}{P_{\min}} \right)$$

Where

Ps = Points scored for price of bid under consideration

Pt = Price of bid under consideration

P_{min} = Price of lowest acceptable bid

4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

- 4.1 In terms of Regulation 6 (2) and 7 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

5. BID DECLARATION

5.1 Bidders who claim points in respect of B-BBEE Status Level of Contribution must complete the following:

6. B-BBEE STATUS LEVEL OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1

6.1 B-BBEE Status Level of Contributor: . =(maximum of 10 or 20 points)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

7. SUB-CONTRACTING

7.1 Will any portion of the contract be sub-contracted?

(Tick applicable box)

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

7.1.1 If yes, indicate:

i) What percentage of the contract will be subcontracted.....%

ii) The name of the sub-contractor.....

iii) The B-BBEE status level of the sub-contractor.....

iv) Whether the sub-contractor is an EME or QSE

(Tick applicable box)

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

v) Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations, 2017:

Designated Group: An EME or QSE which is at least 51% owned by:	EME √	QSE √
Black people		
Black people who are youth		
Black people who are women		

Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		
Black people who are military veterans		
OR		
Any EME		
Any QSE		

8. DECLARATION WITH REGARD TO COMPANY/FIRM

8.1 Name of company/firm:.....

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

- ☐ Partnership/Joint Venture / Consortium
- ☐ One person business/sole propriety
- ☐ Close corporation
- ☐ Company
- ☐ (Pty) Limited

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

8.6 COMPANY CLASSIFICATION

- ☐ Manufacturer
- ☐ Supplier
- ☐ Professional service provider
- ☐ Other service providers, e.g. transporter, etc.

[TICK APPLICABLE BOX]

8.7 Total number of years the company/firm has been in business:.....

8.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we 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 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
 - (a) disqualify the person from the bidding 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 bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury 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.

WITNESSES

1.
2.

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

DATE:

ADDRESS

.....
.....

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

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

Item	Question	Yes	No
4.1	Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector? (Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied). The Database of Restricted Suppliers now resides on the National Treasury's website(www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.	Yes ☐	No ☐
4.1.1	If so, furnish particulars:		
4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.	Yes ☐	No ☐
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes ☐	No ☐
4.3.1	If so, furnish particulars:		

4.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes ☐	No ☐
4.4.1	If so, furnish particulars:		

SBD 8

CERTIFICATION

**I, THE UNDERSIGNED (FULL NAME).....
CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION
FORM IS TRUE AND CORRECT.**

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

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

Js365bW



Supplier Maintenance: Bank Details

Supplier name _____

I/We hereby request and authorize you to pay any amounts which accrue to me/us to the credit of my/our account with the mentioned bank.

I/We understand that the credit transfers hereby authorized will be processed by computer through a system known as the "ACB ELECTRONIC FUND TRANSFER SERVICE", and I/we also understand that no additional advice of payment will be provided by my/our bank, but details of each payment will be on my/our bank statement or any accompanying voucher. (This does not apply where it is not customary for banks to furnish bank statements).

I/We understand that a payment advice will be supplied by the organization in the normal way, and that it will indicate the date on which funds will be available in my/our account. This authority may be cancelled by me/us by giving thirty days' notice by prepaid registered post.

Initial and Surname

Authorized Signature

Date dd/mm/yyyy									

NB. Only original signed forms will be accepted.

Registered name: _____

Co. Registration No: _____

Account Holder: _____

Name of Bank: _____

Name of Branch: _____

Branch Code: _____

Account Number: _____

Type of Account: _____

It is hereby confirmed that these details have been verified against the following screens:

ABSA-
FNB-
STD Bank-
Nedbank-
Other Banks-

Bank Stamp Here

Bank Official Name: _____

Contact Detail: _____

NB: IT IS THE RESPONSIBILITY OF THE SUPPLIER TO ENSURE THAT DETAILS PROVIDED ARE CORRECT.

CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Standard Bidding Document (SBD) must form part of all bids¹ invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).² Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
 - a. disregard the bid of any bidder 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.
 - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
- 4 This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

¹ Includes price quotations, advertised competitive bids, limited bids and proposals.

² Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Institution)

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

I certify, on behalf of:_____that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder

6. 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 consortium³ will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
 - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. 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 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.

10. 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.

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

Js914w 2

GOVERNMENT PROCUREMENT

GENERAL CONDITIONS OF CONTRACT

NOTES

The purpose of this document is to:

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

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

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

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

General Conditions of Contract

1. Definitions

1. 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 any thing 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 market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.
 - 1.12 "Force majeure" means an event beyond the control of the 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 | <p>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.</p> <p>2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.</p> <p>2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.</p> |
| 3. General | <p>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.</p> <p>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</p> |
| 4. Standards | <p>4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.</p> |
| 5. Use of contract documents and information; inspection. | <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> |
| 6. Patent rights | <p>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.</p> |
| 7. Performance security | <p>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.</p> |

- 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) 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 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the 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 with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with

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

10. Delivery and documents

- 10.1 Delivery of the goods shall be made by the supplier in 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.
- 10.2 Documents to be submitted by the supplier are specified in SCC.

11. Insurance

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

12. Transportation

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

13. Incidental services

- 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:
- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
 - (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
 - (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
 - (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and

- (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.

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 contracts 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 canceling 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.

24. Anti-dumping and countervailing duties and rights

24.1 When, after the date of bid, provisional payments are required, or anti-dumping 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 willful 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 any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

32. Taxes and duties

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