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TERMS OF REFERENCE

BID NUMBER: BID1607\2324

BID - PROVISION OF INSURANCE BROKER SERVICES TO THE COMPETITION COMMISSION FOR A PERIOD OF 3 YEARS

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1. BACKGROUND

1.1 The Competition Commission (Commission) is a statutory body constituted in terms of the Competition Act, No. 89 of 1998 (the Act). It is one of three, independent competition regulatory authorities established in terms of the Act, with the other two being the Competition Tribunal and the Competition Appeal Court. The Commission is empowered by the Competition Act to investigate, control and evaluate restrictive business practices, abuse of dominant positions, mergers, undertake market inquiries and advocacy in order to achieve equity and efficiency in the South African economy.

1.2 The Competition Commission of South Africa (CCSA) is a public entity listed in schedule 3A of the Public Finance Management Act (PFMA), and acts in compliance with section 217 of the Constitution of South Africa and applicable Public Procurement Regulations and Prescripts.

1.3 Therefore, the CCSA is requiring a suitability qualified service provider for the Provision of Insurance Broker Services for a Period of **3** Years.

2. SCOPE OF WORK

The successful bidder must be able to provide the following insurance services that are aligned to any and all-related regulations, for example., POPIA:

2.1.1 Provide comprehensive insurance cover for losses which may be incurred due to:

- a) Loss or Damage to property (moveable and immovable assets)
- b) Natural causes which may bring losses/damages to property (moveable and immovable assets)
- c) Fidelity Cover
- d) Public Liability
- e) Fire losses/damages to property (moveable and immovable assets)
- f) Comprehensive Vehicle Cover including roadside assistance.
- g) Business all risks
- h) SASRIA
- i) Directors and Officers liability
- j) Professional Indemnity Insurance
- k) Broker must make provision for full cover against commission assets (with no applicable excess applied)
- l) Employers' liability
- m) Power Surge cover

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2.1.2 Policy and Claim Administration:

Bidder to provide detailed procedures for claim submission and administration. Provide a clear and user-friendly claim procedure indicating turnaround time once the claim has been submitted:

a) Facilitate insurance for CCSA for all assets/portfolios.
b) Ensure that all CCSA claims are attended to accordingly.
c) Correspond to insurance claims and other insurance related queries.
d) Ad-hoc adjustments and endorsements on sums insured and declaration to insurers/re-insurers.
e) Monitor premium payments and refunds in accordance with accounts and statements.
f) Provide quarterly reports on claims (claims processed and paid out/finalized/closed/rejected, claims in progress)
g) Bidder must include provision of assessment and or quotation of damages/loss as part of the claim's procedure for approval by the CCSA.

2.2 SITUATION ANALYSIS: ESTIMATED PORTFOLIOS

The following are the estimated portfolios to be covered or insured:

NOTE: *All bidders pricing must include SASRIA premiums.*

Portfolio	Cover Amount
Loss or Damage to property (moveable and immovable assets) (Electronic equipment) (Office contents) (Money) (Theft) (Glass)	 R11 484 000.00 R8 852 562.00 R30 000.00 R50 000.00 R15 000.00
Natural causes which may bring losses/damages to property (moveable and immovable assets)	*0.00*
Fidelity Cover	R1 000 000.00
Public Liability	R10 000 000.00
Fire losses/damages to property (moveable and immovable assets)	R10 535 311.00
Comprehensive Vehicle Cover (courtesy car provision) Emergency roadside assistance	R1 754 300.00
Business all risks	R479 732.00
Directors and Officers liability for each financial year decisions are made.	*0.00*
Employers' liability	Various as per schedule
Power Surge Cover	*0.00*

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3. DELIVERABLES

A Service Plan to be submitted at negotiation of contract, which will be a annexure to the awarded contract. The Service Plan must detail the actions to be taken.

3.1 The Service Plan should reflect at least the following general insurance actions:

- 3.1.1 Internal and external discussions to set renewal and maintenance strategy.
- 3.1.2 Internal Strategy meetings.
- 3.1.3 Review existing cover (as and when required) – broker to actively assess the market.
- 3.1.4 Established uninsured risks and internal self-insurance capacity.
- 3.1.5 Review cover, limits and sums insured.
- 3.1.6 Review uninsured risks and exposure.
- 3.1.7 Re-broking and market exercise to obtain renewal terms.
- 3.1.8 Pre-renewal meeting to discuss excess structures and alternatives of renewal.
- 3.1.9 Renewal follow-up on alternative quotations.
- 3.1.10 Presentation of renewal terms and recommended options.
- 3.1.11 Confirmation of placement and 100% cover.
- 3.1.12 Confirmation of credit rating of insurance and re-insurance markets.
- 3.1.13 Premium allocations on recommended aggregates and service fees.
- 3.1.14 Compilation of detailed insurance manual as well as full summary on cover, limits, conditions, and exclusions.
- 3.1.15 Check and provide issued policy as well as legal confirmation of statutory compliance.
- 3.1.16 Compilation of claims procedural manual
- 3.1.17 Ad hoc adjustments and endorsements on sums insured and declarations to insurers/re-insures and issuing of accounts within 30 days of transactions.
- 3.1.18 Claims administration procedure.
- 3.1.19 Monitor premium payments and refunds in accordance with accounts and statement.
- 3.1.20 Ad hoc training where required in terms of policy and procedure manual.

3.2 Monitoring progress of deliverables

Adherence to the Service Level Agreement will be monitored by way of the following:

- 3.2.1 Annual Post Renewal (where applicable)
- 3.2.2 Monthly reports providing details of insurance policy performance.
- 3.2.3 Contract management meetings and performance management review at least twice a year

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4 TIMEFRAMES

4.1 The duration of the contract will be for a period of **three (3) years.**

5 CONTRACTUAL OBLIGATION

5.2 All bidders must complete SBD 3.3 as well as the applicable annexure (Pricing schedule). Annual escalation is subject to claims history/experience.

5.3 The bidders are required to provide a dedicated Account Manager upon contracting.

5.4 In the case of the service provider using sub-contractors, the former will be responsible for ensuring delivery of services from any such sub-contractors and for making any payments to such sub-contractors.

5.5 The successful bidder will be required to have adequate professional indemnity cover (upon parties contracting at an estimate value of R 2 million)

5.6 Unsatisfactory performance can result in CCSA invoking its right to terminate the contract. Bidder will be subjected to review at least twice a year - in terms of measuring satisfactory performance.

5.7 Bidder will be required to submit proof of registration with Financial Sector Conduct Authority (FSCA) annually during the duration of the contract. (for the entity and the applicable Broker)

5.8 Compliance with BBBEE through a valid BBBEE Certificate or DTIC Sworn Affidavit as a well tax compliance through Central Supplier database or SARS tax in (when services are required).

5.9 Bidder must adhere to Protection of Personal Information (POPI) Act.

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6 ABSENCE OF OBLIGATION & CONFIDENTIALITY

6.2 No legal or other obligation shall arise between the service provider and CCSA unless/untilboth parties have signed a formal contract or Service Level Agreement in place.

6.3 The Contract site is at **CCSA (as and when required).**

7 WORKMEN AND SUPERVISION ON SITE

7.2 The service provider shall be held responsible for the conduct of his employees and the conduct of his sub-contractor's employees for the full duration of the contract.

8 ADMINSTRATIVE CRITERIA (Phase 1)

8.2 Proof of registration on CSD ***(Central Supplier Database)***

8.3 Initialled General conditions of contract (GCC) on each page, completed and signed Standard bid documents (SBD 1, 3.3 including A, 4, and 6.1)

9 MANDATORY CRITERIA (Phase 2)

9.1 Bidders are required to indicate compliance and provide the required evidence as confirmation of compliance.

Note: All bidders who do not comply with the items listed below will be disqualified.

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NO.	TECHNICAL MANDATORY REQUIREMENT	COMPLY /NOT COMPLY	EVIDENCE (bidders to reference section where evidence is submitted in the proposal)
9.2	The service provider (broker) must provide proof of a valid registration as a financial services provider issued by the Financial Sector Conduct Authority (FSCA) as per financial advisers and intermediary services act. (FAIS Act) **Note: The Commission will verify this information through the FCA website using the bidder's registration number.**		
9.3	The service provider must provide a written confirmation, on underwriter/insurer letterhead not older than three (3) months that the broker is authorised to sell their products as itemised in the scope of work: Letter/s from the underwriter/s or insurer/s must list all the products or services below. ***Note: Letters from more than one underwriter/insurer will be accepted).***		
9.3.1	Loss or Damage to property (moveable and immovable assets)		
9.3.2	*Natural causes which may bring losses/damages to property (moveable and immovable assets)*		
9.3.3	Fidelity Cover		
9.3.4	Public Liability		
9.3.5	Fire losses/damages to property (moveable and immovable assets)		
9.3.6	Comprehensive Vehicle Cover (courtesy car provision) Emergency roadside assistance		
9.3.7	Business all risks		
9.3.8	*Directors and Officers liability for each financial year decisions are made.*		
9.3.9	Employers' liability		
9.3.10	*Power Surge Cover*		
9.3.11	Loss or Damage to property (moveable and immovable assets)		
9.3.12	*Natural causes which may bring losses/damages to property (moveable and immovable assets)*		
9.3.13	Fidelity Cover		

Note: All bidders who do not comply with the ALL items listed above will be disqualified.

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10 EVALUATION CRITERIA

10.1 Responses will be evaluated using a predetermined set of evaluation criteria. The evaluation criteria are designed to reflect the Commissions requirements in terms of identifying a suitable service provider and ensure the selection process is transparent and affords all the bidders a fair opportunity for evaluation and selection.

10.2 Functional Evaluation threshold **(Phase 3)**

10.2.1 The tender submission will be functionally evaluated out of a **minimum of 70 points – any bidder who scores less than 70** will not be considered for further evaluation, **maximum score is 100.**

10.2.2 Bidders who comply with the Phase 3 will be evaluated in terms of Price and BBBEE & Specific Goals Preference Point system **(Phase 4)**

Functional Evaluation Criteria Phase 3:

Evaluation Area	Functional Criteria	Max Points
Claims procedure	Bidder to provide draft claims procedure indicating the elements listed in section *2.1.2* of the terms of reference - aligned to processing of claims. **= 40 points** • ***Noncompliance with this requirement = 0 points***	**40**
Experience (Reference letters)	The bidder must submit references letters for the provision of insurance broker services- for services provided within the last three **(3) years**). The reference letter must be signed, dated, on a company lettered, indicate the period when services were provided, include a general description of services provided, as well as contactable references (email address ~~and telephone number~~): • Minimum 4 reference letters = **20 Points** • 5 – 10 reference letter = **30 Points** • **above 10 reference letters = 40 points** ***Non-compliance with the minimum criteria = 0 points*** **CCSA reserves the right to conduct due diligence in terms of the reference letters submitted**	**40**
Compliance of the Account Manager	Bidder to submit details of the dedicated Account Manager (As a representative of financial service provider-FSP) and provide his or her evidence of certificate of completion of the Regulatory Examinations 5 (RE5) **– certified copy by commissioner of oath not older than 3 months = 20 points** ***Non-compliance with the minimum criteria = 0 points***	**20**
TOTAL		**100**

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10.2.3 Bidders who obtained less than the minimum threshold of **70 points** will be declarednon-responsive and therefore will not be eligible for **evaluation of BBBEE, Specific Goals and Price Preference.**

10.3 BBBEE, Specific Goals and Price Preference.

10.3.1 As the tender **price is estimated to be between R2001 and R50 million including VAT**, the tender responses will be evaluated on the **80/20**-point system.

11. ADJUDICATION USING A POINT SYSTEM

11.1 objective criteria justify the award to another bidder.
11.2 Preference points shall be calculated after process has been brought to a comparative basis taking into account all factors of non-firm prices.
11.3 In the event that two or more bids have scored equal points in terms of price and preference points for B-BBEE and specific goals, the successful bid must be the one scoring the highest number of preference points for B-BBEE and specific goals - in terms of PPPFA Act 5 of 2000.
11.4 However, when functionality is part of the evaluation process and two or more bids have scored equal points for B-BBEE, the successful bid must be the one scoring the highest score for functionality.
11.5 Should two or more bids be equal in all respect, the award shall be decided by the drawing of lots.

12. POINTS AWARDED FOR PRICE AND BBBEE & SPECIFIC GOALS PREFERENCE POINT

The **80/20** Preference Point System:

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

12.2 **20** points allocated in terms of the Commissions specific goals *(further recognition)*:

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

Where:

Ps	=	Points scored for comparative price of bid under Consideration
Pt	=	Comparative price of bid under consideration
Pmin	=	Comparative price of lowest acceptable bid

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13. B-BBEE & SPECIFIC GOALS PREFERENTIAL POINTS WILL BE AWARDED AS FOLLOWS:

The specific goals allocated points in terms of this tender	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (To be completed by the tenderer)
B-BBEE LEVEL 1	10	
B-BBEE LEVEL 2	9	
B-BBEE LEVEL 3	8	
B-BBEE LEVEL 4	6	
B-BBEE LEVEL 5	4	
B-BBEE LEVEL 6	3	
B-BBEE LEVEL 7	2	
B-BBEE LEVEL 8	1	
Non-compliant contributor	0	
Further recognition for EME/QSE and or Women and or Youth, and or Rural Enterprise to be determined by the specification adjudication authority	10	

13.1 Bidders who qualify as EME's and QSE's in terms of the B-BBEE Act must submit a Sworn affidavit. Misrepresentation of information constitutes a criminal offence.

13.2 Bidders other than EME's or QSE's must submit their original and valid B-BBEE status level verification certificate, substantiating their B-BBEE rating issued by SANAS.

13.3 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.

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14. CONSORTIUM

14.1 A consortium is an association of two or more individuals, companies, organisations or governments (or any combination of these entities) with the objective of participating in a common activity or pooling their resources for achieving a common goal.

14.2 A consortium requires that each participant retains its separate legal status and the consortium's control over each participant is generally limited to activities involving the joint endeavour, particularly the division of profits. A consortium is formed by contract, which delignates the rights and obligations of each member.

14.3 In a consortium, only the lead bidder's credentials both in terms of financial and technical qualifications are considered. Therefore, the interpretation and application to a Bid process is such that the lead partner is identified and the following requirements are required as follows:

a) Lead Partner

- All administrative documents (consortium agreement between the lead partner and the partner)
- Technical requirements (which will show in the proposal and other requirements why the need for the consortium, which for all intent and purpose fulfils the requirements of the bid through combination of skills)

b) Partner

- Proof of CSD registration.
- Tax Pin.
- BBBEE Sworn-Affidavit.
- SBD 4

14.4 It should be taken into cognisance that although the lead partner is the qualifying entity, the partner should prove that it can do business with state-owned entities, through CSD registration, proof that the taxes are compliant, its level of BBBEE status in order to align with the BBBEE status level required by the BID, declare interest and answer questions that it is not a disqualified entity with the National Treasury. The foregoing ensures compliance from an SCM process perspective that the consortium is in order.

14.5 Of importance is that in a consortium, each individual team members retain their identities.

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15. A JOINT VENTURE

A joint venture is a business entity created by two or more parties, generally characterized by shared ownership, returns and risks and shared governance.

15.1 Unincorporated joint venture:

15.1.1 All SCM documents are filled in by the joint venture in the name of the joint venture, although the submission of administrative documents (partnership agreement between parties) will be completed in the name of the joint venture, and the following will be required from both parties, amongst others

a) SBD 4
b) SBD 6.1
c) Tax pin
d) CSD registration.
e) The JV agreement will direct which bank account of the two entities will be used.
f) Consolidated Joint BBBEE Certificate.

15.2 Incorporated joint venture

15.2.1 This aligned to a registered entity or company. A registered entity/ company with a consolidated BBBEE certificate and a bank account in the name of the Joint venture. The required compliance documents must be complete by the entity/ company the name of the joint venture, and the following will be required amongst others

a) SBD 4
b) SBD 6.1
c) Tax pin
d) CSD registration.
e) The JV agreement will direct which bank account of the two entities will be used.
f) Consolidated Joint BBBEE Certificate.

15.2.2 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended Sub-contractor is an EME that has the capacity and the ability to execute the sub-contract.

15.3 A person awarded a contract may not sub-contract more than 25% of the value of the contractto any other enterprise that does not have equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capacity andthe ability to execute the sub-contract.

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16. COMMUNICATION

Respondents are warned that a response will be disqualified should any attempt be made bya bidder either directly or indirectly to canvass any officer(s) or employees of CCSA in respect of BID process, between the closing date and the date of the award of the business.

All enquiries relating to this BID should be emailed ***three days before the closing date.***

17. CONDITIONS TO BE OBSERVED WHEN BIDDING

The Commission does not bind itself to accept the lowest or any BID, nor shall it be responsible for or pay any expenses or losses which may be incurred by the bidder in the preparation and delivery of his BID submission. The Commission also reserves the right to withdraw or cancel the BID at any stage.

No BID shall be deemed to have been accepted unless and until a formal contract / Contract Form and letter of award or Purchase Order is prepared and executed.

The competitive shall remain open valid by the Commission for a period of **120 days** from the closing date of the BID Enquiry.

CCSA reserves the right to:

17.1 Not evaluate and award a bid that do not comply strictly with this BID document.

17.2 Make a selection solely on the information received in the Bid Document and Enter into negotiations with any one or more of preferred bidder(s) based on the criteria specified in the terms of reference.

17.3 Contact any bidder during the evaluation process, in order to clarify any information, without informing any other bidders. During the evaluation process, no change in the content of the BID shall be sought, offered or permitted.

17.4 Cancel this BID at any time.

17.5 Should bidder(s) be selected for further negotiations, they will be chosen on the basis of theof cost effectiveness and the principal of value for money not necessarily on the basis of thelowest costs.

18. Cost of Bidding

18.1 The bidder shall bear all costs and expenses associated with preparation and submission ofits BID submission and the CCSA shall under no circumstances be responsible or liable forany such costs, regardless of, without limitation, the conduct or outcome of the bidding, evaluation, and selection process.

19. Note to Bidders:

19.1 Due diligence to be conducted by CCSA prior to the award of the contract.

<u>**END OF TERMS OF REFERENCE DOCUMENT**</u>

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Annexed to this document for completion and return with the document:

- ANNEXURE SBD 1 and conditions to tender. – must be fully completed and signed.
- ANNEXURE SBD 3.3 *(pricing schedule- A) – must be fully completed and signed.*
- ANNEXURE SBD 4– must be fully completed and signed.
- ANNEXURE SBD 6.1 – must be fully completed and signed.
- ANNEXURE General Conditions of Contract (GCC) initialed on each page.