



BID DOCUMENT NUMBER: ZNB 5508/2023-H:

DESCRIPTION: APPOINTMENT OF A SERVICE PROVIDER FOR THE PROVISIONING OF SUITABLE LEASED OFFICE ACCOMMODATION (SPACE) TO ACCOMMODATE EMPANGENI INFRASTRUCTURE MANAGEMENT EMPANGENI HUB IN THE CENTRAL BUSINESS DISTRICT (CBD) FOR A PERIOD OF FIVE (5) YEARS

Name of Bidder.....

Central Supplier's Database Registration Number.....

Income Tax Reference Number.....

BIDDER TO NOTE THE FOLLOWING

CLOSING DATE AND TIME:

DATE: 19 JANUARY 2024

TIME: 11: 00AM

BID RESPONSE DOCUMENTS MUST BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)

**Central Supply Chain Management Directorate
Old Boys School, 310 Jabu Ndlovu Street
Pietermaritzburg
3201**

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KWAZULU-NATAL PROVINCIAL GOVERNMENT BIDDING FORMS

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SECTION A: INVITATION TO BID (SBD1)

PART A

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE KWAZULU-NATAL DEPARTMENT OF HEALTH					
BID NUMBER:	ZNB 5508/2023-H	CLOSING DATE:	19/01/2024	CLOSING TIME:	11H00 AM
DESCRIPTION	APPOINTMENT OF A SERVICE PROVIDER FOR THE PROVISIONING OF SUITABLE LEASED OFFICE ACCOMMODATION (SPACE) TO ACCOMMODATE EMPANGENI INFRASTRUCTURE MANAGEMENT HUB IN THE CENTRAL BUSINESS DISTRICT (CBD) FOR A PERIOD OF FIVE (5) YEARS				
THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).					
BID RESPONSE DOCUMENTS MUST BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
CENTRAL SUPPLY CHAIN MANAGEMENT DIRECTORATE					
OLD BOYS SCHOOL, 310 JABU NDLOVU STREET					
PIETERMARITZBURG					
3201					
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VATREGISTRATION NUMBER					
	TCS PIN:		OR	CSD No:	
STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]	<input type="checkbox"/> Yes		STATUS LEVEL SWORN AFFIDAVIT		<input type="checkbox"/> Yes
	<input type="checkbox"/> No				<input type="checkbox"/> No
IF YES, WHO WAS THE CERTIFICATE ISSUED BY?					
AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA) AND NAME THE APPLICABLE IN THE TICK BOX	<input type="checkbox"/>	AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA)			
	<input type="checkbox"/>	A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS)			
	<input type="checkbox"/>	A REGISTERED AUDITOR			
		NAME:			
[A STATUS LEVEL VERIFICATION CERTIFICATE/SWORN AFFIDAVIT (FOR EMES& QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR]					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS / SERVICES / WORKS OFFERED?		<input type="checkbox"/> Yes <input type="checkbox"/> No
	[IF YES ENCLOSE PROOF]				[IF YES ANSWER PART B:3 BELOW]
SIGNATURE OF BIDDER		DATE		
CAPACITY UNDER WHICH THIS BID IS SIGNED (Attach proof of authority to sign this bid; e.g. resolution of directors, etc.)					
TOTAL NUMBER OF ITEMS OFFERED			TOTAL BID PRICE (ALL INCLUSIVE)		
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:			TECHNICAL INFORMATION MAY BE DIRECTED TO:		
DEPARTMENT	KZN Department of Health		DEPARTMENT	KZN Department of Health	
CONTACT PERSON	Demand Management		CONTACT PERSON	Mr. B Mjila	
TELEPHONE NUMBER	033 815 8361/8386		TELEPHONE NUMBER	033 940 2570 or 0833733276	
E-MAIL ADDRESS	SCM.DemandManagement@kznhealth.gov.za		E-MAIL ADDRESS	Bubele.Mjila@kznhealth.gov.za	

PART B: TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:	
1.1.	BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2.	ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED – (NOT TO BE RE-TYPED) OR ONLINE
1.3.	BIDDERS MUST REGISTER ON THE CENTRAL SUPPLIER DATABASE (CSD) TO UPLOAD MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS; AND BANKING INFORMATION FOR VERIFICATION PURPOSES). CERTIFICATE OR SWORN AFFIDAVIT FOR MUST BE SUBMITTED TO BIDDING INSTITUTION.
1.4.	WHERE A BIDDER IS NOT REGISTERED ON THE CSD, MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS MAY NOT BE SUBMITTED WITH THE BID DOCUMENTATION. CERTIFICATE OR SWORN AFFIDAVIT FOR MUST BE SUBMITTED TO BIDDING INSTITUTION.
1.5.	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 LEGISLATION OR SPECIAL CONDITIONS OF CONTRACT AND ANY AMENDMENTS THERETO.
2. TAX COMPLIANCE REQUIREMENTS	
2.1	BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2.2	BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE DEPARTMENT TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.
2.3	APPLICATION FOR TAX COMPLIANCE STATUS (TCS) OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.
2.4	BIDDERS MAY ALSO SUBMIT A PRINTED TCS TOGETHER WITH THE BID.
2.5	IN BIDS WHERE CONSORTIA/ JOINT VENTURES/ SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE PROOF OF TCS / PIN / CSD NUMBER.
2.6	WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS	
3.1.	IS THE BIDDER A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? <input type="checkbox"/> YES <input type="checkbox"/> NO
3.2.	DOES THE BIDDER HAVE A BRANCH IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO
3.3.	DOES THE BIDDER HAVE A PERMANENT ESTABLISHMENT IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO
3.4.	DOES THE BIDDER HAVE ANY SOURCE OF INCOME IN THE RSA? <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 OBTAIN A TAX COMPLIANCE STATUS/ TAX COMPLIANCE SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTERED AS PER 2.3 ABOVE.	

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

SECTION B: 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 AND THE GENERAL CONDITIONS OF CONTRACT. REFER TO THE GENERAL CONDITIONS OF CONTRACT AT THE FOLLOWING WEB ADDRESS:
<http://www.treasury.gov.za/divisions/ocpo/ostb/contracts/default.aspx>

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 initialled.
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. The bidder must initial each and every page of the bid document.

SECTION C: AUTHORITY TO SIGN A BID

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

(I)	(II)	(III)	(IV)	(V)	(VI)	
CLOSE CORPORATION	COMPANIES	SOLE PROPRIETOR	PARTNERSHIP	CO-OPERATIVE	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.

SECTION D: BIDDER'S DISCLOSURE (SBD 4)

1. PURPOSE OF THE FORM

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

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

2. Bidder's declaration

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

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

FULL NAME	IDENTITY NUMBER	NAME OF STATE INSTITUTION

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

2.2.1 If so, furnish particulars:
.....
.....

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

2.3.1 If so, furnish particulars:
.....
.....

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:

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.
- 3.6 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 AND 3 ABOVE IS CORRECT.
I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

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

SECTION E: THE NATIONAL INDUSTRIAL PARTICIPATION PROGRAMME (SBD 5)

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

- 1.1 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:
- (a) Any single contract with imported content exceeding US\$10 million.
or
 - (b) 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
 - (c) 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
 - (d) 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.
- 1.2 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.
- 1.3 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

- 2.1 In order to ensure effective implementation of the programme, successful tenderers (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.
- 2.2 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.

3 TENDER SUBMISSION AND CONTRACT REPORTING REQUIREMENTS OF TENDERERS AND SUCCESSFUL TENDERERS (CONTRACTORS)

Tenderers are required to sign and submit this Standard Tendering Document (SBD 5) together with the Tender on the closing date and time.

3.2 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 Tenderers (contractors) are required, immediately after being officially notified about any successful Tender with a value in excess of R10 million (ten million Rands), to contact and furnish the DTI with the following information:

- Tender / contract number.
- Description of the goods, works or services.
- Date on which the contract was accepted.
- Name, address and contact details of the government institution.
- Value of the contract.
- Imported content of the contract, if possible.

3.3 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.

4 PROCESS TO SATISFY THE NIP OBLIGATION

4.1 Once the successful Tenderer (contractor) has made contact with and furnished the DTI with the information required, the following steps will be followed:

- a. the contractor and the DTI will determine the NIP obligation;
- b. the contractor and the DTI will sign the NIP obligation agreement;
- c. the contractor will submit a performance guarantee to the DTI;
- d. the contractor will submit a business concept for consideration and approval by the DTI;
- e. upon approval of the business concept by the DTI, the contractor will submit detailed business plans outlining the business concepts;
- f. the contractor will implement the business plans; and
- g. the contractor will submit bi-annual progress reports on approved plans to the DTI.

4.2 The NIP obligation agreement is between the DTI and the successful Tenderer (contractor) and, therefore, does not involve the purchasing institution.

Tender number:	ZNB 5508/2023-H
Name of tenderer:	_____ Closing date: 19/01/2024
Postal address:	_____ _____
Signature:	_____ Name (in print): _____
Date:	_____

**SECTION F: 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)

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 G
PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022:
SBD 6.1

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 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	90	80
SPECIFIC GOALS	10	20
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 regarding 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

THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

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

80/20

or

90/10

$$Ps = 80 \left(1 - \frac{Pt - Pmin}{Pmin} \right) \quad \text{or} \quad Ps = 90 \left(1 - \frac{Pt - Pmin}{Pmin} \right)$$

Where

Ps = Points scored for price of Bid under consideration

Pt = Price of Bid under consideration

Pmin = Price of lowest acceptable Bid

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

4.1 POINTS AWARDED FOR PRICE

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

80/20

or

90/10

$$Ps = 80 \left(1 + \frac{Pt - Pmax}{Pmax} \right) \quad \text{or} \quad Ps = 90 \left(1 + \frac{Pt - Pmax}{Pmax} \right)$$

Where

Ps = Points scored for price of Bid under consideration

Pt = Price of Bid under consideration

Pmax = Price of highest acceptable Bid

5. POINTS AWARDED FOR SPECIFIC GOALS

5.1 In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations 2022, preference points must be awarded for specific goals stated in the Bid. For the purposes of this Bid the Bider 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:

5.2 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 (90/10 or 80/20 System) (To be completed by the Department)	Number of points claimed (80/20 or 90/10) (To be completed by the Bidder)
In terms of Departmental Preferential Procurement Regulation Policy 2023, Companies 51% Owned by Black People		

Note: Ownership verification may be conducted through Central Suppliers Database by National Treasury, through the B-BBEE scorecard attributes or Companies and Intellectual Property Commission (CIPC), using Municipal Local Economic Development Database, Confirmation Letters from Municipality and councillors.

6. DECLARATION WITH REGARD TO COMPANY/FIRM

6.1 Name of company/firm: _____

6.2 Company registration number: _____

6.3 Type of Company/ Firm: (Tick the applicable box)

- Partnership/Joint Venture / Consortium
- One-person business/sole propriety
- Close corporation
- Public Company
- Personal Liability Company
- Private Company (Pty) Limited
- Non-Profit Company
- State Owned Company

SBD 6.1

6.4 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 Bider 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 of Bidder: _____
Name and Surname: _____
Date: _____
Address: _____

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, I confirm that I fully understand its content and conditions and confirm that I am willfully committing to abide by its content.</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)

Note: The special conditions of contract referred as (SCC) are supplementary to that of the General Conditions of Contract (GCC). Where, however, the special conditions of contract are in conflict with the General Conditions of Contract, the special conditions of contract (SCC) shall prevail.

1. ADDITIONAL DEFINITIONS

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

- 1.1. **“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).
- 1.2. **“Contract Duration”**: means the period between the commencement and termination of the contract.
- 1.3. **“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.
- 1.4. **“COA”**: means Certificate of Acceptability
- 1.5. **“Department”**: means the KwaZulu-Natal Department of Health.
- 1.6. **“GMP”**: means Good Manufacturing Practices
- 1.7. **“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).
- 1.8. **“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.
- 1.9. **“HACCP”**; means Hazard Critical Control Point
- 1.10. **“ISO Standards”**: means standards recognized by International Standard Organisation
- 1.11. **“Parties”**: means the KwaZulu-Natal Department of Health and Contractor or Service provider
- 1.12. **“Province”**: means the Province of KwaZulu-Natal.
- 1.13. **“ROE”**: means the Rate of Exchange.
- 1.14. **“SABS”**: means the South African Bureau of Standards.
- 1.15. **“SANS”**: means the South African National Standards.
- 1.16. **“Vendor”**: means Contracted Supplier or Service Provider

2. INTERPRETATIONS

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

- 2.1 Any gender includes the other genders.
- 2.2 A natural person includes a juristic person and vice versa.
- 2.3 The singular includes the plural and vice versa.
- 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.
- 2.5 Figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 2.6 Any reference in this contract to "goods" includes works and/or services.
- 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.
- 2.8 All annexures and appendices shall form part of the contract.
- 2.9 The headings used throughout the Contract do not have any special significance save to ensure the easy reading of the contract.
- 2.10 Words and phrases defined in this Contract shall bear the meaning assigned to them throughout this Contract.
- 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.
- 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.

3. ACCEPTANCE OF A BID

- 3.1 The Department of Health Bid Adjudication Committee is under no obligation to accept any bid.
- 3.2 The financial standing of a bidder and its ability to supply goods or render services may be examined prior to the consideration for acceptance.

4. CERTIFICATE OF COMPLIANCE

- 4.1 The design, construction and appearance of the building, including the internal and external finishes shall be of a standard acceptable to the – KZN Department of Public Works and Department of Health.
- 4.2 The building must comply with the National Building Regulations as proclaimed by the National Building Regulations and Building Standards Act 1977 (Act 103 of 1977) as well as the Occupational Health and Safety Act, 1993 (Act 85 of 1993), as amended. The building shall be fully accessible to the disabled and the facilities must be provided as required by the Occupational Health and Safety Act, 1993 (Act 85 of 1993). A certificate to this effect must be submitted.
- 4.3 Prior to an award of the bid being made and/or during the evaluation process, the Department of Health reserves the right to conduct inspections of the premises of the most acceptable bidder. Therefore, premises of the bidder shall be open, at reasonable hours, for inspection by a representative of the Department or organization acting on its behalf. Any specification/s and conformity testing will be for the account of the prospective bidder.

5. COMPLIANCE WITH SPECIFICATION

- 5.1 Offers must comply strictly with the specification. Offers exceeding specification requirements will be deemed to comply with the specification.

6. EQUAL BIDS

- 6.1 During the submission of price quotations, the equal bids and criteria for breaking deadlock in scoring will be as follows:
 - 6.1.1 If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for specific goals.
 - 6.1.2 If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

7. LATE BIDS

- 7.1 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 fail to arrive on time the department will not be held liable.
- 7.2 Bids are late if they are received at the address indicated in the bid documents after the closing date and time.

8. MORE THAN ONE OFFER/ COUNTER OFFERS

- 8.1 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.

- 8.2 Bidders' attention is drawn to the fact that counter offers with regard to any of the abovementioned Special Terms and Conditions will invalidate such bids.
- 8.3 Bidders are at liberty to bid for one, a number of items, or bid for all items. If a bidder is not bidding for all the items, the appropriate price page must reflect: 'nil quote'.

9. ONLY ONE OFFER RECEIVED

- 9.1 Where only one offer is received, the Department of Health will determine whether the price is fair and reasonable. Proof of reasonableness will be determined as follows:
- (i) Comparison with prices, after discounts, to the bidder's other normal clients and the relative discount that the State enjoys;
 - (ii) Where this is not possible, profit before tax based on a full statement of relevant costs; and
 - (iii) In all cases, comparison with previous bid prices where these are available.

10. REGISTRATION ON THE CENTRAL SUPPLIER DATABASE (CSD)

- 10.1 A bidder submitting an offer must be registered on the Central Supplier Database. A bidder who has submitted an offer and is not registered on the Central Supplier Database will not be considered.
- 10.2 Each party to a joint venture/ consortium must be registered on the Central Suppliers Database at the time of submitting the bid.
- 10.2 A bidder must submit Central Supplier Database (CSD) compliance report.

11. EMPLOYEES TRADING WITH THE ORGANS OF THE STATE

- 11.1 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."
- 11.2 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 a director of a company listed in schedule 2 and 3 of the Public Finance Management Act"
- 11.3 If a bidder is found to be employed by the state, through the verification of Central Supplier Database (CSD) compliance history report, Department of Public Service Administration (DPSA) verification system, the bid will be immediately disqualified.
- 11.4 Should it be discovered that the bidder is employed by the State, through other Computer Assisted Audit Technics, the award or contract will be immediately terminated.

12. TRUST, CONSORTIUM OR JOINT VENTURE

- 12.1 To ensure compliance with SCM prescripts, a Trust, Consortium or Joint Venture must submit a consolidated Specific Goals for every separate bid. No award will be made to a Trust/ Joint Venture/ Consortium that is not tax compliant at the finalisation of the award. For verification purposes, each party must submit separate proof of TCS/ PIN / CSD number.
- 12.2 A separate B-BBEE Certificate or Sworn Affidavit will be required from each company participating in the awarded Trust, Consortium or Joint Venture during the formal contract stage.
- 12.3 The Joint Venture agreement must clearly specify the percentage of the contract to be undertaken by each company participating therein.
- 12.4 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.

13. VALIDITY PERIOD OF BID AND EXTENSION THEREOF

- 13.1 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.

14. CHANGE OF ADDRESS

- 14.1 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.

15. INVOICES AND PAYMENTS

- 15.1 All invoices must be submitted in the original format.
- 15.2 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.
- 15.3 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.
- 15.4 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.
- 15.5 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.
- 15.6 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 Finance Manager and the Chief Executive Officer 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:
 - a) Name/s of person/s contacted at the Institution and dates; and
 - b) Details of outstanding account.
 - c) The Chief Director: Accounting Services will then take the appropriate action.

- 15.7 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.

16. FIRM PRICES AND ESCALATIONS

- 16.1 This bid requires that all bid prices offered are firm for the period of the contract. Price adjustments will be considered as per the specifications.

17. VALUE ADDED TAX (VAT)

- 17.1 All bid prices must be inclusive of all applicable taxes
- 17.2 Bidders who make taxable amount 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, within one month of award of bid.
- 17.3 VAT will not be included after an award of the bid or during contract management period.

18. TAX COMPLIANCE

- 18.1 The Head of Department (Accounting Officer) or Departmental Bid Adjudication Committee (DBAC) or delegated official may reject any bid from a supplier who fails to provide written proof from the South African Revenue Service that the supplier either has no outstanding tax obligations or has made arrangements to meet outstanding tax obligations.
- 18.2 It is therefore essential to ensure that bidders are tax compliant at the time of the awarding of the bid, no price quotation or competitive bid will be awarded to bidders who are non-tax compliant.
- 18.3 In the event the bidder is awarded the contract or issued with an order, it is essential to ensure that bidders tax affairs are in order. Should the contracted bidder, be found to be tax non-compliant, during the execution of the contract this may delay payments and could result to contract termination.

19. ENTERING OF HOSPITAL/CLINIC STORES

- 19.1 No representative from a company or bidder 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.

20. DEPARTMENTAL PROPERTY IN POSSESSION OF A CONTRACTOR

- 20.1 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.
- 20.2 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.

21 IRREGULARITIES

- 21.1 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.

22 UNSATISFACTORY PERFORMANCE

- 22.1 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.
- 22.2 The Head of Department (Accounting Officer) or Departmental Bid Adjudication Committee (DBAC) or Delegated.
- Official may;
- (a) Disregard the bid of any bidder if that bidder, or any of its directors –
- (i) have abused the institution's supply chain management system
- (ii) have committed fraud or any other improper conduct in relation to such system; or
- (iii) have failed to perform on any previous contract
- (iv)
- 22.3 In the event that the awarded bidder fails to perform as per the contract conditions, the bidder shall be registered on the Departmental defaulters register and may be deemed failing to perform as per contract and therefore future bids disregarded.

23 RESTRICTION OF BIDDING

The Accounting Officer or his/her delegate must:

- a) Notify the supplier and any other person of the intention to restrict it doing business with Department by registered mail or email. The letter of restriction must provide for the grounds for restriction; the period of restriction that must not exceed 10 years; a period of 14 calendar days for the supplier to provide reasons why the restriction should not be imposed.
- b) The Accounting Officer or his/her delegate:
May regard the intended penalty as not objected to and may impose such penalty on the supplier, should the supplier fail to respond within the 14 days; and must assess the reasons provided by the supplier and take the final decision.
- c) If the penalty is imposed, the Accounting Officer must inform National Treasury of the restriction within 7 calendar days and must furnish the following information:
 - The name and address of the entity/ person to be restricted;
 - The identity number of individuals and the registration number of the entity; and
 - The period of restriction
- d) The National Treasury will load the details on the Database of Prohibited Vendors.
- e) The restriction period applicable will be based on the value of award/s made to the supplier over a financial year. The table below illustrates the restriction period that will be applicable per the award threshold:

24 CONTRACTOR'S LIABILITY

- 24.1 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.
- 24.2 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.

25. PATENTS

- 25.1 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.

26 WAIVER

- 26.1 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.
- 26.2 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.

27 BREACH

- 27.1 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.
- 27.2 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:
- 27.3 To claim specific performance of any obligation whether or not the due date for performance has arrived; or
- 27.4 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.
- 27.5 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.
- 27.6 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.
- 27.7 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:
- 27.7.1 Cancel this Contract in the event the defaulting Party committed a material breach.
- 27.7.2 Claim specific performance by the defaulting Party if such is a competent remedy in the circumstance.
- 27.7.3 Claim damages suffered, as limited under this Contract.

28. PREFERENCES

- 28.1 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 pretences, the Department may, at its own right:
- (i) 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
 - (ii) Cancel the contract and claim any damages which the Department may suffer by having to make less favourable arrangements after such cancellation.
 - (iii) The Department may impose penalties, however, only if provision therefore is made in the Special Conditions of Contract and Bid.

29. SEVERABILITY

- 29.1 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.

30. INSURANCE

- 30.1. 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.
- 30.2. Any insurance policies taken out by Contractor to cover goods delivered for a contract must be taken out with a company registered in South Africa in terms of relevant insurance and companies acts.
- 30.3. The Department and the Contractor must ensure that the insurance remains in force throughout the contract period.
- 30.4. In the event that the Department requests for such Certificate of Insurance, the Contractor shall submit such Certificate within 5 days, if this was not a mandatory requirement.

31. EXTENSION OF CONTRACT

- 31.1 This Department has the option to Extend the contract for a further 04 Years and 11 Months. However, the extension for a four (04) Years and 11 Months will not attract any escalation for the first year, furthermore the escalation for Year two (2) and beyond must not exceed 5%.

32. CESSION OF CONTRACT

- 32.1. Cession refers to the transfer of only the rights a service provider has in terms of a contract from it to a third party. In commercial contracts, the main right involved is the right to be paid for services rendered. While the appointed bidder remains the service provider that continues to render the services, the service provider may cede (transfer) its right to be paid for the services it rendered in terms of the contract to a third party. This means that the service provider renders the services to an organ of state, while the organ of state pays for the services rendered to a third party instead, most commonly, a financial institution.
- 32.2. Cession will only be permissible on approval by the Head of Department (Accounting Officer), should the request cede not approved, the contract may be terminated.

33. CONTRACT AMENDMENTS / VARIATIONS

- 33.1. 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.
- 33.2. 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.

33.3. 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.

34. INTELLECTUAL PROPERTY

34.1 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.

35. INSOLVENCY

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

35.2 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 49.1 coming into effect.

36. DISPUTE RESOLUTION

36.1 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.

37. DOMICILLIA CITANDI ET EXECUTANDI

For the purpose of this contract, the parties choose their respective domicilia 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	

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.

37.1 A party may at any time change that party’s domicilium by notice in writing, provided that the new domicilium is in the Republic of South Africa and consists of, or includes, a physical address at which the process can be served.

37.2 Any notice to a party:

- i. 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);
- ii. Delivered by hand to a responsible person during ordinary business hours at the physical address chosen as its domicilium, shall be deemed to have been received on the day of delivery; or
- iii. 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).

38. PERIOD OF LEASE CONTRACT

38.1. Period of Lease: **Five (5) years** with the Department reserving an option to extend for a further period not exceeding four (4) years and eleven (11) months, if so required by the Department of Health at the time. This extension will be subject to prevailing market rates being applied at time of option being exercised and the bidder being approachable to providing a discount to the Department as well as the Department considering the landlord’s performance in terms of maintenance of the building during the five (5) year period. This clause does not intend to create expectation for automatic lease extensions/renewals but to address the period wherein the User remains in occupation and the Lessee makes rental payments.

SECTION J: SPECIFICATION/ TERMS OF REFERENCE

1. DESCRIPTION OF SERVICE:

The appointed service provider will be required to provide a suitable office accommodation (space) to the Department of Health: Kwazulu-Natal Provincial Administration, to accommodate officials deployed at EMPANGENI INFRASTRUCTURE MANAGEMENT HUB. The suitable office is required for a period of Five (05) Years with an option to Extend for a further 04 Years and 11 Months. However, the extension for a four (04) Years and 11 Months will not attract any escalation for the first year, furthermore the escalation for Year two (2) and beyond must not exceed 5%.

2 PROJECT BACKGROUND:

The purpose of this request is to solicit bids from interested BIDDERS in order to provide suitable office accommodation for the Empangeni Infrastructure Management Hub at Empangeni CBD.

Bidders are requested to submit bids for existing or new buildings to sufficiently and suitably accommodate this functional needs as per the below scope/specification.

3 DETAILED PROJECT SCOPE OF WORKS:

No	<p>NOTE: The Following documents will be required prior to occupation from the winning bidder.</p> <p>(The department reserves the right to withdraw/cancel the award should the bidder fail to comply with this requirement)</p>
1	Electricity compliance Certificate -
2	Fire Regulation - compliance Certificate
3	Disability Accessibility compliance Certificate -
4	Health and Safety compliance Certificate -
5	Occupation certificate
6	Certificate Of Compliance To The National Building Regulations
7	Entomologist /pest Control Certificate
8	And any other legally required certification.

4. PROPERTY OWNERSHIP

Bidder should ideally be the owner of the property offered. If not, the owner must provide the power of attorney to act on his/her behalf and a copy of the power of attorney must be included in the submission of the bid. A signed deed of sale agreement will be considered for property that is in the process of being purchased by one entity to another. Therefore, the evaluation will be based on the one of the three options, as detailed below.

Three options Compliance requirements and returnable documents	Submitted?	
	Yes	No/NA
Option 1: Certified copy of the Title Deed/Certified Windeed printout if the owner is directly bidding Note: (department reserves the right to verify the correctness of Windeed) or		
Option 2: Attach both certified copy Title Deed and copy of Power of Attorney/ signed mandate letter/lease agreement, if bidding as an agent/broker/independent company using another person. or		
Option 3: Copy of fully signed Sale Agreement, together with the Tittle Deed of the current owner of the building		

3. PROPERTY SIZE AND SPACE PLANNING REQUIREMENTS

The building must comprise a minimum of 470 m2 Gross Lettable Area (GLA) depending on the configuration, measured according to the latest SAPOA Method for Measuring Floor Areas (MOMFA) for Offices.

The bidder must provide a space planning layout as per the client's needs, refer to page

NOTE: The Following documents will be required prior to occupation from the winning bidder. The bidder who fails to comply with the above Requirements will be treated as non-responsive.

Compliance requirements and returnable documents	Submitted?	
	Yes	No
Bidder to provide letter from registered Architect confirming the minimum gross lettable area , Plan to also depict the Emergency and Evacuation Routes/points and Plan to be signed off by the Professional Architect		

4. PROVISION OF PARKING

The Bidder must submit a parking plan, signed off by the Professional Architect, indicating the availability of required parking bays.

5. PARKING REQUIREMENTS:

Total Parking (on site and off site) required 35

Required Parking bays to be provided on site 35 made up of the following categories

Type of parking	Quantity
Lock up	
Undercover	30
Secured	
Bays for people with Disabilities	
Open	05
Wash-bays	

(Below is to be inserted if required as per specification and approval)

	Type of parking	Quantity
	Lock up	
	Undercover	
	Secured	
	Bays for people with Disabilities	
	Open	
	Wash-bays	

6. BUILDING SUPPORT SERVICES

NOTE: The Following documents will be required prior to occupation from the winning bidder

Compliance requirements and returnable documents	Submitted?	
	Yes	No
<p>1.7.1 Bidder must submit Business Continuity Plan signed by the Bidder in respect of the 'following:</p> <ul style="list-style-type: none"> i. Water (back-up water tank to service toilets; available drinking water in the instance of disruption of municipal services) ii. Electricity (provision of functional back up electricity supply that will service 100% capacity to the leased premises in the event of municipal disruption) <p>A letter of commitment that confirms the provision of potable back up water and electricity supply, which will be made available prior to the client taking occupation of the building.</p>		
<p>1.7.2 Latest Occupation Certificate of the Offered Building if it is an existing building that was previously occupied. If it is a partially constructed building, this will not apply however, this certificate will be required prior to occupation.</p>		
<p>1.7.3 Bidders must provide a letter from the Fire Department confirming full fire compliance of the offered premises. If the offered premises is partially constructed building, this will not apply however, this certificate will be required prior to occupation.</p>		

7. ZONING OF PREMISES

NOTE: The Following documents will be required prior to occupation from the winning bidder

- 9.1 Bidder must provide Town planning certificate from Local Municipality confirming the zoning, the building must be zoned either; Commercial; Office or Public Buildings.

8. MAINTENANCE PLAN

- 8.1. Bidder to submit a comprehensive plan detailing the maintenance scheduling for the lease duration in respect of the following;
- i. All categories (structural; mechanical; electrical; plumbing; upgrading of finishes, as required; etc)
 - ii. Dates of planned maintenance;
 - iii. Provision for dealing with unplanned maintenance and turnaround time;
 - iv. Plan to include sub-contractors and also address issue of locality; targeted groups and job creation for the lease period.

NB! If the building was previously (in less than 2 years) / is occupied by Organs of the state (Departments, Municipal, State Owned Entities etc), reference will be sought from that organ of the state, to check maintenance history, and the cooperativeness of the landlord. The department reserves the right not to award if the reference reflect poor performance. The bidder to declare of such occupation.

9. LOCATION OF PREMISES

The building must be within 2 km of the Absa Building situated on Smith Street, Empangeni Compliance Requirements:

- (i) Google Maps satellite printout showing the above requirement.

10. SPECIFICATION OF MINIMUM REQUIREMENTS FOR WORK TO BE CARRIED OUT ON HIRED PROPERTIES STRUCTURAL

- 1 The Lessor is to reconfigure the premises to the client's requirements
- 2 All buildings are to be disable friendly including ramps for access to the buildings, toilets, parking etc, as per the SANS 10400 building code of practice.
- 3 The whole building to be repainted in an acceptable paint of a pastel shade. Paint to be of a durable washable SANS, as "Plascon", approved type.
- 4 All Structural steel including windows, burglar bars, door frames, etc to be painted which is to be applied as per the manufactures instructions.
- 5 All wood skirtings and wood panelling are to be varnished.
- 6 All new doors to sapele semi-solid varnished type.
- 7 Existing doors are to be of semi-solid type or better.
- 8 All damaged doors to be replaced and may not be patched.
- 9 All locks on doors to be of a cylindrical lock type, dead bolt with latching devise, with one registered master key per floor.
- 10 All doors, passages to be numbered in Perspex type in a size 50mm high, 5mm thick and appropriate length.
- 11 All toilets, emergency escape doors, emergency exits, disabled toilets and disabled parking is to be adequately signed.
- 12 Partitioning for the construction of offices, storerooms etc, is to be of the "Rhino-Drywall" type complete with aluminium studs and Rhino-Wallboard on both sides. (Partitioning dismantled in the existing building may not be re-utilized.)
- 13 No glass panels are allowed in any office partitioning unless specified.
- 14 Ceilings are to be of a Gypsum "Rhinodek" type or other approved ceiling tiles on T38 exposed Tee suspension grid of pre-painted aluminium components. Ceiling boards that are dirty are to be cleaned. Ceiling boards that cannot be cleaned are to be replaced with new. Old ceiling boards are not to be reutilized. Patching will not be accepted.
- 15 Existing partitioning which is damaged may not be reused and is to be replaced with new throughout the damaged section.
- 16 All carpets in offices to be Berber point sheeting type. Areas which require different carpeting will be done at the cost of the Lessee.
- 17 All passages, registries and archives are to have vinyl tile flooring/carpeting tile.
- 18 Toilets are to be totally refurbished with new pans, wash hand basins, partitioning, and floor and wall tiles unless accepted by the applicable Department of Public Works - KZN District Manager. All toilet seats are to be of "ArmitageShanks Magnia ASA5101" type seats prior to occupation.

- 19 The building is to be fumigated for rodents, insects and rancid odours prior to the occupation of the building and on a quarterly (1/4) basis for the duration of the occupation of the building
- 20 All external doors, PABX, file server rooms to be provided with a "Trellidor" security gate.
- 21 All ground floor level windows are to be supplied with "Trellidor" type burglar bars or equal.
- 22 All fire escapes/emergency exits are to conform to the relevant clauses of SANS code(s).
- 23. CONSTRUCTION AND APPEARANCE OF THE BUILDING:
The design, construction and appearance of the building, including the internal and external finishes shall be of a standard acceptable to the Department of Public Works – KZN. The building must comply with the national Building Regulations as proclaimed by the National Building Regulations and Building Standards Act 1977 (Act 103 of 1977) as well as the Occupational Health and Safety Act, 1993 (Act 85 of 1993), as amended. The building shall be fully accessible to the disabled and the facilities must provided as required by the Occupational Health and Safety Act, 1993 (Act 85 of 1993). A certificate to this effect must be submitted.

11. Additional Requirements

- 11.1.1. Natural light- to all offices;
- 11.1.2. Borrow natural light to be provided ±500mm on top of doors to transfer light;
- 11.1.3. Natural ventilation to the offices;
- 11.1.4. Shop front on the entrance;
- 11.1.5. Ceiling height to be the minimum of 3m and maximum of 3.2m;
- 11.1.6. Fully compliance to all disability requirements, elevator if applicable;
- 11.1.7. Ramps, ablutions, parking and paved pathways, service counter and light switches and sockets at a ' minimum height.

I, the undersigned, herewith declare that I have taken cognisance of the details of the above stated specification or terms of reference contained

.....
Name of Bidder

.....
Signature

.....
Date

SECTION K: EVALUATION CRITERIA

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

Evaluation will be based on the following:

Phase 1: Minimum Administrative, Compulsory and Mandatory Requirements

Phase 2: Functionality Evaluation Criteria

Phase 3: In Loco inspection

Phase 4: Price and Preference Points

Phase 1: Minimum Administrative Compliance and Mandatory Requirements

The Bidder shall complete and submit the following returnable schedules and documents:

NO.	SECTION/ SCHEDULE	COMPULSOR Y (YES / NO) NON-SUBMISSION WILL RENDER BIDDERS NON-RESPONSIVE	COMPULSOR Y (YES / NO) FOR BID EVALUATION PURPOSES	FOR OFFICIAL USE ONLY		
				YES	NO	N/A
Prospective Bidders must ensure that the following Sections of the bid document is completed in all respects to qualify for the next stage of evaluation:						
1	Section A: Invitation to Bid	Yes	Yes			
2	Section B: Special Instructions	Yes	Yes			
3	Section C: Authority to Sign the Bid	Yes	Yes			
4	Section D: Bidder's Disclosure	Yes	Yes			
5	Section E: THE NATIONAL INDUSTRIAL PARTICIPATION PROGRAMME (SBD 5)	Yes	Yes			
6	Section F: Declaration that CSD is Updated with Latest Bidder's Details	Yes	Yes			
7	Section G: Preference Points Claimed	Yes	Yes			
8	Section H: General conditions of Contract	Yes/If Applicable	Yes/If Applicable			
9	Section J: Specifications/Terms of Reference	Yes	Yes			
10	Section L: Special Terms and Conditions	Yes	Yes			

NO.	SECTION/ SCHEDULE	COMPULSOR Y (YES / NO) NON-SUBMISSION WILL RENDER BIDDERS NON-RESPONSIVE	COMPULSOR Y (YES / NO) FOR BID EVALUATION PURPOSES	FOR OFFICIAL USE ONLY		
				YES	NO	N/A
12	Section M: Pricing Schedule	Yes	Yes			
Prospective Bidders must provide the following Requirements:						
1	Copy of the Consortium/ Joint Venture/ Partnership agreement, if applicable	Yes If Applicable				
2	B-BBEE certificate indicating the B-BBEE status level of contributor. The B-BBEE certificate must be issued by a SANAS accredited verification agency	Yes	Yes			
3	Copy of Google Map showing distance from the Institution (Meters / Kilometers)	Yes, phase 2	Yes, phase 2			
4	Title Deed / Lease agreement	Yes, phase 2	Yes, phase 2			
5	Provide letter from registered Architect	Yes, phase 2	Yes, phase 2			
6	Parking Plan	Yes, phase 2	Yes, phase 2			
7	Zoning Certificate	Yes, phase 2	Yes, phase 2			
8	Maintenance Plan	Yes, phase 2	Yes, phase 2			
9	Business Continuity Plan	Yes, phase 2	Yes, phase 2			
10	Latest Occupation Certificate	Yes, phase 2	Yes, phase 2			
11	Letter from Fire Department	Yes, phase 2	Yes, phase 2			
12	Zoning Certificate	Yes, phase 2	Yes, phase 2			
13	Maintenance Plan	Yes, phase 2	Yes, phase 2			

Note: The bidder who fails to comply with Administrative Compliance and Mandatory Requirements will be treated as non-responsive; therefore, will not progress to the next stage of evaluation.

Phase 2: Functionality Criteria

Note

- (i) A minimum total of 105 points will be required to be responsive
- (ii) Bidders who fail to score the minimum threshold points and/or the total required 105 points will be considered Non-responsive and will be disqualified in the next Stage.
- (iii) Bidders must submit the required detailed information to comply with the specified evaluation criteria
- (iv) With regard to the awarding of points for Functionality, the following scoring will apply:

FUNCTIONALITY CRITERIA

	Criteria	Sub criteria	Allocation number of Points	Maximum number of points
1	LOCATION	The building must be within a radius of 2 km to 5 km from Absa Building situated on SmithStreet, Empangeni.		20
		If the building is found within a radius of 2km,	20	
		If the building is found more than 2 km's away, however within a radius of 5 km.	10	
		If the building is found beyond a radius of 5 km	0	
	<u>Returnable:</u>	1. Copy of Google map with a clear a property address 2. Note: No information provided will equate to zero (0) points		
2	PROPERTY SIZE AND SPACE PLANNING REQUIREMENTS	The building must comprise a minimum of 470m ² (Gross Lettable Area (GLA) depending on the configuration, measured according to the latest SAPOA Method for Measuring Floor Areas (MOMFA) for Offices. The bidder must provide a space planning layout as per the client's needs.		30
		If the Bidder provides a letter from registered architect confirming the minimum gross lettable area and a plan to also depict the Emergency and Evacuation Routes / points (Both plans to be signed off by the Professional Architect).	30	
	<u>Returnable:</u>	1. The bidder must provide a space planning layout as per the client's needs. 2. Note: No information provided will equate to zero (0) points		
3.	PROPERTY OWNERSHIP	Bidder should ideally be the owner of the property offered. If not, the owner must provide the power of attorney to act on his/her behalf and a copy of the power of attorney must be included in the submission of the bid. A signed deed of sale agreement will be considered for property that is in the process of being purchased by one entity to another.		20
		If the bidder provides a Certified copy of the Title Deed/Certified Windeed printout (department reserves the right to verify the correctness of windeed) if owner is directly bidding, a score of 20 will be allocated (20)	20	
		If the bidder provides both certified copy Title Deed and copy of Power of Attorney/ signed mandate letter/lease agreement, if bidding as an agent/broker/independent company using another person, a score of 10 will be allocated	10	
		If the bidder provides a copy of fully signed Sale Agreement, together with the Title Deed of the current owner of the building, a score of 05 will be allocated	5	
	<u>Returnable:</u>	1) Certified copy of the Title Deed/Certified Windeed printout/ certified copy Title Deed and copy of Power of Attorney/ signed mandate letter/lease agreement and copy of fully signed Sale Agreement, together with the Title Deed of the current owner 2) Note: No information provided will equate to zero (0) points		
3.	PARKING	PARKING REQUIREMENTS: Total Parking (on site and off site) required 35 parking bays.		20
		If the all 35 Parking Bays are available within the same premises / building.	20	
		If 20 Parking Bays are available within the same premises /building and the balance of parking bays to be within 100m of the premises / building	10	

Criteria	Sub criteria	Allocation number of Points	Maximum number of points
	Non-compliance with the above.	0	
<u>Returnable:</u>	1. The Bidder must submit a parking plan, signed off by the Professional Architect, indicating the availability of required parking bays. 2. Google Maps printout indicating the distance between offered building and offsite parking together with lay out plans If the Bidder is a sub-contracting the parking bays to the Department, the proof of the lease agreement must be provided. If the offered parking bays are not in the same building the bidder must provide proof of address for offered parking 2. Note: No information provided will equate to zero (0) points		
BUILDING SUPPORT SERVICES	The Bidder must submit a letter of Commitment that confirms the provision of potable back up water and Electricity supply, which will be made available prior to the client taking occupation of the building		20
	Electricity (provision of functional back up electricity supply that will services 100% capacity to the leased premises in the event of municipal disruption) and Water (back-up water tank for a 12 hour period to service toilets; available drinking water in the instance of disruption of municipal services)	20	
	Water (back-up water tank for a 12 hour period to service toilets; available drinking water in the instance of disruption of municipal services)	10	
<u>Returnable:</u>	1. Business Continuity Plan signed by the Bidder 2. Note: No information provided will equate to zero (0) points		
MAINTENANCE PLAN	Bidder to submit a comprehensive plan detailing the maintenance scheduling for the lease duration		20
	All categories (structural; mechanical; electrical; plumbing; upgrading of finishes as required; Dates of planned maintenance, Provision for dealing with unplanned maintenance and turnaround time, Plan to include sub- contractors. Or	20	
	If the building was previously (in less than 2 years) / is occupied by Government Departments reference will be sought from that Department/s confirming maintenance history, and the cooperativeness of the landlord. The department reserves the right not to award if the reference is negative. The bidder to declare of such occupation	20	
Maximum score for quality	Minimum score 70% points to be considered for the next evaluation stage		130
TOTAL			130 POINTS
MINIMUM THRESHOLD			91 POINTS

Note: The bidder who fail to obtain 70% score, will be treated as non-responsive, and will not progress to the next stage of evaluation

Phase 3: IN LOCO INSPECTION

3.1. An in loco inspection will take place for those bidders who comply with Administrative Compliance and Mandatory Requirements and the functionality criteria.

3.2. The in loco inspection will be done where the bidder has submitted the Google map address. Change of address by the bidder will be treated as non-responsive.

SECTION: IN LOCO VERIFICATION CHECKLIST

	ELEMENT OF INSPECTION	EVALUATION SCORE
1. Location	The building offered to the Department is within 2 km to 5 km radius from the Absa Building on Smith Street, Empangeni	20
2. Size of Property	The building offered to the Department must comprise of minimum of 470m ² .	40
3. Condition of Building	It must be an existing structure in a good condition Electricity, Water and Sewer system must be in place.	20
4. Parking Bays	Verification of Parking space to be utilized to accommodate 35 parking bays.	20
TOTAL		100

Note: The bidder who fail to obtain 100 score in loco Inspection, will be treated as non-responsive, and will not progress to the next stage of evaluation

Phase 4: PRICE AND PREFERENCE POINTS (SPECIFIC GOALS)

1. Either the 80/20 or 90/10 preference point system will apply and the lowest acceptable Bid will be used to determine the applicable preference point system.
2. Each site (represented by each price page) will have the allocation of preference points done in accordance with the lowest acceptable bid for that particular site.
3. Therefore, points for this bid shall be awarded for **Price + Specific Goals** with the maximum points for this bid allocated in the following manner:

CATEGORY	POINTS
PRICE	80 or 90
PREFERENCE POINTS	20 or 10
Total points for Price and must not exceed	100

Historically Disadvantaged Individuals (Persons)	POINTS
Points for specific goals will be allocated to companies at least 51% owned by Black People	10 or 20

Note:

Ownership verification may be conducted through Central Suppliers Database by National Treasury, through the B-BBEE scorecard attributes or Companies and Intellectual Property Commission (CIPC),

OFFER TO LEASE

PARTICULARS OF THE PREMISES OFFERED

No.	Description	Response
1.	Name Of Building	
2.	Street Address Of Building	
3.	Erf Number/Registered Property Description	
4.	Title Deed Number Of Property Offered (Attach A Certified Copy Of Title Deed At Time Of Bid Closing)	
5.	Total Area (M ²) Offered (Lettable Area)	
6.	Lease Period	5 YEARS
7.	Brief Details Of Improvements	
8.	Brief Details Of Fixtures And Fittings	
9.	Finishes (As Is): Floor Walls Ceilings	
10.	Air conditioning (Central/Console/Other) Maintenance Agreements & Plan To Be Attached	
11.	Lifts Available (Indicate Yes/No) Maintenance Agreements & Plan To Be Attached	
12.	Cost Of Annual Property Rates	
13.	Vat Number	
14..	Monthly Operating Costs Proportionate to The Area Offered for Which the User Department of Will Be Responsible for to The Landlord Upon Receipt of an Invoice Are Only for: - Water - Electricity	
15.	The Responsibility to Maintain the Exterior & Interior Will Be For The Account of the Landlord. Proper Facilities Management Agreements To Be Attached.	

4. DECLARATION

I, the undersigned, herewith declare that I have taken cognisance of the details, conditions and requirements contained in all the documentation attached to this offer form and I herewith offer, in accordance with such conditions, the accommodation/building to let.

SIGNATURE: _____

PLACE: _____

DATE: _____

CLIENT SPECIFICATION

To be fully typed and indicate total required square meters and non-assignable space.

Description of Office Space (plus Official Designation i.e. Cellular Offices or Open Plan, Boardroom etc.	Levels	Offices / Parking Bays required.	Square Metre (M2) required.	Recommended Total in M2
CELLULAR OFFICES				
Director	13	1	16	16
Secretary	5	1	8	8
OPEN PLAN 1				
Chief Electrical Engineer	12	3	12	36
Civil Engineer	11	3	12	36
Architect	11	3	12	36
Mechanical Engineer	11	3	12	36
Quality Surveyor / Project Managers	11	4	12	48
Interns		1	8	40
Assistant Director – Real Estate	9	1	8	8
Administrative Officers – Real Estate	7	2	8	16
Assistant Director - Stores	9	1	8	8
Administrative Officers – Stores	7	2	8	16
Assistant Director – EPWP	9	1	8	8
Administrative Officers – EPWP	7	2	8	16
OPEN PLAN 2				
Assistant Director – Call Centre	9	1	8	8
Administrative Officers – Call Centre	7	2	8	16
OPEN SERVING SPACE				
Reception & Waiting Area		1	20	20
Staff Kitchenette		1	6	6

Description of Office Space (plus Official Designation i.e. Cellular Offices or Open Plan, Boardroom etc.	Levels	Offices / Parking Bays required.	Square Metre (M2) required.	Recommended Total in M2
Boardroom		1	36	36
Document Archives		1	12	12
Store Room		1	12	12
Male ablution (2 x toilets)		1	16	16
Female ablution (2 x toilets)		1	16	16
PARKING				
Undercover		30		
Open Bays (Including 1 x Bay for aDisabled Person)		5		
TOTAL ASSIGNABLE NEED IN M2				470

DETAILED COST BREAKDOWN

Description	m2	Rate m2	Monthly rental	X 12=Year (A)
Office assignable				
Non-assignable (not exceeding 25%)				
Storage				
Other				
Total				(A)
Parking	No of bays	Rate per bay	Monthly rental	X 12=Year (B)*
Lock up				
Under cover				
Open				
Wash Bay				
Total				(B)
Carry forward A+B to year 1 hereunder			*A+B=	
Year	Total	Esc Amount (max not exceeding 6%)	Total per year	
Year 1 (A+B)		NIL		
Year 2				
Year 3				
Year 4				
Year 5				
Sub Total			(C)	
VAT (15%)				
Grand total carried over to pricing schedule form SBD 3.1				

NB: The calculations must not be rounded off to the nearest Rand and must reflect the cents. Rounding off affects the rate/m² which is the base of the monthly rental levied.

The sum of the "TOTAL" and "ESCALATION" columns must equal the figure inserted in the "TOTAL/YEAR" column.

The full contract amount inclusive of Value Added Tax (VAT) = **Total A+B+C = R** _____

Must be carried over to the bid form (Page no **44** of this bid document). This is the figure on which the Department will adjudicate and apply preference points applicable.

Accommodation layout / refurbishment (if existing)

It must be noted that the time provided for the refurbishment of existing buildings is not to exceed four (4) Months from date of sign off on layout plans. Sign off on plans should not be unreasonably delayed

Name of bidder.....	Bid number: ZNB 5508/2023-H
Closing Time 11:00	Closing Date: 19/01/2024

DESCRIPTION: APPOINTMENT OF A SERVICE PROVIDER FOR THE PROVISIONING OF SUITABLE LEASED OFFICE ACCOMMODATION (SPACE) TO ACCOMMODATE EMPANGENI INFRASTRUCTURE MANAGEMENT EMPANGENI CENTRAL BUSINESS DISTRICT (CBD) FIVE (5) YEARS

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

BID PRICE INCLUDING VAT: R

TOTAL AMOUNT IN WORDS:

.....

Required by:

INFRASTRUCTURE MANAGEMENT

.....
(Signature of Bidder)

.....
Date

.....
(Signature of Witness)

.....
Date

ANNEXURE 1:

GENERAL CONDITIONS OF CONTRACT

NATIONAL TREASURY, 2010 EDITION

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 regards 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.*
-

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)