

BID NO: 005-2022-2023

APPOINTMENT OF A PANEL OF PROBITY AUDITORS AND ADVISORS

Issued by:
Construction Education and Training Authority: Supply Chain Management Unit
CETA Head Office
TCM Building
52 on 14th Road
Noordwyk
Midrand

Full Name of Bidding/Tendering Entity: _____

Contact Person: _____

Tel Number: _____

Advert Date: 28 November 2022

Closing Date and Time: 09 December 2022 at 11h00

Bidder's Authorised Signatory:

Initials and Surname: _____

Signature: _____

COMPULSORY DOCUMENTS – FOR THE MAIN BIDDER

Please note that failure to submit the following documents and/or proof will lead to immediate disqualification from BID evaluation process:

1. Attached Proof of registration with the National Treasury Central Supplier Database (CSD).
2. Proof of firm registration with Independent Regulatory Board for the Auditors (IRBA).

BID CONDITIONS

- All bidders are required to register on the National Treasury Central Supplier Database (CSD). The CSD proof of registration will be used by CETA to verify the bidder's tax compliant status at the time of BID award.
- **This RFP will only be awarded to bidders who are tax compliant on National Treasury CSD on award.**

OTHER REQUIRED DOCUMENTS

Please note that failure to attach the following documents will result in the forfeiture of preference points:

- Completed and signed:
 - SBD 1
 - SBD 4
 - SBD 6.1
 - SBD 7.2

OTHER REQUIRED DOCUMENTS

Please note that failure to attach the following documents will result in the forfeiture of preference points:

- EMEs:

Sworn affidavit confirming their annual total revenue of R10 million or less and level of black ownership or a B-BBEE level verification certificate

- QSEs

Sworn affidavit confirming their annual total revenue of between R10 million and R50 million and level of black ownership or B-BBEE level verification certificate.

- Bidders other than EMEs and QSEs :

Original and valid B-BBEE status level verification certificate verified by a SANAS accredited verification agency, or a certified copy thereof

- Subcontracting – bidders who wish to subcontract must complete the subcontracting information on SBD 6.1
- Joint Ventures (JV) – JVs are required to attach a signed JV agreement, attach CSD report of all JV members, attached completed and signed SBD4 documents of all JV members and a valid BBBEE certificate of the JV

Please double-check that you have attached all the above documents before submitting your bid document.

BID DOCUMENTS CHECK LIST:

The contents of the bid document must be as follows, and numbered as per the numbering below, with each schedule punched, placed in a file, and separated from the next schedule with a file divider.

Please complete the checklist below to verify your submission of the relevant documents:

Schedules	Description	Submitted – Indicate YES or NO
Schedule 1	Proof of registration with National Treasury Central Supplier Database (CSD)	
Schedule 2	Proof of firm registration with Independent Regulatory Board for the Auditors (IRBA)	
Schedule 3	Letter from the bank confirming banking details – not older than 3 months from submission date	
Schedule 4	Reference letters	
Schedule 5	Methodology and approach	
Schedule 6	CV's and Qualifications of proposed team	
Schedule 7	Pricing Schedule	
Schedule 8	Company Profile	
Schedule 9	Audited Financial Statement (past 2 years)	
Schedule 10	BBBEE	
Schedule 11	POPI information consent form completed and signed (CETA provided template)	

BID SUBMISSION

Bidders are required to submit **one original and one copy** of the bid document.

TERMS OF REFERENCE

APPOINTMENT OF A PANEL OF PROBITY AUDITORS AND ADVISORS

1. INTRODUCTION

The Construction Education and Training Authority (CETA) is a Schedule 3A Public Entity established in terms of the Skills Development Act, No.97 of 1998. The CETA's mandate is to promote and ensure quality education and training in the construction sector.

2. PURPOSE OF THIS BID

The CETA seeks to appoint three (3) credible probity audit and advisory service providers to assist the probity audit services to provide an independent compliance review, advisory and assurance on the CETA SCM and procurement processes.

Probity is often considered as the "integrity and uprightness" of a process. The value add of the probity report is that it promotes accountability by reporting conformity, deviations, issues of recommended improvement and any matter to be brought to the attention to the prescribing authorities for that tender award to be made. The prescribing authority in this context is the Board or the Accounting Authority or the delegated official of CETA. Probity also promotes good governance by assessing propriety where there are insufficient or inadequate laws and regulations or predetermined criterion to allow the process to retain its integrity throughout to the final stage.

This tender seeks to obtain bid responses for both probity audit and advisory service to the CETA tender processes above the SCM policy prescribed threshold. The key difference between a probity advisory and a probity audit is that an engagement for provision of probity advice does not provide a verification role and is not intended to provide an opinion as to whether the probity requirements have been met as is in the case of a probity audit.

The review is to be conducted in accordance with the International Standards on Related Services 4400 applicable to agreed-upon procedures engagements and guidelines to ensure that the procurement process followed by the CETA are equitable, conducted with integrity and that due process was followed and to ensure that the procurement process is conducted in a manner that is fair, equitable, transparent, competitive, and cost effective with the aim of creating a consistent framework for achieving good governance.

The review is to focus on the evaluation of the compliance with Supply Chain Management Policy and procedures, and other SCM related prescripts including but not limited to:

- Constitution of the Republic of South Africa (Act 108 of 1996, Section 217)
- Public Finance Management Act 1, 1999 and related Treasury Regulations
- Preferential Procurement Policy Framework Act (Act 5 of 2000)
- Broad-Based Black Economic Empowerment Act (Act 53 of 2003)
- The Prevention and Combatting of Corrupt Activities Act (Act 12 of 2004)
- National Treasury Instruction Notes and Circulars
- The National Small Business Act, (Act No. 102 of 1996)
- Construction Industry Development Board Act, (Act No. 38 of 2001)
- Policy Strategy to Guide Uniformity in the Procurement Reform Processes for the introduction of an integrated Supply Chain Management Function.
- The Supply Chain Management Framework published in government Gazette number 25767 dated 15 December 2003 as part of Treasury Regulations in terms of Section 76(4) C of the PFMA.
- National Treasury's Guidelines for Accounting Officers / Authorities.
- Promotion of Access to Information Act (Act 2 of 2000)
- Protection of Personal Information Act, (POPIA)
- Terms of reference for the CETA Bid Committees
- Any other relevant Act, Regulation, Guidelines or Circular applicable to the public sector procurement process.

3. SCOPE OF WORK TO BE UNDERTAKEN

3.1 The probity audit scope entails the following:

- Provide independent assurance on the compliance, fairness and completeness of the tender processes
- Review the entire procurement process to ensure compliance with relevant SCM legislations, regulations, policies, procedures, and other relevant prescripts.
- Review the process to verify if it was fair, equitable, transparent, competitive, cost-effective, and unambiguous in terms of Section 217 of the Constitution and the section 51 of PFMA
- The evaluation criterion used is applied consistently on all qualifying submitted bids.
- The requirements and prescripts of the Request For Tender (RFT) are adhered to throughout the procurement process.
- Reviewing the reliability, integrity, and completeness of the competitive bidding and RFQ documentation

- Inspecting the documents relating to pre-qualification criteria for preferential procurement and disqualification criteria.
- Reviewing the evaluation processes including the evaluation sheets and confirm scores awarded for accuracy and compliance.
- Verifying minutes of the bid committee meetings for accuracy, compliance and completeness.
- Reviewing the calculation of functionality scoring and pricing metrics.
- Considering conflicts of interest and identification of bias towards specific vendors if any.
- Identification of root causes that led to the transgressions and the impact of the transgressions; and
- Submit a report detailing work performed and recommendations.
- Prepare and submit the Probity Auditor's compliance report to the Chairpersons of the Bid Committees, the Chief Executive (CEO) and finally to the Board / Accounting Authority of CETA.

3.2 The Probity Advisory entails the following, amongst others:

- Provide general SCM and procurement probity advisory services to enhance CETA tender compliance and in effort to eliminate risks of irregular awards from occurring.
- Advise on any matters that may render the integrity of the SCM and tender procurement process to be questionable and any eminent risks that may arise subsequent to the finalisation of the evaluation, if not addressed at evaluation stages.
- Ensure that risks that may affect CETA from the award process are identified and addressed accordingly within the scope of the Bid Evaluation Committees (BEC).
- Ensure value for money, efficiencies and the best from the available market is considered in the processes undertaken.
- Ensure that conflicts of interest and confidentiality issues, if any; are addressed accordingly at each stage of the tender procurement process.
- Advise on best and optimal procurement processes and ideal outcomes that assist CETA achieves its strategic, operational, and transformational goals / agenda and improve its BBBEE contribution level score.
- Ensure that the evaluation process followed, decision and resolutions made by the Bid Committees during the process are appropriately documented.
- Prepare and submit the Probity Advisor's progress and final reports for the attention of the CEO and the Board / Accounting Authority.

4. TEAM REQUIREMENTS AND CAPACITY

- 4.1 Capacity to deliver and attend to matters promptly and as per reasonable timelines given by CETA is imperative. Lack of proven capacity will attract lower functionality points for the bidder.
- 4.2 The successful firms undertake to maintain properly experienced and competent team for delivery of the CETA assignments throughout the currency of its SLA with CETA.
- 4.3 Any changes to the initially proposed team as per bid response, will require written approval from the CETA. The levels of teams to remain as per bid response; however, they can be improved upwards and be agreed to as such in writing.
- 4.4 Team members whose work requires accreditations or certain certifications; should ensure their memberships and accreditations or certifications are active and valid throughout the currency of the allocated assignment.
- 4.5 Team members and hourly rates charged on the assignment are to be the same as was proposed on the bid submitted on appointment.

5. OTHER REQUIREMENTS

- 5.1 Interested parties must submit estimations based on hourly rates.
- 5.2 Falsified documents will result in immediate disqualification and reporting of a bidder engaging on such to relevant authorities for action.
- 5.3 Due diligence on recommended bidders will be performed for the recommended bidder/s.
- 5.4 Appointment to the panel does not in any way guarantee that the appointed firm will receive instructions and/or that it is due a portion of any instructions.
- 5.5 The panel services will be allocated on rotational basis and at the discretion of the CETA

5.6 To support the evaluation process, bidders are required to provide the following documents:

- Company profile
- A detailed list of the proposed team to support the CETA (**with the below as a minimum**).

Name and Surname	Nationality	Position	Role/Responsibilities	Qualifications	Experience (Years)
		Project Lead			
		Project Manager			
		Team Member 1			
		Team Member 2			

- A detailed list of government and public entity experience (in this format)

Project	Year	Client's name	Private/Public Entity (please indicate)	Contact person and telephone numbers

- A detailed proposal (methodology and approach) in respect of the terms of reference on how the required services will be implemented for the CETA.

6. PROJECT DURATION

The probity services are required for a duration of period of 36 months.

7. BID VALIDITY

Bid validity is 90 days from the closing date of the bid

8. PRICING SCHEDULE

No	Description	QTY	Rate per hour (Exc. VAT)	Total rate per hour (Inc. VAT)
1.	Project Lead	Per Individual		
2.	Project Manager	Per Individual		
3.	Team Member 1	Per Individual		
4.	Team Member 2	Per Individual		
5.	Total Year 1 (Incl. VAT)			
6.	Total Year 2 (Incl. VAT)			
7.	Total Year 3 (Incl. VAT)			
8.	Total rate per hour for the duration of project (Inc. VAT)			

NB: Submission of an incomplete pricing schedule will lead to immediate disqualification

NB: The total summed up rate will be used for evaluation purposes and will not result in total contract amount.

NB: Travel disbursements to be paid in line with CETA travel policy and subject to pre-approval.

NB: The appointment will not necessarily be based on the lowest rates or contracting value quoted.

NB: All rates quoted by firms will be capped at maximums as per SAICA /AGSA most recent rates.

NB: Pricing schedule will be limited to the four individuals regardless of the total proposed number of team members.

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

9. EVALUATION CRITERIA

Criterion 1 – Compulsory Requirements

Bidders will first be evaluated in terms of the gatekeeper/minimum requirements on page 2 of this document. Bidders who do not meet all the requirements will be disqualified. Bidders who meet all the requirements will be further evaluated on functionality.

Criterion 2 – Functionality

Functionality is worth 100 points. The minimum threshold is 70 points. Applicants who score less than 70 points on functionality will therefore be disqualified. Those who score 70 points or more will be further evaluated on presentations. The functionality evaluation is broken down as follows:

Reference letters of completed projects	Total – 25 points
Bidders must submit probity related testimonials not older than 5 years. The references must be on client's letterhead include the relevant contactable details of referee, nature of service / assignment provided, year when service was provided and must be signed a client. • Submission of 10 more letters with probity related experience - 25 points • Submission of 7 to 9 letters with probity related experience - 20 points • Submission of 4 to 6 letters with probity related experience - 10 points • Submission of 1 to 3 letters with probity related experience - 5 points	
Methodology and Approach	Total – 10 points
Bidders are required to submit a detailed methodology and approach. Demonstration of the understanding of the CETA requirements as per scope requirements (refer to paragraph 3 of this document). Scoring Matrix • Excellent – 10 Points - Proposal meets 'Excellent' rating and provides value add, cost saving, innovation, and efficiency and/or has gone beyond the call of the scope of work requirement (shows an in-depth understanding of CETA requirements and advanced probity audit and advisory service knowledge). • Good – 5 Points - Proposal addresses majority of the scope of work requirements, project plan, proposals fit the scope of work and considers all critical activities necessary to meet requirement and there are adequate details provide (shows an average understanding of CETA requirements and acceptable probity audit and advisory service knowledge knowledge). • Poor – 0 Points - Proposal unlikely to satisfy scope. Bidder does not deal with the critical aspects of the scope requirements, failed to demonstrate understanding of work and/or methodology and approach provided is not consistent with the scope of work required (shows no proper understanding of CETA requirements and below par probity audit and advisory service knowledge).	
Company Experience	Total – 5 points
Company experience in dealing with government and public entities - Max 5 points • At least 5 or more cases – 5 points • At least 2 to 4 cases - 3 points • Less than 2 cases - 0 points	

Team Nationality	Total – 10 points
The proposed team must be bonafide South Africans (these also should be naturalised or be permanent residents in the Republic of SA) and not more than 5% of the proposed team members at junior level are non-SAs. Bidders are required to submit certified IDs and other relevant documentation that is proof of nationality (certification of documents not to be more that 3 months from date of tender closure date) <u>Proposed team</u> Propose team are bonafide South Africans and not more than 5% of the team members at junior level are non-SAs. – 10 points	
Team Membership and Qualifications	Total – 20 points
PROFESSIONAL MEMBERSHIP/REGISTRATION Bidders are to submit a certified membership certificate from an audit and investigation professional body / institute (e.g., IRBA) <u>Project/Probity Lead</u> - Provide certifications for membership in good standing – 5 points <u>Project/Probity Manager</u> - Provide certifications for membership in good standing – 5 points PROPOSED CANDIDATE'S QUALIFICATIONS Bidders are required to provide certified copies of qualifications <u>Project/Probity Team Member 1</u> - Qualification at a minimum – NQF 7 in Accounting, Auditing or Forensics – 5 points <u>Project/Probity Team Member 2</u> - Qualification at a minimum – NQF 7 in Accounting, Auditing or Forensics – 5 points	

Experience of Team	Total – 30 points
Bidders are required to provide a detailed CV and or details of the proposed team experience relevant to this project (probity audit, SCM investigations or advisory/consulting services). As a minimum to earn points, the team members below should be included on the proposed team. CANDIDATE'S EXPERIENCE <u>Project/Probity Lead</u> • 10 years or more relevant experience – 5 points • 5 years to 9 years relevant experience – 3 points • 2 years to 4 years relevant experience – 1 point • Less than 2 years relevant experience – 0 point <u>Project/Probity Manager</u> • 8 years or more relevant experience – 5 points • 4 to 7 years relevant experience – 3 points • 3 years relevant experience – 1 point • Less than 2 years relevant experience – 0 point <u>Project/Probity Team Member 1</u> • 5 years or more relevant experience – 10 points • 3 to 4 years relevant experience – 5 points • 1 to 2 years relevant experience – 3 points	Total 30 points

Project/Probity Team Member 2 5 years or more relevant experience – 10 points 3 to 4 years relevant experience – 5 points 1 to 2 years relevant experience – 3 points	
TOTAL POINTS	100 POINTS

Criterion 3 – Price and Preference

Bidders who score 70 points or more on functionality, will be further evaluated in terms of Price and Preference points (B-BBEE status level of contributor). As per the table below, price will be evaluated over 80 points and preference points over 20:

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

Whilst CETA is issuing this invitation in good faith, it reserves the right to cancel or delay the selection process at any time without providing reasons therefore and reserves the right not to select any of the respondents to this invitation.

BID NO: 005-2022/2023 terms of reference were approved as follows:

Name..... Signature:.....Date:.....
BSC Chairperson

Name..... Signature:.....Date:.....
BAC Chairperson

10. ADMINISTRATIVE ENQUIRIES

ANY ADMINISTRATIVE ENQUIRIES REGARDING THE BIDDING PROCEDURE MAY BE DIRECTED TO:

Department: Supply Chain Management Unit

Contact Person: Nthabiseng Senkoto

Tel: 011 265 5900/5945

E-mail: scmtenders@ceta.co.za

ANY ENQUIRIES REGARDING TECHNICAL INFORMATION MAY BE DIRECTED TO:

E-mail address: Nokwandad@ceta.co.za and cc scmtenders@ceta.co.za

Below is the address of office to be delivered at:

Province	Physical address
Gauteng (CETA Head Office)	CETA 52 on 14 th Road, Noordwyk Midrand 1687

Deadline for queries is 02 December 2022

11. POPI CONSENT FORM

CONSENT TO PROCESS PERSONAL INFORMATION IN TERMS OF THE PROTECTION OF PETRSONAL INFORMATION ACT, ACT NO. 4 OF 2013 (POPIA)

The purpose of the POPIA is to protect personal information of individuals and businesses and to give effect to their right of privacy as provided for in the Constitution. By signing this form, you consent to your personal information to be processed by the CETA for administrative and reporting purposes*.

I a natural person "herein referred to as the Data Subject" with ID No:..... hereby give my consent to the CETA "herein referred to as the Responsible Party" to collect, process and distribute my personal information where the CETA is legally required to do so.

I understand my right to privacy and the right to have my personal information processed in accordance with the conditions for the lawful processing of personal information.

I understand the purposes for which my personal information is required and for which it will be used and consent to third parties accessing my personal information and to the CETA sharing my personal information strictly for reporting purposes.

I understand that, should I refuse to provide the CETA with the required consent and/ or information, the CETA will may be limited in its operations.

I declare that all my personal information supplied to the CETA is accurate, up to date, not misleading and that it is complete in all respects and will be held and/ or stored securely for the purpose for which it was collected and that I will immediately advise the CETA of any changes to my Personal Information should any of these details change.

I also understand that I have the right to request that my personal information be corrected or deleted, if it is inaccurate, irrelevant, excessive, out of date, incomplete, misleading, or obtained unlawfully or that the personal information or record be destroyed or deleted if the responsible party is no longer authorised to retain it.

Signed at this day of20.....

Signature of data subject/ designated person

.....
Name /Department of Responsible Party

.....
Signature Date

12. STANDARD BIDDING DOCUMENTS (SBD)

SBD 1

PART A

INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (CETA)					
BID NUMBER:	BID NO: 005-2022-2023	CLOSING DATE:	09 December 2022	CLOSING TIME:	11H00
DESCRIPTION	APPOINTMENT OF A PANEL OF PROBITY AUDITORS AND ADVISORS				
THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).					
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
CETA HEAD OFFICE					
TCM BUILDING					
52 ON 14 TH ROAD					
NOORDWYK, MIDRAND, 1687					
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					
		TCS PIN:		OR	CSD No:
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]		☐ Yes ☐ No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT ☐ Yes ☐ No	
IF YES, WHO WAS THE CERTIFICATE ISSUED BY?					
AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA) AND NAME THE APPLICABLE IN THE TICK BOX		☐	AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA)		
		☐	A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS)		
		☐	A REGISTERED AUDITOR		
		NAME:			

[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/SWORN AFFIDAVIT(FOR EMEs& QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]			
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	☐ Yes ☐ No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS/ SERVICES/ WORKS OFFERED?	☐ Yes ☐ No [IF YES ANSWER PART B:3 BELOW]
SIGNATURE OF BIDDER		DATE	
CAPACITY UNDER WHICH THIS BID IS SIGNED (Attach proof of authority to sign this bid; e.g. resolution of directors, etc.)			
TOTAL NUMBER OF ITEMS OFFERED		TOTAL BID PRICE (ALL INCLUSIVE)	
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:		TECHNICAL INFORMATION MAY BE DIRECTED TO:	
DEPARTMENT/ PUBLIC ENTITY		CONTACT PERSON	
CONTACT PERSON		TELEPHONE NUMBER	
TELEPHONE NUMBER		FACSIMILE NUMBER	
FACSIMILE NUMBER		E-MAIL ADDRESS	
E-MAIL ADDRESS			

SBD1

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 ONLINE
1.3. THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD 7)
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 VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.
2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA .
2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS TOGETHER WITH THE BID.
2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE PROOF OF TCS / PIN / CSD NUMBER.
2.6 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.

NB: FAILURE TO PROVIDE ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

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 institution	State

- 2.2 Do you, or any person connected with the bidder, have a relationship with any person who is employed by the procuring institution? **YES/NO**

- 2.2.1 If so, furnish particulars:

.....
.....

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.

- 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 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

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.

MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of bidder

SBD 6.1

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

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

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

1. GENERAL CONDITIONS

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

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

a) The value of this bid is estimated to ~~exceed/not exceed~~ R50 000 000 (all applicable taxes included) and therefore the 80/20 preference point system shall be applicable; or

b) Either the 80/20 preference point system will be applicable to this tender

1.2 Points for this bid shall be awarded for:

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

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

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

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

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

2. DEFINITIONS

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

3. POINTS AWARDED FOR PRICE

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

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

80/20

or

90/10

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

Where

P_s = Points scored for price of bid under consideration

P_t = Price of bid under consideration

$P_{\min}$ = Price of lowest acceptable bid

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

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

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

5. BID DECLARATION

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

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

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

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

7.SUB-CONTRACTING

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

(Tick applicable box)

YES	☐	NO	☐
-----	--------------------------	----	--------------------------

- 7.1.1If yes, indicate:

- i) What percentage of the contract will be subcontracted.....%
- ii) The name of the sub-contractor.....
- iii) The B-BBEE status level of the sub-contractor.....
- iv) Whether the sub-contractor is an EME or QSE

(Tick applicable box)

YES	☐	NO	☐
-----	--------------------------	----	--------------------------

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

Designated Group: An EME or QSE which is at last 51% owned by:	EME √	QSE √
Black people		
Black people who are youth		
Black people who are women		
Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		
Black people who are military veterans		
OR		
Any EME		
Any QSE		

8 DECLARATION WITH REGARD TO COMPANY/FIRM

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

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

.....

.....

.....

8.6 COMPANY CLASSIFICATION

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

[TICK APPLICABLE BOX]

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

8.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing

certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
 - (a) disqualify the person from the bidding process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution.

WITNESSES

- 1.
- 2.

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

DATE:

ADDRESS

.....

.....

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 supply all or any of the goods and/or works described in the attached bidding documents to CETA in accordance with the requirements and 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 time of 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;
 - Tax clearance certificate;
 - Pricing schedule(s);
 - Technical Specification(s);
 - Declaration of interest;
 - Declaration of bidder's past SCM practices;
 - Certificate of Independent Bid Determination
 - 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 goods and/or works 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 fulfilment 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

WITNESSES

1.

2.

DATE:

.....

CONTRACT FORM - RENDERING OF SERVICES

PART 2 (TO BE FILLED IN BY THE PURCHASER- CETA)

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).

An official order indicating service delivery instructions is forthcoming.

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

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

SIGNED ATON.....

NAME (PRINT)

SIGNATURE

OFFICIAL STAMP

WITNESSES

1

2

DATE:

13. GENERAL CONDITIONS OF CONTRACT

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

To ensure that clients be familiar with regard to the rights and obligations of all parties involved in doing business with government.

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

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

TABLE OF CLAUSES

- | | |
|-----|---|
| 1. | Definitions |
| 2. | Application |
| 3. | General |
| 4. | Standards |
| 5. | Use of contract documents and information; inspection |
| 6. | Patent rights |
| 7. | Performance security |
| 8. | Inspections, tests and analysis |
| 9. | Packing |
| 10. | Delivery and documents |
| 11. | Insurance |
| 12. | Transportation |
| 13. | Incidental services |
| 14. | Spare parts |

15. Warranty
16. Payment
17. Prices
18. Contract amendments
19. Assignment
20. Subcontracts
21. Delays in the supplier's performance
22. Penalties
23. Termination for default
24. Dumping and countervailing duties
25. Force Majeure
26. Termination for insolvency
27. Settlement of disputes
28. Limitation of liability
29. Governing language
30. Applicable law
31. Notices
32. Taxes and duties
33. National Industrial Participation Programme (NIPP)
34. Prohibition of restrictive practices

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 anything of value to influence the action of a public official in the procurement process or in contract execution.
 - 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
 - 1.6 "Country of origin" means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
 - 1.7 "Day" means calendar day.
 - 1.8 "Delivery" means delivery in compliance of the conditions of the contract or order.
 - 1.9 "Delivery ex stock" means immediate delivery directly from stock actually on hand.
 - 1.10 "Delivery into consignees store or to his site" means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
 - 1.11 "Dumping" occurs when a private enterprise abroad market its goods on its 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 information; inspection.

and

- 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 fulfilment 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 Disputes

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

28. Limitation of Liability

- (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

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.