

**KWAZULU-NATAL PROVINCE**HEALTH
REPUBLIC OF SOUTH AFRICA

BID NUMBER:	ZNB 5203 /2024-H
BID DESCRIPTION:	APPOINTMENT OF A PANEL OF SERVICE PROVIDERS TO ASSIST IN CONDUCTING FORENSIC INVESTIGATIONS FOR RISK ASSURANCE MANAGEMENT SERVICES :
PERIOD	THREE (3) YEAR CONTRACT
Closing Date:	15 APRIL 2024
Closing Time:	11:00
Physical Address for Collection or Delivery of Bid Documents	KZN Department of Health Central Supply Chain Management Unit Old Boys School 310 Jabu Ndlovu Street Pietermaritzburg, 3201

Name of Bidder:	
CSD Registration Number:	
Income Tax Reference Number:	

KWAZULU-NATAL PROVINCIAL GOVERNMENT BIDDING FORMS

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**PART A
INVITATION TO BID**

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)					
BID NUMBER:	ZNB 5203/2024	CLOSING DATE:	15/04/2024	CLOSING TIME:	
DESCRIPTION	APPOINTMENT OF A PANEL OF SERVICE PROVIDERS TO ASSIST IN CONDUCTING FORENSIC INVESTIGATIONS FOR RISK ASSURANCE MANAGEMENT SERVICES : THREE (3) YEAR CONTRACT				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
CENTRAL SUPPLY CHAIN MANAGEMENT DIRECTORATE (OLD BOYS SCHOOL BUILDING), 310 JABU NDLOVU STREET, PIETERMARITZBURG 3200					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	Demand Management		CONTACT PERSON	Ms T Mngqithi	
TELEPHONE NUMBER	033 815 8361		TELEPHONE NUMBER	033 328 4004	
FACSIMILE NUMBER	Scm.demand@kznhealth.gov.za		FACSIMILE NUMBER		
E-MAIL ADDRESS	MR CH BUTHELEZI		E-MAIL ADDRESS	Thembeke.mngqithi@kznhealth.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] <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	[TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No	
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]	
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE A BRANCH IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?			<input type="checkbox"/> YES <input type="checkbox"/> 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

i. BID SUBMISSION:

- a. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
- b. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED-(NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.**
- c. 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.
- d. THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).**

ii. TAX COMPLIANCE REQUIREMENTS

- (a) BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
- (b) 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.
- (c) APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
- (d) BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
- (e) IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
- (f) WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
- (g) 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:

SECTION A

SPECIAL INSTRUCTIONS AND NOTICES TO BIDDERS REGARDING THE COMPLETION OF BIDDING FORMS

PLEASE NOTE THAT THIS BID IS SUBJECT TO TREASURY REGULATIONS 16A ISSUED IN TERMS OF THE PUBLIC FINANCE MANAGEMENT ACT, 1999, THE KWAZULU-NATAL SUPPLY CHAIN MANAGEMENT POLICY FRAMEWORK.

1. Unless inconsistent with or expressly indicated otherwise by the context, the singular shall include the plural and visa versa and with words importing the masculine gender shall include the feminine and the neuter.
2. Under no circumstances whatsoever may the bid forms be retyped or redrafted. Photocopies of the original bid documentation may be used, but an original signature must appear on such photocopies.
3. The bidder is advised to check the number of pages and to satisfy himself that none are missing or duplicated.
4. Bids submitted must be complete in all respects.
5. Bids shall be lodged at the address indicated not later than the closing time specified for their receipt, and in accordance with the directives in the bid documents.
6. Each bid shall be addressed in accordance with the directives in the bid documents and shall be lodged in a separate sealed envelope, with the name and address of the bidder, the bid number and closing date indicated on the envelope. The envelope shall not contain documents relating to any bid other than that shown on the envelope. If this provision is not complied with, such bids may be rejected as being invalid.
7. All bids received in sealed envelopes with the relevant bid numbers on the envelopes are kept unopened in safe custody until the closing time of the bids. Where, however, a bid is received open, it shall be sealed. If it is received without a bid number on the envelope, it shall be opened, the bid number ascertained, the envelope sealed and the bid number written on the envelope.
8. A specific box is provided for the receipt of bids, and no bid found in any other box or elsewhere subsequent to the closing date and time of bid will be considered.
9. No bid sent through the post will be considered if it is received after the closing date and time stipulated in the bid documentation, and proof of posting will not be accepted as proof of delivery.
10. No bid submitted by telefax, telegraphic or other electronic means will be considered.
11. Bidding documents must not be included in packages containing samples. Such bids may be rejected as being invalid.
12. Any alteration made by the bidder must be initialed.
13. Use of correcting fluid is prohibited
14. Bids will be opened in public as soon as practicable after the closing time of bid.
15. Where practical, prices are made public at the time of opening bids.
16. If it is desired to make more than one offer against any individual item, such offers should be given on a photocopy of the page in question. Clear indication thereof must be stated on the schedules attached.
17. Bidder must initial each and every page of the bid document.

SECTION B

REGISTRATION ON THE CENTRAL SUPPLIERS DATABASE

1. In terms of the National Treasury Instruction Note, all suppliers of goods and services to the State are required to register on the Central Suppliers Database.
2. Prospective suppliers should self-register on the CSD website www.csd.gov.za
3. If a business is registered on the Database and it is found subsequently that false or incorrect information has been supplied, then the Department may, without prejudice to any other legal rights or remedies it may have;
 - 3.1 cancel a bid or a contract awarded to such supplier, and the supplier would become liable for any damages if a less favourable bid is accepted or less favourable arrangements are made.
4. **The same principles as set out in paragraph 3 above are applicable should the supplier fail to request updating of its information on the Central Suppliers Database, relating to changed particulars or circumstances.**
5. IF THE SUPPLIER IS NOT REGISTERED AT THE CLOSING TIME OF BID, THE SUPPLIER WILL BE DISQUALIFIED AT THE BID EVALUATION PROCESS.

SECTION C

DECLARATION THAT INFORMATION ON CENTRAL SUPPLIER DATABASE IS CORRECT AND UP TO DATE

(To be completed by bidder)

THIS IS TO CERTIFY THAT I (name of bidder/authorized representative),
WHO

REPRESENTS (state name of bidder)CSD
Registration

Number.....

AM AWARE OF THE CONTENTS OF THE CENTRAL SUPPLIER DATABASE WITH RESPECT TO THE BIDDER'S
DETAILS AND REGISTRATION INFORMATION, AND THAT THE SAID INFORMATION IS CORRECT AND UP TO DATE
AS ON THE DATE OF SUBMITTING THIS BID.

AND I AM AWARE THAT INCORRECT OR OUTDATED INFORMATION MAY BE A CAUSE FOR DISQUALIFICATION
OF THIS BID FROM THE BIDDING PROCESS, AND/OR POSSIBLE CANCELLATION OF THE CONTRACT THAT MAY
BE AWARDED ON THE BASIS OF THIS BID.

.....
SIGNATURE OF BIDDER OR AUTHORISED REPRESENTATIVE

DATE:

**SECTION E
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

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**

i. 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

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

i. If so, furnish particulars:
.....
.....

c. 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

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.

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:

1. I have read and I understand the contents of this disclosure;
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. 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.
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.
5. 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.
6. 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.
7. 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

This document must be signed and submitted together with your bid

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.

SECTION F:

THE NATIONAL INDUSTRIAL PARTICIPATION PROGRAMME

INTRODUCTION

The National Industrial Participation (NIP) Programme, which is applicable to all government procurement contracts that have an imported content, became effective on the 1 September 1996. The NIP policy and guidelines were fully endorsed by Cabinet on 30 April 1997. In terms of the Cabinet decision, all state and parastatal purchases / lease contracts (for goods, works and services) entered into after this date, are subject to the NIP requirements. NIP is obligatory and therefore must be complied with. The Industrial Participation Secretariat (IPS) of the Department of Trade and Industry (DTI) is charged with the responsibility of administering the programme.

1. PILLARS OF THE PROGRAMME

1. The NIP obligation is benchmarked on the imported content of the contract. Any contract having an imported content equal to or exceeding US\$ 10 million or other currency equivalent to US\$ 10 million will have a NIP obligation. This threshold of US\$ 10 million can be reached as follows:

- i) Any single contract with imported content exceeding US\$10 million.
or
- ii) Multiple contracts for the same goods, works or services each with imported content exceeding US\$3 million awarded to one seller over a 2 year period which in total exceeds US\$10 million.
or
- iii) A contract with a renewable option clause, where should the option be exercised the total value of the imported content will exceed US\$10 million.
or
- iv) Multiple suppliers of the same goods, works or services under the same contract, where the value of the imported content of each allocation is equal to or exceeds US\$ 3 million worth of goods, works or services to the same government institution, which in total over a two (2) year period exceeds US\$10 million.

- a. The NIP obligation applicable to suppliers in respect of sub-paragraphs 1.1 (a) to 1.1 (c) above will amount to 30 % of the imported content whilst suppliers in respect of paragraph 1.1 (d) shall incur 30% of the total NIP obligation on a *pro-rata* basis.

3. To satisfy the NIP obligation, the DTI would negotiate and conclude agreements such as investments, joint ventures, sub-contracting, licensee production, export promotion, sourcing arrangements and research and development (R&D) with partners or suppliers.

4. A period of seven years has been identified as the time frame within which to discharge the obligation.

2. REQUIREMENTS OF THE DEPARTMENT OF TRADE AND INDUSTRY

1. In order to ensure effective implementation of the programme, successful bidders (contractors) are required to, immediately after the award of a contract that is in excess of **R10 million** (ten million Rands), submit details of such a contract to the DTI for reporting purposes.
2. The purpose for reporting details of contracts in excess of the amount of R10 million (ten million Rands) is to cater for multiple contracts for the same goods, works or services; renewable contracts and multiple suppliers for the same goods, works or services under the same contract as provided for in paragraphs 1.1.(b) to 1.1. (d) above.

4. BID SUBMISSION AND CONTRACT REPORTING REQUIREMENTS OF BIDDERS AND SUCCESSFUL BIDDERS (CONTRACTORS)

1. Bidders are required to sign and submit this Standard Bidding Document (SBD 5) together with the bid on the closing date and time.
2. In order to accommodate multiple contracts for the same goods, works or services; renewable contracts and multiple suppliers for the same goods, works or services under the same contract as indicated in sub-paragraphs 1.1 (b) to 1.1 (d) above and to enable the DTI in determining the NIP obligation, successful bidders (contractors) are required, immediately after being officially notified about any successful bid with a value in excess of R10 million (ten million Rands), to contact and furnish the DTI with the following information:
 1. Bid / contract number.
 2. Description of the goods, works or services.
 3. Date on which the contract was accepted.
 4. Name, address and contact details of the government institution.
 5. Value of the contract.
 6. Imported content of the contract, if possible.
1. The information required in paragraph 3.2 above must be sent to the Department of Trade and Industry, Private Bag X 84, Pretoria, 0001 for the attention of Mr Elias Malapane within five (5) working days after award of the contract. Mr Malapane may be contacted on telephone (012) 394 1401, facsimile (012) 394 2401 or e-mail at Elias@thedti.gov.za for further details about the programme.

7. PROCESS TO SATISFY THE NIP OBLIGATION

1. Once the successful bidder (contractor) has made contact with and furnished the DTI with the information required, the following steps will be followed:
 1. the contractor and the DTI will determine the NIP obligation;
 2. the contractor and the DTI will sign the NIP obligation agreement;
 3. the contractor will submit a performance guarantee to the DTI;
 4. the contractor will submit a business concept for consideration and approval by the DTI;
 5. upon approval of the business concept by the DTI, the contractor will submit detailed business plans outlining the business concepts;

- 6. the contractor will implement the business plans; and
- 7. the contractor will submit bi-annual progress reports on approved plans to the DTI.
- 8. The NIP obligation agreement is between the DTI and the successful bidder (contractor) and, therefore, does not involve the purchasing institution.

Bid number: ZNB 5203/2024 Closing date: 15/04/2024
Name of bidder.....
Postal address
.....
Signature..... Name (in print)
Date.....

SECTION G

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

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

NB: BEFORE COMPLETING THIS FORM, BIDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE BID AND PREFERENTIAL PROCUREMENT REGULATIONS, 2023

1. GENERAL CONDITIONS

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

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

1.2 To be completed by the organ of state

- a. The applicable preference point system for this Bid is the 80/20 or 90/10 preference point system.
- b. The 80/20 preference point system will be applicable in this Bid. The lowest/ highest acceptable Bid will be used to determine the accurate system once Bids are received.

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

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

1.4 To be completed by the organ of state:

The maximum points for this Bid are allocated as follows:

	POINTS	POINTS
PRICE	80	90
SPECIFIC GOALS	20	10
Total points for Price and SPECIFIC GOALS	100	100

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

1.6 The organ of state reserves the right to require of a 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 organ of state.

2. DEFINITIONS

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

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

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

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

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

Where

- Ps = Points scored for price of Bid under consideration
- Pt = Price of Bid under consideration
- Pmin = Price of lowest acceptable Bid

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

3.2.1. POINTS AWARDED FOR PRICE

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

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

Where

- Ps = Points scored for price of Bid under consideration
- Pt = Price of Bid under consideration

Pmax = Price of highest acceptable Bid

4. POINTS AWARDED FOR SPECIFIC GOALS

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

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

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

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

The specific goals allocated points in terms of this Bid	Number of points allocated (80/20 System) (To be completed by the organ of state)	Number of points allocated (90/10 System) (To be completed by the organ of state)	Number of points claimed (80/20) (To be completed by the Bidder)	Number of points claimed (90/10) (To be completed by the Bidder)
In terms of Departmental Preferential Procurement Regulation Policy 2023, RDP Goals: Enterprises Owned by South Africans	20 points (To be allocated for specific goals)	10 points (To be allocated for specific goals)		

DECLARATION WITH REGARD TO COMPANY/FIRM

- 4.3. Name of company/firm.....
- 4.4. Company registration number:
- 4.5. TYPE OF COMPANY/ FIRM
- Partnership/Joint Venture / Consortium
 - One-person business/sole propriety
 - Close corporation
 - Public Company

- Y Personal Liability Company
 - Y (Pty) Limited
 - Y Non-Profit Company
 - Y State Owned Company
- [TICK APPLICABLE BOX]

4.6. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the Bid, qualifies the company/ firm for the preference(s) shown and I acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
 - (a) disqualify the person from the Biding 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 from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution, if deemed necessary.

.....
SIGNATURE(S) OF TENDERER(S)

SURNAME AND NAME:

DATE:

ADDRESS:

.....

EME'S AND QSE'S MUST COMPLETE THE FOLLOWING APPLICABLE AFFIDAVIT FORM TO CLAIM PREFERENCE POINTS

SWORN AFFIDAVIT – B-BBEE EXEMPTED MICRO ENTERPRISE

I, the undersigned,

Full name & Surname	
Identity number	

Hereby declare under oath as follows:

- a) The contents of this statement are to the best of my knowledge a true reflection of the facts.
- b) I am a member / director / owner of the following enterprise and am duly authorised to act on its behalf:

Enterprise Name	
Trading Name (If Applicable):	
Registration Number	
Enterprise Physical Address:	
Type of Entity (CC, (Pty) Ltd, Sole Prop etc.):	
Nature of Business:	
Definition of "Black People"	<p>As per the Broad-Based Black Economic Empowerment Act 53 of 2003 as Amended by Act No 46 of 2013 "Black People" is a generic term which means Africans, Coloureds and Indians –</p> <ul style="list-style-type: none"> a) who are citizens of the Republic of South Africa by birth or descent; or b) who became citizens of the Republic of South Africa by naturalisation- <ul style="list-style-type: none"> i) before 27 April 1994; or ii) on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalization prior to that date;"
Definition of "Black Designated Groups"	<p>"Black Designated Groups means:</p> <ul style="list-style-type: none"> a) unemployed black people not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution; b) Black people who are youth as defined in the National Youth Commission Act of 1996; c) Black people who are persons with disabilities as defined in the Code of Good Practice on employment of people with disabilities issued under the Employment Equity Act; d) Black people living in rural and under developed areas; e) Black military veterans who qualifies to be called a military veteran in terms of the Military Veterans Act 18 of 2011;"

c) I hereby declare under Oath that:

1. The Enterprise is _____% Black Owned as per Amended Code Series 100 of the amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as amended by Act No 46 of 2013,
2. The Enterprise is _____% Black Female Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
3. The Enterprise is _____% Black Designated Group Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
4. Black Designated Group Owned % Breakdown as per the definition stated above:
 5. Black Youth % = _____%
 6. Black Disabled % = _____%
 7. Black Unemployed % = _____%
 8. Black People living in Rural areas % = _____%
 9. Black Military Veterans % = _____%
10. Based on the Financial Statements/Management Accounts and other information available on the latest financial year-end of _____, the annual Total Revenue was R10,000,000.00 (Ten Million Rands) or less
11. Please Confirm on the below table the B-BBEE Level Contributor, **by ticking the applicable box.**

100% Black Owned	Level One (135% B-BBEE procurement recognition level)	
At least 51% Black Owned	Level Two (125% B-BBEE procurement recognition level)	
Less than 51% Black Owned	Level Four (100% B-BBEE procurement recognition level)	

- d) I know and understand the contents of this affidavit and I have no objection to take the prescribed oath and consider the oath binding on my conscience and on the Owners of the Enterprise, which I represent in this matter.
- e) The sworn affidavit will be valid for a period of 12 months from the date signed by commissioner.

Deponent Signature: _____

Date: ____/____/____

Stamp

Signature of Commissioner of Oaths

SECTION H:

GENERAL CONDITIONS OF CONTRACT (GCC)

In terms of Treasury Regulation 16A6.3(a)(i) “The accounting officer must ensure that bid documentation and the general conditions of a contract are in accordance with the instructions of the National Treasury.”

Bidders are expected to be familiar with the general conditions applicable to government bids, contracts and orders; and rights and obligations of all parties involved in doing business with government.

Bidders are therefore required to initial each page of the attached **Annexure A** for General Conditions of Contract (GCC) and return with the bid document.

<i>I hereby confirm that I have read the General Conditions of Contract (GCC) as published by the National Treasury and I confirm that I fully understands its contents and conditions. I also confirm that I am willfully committing to abiding by its contents.</i>			
Name:		Signature:	
Title/ Role:		Date:	

Note: Should you fail to submit **initialed** Annexure A for General Conditions of Contract (GCC) and return with the bid document as well as to sign this schedule, your bid may be disqualified.

SECTION I:

SPECIAL CONDITIONS OF CONTRACT (SCC)

1.1. ADDITIONAL DEFINITIONS

In addition to the definitions contained in paragraph 1 of the GCC, the following terms shall be interpreted as indicated:

“Accounting Officer”	means a person described in Section 36 of the Public Finance Management Act, Act No. 1 of 1999 (As amended by Act 29 of 1999).
“Contract Duration”	means the period between the commencement and termination of the contract.
“Confidential Information”	means but is not limited to contents of the contract, or any provision thereof, or any specification, plan, know-how, drawing, pattern, sample, or information furnished by or on behalf of the Department in connection therewith, to any person other than a person employed by contractor or service provider in the performance of the contract.
“Department”	means the KwaZulu-Natal Department of Health.
“Head of Department”	means the Head of Department for KwaZulu-Natal Department of Health as defined in Schedule 2 Column 1 and 2 of the Public Service Act 1994 (Proclamation 103 of 3 June 1994, as amended).
“Health Facilities”	means Head Office, District Offices, Hospitals, Community Health Centres, Specialized Centres and Clinics under the auspices of the Department of Health in the Province
“ISO Standards”	means standards recognized by International Standard Organisation
“Parties”	means the KwaZulu-Natal Department of Health and Contractor or Service provider
“Province”	means the Province of KwaZulu-Natal.
“ROE”	means the Rate of Exchange.
“SABS”	means the South African Bureau of Standards
“SANS”	means the South African National Standards.
“Vendor”	means Contracted Supplier or Service Provider

1.2. INTERPRETATIONS

In amplification of the provisions of paragraph 2 of the GCC, unless inconsistent with the context, an expression which denotes:

- 1.2.1 Any gender includes the other genders.
- 1.2.2 A natural person includes a juristic person and vice versa.
- 1.2.3 The singular includes the plural and vice versa.
- 1.2.4 When any number of days is prescribed in this Contract, the same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or proclaimed public holiday in the Republic of South Africa, in which event the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday.
- 1.2.5 Figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 1.2.6 Any reference in this contract to “goods” includes works and/or services.
- 1.2.7 The written and signed contract represents the final agreement between the parties and it super cedes any prior oral agreements or discussions of the Contract.
- 1.2.8 All annexures and appendices shall form part of the contract.
- 1.2.6 The headings used throughout the Contract do not have any special significance save to ensure the easy reading of the contract.

- 1.2.7 Words and phrases defined in this Contract shall bear the meaning assigned to them throughout this Contract.
- 1.2.11 Words and phrases used in this Contract which are defined or used in any statute or regulation which applies to the subject matter, professional person.
- 1.2.12 The bid is issued in accordance with Section 217 of the Constitution, The Public Finance Management Act, Treasury Regulations 16A and National Treasury regulations and guidelines.

1.3. LEGISLATIVE AND REGULATORY FRAMEWORK

- 1.3.1 This bid and all contracts emanating there from will be subject to General Conditions of Contract issued in accordance with Treasury Regulation 16A6.3, published in terms of the Public Finance Management Act, 1999 (Act 1 of 1999) (PFMA) as well as the Preferential Procurement Policy Framework Act 2000 (PPPFA), the Preferential Procurement Regulations 2022 (PPR 2022) and KZN Department Preferential Procurement Regulation Policy 2023.
- 1.3.2 The Special Conditions of Contract (SCC) are supplementary to that of General Conditions of Contract (GCC). However, where the Special Conditions of Contract conflict with the General Conditions of Contract, the Special Conditions of Contract prevail.

2.1. ACCEPTANCE OF A BID

- 2.1.1 This Bid will be evaluated and adjudicated in terms of Kwazulu-Natal Department of Health SCM Policy and Delegations. The Department of Health Bid Adjudication Committee (DBAC) is under no obligation to accept any bid.
- 2.1.2 The financial standing of a bidder and its ability to render services may be examined before the bid is considered for acceptance.

2.2. COMPLIANCE WITH SPECIFICATION

- 2.2.1 Offers must comply strictly with the specification, offers exceeding specification requirements will be deemed to comply with the specification.
- 2.2.2 The quality of services must not be less than what is specified.

2.3. LATE BIDS

- 2.3.1 Bids are permissible to be submitted prior to closing date and time this is to avoid unfortunate or unplanned circumstances that could prevent the bidder from arriving on time during the closing date. If the bidder fails to arrive on time the department will not be held liable, to accept late bids.
- 2.3.2 Bids are late if they are received at the address indicated in the bid documents after the closing date and time.

2.4 MORE THAN ONE OFFER/ COUNTEROFFERS

- 2.4.1 Should the bidder make more than one offer, where applicable, against any individual item, such offer/s must be detailed in the Schedule of Additional Offer/s. The Department reserves its rights in and to the consideration of any additional offer/s subject to compliance with specification and the bidding conditions.
- 2.4.2 Bidders' attention is drawn to the fact that counter offers with regard to any of the abovementioned Special Conditions of Contract will invalidate such bids.

2.5 AWARD OF BID (S)

- 2.5.1 Once proposal received on the closing date, the bids will be subjected to SCM pe-screening and evaluation process by Departmental Bid Evaluation Committee (DBEC). Thereafter the Department Bid Adjudication Committee (DBAC) has the authority to either (approve) or (not approve) the recommendation made by DBEC.
- 2.5.2 The recommended award will be subjected to Head of Department for validation, noting and authority to publish award.
- 2.5.3 Notification of the intention to award the bid shall be in the same media that the bid was advertised, unless there is another directive from National Treasury to publish on other platforms.
- 2.5.4 Should any bidder dispute the award, the aggrieved bidder has a right to lodge an appeal to the Bid Appeal Tribunal (Bat). Therefore the aggrieved bidder must, within five working days of receipt of the notification of an award, deliver written notification of an intention to appeal.

The bidder may, together with the notification of intention to appeal under paragraph (2) of the KZN SCM Policy Framework, deliver a request for written reasons for the award of the said bid.

The address provided for the lodging of appeals is:

Email: Batsecretariat@kzntreasury.gov.za

The Chairperson

Bid Appeals Tribunal

Private Bag X9082

Pietermaritzburg, 3200

2.6 EMPLOYEES TRADING WITH THE ORGANS OF THE STATE

- 2.6.1 The Public Service Act 103 of 1994 indicates in section 30(1) that “No employee shall perform or engage himself or herself to perform Remunerative Work Outside his or her employment in the relevant department, except with the written permission of the executive authority of the department.”
- 2.6.2 Furthermore, in terms of the Public Service Regulations paragraph 13(c), “An employee shall not conduct business with any organ of state or be a director of a public or private company conducting business with an organ of state, unless such employee is in an official capacity as a director of a company listed in schedule 2 and 3 of the Public Finance Management Act”
- 2.6.3 If a bidder is found to be employed by the state, through the verification via acceptable means such as CSD, DPSA verification etc, the bid will be immediately disqualified.
- 2.6.4 If it is discovered through other Computer Assisted Audit Techniques (CAATS), that the bidder is employed by the state, the award will be withdrawn or contract may be terminated without notice.

2.7 TRUST, CONSORTIUM OR JOINT VENTURE

- 2.7.1 In terms of the Preferential Procurement Policy Framework Act and Regulations, as amended, a Trust, Consortium or Joint Venture must submit a consolidated Status Level Verification Certificate for every separate bid.
- 2.7.2 A separate B-BBEE Certificate must be submitted by each company participating in the Trust, Consortium or Joint Venture.
- 2.7.3 Should this bid be submitted by a Joint Venture, the Joint Venture agreement must accompany the bid document.
- 2.7.4 The Joint Venture agreement must clearly specify the percentage of the contract to be undertaken by each company participating therein.
- 2.7.5 The Joint Venture/Consortium must submit a formal agreement that outlines the roles and responsibilities of each member of the Joint Venture/ Consortium, nomination of an authorised person to represent the Joint Venture or Consortium in all matters relating to this bid and the details of the bank account for payments to be affected.
- 2.7.6 No award will be made to a Trust/ Joint Venture/ Consortium that is not tax compliant at the finalisation of the award.
- 2.7.7 For verification purposes, each party must submit separate proof of TCS/ PIN / CSD number.

2.8 VALIDITY PERIOD OF BID AND EXTENSION THEREOF

- 2.8.1 The validity (binding) period for the bid will be **180 days** from close of bid. However, circumstances may arise whereby the department may request bidders to extend the validity (binding) period. Should this occur, the department will request bidders to extend the validity (binding) period under the same terms and conditions as originally offered for by bidders? This request will be done before the expiry of the original validity (binding) period. Should the Department forward a formal request for extension of validity period and the bidder opts not to respond, the department will assume that the extension of the validity period is accepted without any conditions.

2.8. CHANGE OF ADDRESS

- 2.8.1 Bidders must advise the Department of Health's Central Supply Chain Management Unit, Contract Section, should their ownership and/or address (domicilium citandi et executandi) details change from the time of bidding to the expiry of the contract.

2.9. INVOICES AND PAYMENTS

- 2.9.1 All invoices must be submitted in the original format.
- 2.9.2 All invoices submitted by the Contractor must contain the word "INVOICE" for non-VAT vendors or "TAX INVOICE" for VAT vendors only. VAT number must be reflected for VAT vendors.
- 2.9.3 A tax invoice shall be in the currency of the republic of South Africa and shall contain the following particulars:
- (a) The name, address and registration number of the supplier;
 - (b) The name and address of the recipient;
 - (c) An individual serialized number and the date upon which the tax invoice is issued;
 - (d) A description of the goods or services supplied;
 - (e) The quantity or volume of the goods or services supplied
 - (f) The value of the supply, the amount of tax charged and the consideration for the supply; or
 - (g) Where the amount of tax charged is calculated by applying the tax fraction to the consideration, the consideration for the supply and either the amount of the tax charged, or a statement that it includes a charge in respect of the tax and the rate at which the tax was charged.
- 2.9.4 A Contractor shall be paid by the institution concerned, in accordance with supplies delivered and services rendered. The goods must be accepted and signed off by the relevant delegated official.
- 2.9.5 Should a Contractor indicate a special discount on his/her account provided payment is made within a certain time, every effort shall be made to take advantage of such discount. Where discounts or rebates received by the Department, the Contractor to provide credit note.
- 2.9.6 Any query concerning the non-payment of accounts must be directed to the institution concerned. The following protocol will apply if accounts are queried:
- (i) Contact must be made with the officer-in-charge of Logistics and Accounts Payable;
 - (ii) If there is no response from Logistics and Accounts Payable, the Director Logistics and the Director: Expenditure Management of the institution must be contacted.
 - (iii) Failing all of the above, the Contractor must contact the Chief Director: Accounting Services supplying the following details:
 - b) Name/s of person/s contacted at the Institution and dates; and
 - c) Details of outstanding account.
 - d) The Chief Director: Accounting Services will then take the appropriate action.
- 2.9.7 The Institutions shall not be responsible for payment of any statutory increases in tariffs or imports or any fluctuations in foreign exchange rate for any item required Contractor, to realise its obligations in terms of this Contract. The rate of exchange, as agreed upon in this Contract is subject to review if stipulated within this contract and as agreed consented by both Parties.

2.10 VALUE ADDED TAX (VAT)

- 2.10.1 All bid prices must be inclusive of all applicable taxes.
- 2.10.2 Bidders who make taxable supplies in excess of R1 million in any 12-month consecutive period are liable for compulsory VAT registration, but an entity may also choose to register voluntarily provided that the minimum threshold of R50 000 (as of 1 March 2010) has been exceeded in the past 12 month period. Bidders who meet the above requirement must register as VAT vendors, if successful, as soon as possible to avoid penalties from SARS.
- 2.10.3 VAT will not be included after an award of the quotation or during contract management period. It is the responsibility of every bidder to correctly forecast whether they will require to register for VAT during the life of this contract based on the proposed bid or quotation amount.

2.11 COMPLIANCE WITH TAX REQUIREMENTS

- 2.11.1 It is a condition of this bid that the tax matters of the successful bidder(s) are in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the bidder's tax obligations.
- 2.11.2 The successful bidder(s) tax matters are expected to be in order during the tenure of the contract, should the bidder fail to comply with tax obligations, the orders may not be issued or the contract may be terminated.
- 2.11.3 The Tax Compliance status requirements are also applicable to potential foreign bidders / individuals who wish to submit a bid.
- 2.11.4 It is a requirement that bidders grant a written confirmation when submitting this bid response that SARS may on an on-going basis during the tenure of the periodic contract disclose the bidder's tax compliance status and by submitting this bid such confirmation is deemed to have been granted.
- 2.11.5 Bidders are required to be registered on the CSD and National Treasury shall verify the bidder's tax compliance status through the CSD or through SARS.
- 2.11.6 Where Consortia / Joint Ventures / Sub-Contractors are authorised to be involved, each party must be registered on the CSD, and their tax compliance status will be verified through the CSD or through SARS.

2.12 ENTERING OF HOSPITAL/CLINIC STORES

- 2.12.1 No representative from a company shall be permitted to enter the hospital/clinic premises, buildings or containers where stores are kept unless he/she is accompanied by the responsible official in charge of stores. Before entering the hospital/clinic premises, buildings or containers where stores are kept, the company representative must in writing, motivate why entry is necessary and written authority must be obtained to enter from the Head of the Institution or delegated official.

2.13 DEPARTMENTAL PROPERTY IN POSSESSION OF A CONTRACTOR

- 2.13.1 The Department's property supplied to a Contractor for the execution of a contract remains the property of the Department and shall at all times be available for inspection by the Department or its representatives. Any such property in the possession of the Contractor on the completion of the contract shall, at the Contractor's expense, be returned to the Department forthwith.
- 2.13.2 The Contractor shall be responsible at all times for any loss or damages to the Department's property in his possession and, if required, he shall furnish such security for the payment of any such loss or damages as the Department may require.

2.14 IRREGULARITIES

- 2.14.1 Companies are encouraged to advise the Department of Health timeously of any possible irregularities which might come to their notice in connection with this or other contracts.

2.15 UNSATISFACTORY PERFORMANCE

- 2.15.1 In amplification of paragraph 21; 22 and 23 of the GCC, unsatisfactory performance occurs when performance is not in accordance with the contract conditions.

(i). The institution shall warn the Contractor by registered/certified mail or email that action will be taken in accordance with the contract conditions unless the Contractor complies with the contract conditions and delivers satisfactory supplies or services within a specified reasonable time (7 days minimum). If the Contractor does not perform satisfactorily despite the warning the institution will:

- a. Take necessary and appropriate action such as termination of contract in terms of its delegated powers.

(ii) When correspondence is addressed to the Contractor, reference will be made to the contract number/item number/s and an explanation of the complaint.

2.16 RESTRICTION OF BIDDING

The Accounting Officer or his/her delegate may notify the contracted service provider of the intention to restrict it from doing business with Department or may disregard the bidder due to previous poor performance, this will be done by registered mail or email.

2.17 CONTRACTOR'S LIABILITY

- 2.17.1 In the event of the contract being cancelled by the Department in the exercise of its rights in terms of these conditions, the Contractor shall be liable to pay to the Department any losses sustained and/or additional costs or expenditure incurred as a result of such cancellation, and the Department shall have the right to recover such losses, damages or additional costs by means of set-off from moneys due or which may become due in terms of the contract or any other contract or from guarantee provided for the due fulfilment of the contract and, until such time as the amount of such losses, damages or additional costs have been determined, to retain such moneys or guarantee or any deposit as security for any loss which the Department may suffer or may have suffered.

- 2.18.2 The Contractor may be held responsible for any consequential damages and loss sustained which may be caused by any defect, latent or otherwise, in supply or service rendered or if the goods or service as a result of such defect, latent or otherwise, does not conform to any condition or requirement of the contract.

2.19 RIGHTS TO PROCURE OUTSIDE THE CONTRACT

- 2.19.1 The Department reserves the right to procure services outside the contract in cases of urgency or emergency

- 2.19.2 The Department reserve a right to cancel the contract with a winning bidder by giving thirty (30) days' notice. If it in the advantage and interest of the department to participate on transversal contract concluded by National Treasury.

2.20 PATENTS

2.20.1 The Contractor shall pay all royalties and expenses and be liable for all claims in respect of the use of patent rights, trademarks or other protected rights, and hereby indemnifies the Department against any claims arising there from.

2.21 WAIVER

2.21.1 The granting by any party of any indulgence or postponement shall not be a waiver of its rights arising from this contract to demand full and specific performance of the contract.

2.21.2 No favour, delay or relaxation or indulgence on the part of any party in exercising any power or right conferred on each party in terms of this contract shall operate as a waiver of such power or right nor preclude any other or further exercises thereof or the exercise of any other power or right under this contract.

2.22 SUSPENSION

2.22.1 The Department may temporarily suspend whole or part of the supplied goods by providing no less than 5 days written notice to the Contractor, who shall on receipt of such written notice immediately cease the supply the goods. The Department will indicate the date on which the contract will be resumed in the aforementioned notice. No suspension shall exceed a total of 90 days unless otherwise agreed to by the parties in writing.

2.22.2 When the supply of the goods is suspended, the Contractor shall be entitled to pro-rata payment for the goods already delivered and reimbursement of all costs incidental to the prompt and orderly suspension of the contract.

2.22.3 Suspension of the contract shall not prejudice or affect the accrued rights and liabilities of the parties as at the date of suspension.

2.23 BREACH

2.23.1 Any termination notice referred to in GCC paragraph 23.1 shall be preceded by written notice requiring the defaulting party to remedy a breach of this contract within 14 days of the date of receipt of the notice.

2.23.2 If the defaulting party fails to remedy the breach within the 14 days, the aggrieved party shall be entitled without notice, in addition to any other remedy available to them at law or under this contract:

2.23.3 To claim specific performance of any obligation whether or not the due date for performance has arrived; or

2.23.4 To terminate this contract in accordance with paragraph 23.1 of the GCC, against the defaulting party, in either event without prejudice to the aggrieved party's rights to claim damages.

2.23.5 The Contractor shall immediately advise the Department of the same, upon which the Department shall, in its sole and absolute discretion, decide whether to proceed with this contract or to terminate forthwith. Failure by the Contractor to advise the Department of a conflict of interest shall amount to a material breach of this contract.

2.23.6 A Party shall be deemed to be in breach of this Contract should the Party fail to comply with any material provisions of this Contract.

2.23.7 The aggrieved Party shall be obliged to first attempt to settle the matter by way of consultation with the defaulting Party. If the consultation fails, then the aggrieved Party shall promptly give the defaulting Party fourteen (14) days written notice to remedy the breach. If the defaulting Party fails to comply with such notice, the aggrieved Party may, without prejudice to any other's right at law:

2.23.7.1 Cancel this Contract in the event the defaulting Party committed a material breach.

2.23.7.2 Claim specific performance by the defaulting Party if such is a competent remedy in the circumstance.

2.23.7.3 Claim damages suffered, as limited under this Contract.

2.24 PREFERENCES

2.24.1 Should the Contractor apply for preferences in the submission of his bid, and it is found at a later stage that these applications were incorrect or made under false pretenses, the Department may, at its own right:

- a) Recover from the Contractor all costs, losses or damages incurred or sustained by the Department as a result of the award of the Contract; and/or
- a) Cancel the contract and claim any damages which the Department may suffer by having to make less favourable arrangements after such cancellation.
- b) The Department may impose penalties, however, only if provision therefore is made in the Special Conditions of Contract and Bid.

2.25 SEVERABILITY

2.25.1 The finding of any invalidity to any provision of the contract shall not render the whole contract a nullity. A court of law or arbitrator may sever the invalid provision and the remainder of the contract shall remain enforceable.

2.26 EXPORT LICENSES

- 2.26.1 When orders are placed for goods in respect of which an export licence from the country of origin of supplies is required, Contractor shall:
- 2.26.2 Not incur any direct or indirect costs in connection with the supply or dispatch of such supplies before they have obtained such license;
- 2.26.3 If the government of the country from which the supplies are to be exported refuses, or fails to grant such license within three months of the placing of the order, the order shall be considered to be cancelled and no liability will be accepted for any loss or expenses irrespective of the nature thereof, including loss or expenditure suffered or incurred by Contractor or any other person in respect of the production, supply, transportation or delivery of such supplies.

2.27 INSURANCE

- 2.27.1 It is a responsibility of the bidder to take public liability insurance.

2.28 GENERAL QUANTITIES AND ORDERS

- 2.28.1 No quantities are reflected in this bid as orders will be placed based on an ‘as and when required” and no guarantee is given or implied as to the actual quantity/quantities which will be procured during the periodic contract.
- 2.28.2 Orders will be placed by delegated officials, based on specific assignment or project required by the end user.

2.29 EXTENSION OF CONTRACT

- 2.29.1 This contract may be escalated or extended on a month-to-month basis for a period not exceeding six (6) months.
- 2.29.2 Further extension of the contract, authority will be granted by Head of Department: Health, subject to the provisions of National Treasury regulations and instruction notes.

2.30 CESSION OF CONTRACTOR

- 2.30.1 The Contract will be personal to the winning bidder, who shall not sub-let, assign, cede or make over the Contract or any part thereof, or any share of interest therein, to any other person without the written consent of the Department, and on such conditions as it may approve.
- 2.30.2 This sub-clause shall not apply to sub-contracts given to regular suppliers of winning bidder for materials and minor components relating to the services supplied. The Department reserves the right to require winning bidder to submit, for noting, the names of such sub-contractors to ascertain their registration on the Central Suppliers Database and they must be legal entities.

2.31 CONTRACT AMENDMENTS / VARIATIONS

- 2.31.1 In amplification of paragraph 18 of the GCC, any amendments/variations, of the Contract shall come into effect in terms of the conditions contained in on “**Contract Amendments/Variations Register**”. This register must be signed by the duly authorised signatories of winning bidder and the Head of Department: Health or his/her delegated official.
- 2.31.2 Contracted winning bidder shall not, in performing its obligation, vary from the terms and conditions stated in this Contract whether by way of addition thereto or by way of omission therefrom, without the prior written consent from the Department (Accounting Officer/delegated official), and no claim on the part of winning bidder for any extra payments on the grounds of any alterations or extra work will be entertained.
- 2.31.3 If, after the commencement of the contract, the cost or duration of the services is altered as a result of changes in, or in additions to, any statute, regulation or by-law, or the requirements of any authority having jurisdiction over any matter in respect of the contract, then the contract price and time for completion shall be adjusted in order to reflect the impact of those changes, provided that, within 14 days of first having become aware of the change, winning bidder shall furnish the Department with a detailed justification for the adjustment to the contract price.

2.32 INTELLECTUAL PROPERTY

2.32.1 In amplification of paragraph 6 of the GCC, the intellectual property discovered or created as the direct or indirect result of this contract shall remain the property of the Department.

2.33 INSOLVENCY

2.33.1 In the event to winning bidder institutes insolvency proceedings or has insolvency proceedings involuntarily instituted against it, the Department may terminate this Contract immediately.

2.33.2 In the event of assets and monies issued to winning bidder in terms of this Contract, such assets and monies shall be excluded from the estate of winning bidder and shall be returned immediately upon clause 40.1 coming into effect.

2.34 DISPUTE RESOLUTION

2.34.1 If any dispute arises between the Department and Contractor, in connection with the Specification and deliverables, either party may give the other notice in writing of the existence of such dispute, and the same shall thereupon be referred to arbitration in South Africa by a person mutually agreed upon by both parties. The submission shall be deemed to be a submission to arbitration within the meaning of the terms of the arbitration laws in force in the Republic of South Africa.

2.35 QUOTATION PROCESS AFTER THE AWARD OF THE PANEL

2.35.1 Once panel has been established, and appointed, a rotational system will be applicable based on Departmental Fixed Hourly Rate. When applying the rotational system, the Department reserve a right to prioritize and empower designated or vulnerable groups such as companies owned by Black People or companies owned by Black People who are Women or companies owned Black Persons with Disabilities or companies owned by Youth.

2.35.2 The quotation is not advertised in the eTender as this would have been already conducted during establishment of the Panel. The quotation will be requested for a minimum of five (5) working days, as and when professional services will be required.

2.36 DOMICILLIA CITANDI ET EXECUTANDI

For the purpose of this contract, the parties choose their respective domicillia citandi et executandi as follows :

The Department Physical and Postal Address:

Department Name	The KwaZulu-Natal Department of Health
Physical Address	Natalia Building, 330 Langalibalele Street, Pietermaritzburg, 3201
Postal Address:	Private Bag X9051, Pietermaritzburg, 3200
Telephone numbers	033 – 395 2111
Telefax:	Nil

The Contractor or Bidder Physical and Postal Address:

Bidder/ Contractor Name	
Physical Address	
Postal Address:	
Telephone numbers	
Telefax:	
Email Address	

- 2.36.1 The parties hereby choose domicilium citandi et executandi for all notices and processes to be given and served in pursuance hereof at their respective addresses given on the first page of this Contract. Any notice of any change in such address shall be given in writing by the parties concerned and delivered by hand or sent by registered mail to the other party, upon notification of which address so notified shall serve as the new citandi et executandi.
- 2.36.2 A party may at any time change that party's domicile by notice in writing, provided that the new domicile is in the Republic of South Africa and consists of, or includes, a physical address at which the process can be served.
- 2.36.3 Any notice to a party:
- 2.36.4 Sent by prepaid registered post in a correctly addressed envelope, to it, shall be deemed to have been received on the 7th (seventh) day after posting unless the contrary is proved);
- 2.36.5 Delivered by hand to a responsible person during ordinary business hours at the physical address chosen as its domicile, shall be deemed to have been received on the day of delivery; or
- 2.36.6 Sent by telefax or email to its chosen telefax or email number, shall be deemed to have been received on the date of despatch (unless the contrary is proved).

2.37 DURATION OF CONTRACT

- 2.37.1 Three (3) year period contract

SECTION J: EVALUATION CRITERIA

The Department will evaluate applications or bids received before the closing date and time using four (4) evaluation stages, these are peremptory requirements. Should the applicant fail to comply, the application or bid will be regarded as non-responsive and disqualified. The criteria are as follows:

Stage 1 - Administrative, Compulsory and Mandatory Requirements

No.	Document Name	Included in the published bid document? (Yes/No)	To be returned by bidder? (Yes/No)
Administrative and Compulsory Requirements			
1.	Part A: Invitation To Bid (SBD 1)	Yes	Yes
2.	Part B: Terms And Conditions For Bidding (SBD 1)	Yes	Yes
3.	Section A: Special Instructions Regarding Completion Of Bid	Yes	Yes
4.	Section B: Registration On Central Suppliers Database (CSD)	Yes	Yes
5.	Section C: Declaration That Information On Central Suppliers	Yes	Yes
6.	Section D: Official Briefing Session Form (Not Applicable)	Yes	Yes
7.	Section E: Bidder's Disclosure (SBD 4)	Yes	Yes
8.	Section F: The National Industrial Participation Programme (SBD 5)	Yes	Yes
9.	Section G: Preference Points Claim Form (SBD 6.1)	Yes	Yes
10	Section H: General Conditions Of Contract (GCC)	Yes	Yes
11	Section I: Special Conditions Of Contract (SCC)	Yes	Yes
12	Section J: Evaluation Criteria	Yes	Yes
13	Section K: Authority To Sign A Bid	Yes	Yes
14	Section L: Specifications (Terms of Reference)	Yes	Yes
15	Section M: Price Schedule	Yes	Yes
Mandatory Requirements			
15	Consortium/ Joint Venture/ Partnership Agreement, (If Applicable).	No	Yes
16	Company profile; Reference /appointment letters; CV & Qualifications Professional Accreditation; Proposal with detailed methodology and approach to forensic investigation	No	Yes, phase 2

Note: Should the bidder fail to comply with the above administrative, compulsory and mandatory requirements the bidder will be disqualified .

Stage 2: Functionality Criteria

Proposals from prospective bidders will be evaluated on functionality in accordance with the following

No	Criteria	Sub-criteria	Proof to be submitted	Points allocation	Total Points	Self-assessment
1	Company Experience	1.1. Company years in operation (forensic investigation services).	Company profile with all company details. CIPC registration document.	Minimum of 3 years in forensic investigation services. Less than 3 Years = 0 3 years = 3 4 years = 4 5 years or more = 5	5	
		1.2. Forensic investigation experience in public sector: Experience in forensic investigations (any sphere of government)	Reference /appointment letters (previous /current)	Reference letters in the past 5 years, require 5 letters to score full points 2 points for each letter. Max = 10 No letter = 0	10	
		1.3. Special investigations /audits experience in public sector: Experience in the special audits /investigation, including UIFW expenditure /compliance audits /probity audits (any sphere of government)	Reference letter /appointment letter (previous /current)	Minimum of 2 assignments, with a total of transactions equal or above R50m each. Total of assignments: Less than R100m = 0 R100m but less than R200m = 10 R200m but less than R300m = 15 R300m or more = 20 See evaluation guide for details.	20	

No	Criteria	Sub-criteria	Proof to be submitted	Points allocation	Total Points	Self-assessment
2	Key Personnel	2.1. Director /Partner	CV & Qualifications Professional Accreditation [CFE /ICFP /Equivalent (CA, CIA, Admitted Attorney, etc)]	Investigation experience (minimum of 12 years): Less than 12 years = 0 12 years but less than 15 years = 3 15 years but less than 20 years = 4 20 years or more = 5 Minimum – NQF 7 NQF 7 = 4 NQF 8 or more = 5 CFE /ICFP or equivalent (SAICA, CIA, Admitted Attorney) = 5	15	
		2.2. Team leader	CV & Qualifications Professional Accreditation	Investigation experience (minimum of 8 years in forensic investigation): Less than 8 years = 0 8 years but less than 10 years = 5 10 years but less than 15 years = 8 15 years or more = 10 Minimum = NQF7 (forensic investigation, commerce and/or law) NQF 7 = 5 NQF 8 or more = 10 CFE /ICFP or equivalent (SAICA, CIA, Admitted Attorney) = 10	30	

No	Criteria	Sub-criteria	Proof to be submitted	Points allocation	Total Points	Self-assessment
3	Expert witness	Testifying in disciplinary matters	Reference letters from previous /current clients	Minimum of 3 matters: Less than 3 matters = 0 3 but less than 5 matters = 5 5 matters or more = 10	10	
4	Methodology and approach	Understanding of scope of work	Proposal with detailed methodology and approach to forensic investigation.	Excellent = 10 Good = 5 Poor = 0 See evaluation guide.	10	
	TOTAL				100	

Note: Information provided and supported for above will further be used to classify bidders on type of services that they are capable of providing and will influence the allocation of type of services. A threshold of **70 points** is applicable to this evaluation criteria for bidders to be placed on the panel.

Stage 3 – Price and Preferential Point System (Specific Goals)

This bid will be based on an engagement letter as an when services will be required, hence estimated to exceed or not to exceed R50 000 000.00 (all applicable taxes included), therefore the 80/20 or 90/10 preference point system shall be applicable. Points for this bid shall be awarded for:

- (a) Price (Based on average DOH Fixed Hourly Rate) 80/90
- (b) Specific Goals In terms of Departmental Preferential Procurement Regulation Policy 2023, RDP Goals: Enterprises Owned by South Africans Points 20/10 – Returnable document will be CSD Report.

Stage 4 – Objective Criteria

1. All bidders responsive on Stage 2 of the evaluation, are eligible to be appointed as the Panel since the Department will be using fixed hourly rate.
2. In an attempt to broaden participation in the market, the department will use section 2(1)(f) of Preferential Procurement Policy Framework Act to award this bid. In this regard the Department of Health Bid Adjudication Committee (DBAC) intend to apply rotational system and the first priority will be companies owned by Black People or owned by Black People who are Women, or owned by Black Persons with Disabilities or owned by Youth.

EVALUATION GUIDE

The selection of the service providers to be placed on the panel will be subject to the criteria set out in **Evaluation Criteria. Guide for the selection of suitable service providers will be undertaken on the following basis:**

1. Company Experience

The following must be submitted:

- 1.1. A company profile should be submitted indicating company management, history, structure & operations and previous and current clients and relevant services offered. Other details to include office allocation, contact details, website, etc. The CIPC document should also be submitted showing company registration details and any changes thereof.
- 1.2. Proof of forensic investigation experience in the public sector can include Reference Letters or Appointment Letters. Services being procured by the government institution (client) must be clearly stated for the bidder to claim points.
- 1.3. Special investigations /audits in the public sector include investigation of UIFW expenditure /compliance audits /probity audits. They are part of special audits the Department may undertake, and they always come at large scales (in transaction volume and amounts). Bidders will only be considered if they have conducted at least two (2) of these assignments with transactions value equal to or over R50m. Points are allocated based on the total of transactions in all assignments, as indicated in the sub-criterion. i.e in UIFW – the total of transactions in given financial years, in compliance audit – the value of contract under review, in probity – the contract value of winning bid.
NB: if information on Reference Letters or Appointment Letters is not clear or sufficient, it can be supported by extract of relevant financial record(s) (i.e AFS indicating amount disclosed for the particular financial year).

2. Key Personnel

Key personnel are evaluated on the following:

- Practical experience on forensic investigation,
 - Qualifications, which may include degree /diploma from forensic investigation, commerce and/or legal.
 - Professional accreditation, as indicated in the evaluation criteria.
- 2.1. The Director or Partner who will be responsible for the Department assignments. Professional accreditation certificate must be accompanied by proof of active membership.

2.2. The team leader who will be responsible for the allocated team. Professional accreditation certificate must be accompanied by proof of active membership.

NB: any changes to the key personnel must be reported upon and agreed upon with the Department.

3. Expert witnessing

Reference letter(s) from client(s) indicating the matters **the company (not individuals)** has testified on. The points are allocated per matter, not per client.

NB: minimum of 3 matters is required; different matters from one client can be indicated in one reference letter.

4. Approach and Methodology

The bidder must detail the methodology /approach that will be adopted in rendering the scope of work including, but not limited to:

- Address the categories of services needed, as per scope of work,
- Phases of investigation,
- Investigation plan, with key processes, and
- Resources and how they will be allocated.

Allocation of points:

Excellent: bidder displayed understanding of investigation phases and investigation processes, while addressing all 8 categories of services required.

Good: bidder displayed acceptable understanding of investigation process and areas of services required.

Poor: bidder displayed unacceptable /impractical/poor understanding of investigation process and services required.

NB: the bidder is expected to display practical understanding of the investigation while considering services needed by the Department

SECTION K

AUTHORITY TO SIGN A BID

The bidder must indicate the enterprise status by signing the appropriate box hereunder.

(I) CLOSE CORPORATION	(II) COMPANIES	(III) SOLE PROPRIETOR	(IV) PARTNERSHIP	(V) CO-OPERATIVE	(VI) JOINT VENTURE / CONSORTIUM	
					Incorporated	
					Unincorporated	

I/We, the undersigned, being the Member(s) of Cooperative/ Sole Owner (Sole Proprietor)/ Close Corporation/ Partners (Partnership)/ Company (Representative) or Lead Partner (Joint Venture / Consortium), in the enterprise trading as:

.....

hereby authorise Mr/Mrs/Ms

acting in the capacity of

whose signature is

to sign all documents in connection with this bid and any contract resulting therefrom on behalf of the enterprise.

NAME	ADDRESS	SIGNATURE	DATE

(if the space provided is not enough please list all the director in the resolution letter)

Note:

The following document must be attached to this form according to the status of the enterprise, in the form of a resolution authorising the signatory to sign all documents in connection with this bid and any contract resulting therefrom on behalf of the enterprise, and **such resolution shall include a specimen signature of the signatory.**

- Co-operative: Resolution letter from the directors
- Close Corporation: Resolution letter from the directors
- Company: Resolution letter from the director/s
- Sole Proprietor: Resolution letter from the director
- Partnership: Resolution letter from the director
- Joint Venture / Consortium: Resolution/agreement passed/reached' signed by the authorised representatives of the enterprises

Note: Director/s may appoint themselves if they will be the one signing all documents in connection with this bid and any contract resulting therefrom on behalf of the enterprise.

Failure to complete, sign and date this form or failure to provide the certificate(s) in the form of a resolution as described above shall result in the tender being considered non-responsive and rejected.

SECTION L: SPECIFICATION (TERMS OF REFERENCE)

SCOPE OF WORK

The services of the **appointment of a panel of service providers to assist in conducting forensic investigations for a period of three years to be utilised as and when the need arises.**

Category	Category of Services	Description of Services Required
A	Attending to incidents of possible fraud and corruption and other irregularities reported from the NACH and other departmental avenues.	Analysing the hotline reports and other information provided, to identify possible fraud and corruption risks, detecting fraud and corruption, and any other incidents of irregularities.
B	Conducting forensic investigation on behalf of the Department.	Conducting forensic investigations on assigned cases of alleged fraud, corruption and other irregularities.
C	Investigation of Unauthorised, Irregular and Fruitless & Wasteful (UIFW) expenditure.	Conduct investigations into possible financial misconduct identified during regulatory audit (AGSA /Internal Audit). Submit recommendations on corrective actions, including disciplinary and recovery of loss as per legislative frameworks.
D	Submit forensic investigation report on findings	Submit findings and conclusions on all cases investigated with recommendations on action to be taken and internal control reviews.
E	ADR services	Assisting in the recovery of losses emanating from the finalization of investigative processes to the Department and including minimising losses. Assist the Department with Alternative Dispute Resolutions (ADR) where necessary.
F	Expert witnessing	Assisting in disciplinary hearings to incidents of fraud and corruption against State officials, including testifying during disciplinary proceedings (this includes period beyond the term of contract).
G	Fraud risk management (FRM) services	Assisting the Department in reviewing relevant enablers, internal controls, implementing new controls and improving the internal controls.
H	Special audits /investigations	Any special assignments related to pro-active and/or re-active examination that may be deemed necessary by the Department.

**SECTION M
PRICING SCHEDULE –FIRM PRICES
(PURCHASES)**

NOTE: PRICE ADJUSTMENTS WILL BE ALLOWED AT THE PERIODS AND TIMES SPECIFIED IN THE BIDDING DOCUMENTS.

Name of bidder.....	Bid number: ZNB 5203/2024-H
Closing Time 11:00	Closing date 15/04/2024
BID DESCRIPTION	
APPOINTMENT OF A PANEL OF SERVICE PROVIDERS TO ASSIST IN CONDUCTING FORENSIC INVESTIGATIONS FOR RISK ASSURANCE MANAGEMENT SERVICES: THREE YEAR CONTRACT.	

OFFER TO BE VALID FOR 180 DAYS FROM THE CLOSING DATE OF BID.

No	Level	Fixed Hourly Rate (DOH)
1	Director /Partner	
2	Senior Manager (Team Leader)	
3	Manager (Investigations)	
4	Senior Forensic Investigator	
5	Junior Forensic Investigator	
6	Support Staff	
7	Specialist: <ul style="list-style-type: none"> • Forensic • Polygraph examiners • Handwriting experts • Forensic computer analysts 	
8	Other Specialists: Engineers, Quantity Surveyors, water experts and ICT Specialists	

Note: Prices are based on Department of Health Fixed Hourly Rate stated below on Annexure 9

- Required by: RISK ASSURANCE MANAGEMENT SERVICES
- Country of origin:
- Delivery Period:

Note: All delivery costs must be included in the bid price, for delivery at the prescribed destination.

.....
 (Signature of Bidder) Date (Signature of Witness) Date

Annexure 9

Responsibilities of the Department

1. The Department must:

- Pay the Service Provider in accordance with his contract;
- As and when required under the contract, provide the Service Provider with sufficient documents, information necessary, resources and assistance (including access to records, systems, premises and people) to enable the Service Provider to carry out its duties and services;
- Give or cause to be given to the Service Provider, timely directions, decisions and information sufficient to facilitate the conduct of the duties and services by the Service Provider.
- The Department shall endeavour to ensure that all information provided by the Department or on the department's behalf is accurate and complete in all material respects and that such information does not infringe any copyright or other party rights;
- The Service Provider shall rely on the information provided by the Department and, unless the parties expressly agree otherwise, the Service Provider shall have no responsibility to evaluate or verify it; and
- The Department shall duly comply with its delegations under this contract.

2. Payment for services

- Risk management and forensic activities are generally based on hourly rates and typically detailed budget can only be drawn up once the appointed service provider has been able to assess the likely extent of each particular project.

The guide on hourly rates for consultants, was issued by the department of Public Service and Administration, as a cost containment measure. These have been taken into account to comply with the Public Finance Management Act, National Treasury Instruction No.3 of 2017/2018:

4.3 Accounting officers must adopt a fair and reasonable remuneration framework for consultants, taking into account-

- a) The "Guide on Fees for Audits done on behalf of the Auditor-General of South Africa (AGSA)" as issued by the South African Institute of Chartered Accounts (SAICA);
- b) The "Guide of Hourly Fee Rates for Consultants", as issued by the Department of Public Service and Administration; and/or
- c) Remuneration guidelines issued by professional service organisations or regulatory bodies, as may be relevant.

FIXED HOURLY RATES

After having considered the AGSA rate and the DPSA rate stated above, as the Department of Health and to comply with cost containment measures issued by Treasury, below is the rate that we are offering. The rates are derived from the Average of the AGSA and DPSA less 20%. Any other discount offered by the consultants / service providers will be accepted.

Item (where applicable)	Hourly Rate AGSA	Hourly Rate DPSA	Department of Health Fixed Hourly rates
Director /Partner	R3 375	R3 534	R2 764
Senior Manager (Team Leader)	R2 627	R2 403	R2 012
Manager (Investigations)	R1 479	R1 481	R1 184
Senior Forensic Investigator	R1 073	R1 167	R896
Junior Forensic Investigator	R735	R886	R648
Support Staff	R351	R586	R375
Specialist: <ul style="list-style-type: none">• Forensic• Polygraph examiners• Handwriting specialists• Forensic computer analysts	R3 027	R2 405	R2 313,20
Other Specialists: Engineers, Quantity Surveyors, water experts and ICT Specialists	R3 027	R2 642	R2 389,60

- The Service Providers fees will be based on the time required by the appropriate level of staff to complete the engagement. Out-of-pocket disbursements (including travel, accommodation and telephone) and VAT will be added to the Service Provider's fees subject to the provisions of the contract.
- The hourly rates will be reviewed by the Department of Health annually.
- As soon as possible, but no later than seven (7) days after the end of each month, the Service Provider must submit to the Department a Claim in the formal prescribed by the department which must:
 - ✓ Identify the services provided at each stage of an individual project; or
 - ✓ Where necessary, identify the hours spent in providing the service in terms of this contract; and
 - ✓ Identify the nature of the expenses claimed for, in particular regard to the travel claim, provide the date of travel, the place travelled to, and the kilometres travelled.

- When the duly completed and signed claim has been submitted to the Department, the Department must verify the claim and determine, within seven (7) days of submission, whether or not to approve the Claim. The Department shall approve the claim by certifying amounts payable to the Service Provider.
- If the Department approves the Claim, the Department shall effect the payment to the Service Provider no later than thirty (30) days from such date of approval.
- If the Department rejects the claim, the Department shall within seven (7) days from the date of rejection, query the contents and correctness of the claim with the Service Provider. If the Department Subsequently approves the claim within seven (7) days period, the Department shall effect payment to the Service Provider no later than thirty (30) days from such date. The Department may decide not to pay any claim without adequate documented proof of the required information and data.
- All payments shall be made into the bank account of the Service Provider, details of which must be supplied by the Service Provider
- The Department may make any correction or modification to a Claim or any previous Claim where it receives information in conflict with information of any payment certificate after payment has been made, and shall have the right to withhold approval with any part of the services not being provided to its satisfaction. Where the Department has amended a Claim, it must supply a copy of the amended Claim to the Service Provider.
- Should the Service Provider, for whatever reason, owe any amount to the Department, the Department shall have the right to set it off against any moneys that may be owing to the Service Provider by the Department in terms of a Claim.
- The approval of the Claim by the Department shall not be deemed to be approval of, or waiving of rights regarding any services or other matter in respect of which it was issued, or be taken to be an admission of the due performance of the contract or any part thereof, or of the accuracy of any Claim made by the Service Provider, and no approval shall revoke or prejudice any of the rights and powers. Of the department. No such approval shall deprive the Department of any right it may have regarding wrongful acts or breach of contract on the part of the Service Provider that may appear or become known later.

3. Contact person for implementation

- The Department shall nominate an official as the contact person designated to receive the information and act on its behalf in accordance with the clauses in this contract relating to:
 - ✓ Payment claims;
 - ✓ Reports;
 - ✓ Notices; and
 - ✓ Applications for variation

Annexure 10 – Responsibilities of the Service Provider

- Depending on the demand of each assignment, the Service Provider shall provide the investigating team which should include the following:
 - ✓ Director /Partner
 - ✓ Senior Manager (Team Leader)
 - ✓ Manager (Investigation)
 - ✓ Senior Forensic Investigator(s)
 - ✓ Junior Forensic Investigator(s)
 - ✓ Support Staff
 - ✓ Other Specialists – Engineers, Quantity Surveyors, water experts and ICT Specialists
 - ✓ Specialist – Forensic, Polygraph examiners, Handwriting specialists, Forensic computer analysts, etc

Note:

- a. Please state the number of resources/staff that the bidder has in their employment for each of the levels.
- b. Provide average time spend by the resource from an average forensic investigation project. The estimate should be given as a percentage of total time spend by all the resources.
 - The Service Provider will be expected to sign non-disclosure agreements with the Department. No information about the Department, projects undertaken, evidence obtained and general scope of the contracts should be discussed or shared with any party without the written consent of the Department.
 - The Service Provider should maintain confidentiality of all work at all times.
 - The Service Provider should act in a professional and ethical manner at all times. Service Providers should manage and ensure that they maintain their independence in fact and in appearance. Any breach to the professional standard shall be reported to the relevant professional body in addition to any other action taken by the Department regarding the breach.
 - The Service Provider will assist the Department in conducting forensic investigations for a period of three years and will be utilised as and when the need arise in doing the following:
 - Analysing the reports and given information to identify possible fraud and corruption risks, detecting fraud and corruption and any other incidents of irregularities
 - Conducting forensic investigations on assigned cases of alleged fraud, corruption and/or irregularities
 - Making recommendations on all cases investigated with recommendations on action to be taken and internal control reviews
 - Assisting in the recovery of losses emanating from the finalization of investigative processes to the Department and including minimising losses.
 - Assisting in disciplinary hearings to incidents of fraud and corruption against State officials, including testifying during disciplinary proceedings (this includes period beyond the term of contract).

- Supporting and assisting the Department in criminal proceedings and giving expert testimony against state officials and other parties implicated in the forensic findings.
- Assisting the Department in reviewing the internal controls, implementing new controls and improving the internal controls
- Failure to fulfil that the Department of Health will render this agreement null and void and allow the Department of Health to establish a contract with the next approved Service Provider.

ANNEXURE A

THE NATIONAL TREASURY

Republic of South Africa



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.

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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

1. DEFINITIONS

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 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 except for purposes of performing the contract.
- 5.3. Any document, other than the contract itself mentioned in GCC clause 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 analysed 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 contract 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 antidumping 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 wilful 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.

Js General Conditions of Contract (revised July 2010)