



REQUEST FOR PROPOSAL

RFP	NCT – 4/3/2/45
RFP ISSUE DATE	30 August 2024
BRIEFING SESSION	N/A
RFP DESCRIPTION	REQUEST FOR APPOINTMENT OF A SERVICE PROVIDER TO PROVIDE PENSION FUND AND RISK BENEFIT ADMINISTRATION
CLOSING DATE AND TIME	30 September 2024 at 12:00pm
LOCATION FOR SUBMISSIONS	The National Consumer Tribunal, Ground Floor, Building B, Lakefield Office Park, 272 West Avenue, Corner of West & Lenchen Avenue North, Centurion, 0046.
BID VALIDITY	180 Calendar days

Bidders must submit enquiries to procurement@nct.org.za,
mgroenewald@thenct.org.za, tmozanane@thenct.org.za
For any queries or questions, please use the above-mentioned email address

The NCT requests your quotation on the services listed above. Please furnish us with all the information as requested and return your proposal on the date and time stipulated above. Late and incomplete submissions will invalidate the quote submitted.

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1. INTRODUCTION

1.1. The National Consumer Tribunal (“NCT”) was established in terms of the National Credit Act, No. 34 of 2005 (“NCA”) as amended and in terms of the Consumer Protection Act, Act No. 68 of 2008 (“CPA”)

1.2. Mandate and functional purpose

As an independent adjudicative entity, the NCT’s mandate is to hear and decide on cases involving consumers, service providers, credit providers, debt counsellors and credit bureau. It is also responsible for reviewing decisions made by the National Credit Regulator and the National Consumer Commission.

In pursuing this mandate, the functions of the NCT is to –

- Adjudicate on any application or referral that may be made to it in terms of the NCA and CPA.
- Make any order provided for in these Acts regarding such an application or referral of prohibited conduct and if finding that a contravention exists, by imposing a remedy provided for in these Acts.
- Grant an order for costs in terms of these Acts.
- Exercise any other power conferred on it by these Acts.

2. LEGISLATIVE FRAMEWORK OF THE BID

2.1. This bid and all contracts emanating thereof will be subject to the General Conditions of Contract issued in accordance with Treasury Regulation 16A published in terms of the Public Finance Management Act, 1999 (Act 1 of 1999) as well as the Preferential Procurement Policy Framework Act 2000 (PPPFA) with its latest 2022 Regulations.

2.2. The Special Conditions of Contract are supplementary to those of the General Conditions of Contract. Where, however, the Special Conditions of Contract conflict with the General Conditions of Contract, the Special Conditions of Contract shall prevail. These conditions form part of the bid and bidders need to familiarize themselves with the contents thereof.

2.3. The Public Administration Act, 2014 (Act No 11 of 2014), chapter 3, section 8(2)(a) specifies that an employee of the NCT may not conduct business with the NCT.

2.4. Bidders having a relationship with persons employed by the NCT must declare their interest on SBD 4 (Bidders' disclosure).

2.5. National Standards - The product/s offered must comply with all laws and regulations as amended that are applicable to the supply contract.

2.6. Tax Compliance Requirements

- In line with National Treasury Instruction Note 9 of 2017/2018, it is a condition of this bid that the tax matters of the successful bidder must be in order, or that satisfactory arrangements have been made with South African Revenue Services ("SARS") to meet the bidder's tax obligations.
- It is a requirement that bidders grant a written approval when submitting this bid that SARS may on an ongoing basis during the tenure of the contract disclose the bidder's tax compliance status and by submitting the bid such approval is deemed to have been granted.
- The bidder must be registered on the CSD and provide the CSD number and TCS pin as per SBD 1.
- When Consortium/ Joint Venture/ Sub-contractors are involved, each party must be registered on the CSD, and their tax compliance status will be verified through the CSD.
- The Tax Compliance status requirements are also applicable to foreign bidders / individuals who wish to submit bids.

2.7. Registration on the Central Supplier Database

- Bidders need to register on the National Treasury Central Supplier Database in order to do business with the state. Accounting Officers cannot award any bid or price quotations to any supplier who is not registered on the Central Supplier Database. Bidders must log on 222.csd.gov.za for self-registration.
- Bidders must be registered on CSD prior to submitting their bids. Failure to register prior to submitting the bid will invalidate the bid.
- The latest FULL CSD report, not a summarized version must be submitted.

2.8. Procurement Legislation

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

2003).

2.9. Technical Legislation and/or Standards

Bidder(s) should be cognisant of the legislation and/or standards specifically applicable to the services required including but not limited to The Pension Fund Act and the Insurance Act.

3. SERVICES REQUIRED

3.1 BACKGROUND

The NCT does not have an employee benefits scheme. The NCT wishes to establish an Employee Benefit Scheme, including a Retirement Fund and Risk Benefits, for their workforce.

Presently, NCT has 55 employees, with a total average monthly salary bill of approximately ±R4 million.

- The NCT's Organogram is outlined below:

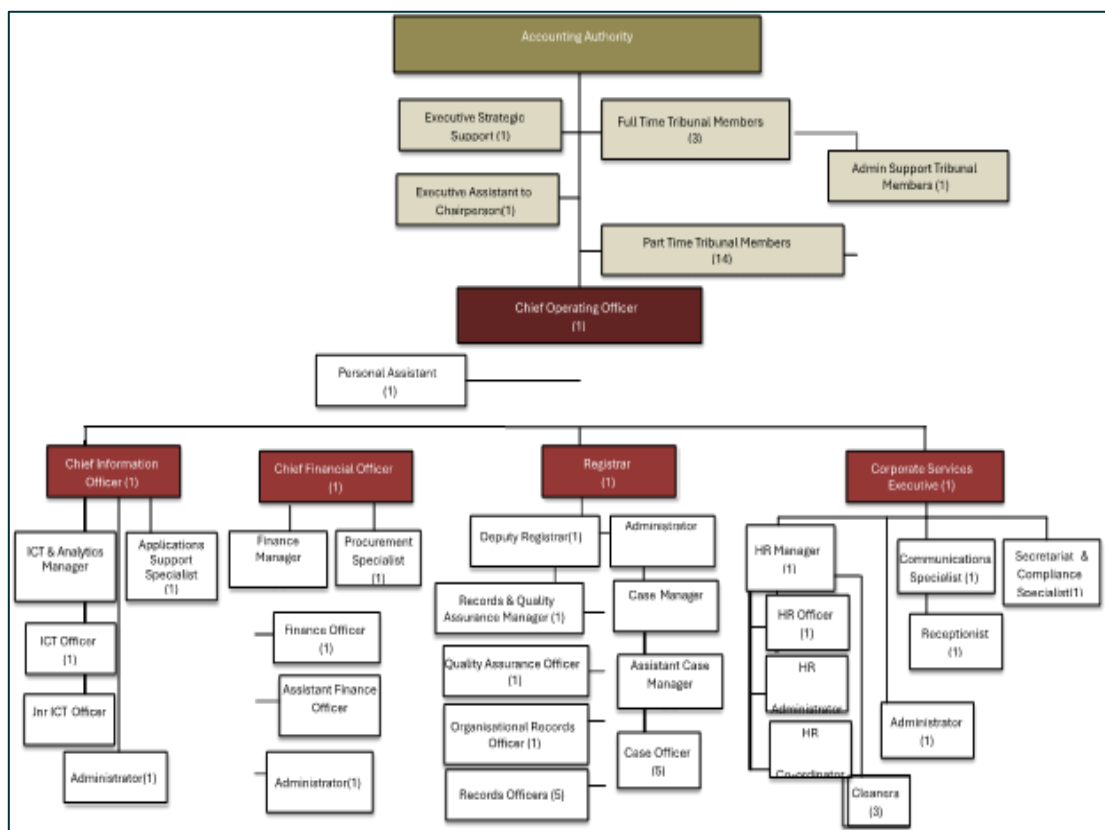


Image 1 – Organogram of NCT

The bid is open to Pension Fund brokers and direct providers of Employment Benefit scheme, including a Retirement Fund and Risk Benefits services. The NCT intends appointing a service provider to render services for the following:

- The appointment of a product provider and administration of a Pension Fund , and
- The appointment of a product provider and administration of Risk Benefits

Important Factors to be considered:

Pension Fund Administration:

- Investment flexibility
- Fees – transparency and value for money
- Board of Trustees
- Online access and client support
- Simplified administration and personalized service

Risk Benefits:

RISK BENEFIT DESCRIPTION
Group life benefit
Lump sum Vs Monthly disability benefit
Funeral benefit
Dread disease benefit
Income protector benefit
Retirement age: 65 years

Table 1 – Risk Benefit Description

The table above is provided to give the bidders with an indication of the types of risk benefit products considered by the NCT. This list is not an exhaustive list. This is subject to change in consultation with the preferred service provider.

3.2. SCOPE OF WORK

The service provider must meet the following:

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

Table 2 Pension Fund Services

Risk Benefit Services
Assistance provided to NCT employees in terms of their risk cover portfolios.
Consulting services which include, but not limited to: • Regular product presentations and training, and • Communication, including newsletters, hot topics etc.
Strategic services which should include: • Year-end revision process, • Review of Profile of members, • Risk cover portfolio and option comparisons, • Legislative review and updates, and • Market trend analysis and forecasting.
Reporting which should include, but not limited to: • Billing results and analysis, • Submit members option reports quarterly, • Risk management, • Executive reporting, and • Benchmarking review.
Membership and contribution management.
<i>Provide unique value-added services.</i>

Table 3 Risk Benefit Services

The Request for Proposal process comprises of a two-stage bidding process, which will be carried out as follows:

Stage 1 involves evaluating the bidders for functional compliance.

Stage 2 involves evaluation of those bidders who passed Stage 1, for price and applicable specific goals. Successful bidders in Stage 1 will advance to Stage 2.

Stage 1: Functional Evaluation

Stage 1 comprises of three evaluation phases :

- Phase 1: Administrative evaluation.
- Phase 2: Mandatory compliance evaluation

- Phase 3: Technical evaluation.

A shortlist of bidders who scored 80 points and above on technical evaluation in **Stage 1**, will advance to **Stage 2**. Only bids that meet all criteria and requirements of **Stage 1** will be eligible to participate in Stage 2. Bids that do not meet all criteria will not be evaluated further.

The bidders progressing to **Stage 2**, will be required to submit a price quotation within a specified time to the NCT for further evaluation. Bidders will also be required to sign non-disclosure agreements. These bidders will then be provided with / allowed to receive confidential information from NCT in order to compile the price quotation.

Stage 2: Pricing & Applicable Specific Goals

Bidders who pass the **Stage 1** of the tender process will be evaluated based on price and preference point allocation in accordance with applicable legislation. Member information will only be provided to the shortlisted candidates for quotation purposes. This will include but no limited to, ID numbers, Male / Female breakdown, occupation, and Gross Pensionable Salary. A template will be provided which the bidders will be required to complete.

The bidder who scores the highest number of points in Stage 2 of the bid evaluation will be the successful bidder, unless the NCT exercises its right to cancel the RFP in accordance with PFMA Regulations. The cheapest quotation will not necessarily be awarded the tender.

4. TIMELINE OF THE BID PROCESS

- 4.1. The period of validity of Bids and the withdrawal of offers, after the closing date and time shall be 180 days. The project timeframes of this bid are set out below:

Activity	Due Date
Advertisement of bid	30 August 2024
Bid closing date	30 September 2024 at 12:00 PM
Notice to bidder(s)	The NCT will endeavor to inform bidders of the outcome of the application.

Table 4 : Timeline of bid process

- 4.2. All dates and times in this bid are South African standard time.
- 4.3. Any time or date in this bid is subject to change at the NCT's discretion. The establishment of a time or date in this bid does not create an obligation on the part of the NCT to take any action or create any right in any way for any bidder to demand that any action be taken on the date established.
- 4.4. The bidder accepts that, if the NCT extends the deadline for bid submission (the closing date) for any reason, the requirements of this bid otherwise apply equally to the extended deadline.

5. LATE BIDS

- 5.1. Bids received **after the closing date and time**, at the address indicated in the bid documents, shall not be accepted for consideration and where practicable, shall be returned unopened to the Bidder(s).

6. COMMUNICATION DETAILS

- 6.1. A nominated official of the bidder(s) can make enquiries in writing to the following emails: addresses:
procurement@thenct.org.za,
MGroenewald@thenct.org.za,
TMozanane@thenct.org.za.
Bidder(s) must reduce all telephonic enquiries to writing and send to the abovementioned email addresses.
- 6.2. The delegated office of the NCT may communicate with Bidder(s) where clarity is sought in the bid proposal. Bidders are to supply the required information within the specified period. Failure to do so will invalidate their bid.
- 6.3. Any communication to an official or a person acting in an advisory capacity for the NCT in respect of the bid between the closing date and the award of the bid by the Bidder(s) is discouraged, unless it is for purposes of providing clarity in respect of the legitimate questions pertaining to the bid. The NCT reserves the right not to answer questions which it considers to be inappropriate.

- 6.4. All communication between the Bidder(s) and the NCT must be done in writing.
- 6.5. Whilst all due care has been taken in connection with the preparation of this bid, the NCT makes no representations or warranties that the content of the bid or any information communicated to or provided to Bidder(s) during the bidding process is, or will be, accurate, current or complete. The NCT, and its employees and advisors will not be held liable for any information communicated which may not be accurate, current, or complete.
- 6.6. If Bidder(s) finds or reasonably believes it has found any discrepancy, ambiguity, error or inconsistency in this bid or any other information provided by the NCT (other than minor administrative matters), the Bidder(s) must promptly notify the NCT in writing of such discrepancy, ambiguity, error or inconsistency in order to afford the NCT an opportunity to consider what corrective action to take if necessary.
- 6.7. Any actual discrepancy, ambiguity, error or inconsistency in the bid or any other information provided by the NCT shall, if possible, be corrected and be provided to all Bidder(s) without attributing such discrepancy, ambiguity, error or inconsistency to the Bidder(s) who provided the written notice of such matters.
- 6.8. All persons (including Bidder(s)) obtaining or receiving the bid and any other information in connection with the Bid or the Tendering process must keep the contents of the Bid and other such information confidential, and not disclose or use the information except as required for the purpose of developing a proposal in response to this Bid.

7. COUNTER CONDITIONS

- 7.1. Bidders' attention is drawn to the fact that amendments to any of the Bid Conditions or setting of counter conditions by Bidders or qualifying any Bid Conditions shall render such bids invalid.

8. FRONTING

- 8.1. Attention is brought to the bidders that Fronting is a criminal offence, punishable by law. The Government 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 Government condemns any form of fronting.

- 8.2. The Government, in ensuring that Bidders conduct themselves in an honest manner shall, as part of the bid evaluation processes, conduct, or initiate the necessary enquiries/investigations to determine the accuracy of the representations made in the 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, as well as the provisions of the B-BBEE Act as amended, be established during such enquiry / investigation, the onus shall be on the Bidder / contractor to prove that fronting does not exist.
- 8.3. Failure by the Bidder(s) to provide evidence to the NCT that no fronting conduct was committed 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 Government for a period not exceeding ten years, in addition to any other remedies the NCT may have against the Bidder / contractor concerned. Furthermore, the NCT shall report any suspected acts of fronting to the South African Police Services for investigation.

9. SUPPLIER DUE DILIGENCE

- 9.1. The NCT reserves the right to conduct supplier due diligence prior to final award or at any time during the contract period. This may include site visits of the bidder, site visit at a client of the bidder (reference) for valuation of services rendered and requests for additional information.

10. SUBMISSION OF PROPOSALS (PLEASE NOTE THAT THESE ADMINISTRATIVE REQUESTS 10.2 and 10.3 ARE INCLUDED FOR EASE OF REFERENCE AND BIDDERS WILL NOT BE DISQUALIFIED IF NOT COMPLIED WITH)

- 10.1. All tenders must be clearly marked:

“For attention: Chief Operating Officer” with the Tender Reference number included and delivered to:

**The Chief Operating Officer
The National Consumer Tribunal
Ground Floor, Building B
Lakefield Office Park**

**272 West Avenue
Corner of West Avenue and Lenchen Avenue North
Centurion, 0046**

10.2. Bid documents shall only be considered when received by the NCT before the closing date and time.

10.3. The bidder(s) are required to submit Three (3) copies: One (1) original and Two (2) duplicate and submit by the closing date **30 September 2024 at 12:00 PM**. Each submission must be marked correctly and sealed separately for ease of reference during the evaluation process.

10.4. Bidders are requested to initial each page of the tender document on the right-hand side at the bottom of each page.

11. PRESENTATION / DEMONSTRATION

11.1. The NCT reserves the right to request presentations/demonstrations from the short-listed Bidders as part of the bid evaluation process. If a request is made for a presentation the presentation is compulsory and non-attendance will result in a disqualification of your application.

12. DURATION OF THE CONTRACT

12.1. Due to the nature of the services required, the contract will not have a specified end date. Either party to the contract may terminate the contract by giving the other party 30 days written notice.

13. TECHNICAL SPECIFICATIONS

The Technical Information should contain the following information:

13.1. The bidder must provide a detailed company profile.

13.2. Bidders are required to submit a detailed project plan containing phases, timeframes and reporting. The proposal should provide details of the approach on how to ensure and measure a quality project delivery.

13.3. Qualifications and experience in Pension Fund and Group Risk administration and the

applicable legislation in terms of the Pension Fund Act and the Insurance Act:

- The experience and qualifications of the personnel to be allocated to the NCT.
- Provide certified copies of professional qualifications of the Team.
- Provide certified copies of the FSCA license with the applicable sub-categories and any other registration/membership.
- Provide company registration documents, board of directors and management and copies of identity documents and CSD Registration Information.

13.4. Provide original or the original certified copy of BBBEE Certificate or original sworn affidavit or DTI template.

13.5. Provide seven (7) written current references where the requested services or where similar services were rendered in the last five years (where similar services were provided) who can attest to the bidder's experience as it relates to similar services. Such information should include:

- Company letterhead and logo
- The letter must indicate that the bidder provided pension/provident fund services, including group life and disability benefits in the past five (5) years.
- The letter must be duly signed by an official of the company.
- The letter must not be more than 12 months old as at the bid closure date.

13.6. Fully completed and duly signed SBD Forms.

14. EVALUATION CRITERIA

Stage 1: Details of the evaluation phases are presented in the table below:

Phase 1	Phase 2	Phase 3
Administrative Compliance	Compliance with Mandatory Requirements	Technical Compliance

Bidders must submit all documents as outlined below. Only bidders that comply with ALL these criteria will be evaluated in Phase 2.	Bidders must submit the documents as outlined below. Only bidders that comply with these requirements will be evaluated in Phase 3.	Bidder(s) are required to achieve a minimum of 80 points out of 100 points for the technical evaluation criteria to proceed to stage 2 (Price and specific Goals).
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Table 5 : Evaluation phases

14.1. PHASE 1 – ADMINISTRATIVE EVALUATION

14.1.1. In this phase of evaluation, the process includes the verification of completeness and compliance with administrative and legislative document requirements.

14.1.2. All Standard bidding documents (listed below) must be completed in full, signed and submitted together with the bid at the closing date and time of the bid.

- Proof of Authority – This is a company resolution for the capacity under which this bid is signed.
- The General Conditions of Contract must be duly signed.

14.1.3. SBD documents should not be retyped or redrafted and must be completed in full in original ink.

14.2. PHASE 2 – MANDATORY CRITERIA

(Failure to comply with the mandatory requirements outlined below will invalidate the bid and such bids will be disqualified)

14.2.1. SBD 1 – Invitation to bid fully completed and duly signed.

14.2.2. SBD 4 – Bidders Disclosure fully complete and duly signed.

14.2.3. SBD 6.1 – Preference Points Claim fully completed and duly signed.

14.2.4. Central Supplier Database (CSD) – A fully updated CSD (not summarized) must be submitted.

14.2.5. Confirmation of valid registration with Financial Sector Conduct Authority (“FSCA”)

14.2.6. Proof of professional liability insurance.

14.3. PHASE 3 – TECHNICAL EVALUATION

14.3.1. All bidders are required to respond to the technical evaluation criteria and scorecard.

Only bidders that met the requirements of Phases 1 and 2 of **Stage 1** will be evaluated in Phase 3 for functionality.

14.3.2. Bidders will be evaluated out of 100 points on functionality. Any bidder that scores less than 80 points out of 100 on functionality will not be considered for **Stage 2** of the evaluation.

14.3.3. Functionality will be evaluated as follows:

Functionality	Points
1. Bidder Capability	
The bidder must provide a detailed explanation of their capability to perform the following services. This must include: 1.1. An overview of your company including ownership, number of employees and offices, organisational structure, etc. (10 Points). 1.2. Access to web-based tools to manage the client customer relationship. (5 Points). 1.3. Ability to assist the NCT with identifying competitive market offerings and placements of our plans, annual renewals, investment portfolios etc (10 Points). 1.4. Bidder's ability to comply to a turnaround time of 48 hours for resolving queries. (5 Points).	30
2. Bidders Project Plan	
The bidder must provide a detailed project implementation plan, clearly outlining the key activities, deliverables and timelines and communication strategy. Scoring Guideline: 0 = No information provided/information provided not relevant. 5 = Project plan only includes one element of the project plan. 10 = Project plan only includes two elements of the project plan.	25

Functionality	Points
15 = Project plan only includes three elements of the project plan. 25 = Project plan includes all four elements of the project plan.	
3. Bidders' Company Experience	
Demonstrate the ability and experience of work done in the past of a similar nature. The Company has confirmed experience of executing such an assignment. The service provider must present the details of the companies for which they have provided Employee Benefit Services. Scoring Guideline: 0 = Bidder has less than 10 years' experience. 10 = Bidder 10 or more but less than 15 years' experience. 15 = Bidder has more than 15 years' experience	15
4. Reference Letters	
Number of Clients the Company has in the provision of Pension Fund services (including Group Life and Disability Benefits)	
Bidders must provide a list of contactable current clients reflecting the name of the contact person, contact number and email address. Scoring Guideline: 0 = Less than three (3) reference complete letters provided. 3 = Bidder has provided three (3) or four (4) reference letters. 6 = Bidder has provided five (5) or six (6) reference letters. 10 = Bidder has provided seven (7) or more reference letters. Reference letters must include the following: • Company letter head and logo. • The letter must indicate that the bidder provided pension/provident fund services, including group life and disability benefits in the past five (5) years. • The letter must be duly signed by an official of the company. • The letter must not be older than 12 months as at bid closure date.	10

Functionality	Points
5. Project Team Experience	
Key personnel should include a Team Leader in the project team and other specialists/members as indicated below. Key Personnel must have a minimum of five years' experience and relevant qualifications and accreditation where applicable. Copies of certified certificates, CV's, proof of qualifications and accreditation must be attached to the proposal. Note: Failure to attach these will result in bidders forfeiting functionality points. Scoring Guideline: 10 = Project Lead is registered as a Representative at the FSCA, and has a minimum of 10 years' experience. 7 = Project Manager has a minimum of 3 years' experience. 3 = Support Team has an average of two (2) years' experience in employee benefits. Failure to meet the above including the submission of requested documentation will result in zero points being scored by the bidder.	20
Total	100

Table 6: Functionality

15. CONSORTIUM

- 15.1. 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.
- 15.2. 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 designates the rights and obligations of each member.
- 15.3. 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 RFQ/Bid process is such that the lead partner is identified and the following requirements are required as follows:

- 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).
- Partner
 - Proof of CSD registration
 - Tax Pin
 - B-BBEE Sworn-Affidavit/ BBEE rating certificate
 - SBD 4

15.4. 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 BBEE status in order to align with the Specific Scores 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

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

16. JOINT VENTURE

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

16.2. Unincorporated joint venture

- 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.
 - SBD 4
 - SBD 6
 - Tax Pin
 - CSD registration
 - The JV agreement will direct which bank account of the two entities will be used.
 - Consolidated Joint B-BBEE Certificate

16.3. Incorporated joint venture

- 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.
 - SBD 4
 - SBD 6
 - Tax Pin
 - CSD registration
 - JV agreement will direct which bank account of the two entities will be used.
 - Consolidated Joint B-BBEE Certificate

17. GENERAL CONDITIONS OF CONTRACT

17.1. Any award made to a bidder under this bid is conditional, amongst others, upon –

- The Bidder accepting the terms and conditions contained in the General Conditions of Contract as the minimum terms and conditions upon which NCT is prepared to enter a contract with the successful Bidder.
- The Bidder submitting the General Conditions of Contract to the NCT together with its bid, duly signed by an authorised representative of the bidder.

18. SPECIAL CONDITIONS OF THIS BID

18.1. The NCT reserves the right:

- i. To award this Bid to a bidder that did not score the highest total number of points, only in accordance with section 2(1) (f) of the PPPFA (Act 5 of 2000) ("The Act").
- ii. In addition to clause 20.1(i), in the event that the score of the one Bidder (highest scorer) and that of the second highest scorer differs by a very small margin not exceeding a maximum differential of two per centum (2%), the NCT may apply objective criteria in terms of section 2(1) (f) of the Act in making such an award.
- iii. To accept part of a bid rather than the whole tender.
- iv. To carry out site inspections or explanatory meetings in order to verify the nature and quality of the services offered by the bidder(s), whether before or after adjudication of the Bid.
- v. To correct any mistakes at any stage of the tender that may have been in the Bid documents or occurred at any stage of the tender process.
- vi. To cancel and/or terminate the Bid process at any stage, including after the Closing Date and/or after presentations have been made, and/or after bidders

have been evaluated and/or after the preferred bidder(s) have been notified of their status as such.

- vii. Award to multiple bidders based either on size or geographic considerations alternatively specific expertise.

19. THE NCT REQUIRES BIDDER(S) TO DECLARE

19.1. In the Bidder's Technical response, bidder(s) are required to declare the following:

- a. Confirm that the bidder(s) is to: –
 - i. Act honestly, fairly, and with due skill, care, and diligence, in the interests of the NCT.
 - ii. Have and employ effectively the resources, procedures, and appropriate technological systems for the proper performance of the services.
 - iii. Act with circumspection and treat the NCT fairly in a situation of conflicting interests.
 - iv. Comply with all applicable statutory or common law requirements applicable to the conduct of business.
 - v. Make adequate disclosures of relevant material information
 - vi. including disclosures of actual or potential own interests, in relation to dealings with the NCT.
 - vii. Avoid acting fraudulently and avoid providing misleading information in respect of advertising, canvassing and marketing;
 - viii. To conduct their business activities with transparency and consistently uphold the interests and needs of the NCT as a client before any other consideration; and
 - ix. To ensure that any information acquired by the bidder(s) from the NCT will not be used or disclosed unless the written consent of the client has been obtained to do so.

20. CONFLICT OF INTEREST, CORRUPTION AND FRAUD

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

- i. engages in any collusive tendering, anti-competitive conduct, or any other similar conduct, including but not limited to any collusion with any other bidder in respect of the subject matter of this bid.
- ii. seeks any assistance, other than assistance officially provided by a Government Entity, from any employee, advisor or other representative of a Government Entity in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to a Government Entity.
- iii. makes or offers any gift, gratuity, anything of value or other inducement, whether lawful or unlawful, to any of the NCT's officers, directors, employees, advisors or other representatives.
- iv. makes or offers any gift, gratuity, anything of any value or other inducement, to any Government Entity's officers, directors, employees, advisors or other representatives in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to a Government Entity.
- v. Accept anything of value or an inducement that would or may provide financial gain, advantage or benefit in relation to procurement or services provided or to be provided to a Government Entity.
- vi. pays or agrees to pay to any person any fee, commission, percentage, brokerage fee, gift or any other consideration, that is contingent upon or results from, the award of any tender, contract, right or entitlement which is in any way related to procurement or the rendering of any services to a Government Entity.
- vii. has in the past engaged in any matter referred to above; or
- viii. Has been found guilty in a court of law on charges of fraud and/or forgery, regardless of whether or not a prison term was imposed and despite such bidder, member or director's name not specifically appearing on the List of Tender Defaulters kept at National Treasury.

21. MISREPRESENTATION DURING THE LIFECYCLE OF THE CONTRACT

- 21.1. The bidder should note that the terms of its bid will be incorporated in the proposed contract by reference and that the NCT relies upon the bidder's bid as a material representation in making an award to a successful bidder and in concluding an agreement with the bidder.
- 21.2. It follows therefore that misrepresentations in a bid may give rise to service termination and a claim being instituted by the NCT against the bidder notwithstanding the conclusion of the Service Level Agreement between the NCT and the bidder for the provision of the Service in question. In the event of a conflict between the bidder's

proposal and the Service Level Agreement concluded between the parties, the Service Level Agreement will prevail.

22. PREPARATION COSTS

22.1. The Bidder will bear all its costs in preparing, submitting and presenting any response to this bid and all other costs incurred by it throughout the bid process. Furthermore, no statement in this bid will be construed as placing the NCT, its employees or agents under any obligation whatsoever, including in respect of costs, expenses or losses incurred by the bidder(s) in the preparation of their response to this bid.

23. INDEMNITY

23.1. If a bidder breaches the conditions of this bid and, as a result of that breach, the NCT incurs costs or damages (including, without limitation, the cost of any investigations, procedural impairment, repetition of all or part of the bid process and/or enforcement of intellectual property rights or confidentiality obligations), then the bidder indemnifies and holds the NCT harmless from any and all such costs which the NCT may incur and for any damages or losses the NCT may suffer.

24. PRECEDENCE

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

25. LIMITATION OF LIABILITY

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

26. TAX COMPLIANCE

26.1. No tender shall be awarded to a bidder which is not tax compliant. The NCT reserves the right to withdraw an award made, or cancel a contract concluded with a successful bidder in the event that it is established that such bidder was in fact not tax compliant at the time of the award or has submitted a fraudulent Tax Clearance Certificate to The NCT, or whose verification against the Central Supplier Database (CSD) proves non-

compliant.

26.2. The NCT further reserves the right to cancel a contract with a successful bidder in the event that such bidder does not remain tax compliant for the full term of the contract.

27. TENDER DEFAULTERS AND RESTRICTED SUPPLIERS

27.1. No tender shall be awarded to a bidder whose name (or any of its members, directors, partners or trustees) appears on the Register of Tender Defaulters kept by National Treasury, or who have been placed on National Treasury's List of Restricted Suppliers. The NCT reserves the right to withdraw an award, or cancel a contract concluded with a Bidder should it be established, at any time, that a bidder has been blacklisted with National Treasury by another government institution.

28. GOVERNING LAW

28.1. 29.1 South African law governs this bid and the bid response process. The bidder agrees to submit to the exclusive jurisdiction of the South African courts in any dispute of any kind that may arise out of or in connection with the subject matter of this bid, the bid itself and all processes associated with the bid.

29. RESPONSIBILITY FOR SUB-CONTRACTORS AND BIDDER'S PERSONNEL

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

29.2. In the event that the NCT allows a bidder to make use of sub-contractors, such sub-contractors will at all times remain the responsibility of the bidder and the NCT will not under any circumstances be liable for any losses or damages incurred by or caused by such sub-contractors.

30. CONFIDENTIALITY

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

- 30.2. No part of the bid may be distributed, reproduced, stored or transmitted, in any form or by any means, electronic, photocopying, recording or otherwise, in whole or in part except for the purpose of preparing a Bid. This bid and any other documents provided by the NCT remain proprietary to the NCT and must be promptly returned to the NCT upon request together with all copies, electronic versions, excerpts or summaries thereof or work derived therefrom.
- 30.3. Throughout this bid process and thereafter, bidder(s) must secure the NCT's written approval prior to the release of any information that pertains to (i) the potential work or activities to which this bid relates; or (ii) the process which follows this bid. Failure to adhere to this requirement may result in disqualification from the bid process and civil action.

31. THE NCT PROPRIETARY INFORMATION

- 31.1. A Bidder shall on its bid cover letter make a declaration that it did not have access to any the NCT proprietary information or any other matter that may have unfairly placed that bidder in an advantageous position in relation to any of the other bidder(s).

32. ANNEXURE A – SBD Forms

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)					
BID NUMBER:	NCT 4/3/2/45	CLOSING DATE:		CLOSING TIME:	
DESCRIPTION					
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON			CONTACT PERSON		
TELEPHONE NUMBER			TELEPHONE NUMBER		
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS			E-MAIL ADDRESS		
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
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES OFFERED?	☐ Yes ☐ No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES OFFERED?		☐ Yes ☐ No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?				☐ YES ☐ NO	
DOES THE ENTITY HAVE A BRANCH IN THE RSA?				☐ YES ☐ NO	
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?				☐ YES ☐ NO	
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?				☐ YES ☐ NO	
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?				☐ YES ☐ NO	
IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.					

PART B

TERMS AND CONDITIONS FOR BIDDING

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, 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 PIN 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:

.....

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

Any person (natural or juristic) may make an offer or offers in terms of this invitation to bid. In line with the principles of transparency, accountability, impartiality, and ethics as enshrined in the Constitution of the Republic of South Africa and further expressed in various pieces of legislation, it is required for the bidder to make this declaration in respect of the details required hereunder.

Where a person/s are listed in the Register for Tender Defaulters and/ or the List of Restricted Suppliers, that person will automatically be disqualified from the bid process.

2. Bidder's declaration

2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest¹ in the enterprise, employed by the state? **YES/NO**

2.1.1 If so, furnish particulars of the names, individual identity numbers, and, if applicable, state employee numbers of sole proprietor/ directors / trustees / shareholders / members/ partners or any person having a controlling interest in the enterprise, in table below.

Full Name	Identity Number	Name of State institution

2.2 Do you, or any person connected with the bidder, have a relationship

¹ the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.

with any person who is employed by the procuring institution? **YES/NO**

2.2.1 If so, furnish particulars:

.....

2.3 Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract? **YES/NO**

2.3.1 If so, furnish particulars:

.....

3 DECLARATION

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

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium² will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring

² Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.

- 3.6 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 and 3 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

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

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

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

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

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to invitations to tender:

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.2 To be completed by the organ of state

a) The applicable preference point system for this tender is the **80/20** preference point system.

1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:

- (a) Price; and
- (b) Specific Goals.

1.4 To be completed by the organ of state:

The maximum points for this tender are allocated as follows:

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

1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.

1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to

preferences, in any manner required by the organ of state.

2. DEFINITIONS

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

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

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

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

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

Where

P_s = Points scored for price of tender under consideration

P_t = Price of tender under consideration

P_{min} = Price of lowest acceptable tender

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

3.2.1. POINTS AWARDED FOR PRICE

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

$$\begin{array}{ccc}
 \mathbf{80/20} & \mathbf{or} & \mathbf{90/10} \\
 \\
 \mathbf{Ps} = \mathbf{80} \left(\mathbf{1} + \frac{\mathbf{Pt - Pmax}}{\mathbf{Pmax}} \right) & \mathbf{or} & \mathbf{Ps} = \mathbf{90} \left(\mathbf{1} + \frac{\mathbf{Pt - Pmax}}{\mathbf{Pmax}} \right)
 \end{array}$$

Where

Ps = Points scored for price of tender under consideration
Pt = Price of tender under consideration
Pmax = Price of highest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

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

Table 1: Specific goals for the tender and points claimed are indicated per the table below.

(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.

Note to tenderers: The tenderer must indicate how they claim points for each preference point system.)

The specific goals allocated points in terms of this tender	Number of points allocated (90/10 system) (To be completed by the organ of state)	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (90/10 system) (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)
Race – 100% Black owned	N/A	10		
Gender – 100% Women owned	N/A	5		
100% Owned by Persons with Disabilities	N/A	3		
SMME's	N/A	2		

DECLARATION WITH REGARD TO COMPANY/FIRM

4.3. Name of company/firm.....

4.4. Company registration number:

4.5. TYPE OF COMPANY/ FIRM

- ☐ Partnership/Joint Venture / Consortium
 - ☐ One-person business/sole propriety
 - ☐ Close corporation
 - ☐ Public Company
 - ☐ Personal Liability Company
 - ☐ (Pty) Limited
 - ☐ Non-Profit Company
 - ☐ State Owned Company
- [TICK APPLICABLE BOX]

- 4.6. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I acknowledge that:
- i) The information furnished is true and correct;
 - ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
 - iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
 - iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
 - (a) disqualify the person from the tendering process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution, if deemed necessary.

.....	
SIGNATURE(S) OF TENDERER(S)	
SURNAME AND NAME:	
DATE:	
ADDRESS:	
	
	
	

CONTRACT FORM - RENDERING OF SERVICES

THIS FORM MUST BE FILLED IN DUPLICATE BY BOTH THE SERVICE PROVIDER (PART 1) AND THE PURCHASER (PART 2). BOTH FORMS MUST BE SIGNED IN THE ORIGINAL SO THAT THE SERVICE PROVIDER AND THE PURCHASER WOULD BE IN POSSESSION OF ORIGINALLY SIGNED CONTRACTS FOR THEIR RESPECTIVE RECORDS.

PART 1 (TO BE FILLED IN BY THE SERVICE PROVIDER)

1. I hereby undertake to render services described in the attached bidding documents to (name of the institution) in accordance with the requirements and task directives / proposals specifications stipulated in Bid Number..... at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the Purchaser during the validity period indicated and calculated from the closing date of the bid .
2. The following documents shall be deemed to form and be read and construed as part of this agreement:
 - (i) Bidding documents, viz
 - Invitation to bid;
 - Proof of tax compliance status;
 - Pricing schedule(s);
 - Filled in task directive/proposal;
 - Preference claim form for Preferential Procurement in terms of the Preferential Procurement Regulations;
 - Bidder's Disclosure form;
 - Special Conditions of Contract;
 - (ii) General Conditions of Contract; and
 - (iii) Other (specify)
3. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the services specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfillment of this contract.
5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
6. I confirm that I am duly authorised to sign this contract.

NAME (PRINT)

CAPACITY

SIGNATURE

NAME OF FIRM

DATE

WITNESSES

1

2

DATE:

CONTRACT FORM - RENDERING OF SERVICES

PART 2 (TO BE FILLED IN BY THE PURCHASER)

1. I..... in my capacity as..... accept your bid under reference numberdated.....for the rendering of services indicated hereunder and/or further specified in the annexure(s).
2. An official order indicating service delivery instructions is forthcoming.
3. I undertake to make payment for the services rendered in accordance with the terms and conditions of the contract, within 30 (thirty) days after receipt of an invoice.

DESCRIPTION OF SERVICE	PRICE (ALL APPLICABLE TAXES INCLUDED)	COMPLETION DATE	TOTAL PREFERENCE POINTS CLAIMED	POINTS CLAIMED FOR EACH SPECIFIC GOAL

4. I confirm that I am duly authorised to sign this contract.

SIGNED ATON.....

NAME (PRINT)

SIGNATURE

OFFICIAL STAMP

WITNESSES

1

2

DATE:

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
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15. Warranty
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23. Termination for default
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25. Force Majeure
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27. Settlement of disputes
28. Limitation of liability
29. Governing language
30. Applicable law
31. Notices
32. Taxes and duties
33. National Industrial Participation Programme (NIPP)

General Conditions of Contract

1. Definitions

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.

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| 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.

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

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

the intended penalty as not objected against and may impose it on the supplier.

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

23.6 If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:

- (i) the name and address of the supplier and / or person restricted by the purchaser;
- (ii) the date of commencement of the restriction
- (iii) the period of restriction; and
- (iv) the reasons for the restriction.

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

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

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