sport, arts & culture
Department:
Sport, Arts and Culture
REPUBLIC OF SOUTH AFRICA

Private Bag X897, Pretoria 0001 – Sechaba House, 202 Madiba Street and Paul Kruger, Pretoria 0001
Tel: (012) 441 3000, Fax: (012) 441 3699

Enquiries : DSAC SCM Office

Tel : 012 441 3504/ 012 441 3173 Reference : **DSAC 09/24-25**

SUBJECT: THE APPOINTMENT OF A PANEL OF SERVICE PROVIDERS FOR FORENSIC INVESTIGATION SERVICES FOR THE DEPARTMENT OF SPORT, ARTS & CULTURE FOR A PERIOD OF THREE YEARS (36 MONTHS).

REQUIRED BY: DEPARTMENT OF SPORT, ARTS & CULTURE

1. Kindly furnish the Department with a bid for the services shown on the attached forms.

2. The General Conditions of Contract (GCC), Terms of Reference as well as the SBD1, SBD 3.1, SBD 4, and SBD 6.1, forms are attached for completion. These Forms must be returned with your bid.

3. Bid documents must be submitted on an envelope stipulating the following information: Name and Address of the Bidder

   Bid Number, and

   Closing Date of the Bid.

   Interested parties are requested to provide one original hard copy and one electronic copy (submitted in USB) of the original documents.

4. Bidders should deposit their bid documents into the tender box available on the ground floor Reception at the following address:

   Department of Sport, Arts and Culture, Sechaba House, 202 Madiba Street, Corner Paul Kruger and Madiba Street, Pretoria Central.

5. **Non-compulsory virtual briefing session:**

   Date and Time: 19 September 2024 at 11:00 am-12:00

   Link: https://shorturl.at/KrZEa

6. The tender's closing date is **18 October 2024 at 11:00 am**.

MS REFILWE ZULU

DIRECTOR: SUPPLY CHAIN MANAGEMENT

PART A
INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE DEPARTMENT OF SPORT, ARTS AND CULTURE.					
BID NUMBER:	**DSAC 09/24-25**	CLOSING DATE:	**19 OCTOBER 2024**	CLOSING TIME:	**11.00 AM**
DESCRIPTION	**APPOINTMENT OF A PANEL OF SERVICE PROVIDERS FOR FORENSIC INVESTIGATION SERVICES FOR THE DEPARTMENT OF SPORT, ARTS & CULTURE FOR A PERIOD OF THREE YEARS (36 MONTHS).**				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT *(STREET ADDRESS)*					
DEPARTMENT OF SPORT, ARTS AND CULTURE					
202 MADIBA STREET					
PRETORIA CENTRAL					
PRETORIA, 0002					

BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO		**TECHNICAL ENQUIRIES MAY BE DIRECTED TO:**	
CONTACT PERSON	**DSAC Bid 0ffice**	CONTACT PERSON	**DSAC Procuring Unit**
TELEPHONE NUMBER	**012 441 3173 / 012 441 3504**	TELEPHONE NUMBER	**012 441 3099/ 012 441 3023**
FACSIMILE NUMBER	**N/A**	FACSIMILE NUMBER	**N/A**
E-MAIL ADDRESS	**DSACTenders@dsac.gov.za**	E-MAIL ADDRESS	**SunitaR@dsac.gov.za**

SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		**OR**	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] ☐ Yes ☐ No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX] ☐ Yes ☐ No

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	☐Yes ☐No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR **THE GOODS /SERVICES /WORKS OFFERED?**	☐Yes ☐No [IF YES, ANSWER 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, 2022, 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	BBIDDERS 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: ……...

SBD4

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

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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

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TERMS OF REFERENCE

DSAC 09/24-25

SUBJECT: APPOINTMENT OF A PANEL OF SERVICE PROVIDERS FOR FORENSIC INVESTIGATION SERVICES FOR THE DEPARTMENT OF SPORT, ARTS & CULTURE FOR A PERIOD OF THREE YEARS (36 MONTHS)

CLOSING DATE AND TIME OF BID:
18 OCTOBER 2024

NON-COMPULSORY VIRTUAL BRIEFING SESSION

DATE:19 SEPTEMBER 2024
TIME: 11:00AM
LINK: https://shorturl.at/KrZEa

BID VALIDITY PERIOD: 120 days

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1. INTRODUCTION AND BACKGROUND

1.1 The Department of Sport, Arts & Culture (DSAC) has an Internal Audit function established in line with the Public Finance Management Act No 1 of 1999 (PFMA) as amended and in terms of Treasury Regulation 3.2.4.

1.2 Section 38 (1) (a) (ii) of the PFMA states that: “an Accounting Officer for a Department, trading entity or constitutional institution must ensure that the department, trading entity or constitutional institution has and maintains a system of internal audit under the control and direction of an audit committee complying with and operating in accordance with regulations and instructions prescribed in terms of section 76 and 77.”

1.3 The Public Service Anti-Corruption Strategy approved by Cabinet in 2020 requires that, in order to fight corruption in Departments (as defined in the Public Service Act), each Accounting Officer must establish minimum capacity to investigate allegations reported in the department.

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1.4 The Internal Audit Unit is responsible for both internal audits and forensic investigations. The Forensic Investigations sub-directorate conducts investigations on allegations of corruption, fraud and other alleged acts of misconduct, reported through the Risk Management Unit, and performs the preliminary and/or full investigation of reported allegations.

1.5 The minimum capacity within the Department is insufficient to initiate the investigation of all projects reported within the 30-day period as per the National Treasury Regulations.

1.6 Due to an increased number of requests for investigations it is necessary for the Department to appoint a panel of external forensic service providers to alleviate the capacity challenge and also to ensure that allegations are investigated timeously.

2. SCOPE AND EXTENT OF THE TENDER / TASK DIRECTIVE

The functions to be performed by service providers appointed on the panel of forensic investigators will, inter alia include the following:

NO.	TASKS	YES/NO/NOTED
2.1	**SCOPE AND DELIVERABLES**	

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NO.	TASKS	YES/NO/NOTED
	a. Outline the Investigation Methodology and develop an Investigation plan to address amongst others, the following: - • determine whether irregularities occurred regarding the allegations reported. • determine and identify officials of the Department and / or other parties involved and/or responsible for the irregularities that occurred; and • recommend appropriate action to be instituted by the Department where irregularities have been confirmed. **b.** Compile detailed investigation reports to Management and the Audit Committee, that will improve and add value to the Department's processes. **c.** Compile evidence files including exhibits and make these available to the Department within three working days after completion of the investigation. **d.** Assist in the development of charge sheets when requested. **e.** Present evidence in disciplinary hearings and/or courts if so required.	

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NO.	TASKS	YES/NO/NOTED
	f. Depose to affidavits when requested to do so by the Department. **g.** Attend scheduled meetings with the Chief Audit Executive (CAE), relevant Managers, Executive Management Team and the Audit Committee of the Department during the duration of the contract.	
2.2	**PERFORMANCE REQUIREMENTS**	
	a. Investigation assignments are to be performed using the appointed firm's investigation approach/methodology which should be in line with the Public Service Code of Conduct; the Professional Standards set by Association of Certified Fraud Examiners (ACFE)/ Institute of Commercial Forensic Practitioners (ICFP) and other related Legislation, Regulations, and best practice applicable to forensic/fraud investigations. **b.** Declaration of Conflict of Interest [Independence and Objectivity of Investigation Teams] - In carrying out investigation work, the successful bidder must ensure that its staff maintains individual objectivity by remaining independent of the activities they perform. The service	

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NO.	TASKS	YES/NO/NOTED
	provider shall: • Have no executive or managerial powers, functions or duties except those relating to the project. • Not be involved in the day-to-day operations of the Department. **c.** The service provider shall ensure that all team members allocated to the specific investigation assignment declare any conflict of interest in writing to the CAE should they have potential impairments to independence or objectivity relating to their responsibilities. **d.** Service Providers shall be expected to develop and implement strategies for training to build capacity and transfer skills to the in-house staff on identified projects/ projects, where feasible. **e.** Forensic Investigators are expected to uphold the following principles: • Professionalism and Diligence – A firm shall always demonstrate a commitment to professionalism and diligence in the performance of his or her duties.	

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NO.	TASKS	YES/NO/NOTED
	• Legal and Ethical – A firm shall not engage in any illegal or unethical conduct or any activity which would constitute a conflict of interest. • Integrity – A firm shall at all times exhibit the highest level of integrity in the performance of all professional assignments and will accept only the assignments for which there is reasonable expectation that the assignment will be completed with professional competence. • Objectivity – A firm will comply with lawful orders of the courts and will testify in matters truthfully and without bias or prejudice. **f.** The above performance requirements are expected to be applied in all investigations performed by service providers.	
2.3	**OUTPUTS**	
	a. Detailed investigation reports with clear and unambiguous findings and recommendations. **b.** Evidence file with Exhibits and Annexures submitted within three (3) days to the Department after completion of the	

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NO.	TASKS	YES/NO/NOTED
	forensic investigations.	
2.4	**TEAM MEMBERS / RESOURCES**	
	a. The service provider must have the necessary capacity, skill and experience to execute the assignment. **b.** The service provider should provide details of the investigation team that will be involved in the assignment including number and level / ranks of team member/s to be involved in the assignment, and the curriculum vitae for each team member. **c.** The service provider to be placed on the panel shall ensure that the team presented to the Department is in line with the proposal submitted, and team members who exit the employment of the successful bidder, are substituted with team members with similar experience and qualifications or above. **d.** The Lead Investigator should be a Certified Fraud Examiner.	
2.5	**CAPACITY BUILDING AND SKILLS TRANSFER**	

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NO.	TASKS	YES/NO/NOTED
	Prospective bidders, in pursuit of sustainable, mutually beneficial engagements are requested to indicate a clear plan on how skills transfer will be implemented to the Department's Forensic Investigation team. The skills transfer should consider the following: **a.** On the job training where training needs are identified (skills assessment). **b.** Engagement reviews/assessments for each deliverable, On-going technical updates. **c.** Mentoring of in-house staff by the forensic investigation teams and most importantly transfer of report writing skills for effective communication on the outcome of the investigation.	
2.6	**TIMEFRAME**	
	The panel of service providers for forensic investigation services for the Department of Sport, Arts & Culture will be for a period of three years from the date of the formal appointment.	

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NO.	TASKS	YES/NO/NOTED
2.7	**FINANCIAL ARRANGEMENTS**	
	Once appointed on the Department's panel of forensic investigation service providers, the service providers will be expected to provide financial proposals for each forensic investigation on a request for quotation basis.	
2.8	**REPORTING ARRANGEMENTS**	
	All the appointed service providers will report to the office of the Chief Audit Executive.	

3. LEGISLATIVE AND REGULATORY FRAMEWORK

3.1 This bid and all contracts emanating from this bid will be subject to the General Conditions of Contract issued in 2010 in accordance with of the Treasury Regulations 16A, published in terms of the Public Finance Management Act, 1999 (Act 1 of 1999).

3.2 The Special Conditions of Contract are supplementary to that of the General Conditions of Contract of 2010. Where, however, the Special Conditions of Contract conflict with the General Conditions of Contract, the Special Conditions of Contract takes precedence.

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4. EVALUATION STAGES

4.1 The bid evaluation process consists of several stages that are applicable as defined in the table below:

Stage	Description	Applicable for this bid
Stage 1	The Supply Chain Management compliance with bid requirements.	Yes
Stage 2	Functionality requirement evaluation.	Yes
Stage 3	Sourcing of quotations (Price versus points awarded for specific goals) as per DSAC SBD form 6.1	Yes

4.1.1 Stage 1:

Verification of service provider (s) compliance with bid requirements and initial screening process.

4.1.2. Stage 2:

The Technical proposal will be evaluated out of 100 points with a threshold of 70 points. Bidders that score less than minimum of 70 points will be disqualified. Bidders must score a minimum of 70 or more points to be considered for appointment as part of the panel Service providers that will only be included on the panel after they have passed the vetting stage.

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4.1.3 Stage 3:

Department of Sport, Arts and Culture will source quotations from the panel of forensic investigator service providers who passed stage two (2) and were considered and approved to be on the list of the panel of service providers for forensic investigations.

Quotations will then be evaluated in accordance with the prescripts of the Preferential Procurement Policy Framework Act (PPPFA) and the associated Preferential Procurement Regulations of 2022, which stipulate an 80/20 preference point system is applicable up to a rand value of R50 million (all applicable taxes included). 90/10 preference point system is applicable to all quotations above R50 million.

- The following criteria will be used as the criteria for appointment as part of the panel of service providers, apart from those laid down in the Preferential Procurement Regulations, 2022, pertaining to the Preferential Procurement Policy Framework Act 5 of 2000.

- Bidders are required to submit the following proof/documentation to claim points for specific goals as outlined in departmental SBD 6.1;
    a) **Ownership Certificate issued by the Companies and Intellectual Property Commission (CIPC) that shows ownership percentage (e.g. Beneficial ownership, CK ...etc) and**
    b) **BBBEE certificate or Sworn affidavit**

Failure to submit the required documents will result in 0 points for Specific Goals.

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The points for this bid will be allocated as follows once the bidder has been appointed on the panel of forensic investigation service providers:

No	Components	Points
1.	Price	80 or 90
2.	Points awarded to a specific goal as per the SBD 6.1. attached to this bid	20 or 10
	Total	**100**

5. BID REQUIREMENTS

General requirements

The following is required of bidders and should be submitted to the department as part of the bid submission:

5.1 Company profile.

5.2 Company registration certificate.

5.3 All Bidders must be registered on the National Treasury Central Supplier Database (CSD) and must attach a copy of the most recent report to the tender document.

5.4 The tax status on CSD must be compliant, as Department is unable to award a contract to a company whose tax affairs are not in order as determined by SARS. A recommended bidder whose tax matters have expired, or compliance status is invalid will be notified in writing of their non-compliance status and the bidder must be requested to submit written proof from SARS of their tax compliant status or proof that they have made an arrangement to meet their outstanding tax obligations within 7

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working days. The bidder should thereafter provide the Department with proof of their tax compliant status which should be verified via CSD.

5.5 Original Company Resolution or Letter of authority or Letter of appointment authorizing the signatory of the Entity to sign the contract with the Department.

5.6 Valid contact details including e-mail address.

5.7 Certified ID copies of all Directors or shareholders.

5.8 Details of shareholdings status namely, shareholder certificates with the names of directors and percentage of ownership.

5.9 Reference letters must be provided, as well as an indication of experience with similar projects.

5.10 **Bidders are requested to provide one original hard copy and one electronic copy (submitted in USB) of the original document.**

5.11 Companies, who registered for VAT, should include VAT on their costing.

5.12 Any other details that may be relevant in respect of the tender evaluation criteria.

5.13 All bidders are required to submit details of shareholdings status namely, shareholder certificates with the names of directors and percentage of ownership and certified copies of identity documents.

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6. EVALUATION CRITERIA

- All bids dully lodged will be evaluated by a panel on functionality.
- For the purposes of comparison and to ensure meaningful evaluation, bidders are requested to furnish detailed information to substantiate compliance to each of the evaluation criteria mentioned below:

No	CRITERIA STAGE 1: FUNCTIONALITY	WEIGHT	VALUE RATING	POINTS ALLOCATION	TOTAL
1.	Appropriate previous Forensic Investigation experience of the company with a minimum of 5 years in the Public and Private Sector; supported by confirmation/ reference letters from the relevant institution(s); types of investigations performed; success rate of the investigations conducted. The company should have successfully completed a minimum of 5 projects.	**10**	0-4 projects	= 0 points	
			5 – 8 projects	= 5 points	
			9 – 12 projects	= 7 points	
			13 projects and above	= 10 points	
2.	Bidder's understanding of the brief and expectations of the Department; and investigations in the public service; A Proposed plan/Methodology of action to achieve the objectives – the approach/methodology to be employed.	**30**	1 -5 Poor		
			6 – 9 Below average		
			10 -14 Above average		
			15 – 20 Good		
			21 – 30 Excellent		

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3	Transfer of skills and capacity building Prospective bidders, in pursuit of sustainable and mutually beneficial engagements are requested to indicate a clear plan on how they will be able to implement skills transfer to the internal staff members Skills transfer should clearly outline the following: i. On the job training (skills assessment ii. Engagement reviews (On going technical updates for each deliverable) iii. Mentoring (Indication that high level resources will be responsible for quality control)	**15**	non-mentioning of the skills transfer	0	
			Only one of the three criteria is clearly outlined	5	
			Only two of the three criteria is clearly outline	10	
			All three criteria items are clearly outline	15	
3	Level of **experience** & qualifications of the investigation team members that will be directly involved with the project: *[Cumulative number of years of experience of individual team members in forensic/fraud investigations; Leadership & Supervision, Proficient computer literacy, Exceptional report writing, Presentation Skills, Analytical thinking, Interviewing skills,* *Ability to assess and analyse information and make relevant findings, Problem solving skills and Ability to influence others, Conflict management, Forensic Investigation,* *Project Management, Knowledge of Case Management, Legal interpretation skills; level of security]* *Experience will not relate to the company or but specifically to the team members in the firm.* **Weight = 45**				

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	Partner/ Engagement Director (Number of years)	5	1- 3 Yrs	= 2 points	
			4 – 5 Yrs	= 3 points	
			6 Yrs & above	= 5 points	
	Partner/ Engagement Director (Qualifications)	5	CFE	= 5 for any of the 3	
			CA		
			Adv/ Attorney		
	Investigation Manager (Number of years)	5	1 -3 yrs	= 2 points	
			4 – 5 yrs	= 3 points	
			6 yrs & above	= 5 points	
	Investigation Manager (Qualification – Honours in all of the following or CFE)	5	Criminology	= 5 for any of these	
			Forensics		
			Law		
			Accounting		
			CFE		
	Senior / supervisor (Number of years)	5	1 -3 yrs	= 2 points	
			4 – 5 yrs	= 3 points	
			6 yrs & above	= 5 points	
	Senior / supervisor (CFE) (Qualifications – Degree in all of the following)	5	Criminology	5 if CFE and degree in any of these	
			Forensics		
			Law		
			Accounting		
	Junior investigators (Number of years)	4	1 – 3 yrs	= 1 point	
			4 – 5 yrs	= 2 ponts	
			6 yrs & above	= 4 points	
	Junior investigators (Qualifications – Degree or National Diploma in the following)	3	Criminology	3 for any of these	
			Forensics		
			Law related		
	Specialist (Number of years)	4	1 – 3 yrs	= 1 point	
			4 – 5 yrs	= 2 points	
			6 yrs & above	= 4 points	
	Specialist (Specialization)	4	Digital Forensics	= 4 points for any of these	

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			Handwriting specialist Polygraphers		
Total weight = 100					
Minimum Functionality Score = 70					

7. CONFIDENTIALITY

7.1 No information or documentation may be used for any other purpose other than providing for a tender proposal to the Department, and no copies of any document may be made, except with prior written approval from the Department.

7.2 The successful bidder and staff will be required to sign a non-disclosure agreement.

8. INTELLECTUAL PROPERTY AND OWNERSHIP

8.1 Ownership and copyright of all documentation developed during the period of the contract will be vested in the Department of Sport, Arts & Culture including the evidence files will remain the property of the Department of Sport, Arts & Culture.

8.2 All intellectual property rights relating to any work produced by the service provider in relation to the performance of this contract shall belong to the Department and may not be used for any other purpose by the service provider. The service provider shall provide the Department with assistance in protecting such intellectual property rights. All material, in paper, electronic or any recorded format produced by the service

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provider in the performance of this contract shall remain the property of the Department of Sport, Arts & Culture and must be handed over to the Department on termination of the contract.

8.3 All service providers undertake not to infringe the intellectual property of third parties. Should any action or claim be instituted against the Department emanating from an infringement of intellectual property or an alleged infringement of intellectual property, the service providers hereby indemnify the Department against such claims or actions as well as all costs (including legal costs on an attorney and client scale).

9. FINANCIAL IMPLICATIONS

9.1 All bidders are not required to provide a cost breakdown at this stage.

9.2 No service will be provided to the Department before an official order has been issued to the supplier or service provider.

9.3 The service provider should be aware that DSAC only pays after the services have been rendered.

9.4 Payments will be done within 30 days of receipt of an invoice with all required supporting documents.

9.5 Payments will be made by the Department after the service provider has submitted an invoice supported by all requisite documents.

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10. CLIENT BASE

10.1 The Department of Sport, Arts & Culture reserves the right to contact references during the evaluation and adjudication process to obtain information.

11. COMMUNICATION

11.1 The Department of Sport, Arts & Culture may communicate with bidders for, among others, where bid clarity is sought, to obtain information or to extend the validity period.

12. PRESENTATION

11.2 The Department of Sport, Arts & Culture may request presentations and or interviews from short-listed bidders as part of the bid process.

13. SUPPLIER DUE DILIGENCE

13.1 The State reserves the right to conduct supplier due diligence prior to final award or at any time during the contract period. **Bidders must note that, the Department might conduct verification on the information submitted and any misrepresentation will result in an automatic disqualification.**

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14. CONFLICT OF INTEREST

14.1 The bidder or bidders group must submit a document (you may include it in your covering letter), stating whether any of its employees have any interest in the Department or whether any of Department's personnel have any interest in the bidders or affiliated business.

15. NON-COMPULSORY VIRTUAL BRIEFING SESSION

15.1 The department will hold the Virtual Briefing Session as follows:

Date : 19 September 2024

Time : 11:00 am to 12:00 pm

Link : https://shorturl.at/KrZEa

16. PACKAGING AND SUBMISSION OF BIDS DOCUMENTS

16.1 Bidders to arrange the Standard Bidding Documents (SBDs) in your submission numerically and orderly.

16.2 Bidders are advised to ensure that bids are submitted allowing sufficient time for any unforeseen events that may delay the delivery of the bid and time to access the premises because of security arrangements when entering the department's main entrance.

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16.3 All bidders are required to complete a bid register fully, when submitting bid documents. The Bid register is available at the below-mentioned address.

Bidders should deposit their documents into the tender box available on the Ground Floor reception area by 18 October 2024 at **11H00** at the address below: **Department of Sport, Arts & Culture, Sechaba House, 202 Madiba Street, Cnr Madiba and Paul Kruger Streets, Pretoria.**

16.4 **Bidders are requested to provide one original hard copy and one electronic copy (submitted in USB of the original document.**

17. COST OF BIDDING

17.1 The bidder shall bear all costs associated with the preparation and submission of its bid and the Department, will in no case be held responsible or liable for these costs, regardless of the conduct or outcome of the tender process.

17.2 The bidder will not be entitled to claim for travel and subsistence expenses.

18. PRICE OR FEES NEGOTIATION

18.1 The Department may negotiate the price or fees with the preferred bidder/s based on the deliverables of investigation before the commencement of the investigation.

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19. LATE BIDS

19.1 Bids are received at the address indicated above. Bid documents should be submitted before **11:00am,** on the closing date of the tender. Department will not accept any bid received after the closing date and time.

20. BID AND TECHNICAL ENQUIRIES / CLARIFICATION OF TENDER DOCUMENTS

20.1 The Department will respond in email to any request for clarification of the tender documents which it receives **no later than one (1) week prior to the deadline for submission of bids prescribed by the Department.**

20.2 All enquiries related to the technical content of the Terms of Reference as well as the bid enquires may be directed **in writing** to the officials listed below:

For Technical Enquiries:
DSAC Procuring Unit
Tel: 012 441 3099 / 012 441 3023
Email: SunitaR@dsac.gov.za /MalefetsaneM@dsac.gov.za
For Bid Enquiries:
DSAC Bid Office
Tel: 012 441 3504 / 012 441 3173
E-Mail: DSAC Tenders@dsac.gov.za

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LIST OF ABBREVIATIONS UTILIZED IN THE DOCUMENT

CAE	Chief Audit Executive
CFE	Certified Fraud Examiner
CSD	Central Suppliers Database
DSAC	Department of Sport, Arts & Culture
ICFP	Institute of Commercial Forensic Practitioners
PFMA	Public Finance Management Act

THE NATIONAL TREASURY

Republic of South Africa

GOVERNMENT PROCUREMENT:

GENERAL CONDITIONS OF CONTRACT

July 2010

GOVERNMENT PROCUREMENT

GENERAL CONDITIONS OF CONTRACT
July 2010

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

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General Conditions of Contract

1. Definitions

1. The following terms shall be interpreted as indicated:

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

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

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

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

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

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

1.7 “Day” means calendar day.

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

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

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

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

RSA.

1.12 ”Force majeure” means an event beyond the control of the supplier and not involving the supplier’s fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.

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

1.14 “GCC” means the General Conditions of Contract.

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

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

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

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

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

1.20 “Project site,” where applicable, means the place indicated in bidding documents.

1.21 “Purchaser” means the organization purchasing the goods.

1.22 “Republic” means the Republic of South Africa.

1.23 “SCC” means the Special Conditions of Contract.

1.24 “Services” means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such

obligations of the supplier covered under the contract.

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

2. Application

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

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

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

3. General

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

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

4. Standards

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

5. Use of contract documents and information; inspection.

5.1 The supplier shall not, without the purchaser's prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.

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

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

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

6. Patent rights

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

7. Performance security

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

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

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

(a) 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 (NIP) Programme

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.

34 Prohibition of Restrictive practices

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

34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.

34.3 If a bidder(s) or contractor(s), has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.