



**DESCRIPTION:** APPOINTMENT OF A SERVICE PROVIDER FOR THE PROVISION OF VARIOUS EMPLOYMENT WELLNESS PROGRAMME (EWP)

**TENDER NUMBER:** RFP2021/06/NYDA

**NATIONAL YOUTH DEVELOPMENT AGENCY (NYDA)  
54 MAXWELL DRIVE  
WOODMEAD  
2191**

Contact Name: Mr. Sithembiso Mthombeni  
Email: [sithembiso.nthombeni@nyda.gov.za](mailto:sithembiso.nthombeni@nyda.gov.za)

**Name of Tenderer:**

.....

**Total Price inclusive of Value Added Tax:**

R.....

**Amount in Words:**

.....

.....

.....

**This tender closes at 11:00 am on the 14<sup>th</sup> of October 2021 at the offices of the NYDA Head Office, 54 MAXWELL DRIVE, WOODMEAD, 2191**

**LATE SUBMISSIONS WILL NOT BE ACCEPTED BY THE NYDA**

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**A. TENDER NOTICE AND INVITATION TO TENDER**

**APPOINTMENT OF A SERVICE PROVIDER FOR THE PROVISION OF VARIOUS EMPLOYMENT WELLNESS PROGRAMME (EWP).**

The National Youth Development Agency invites service providers for the provision of various Employment Wellness Programme (EWP) to National Youth Development Agency for a period of three (3) years. Tender documents are available for downloading on the NYDA website [www.nyda.gov.za](http://www.nyda.gov.za).

**Evaluation Method:** Three stage evaluation (1. Administrative Compliance; 2. Functionality; 3. Price and B-BBEE).

**A compulsory briefing session will be held on the 21<sup>st</sup> of September 2021 @ 10:00am via Microsoft TeamViewer. Prospective bidders are advised to download Microsoft TeamViewer prior to the time of the meeting. Bidders should forward an email to [eugene.moore@nyda.gov.za](mailto:eugene.moore@nyda.gov.za) to be invited to the briefing session.**

Queries relating to the issue of these documents or technical enquiries may be addressed to Mr. Sithembiso Mthombeni, e-mail [sithembiso.mthombeni@nyda.gov.za](mailto:sithembiso.mthombeni@nyda.gov.za)

Tenders may only be submitted on the tender documentation that is issued by NYDA. The retyping of the tender document is not permitted. The tenders must be inserted into the Tender Box available at the Reception Area of NYDA Head Office, 54 Maxwell Drive, Woodmead by **11:00 am on the 14<sup>th</sup> of October 2021**. Telegraphic, telephonic, telex, facsimile, e-mail and late tenders will not be accepted.

**NB: NYDA reserves the right to cancel this tender without prior notice and not to appoint any service provider.**

**PART A  
INVITATION TO BID**

**SBD 1**

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NATIONAL YOUTH DEVELOPMENT AGENCY)</b>					
BID NUMBER:	RFP2021/06/NYDA	CLOSING DATE:	14 October 2021	CLOSING TIME:	11:00am
DESCRIPTION	The appointment of a service provider for the provision of various Employment Wellness Programme (EWP) to National Youth Development Agency for a period of three (3) years				
<b>BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)</b>					
<b>NATIONAL YOUTH DEVELOPMENT AGENCY</b>					
<b>54 MAXWELL DRIVE</b>					
<b>WOODMEAD</b>					
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>			<b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>		
CONTACT PERSON	Sithembiso Mthombeni		CONTACT PERSON	Sithembiso Mthombeni	
TELEPHONE NUMBER			TELEPHONE NUMBER		
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS	<a href="mailto:Sithembiso.mthombeni@nyda.gov.za">Sithembiso.mthombeni@nyda.gov.za</a>		E-MAIL ADDRESS	<a href="mailto:Sithembiso.mthombeni@nyda.gov.za">Sithembiso.mthombeni@nyda.gov.za</a>	
<b>SUPPLIER INFORMATION</b>					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES &amp; QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]</b>					
<b>ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		<b>ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER PART THE QUESTION BELOW]	
<b>QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? <input type="checkbox"/> YES <input type="checkbox"/> NO					
DOES THE ENTITY HAVE A BRANCH IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO					
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO					
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO					
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? <input type="checkbox"/> YES <input type="checkbox"/> NO					
<b>IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.</b>					

**PART B  
TERMS AND CONDITIONS FOR BIDDING**

<b>1. BID SUBMISSION:</b>	
1.1.	BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2.	<b>ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED-(NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.</b>
1.3.	THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
1.4.	<b>THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).</b>
<b>2. TAX COMPLIANCE REQUIREMENTS</b>	
2.1	BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2.2	BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
2.3	APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
2.4	BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
2.5	IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
2.6	WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
2.7	NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

**NB: FAILURE TO PROVIDE / OR COMPLY WITH ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.**

SIGNATURE OF BIDDER: .....

CAPACITY UNDER WHICH THIS BID IS SIGNED: .....  
(Proof of authority must be submitted e.g. company resolution)

DATE: .....

## **B. NYDA BACKGROUND AND INTRODUCTION**

The National Youth Development Agency (NYDA) is a South African based agency established primarily to tackle challenges that the nation's youth are faced with. The NYDA was established by an Act of parliament, act no 54 of 2008. The institution was established to be a single, unitary structure, established to address youth development issues at National, Provincial and Local government level. The existence of the NYDA should be located within the broad context of South Africa's development dynamics. Similar to many developing countries, South Africa has a large population of youth, those between the ages 14-35; represent 42% of the total population. Given the youthful nature of the South African population much of the socio economic challenges faced by the nation, i.e. poverty, inequality and joblessness, poor health etc, are borne by the youth. The gravity of challenges South Africa is faced with, require multi - pronged efforts, that simultaneously promote the development of sustainable livelihoods, reduce poverty, inequality and prioritise the development of policies which create an enabling environment for youth development.

The NYDA plays a lead role in ensuring that all major stakeholder's, i.e government, private sector and civil society, prioritise youth development and contribute towards identifying and implementing lasting solutions which address youth development challenges. Furthermore, the NYDA designs and implements programmes aimed at improving lives and opportunities available to youth. These programmes could be clustered as follows:

At an individual level (Micro level), the NYDA provides direct services to youth in the form of information provision, mentorship, skills development & training, entrepreneurial development & support, health awareness programmes and involvement in youth initiatives. At a Community level (Meso Level), the NYDA encourages young people to be catalysts for change in their communities through involvement in community development activities, social cohesion activities and national youth service programmes and dialogue.

At a Provincial and National level (Macro Level), through its policy development, partnerships and research programmes, the NYDA facilitates the participation of youth in developing key policy inputs, which shape the socio-economic landscape of South Africa.

The National Youth Development Agency derives its mandate from the legislative frameworks, including the NYDA Act (54 of 2008), the National Youth Policy (2009-2020) and the draft Integrated Youth Development Strategy as adopted by the Youth Convention of 2006. The NYDA activities could be summarized as follows:

- a) Lobby and advocate for integration and mainstreaming of youth development in all spheres of government, private sector and civil society
- b) Initiate, implement, facilitate and coordinate youth development programmes
- c) Monitor and evaluate youth development intervention across the board and mobilise youth for active participation in civil society engagements

### C. TENDER DATA AND CONDITIONS OF TENDER

The Conditions of Tender are the General Conditions of Contract issued by the National Treasury. The purpose of the Conditions is to:

- ✓ Draw special attention to certain general conditions applicable to government bids, contracts and orders; and
- ✓ To ensure that bidders are familiar with regard to the rights and obligations of all parties involved in doing business with government.

The Standard Conditions of Tender make several references to the Tender Data which specifically applies to this tender. The Tender Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the Standard Conditions of Tender. Each item of Tender Data given below is cross-referenced to the relevant clause in the standard Conditions of Tender.

Clause Number	Clause Heading	Data / Wording
1.1	The Employer is:	<b>The Employer is:</b> National Youth Development Agency (NYDA) <b>54 MAXWELL DRIVE, WOODMEAD, 2191</b>
1.2	Employer's Agent is:	<b>Mr. Sithembiso Mthombeni</b> <b>54 MAXWELL DRIVE, WOODMEAD, 2191</b> Tel: (087) 158 6380 E-mail: <a href="mailto:sithembiso.mthombeni@nyda.gov.za">sithembiso.mthombeni@nyda.gov.za</a>
1.3	Eligibility	<b>Bidders who do not meet the requirements below will be immediately disqualified from the bidding process.</b>  The National Youth Development Agency reserves the right to reject bids which are non-responsive, including, without limitation, bids which contain the following defects:  (a) Late or incomplete bids; (b) Failure to conform to the rules or requirements contained in the Tender; including the proposal format; (c) Proof of collusion among Bidders, in which case all proposals involved in the collusive action will be rejected; and (d) Noncompliance with applicable law, unauthorized additions or deletions, conditional bids, incomplete bids, or irregularities of any kind which may tend to make the bid incomplete, indefinite or ambiguous as to its meaning.  Joint Ventures / Consortiums are eligible to submit tenders provided that:  (e) Where bids are consortia / Joint ventures / S-contractors are involved, each party must submit a separate TCS certificate / Pin / CSD number; (f) A Joint Venture Agreement is signed by the JV Partners and attached to this tender document; (g) A Joint Venture / Consortium must also submit a Joint Venture BBBEE Rating Certificate.

1.4	<b>Clarification Meeting</b>	A compulsory briefing session will be held on the <b>21<sup>st</sup> of September 2021 @ 10am.</b> Prospective bidders are advised to download Microsoft TeamViewer prior to the time of the meeting. Bidders can forward an email to <a href="mailto:eugene.moore@nyda.gov.za">eugene.moore@nyda.gov.za</a> to be invited to the briefing session.
1.5	<b>Returnable Documents</b>	Tenderers to submit fully completed and signed returnable documents as stipulated.
1.6	<b>Number of copies of tender offers to be submitted to the Employer</b>	The returnable part of the tender offer communicated on paper shall be submitted as an original and three (3) copied versions of the original. No documents are to be retyped. Any tender documents that are retyped will be disqualified.
1.7	<b>Sealing and Delivery of tender offers</b>	<p>The NYDA's address for delivery of tender offers and identification details to be shown on each tender offer package are:</p> <p><b>Location of tender box:</b></p> <p><b>National Youth Development Agency (NYDA) Head Office, 54 MAXWELL DRIVE, WOODMEAD, 2191</b></p> <p><b>Identification details:</b></p> <p>The appointment of a service provider for the Provision of Travel Management Services To National Youth Development Agency For A Period Of Three (3) Years</p>
1.8	<b>Closing time of tender offers</b>	The closing time for submission of proposals is <b>11:00am on the 14<sup>th</sup> of October 2021</b> as stated on SBD 1 form (Invitation to tender).
1.9	<b>Tender offer validity</b>	The tender offer validity period is 120 days
1.10	<b>Two-Envelope System</b>	A two-envelope system <b>will not</b> be followed.



**D. PROCUREMENT TIMELINES**

PROCUREMENT TIMELINE	DATE	TIME
RFP release date	10 September 2021	08h00 to 16h00
Compulsory briefing session and clarification	21 September 2021 via Microsoft TeamViewer	10h00am
Written questions of clarification – closing date	27 September 2021	16h00
Written response to all clarifications	23 September 2021 & 30 September 2021	16h00
Closing date	14 October 2021	11h00
Completion of bid evaluations	2 November 2021*	
Anticipated letter of Award	26 November 2021*	
Commencement Date	1 December 2021*	

**\*Indicative dates**

**E. TERMS OF REFERENCE FOR THE APPOINTMENT OF A SERVICE PROVIDER FOR THE PROVISION OF VARIOUS EMPLOYMENT WELLNESS PROGRAMME (EWP) NATIONAL YOUTH DEVELOPMENT AGENCY FOR A PERIOD OF THREE (3) YEARS.**

**1. PURPOSE OF THIS TENDER**

- 1.1. The NYDA as an institution has authorised the business unit (OHS and Wellness unit) with the responsibility to source an Employee Wellness Programme (EWP) service as the current service provider's contract is due to expire on 22<sup>nd</sup> November 2021.
- 1.2. The appointed service provider will work with the OHS and Wellness unit during the contract with the aim.
- a) To increase productivity, heighten morale and teamwork; and strengthen the bonds between management, employees and the organization by providing a sustainable and confidential employee health and wellness service to all NYDA employees.
  - b) To establish and maintain a holistic approach to support employees in managing their personal and social problems.
  - c) To provide employees and their immediate family members with a comprehensive resource to help them address personal problems.
  - d) To provide management with a practical resource to aid in the supporting employees with personal and work-related problems when they impact on an employee's performance.
  - e) To establish and maintain a system through which employees at risk can be identified, motivated and referred for assistance.
  - f) To develop and improve the life skills and promote self-empowerment.
  - g) To promote and encourage employee healthy lifestyles.
  - h) To promote work-life balance and maintain a healthy workforce within a supportive environment.
  - i) Implementation of an integrated occupational health and safety programme

**2. The scope of work**

The scope of work for the service provider includes but is not limited to the following key activities:

- 2.1. Provision of Professional Toll-free Support Line Services should be available to employees and their families 24 /7, 365 days and should be a direct unlimited multilingual telephone counselling services and must include:
- a) 24/7/365 Toll free telephonic supportive
  - b) counselling
  - c) trained and registered Counsellors and Psychologists
  - d) Emotional Support & Counselling
- 2.2. Provision of Professional Life Management Services.
- a) HIV and AIDS and other dread diseases counselling, education and support services.

- b) Mental Health conditions (Depression, Anxiety, Burn-out, etc.)
  - c) Marital, family and relationship problems
  - d) Critical stress debriefing
  - e) Bereavement, Loss and Trauma counselling including group counselling
  - f) Alcohol and substance abuse (alcohol, drugs, prescription medication, etc.), addictive behaviour and Gambling Group counselling, Anger and conflict management (communication problem)
  - g) Sexual harassment and sexual abuse/rape
  - h) Coping with illness (personal and/or of others)
  - i) Workplace and domestic violence
  - j) Harassment at work
  - k) Financial management problems and Legal problems/advise
  - l) Gender identity, racial problems and self-esteem.
  - m) Family care and support services (for employees' immediate family members)
  - n) Not limited to the above listed.
- 2.3. Administration, Counselling, Education and Support Services of Chronic and other illnesses.
- 2.4. Professional Face-to-Face Counselling and advisory Services
- a) Provide counselling service onsite and offsite
  - b) Referral service to appropriate external resources.
  - c) Up to 6 sessions per employee per incident per year (offsite)
  - d) Referral services to appropriate external resources (offsite)
  - e) Case Management of face-to-face counselling (offsite)
  - f) Provision of needs-based ad-hoc trauma/bereavement group counselling (offsite)
  - g) Not limited to the above
- 2.5. Critical Incident Stress Debriefing services.
- 2.6. Consultation, Professional Referral and Training Services.
- 2.7. Comprehensive Online health and Wellness Programmes direct to employees' email addresses provided by the employer.
- 2.8. Implementation and Promotion of EWP for the Head Office, branches and district offices
- 2.9. Corporate Wellness Workshops / Team Building which include:
- a) Communication Workshops
  - b) Conflict Resolution
  - c) Stress Management
  - d) Health & Wellness Topics
  - e) Emotional Well-being Topics
  - f) Not limited to the above and coordinated wellness days together with employee medical aid provider

- 2.10. Submit Monthly, Quarterly and Yearly Detailed Reporting. The bidder must provide samples of report(s) previously generated. Sample report(s) to be provided for each of the following aspects:
- a) Reports on individual formal referral cases.
  - b) Generation of statistics and trend analysis reports
  - c) Recommendation reports on open cases and monthly utilization stats.
  - d) Monthly, quarterly trend reports and ad-hoc report
  - e) Employee satisfaction surveys; and
  - f) Demonstration of Return-on-Investment model
- 2.11. Coordination of annual Wellness days with activities for Head Office, branches and district offices which must include programme launch/orientation session, customised promotional material, i.e. brochures/pamphlets, cards, etc. and marketing and communication strategy
- a) Annual wellness calendar includes corporate wellness national days and national holidays
  - b) Wellness infographics of relevant corporate wellness days, designed with NYDA logo
- 2.12. Programme Awareness Services
- 2.13. Health Risk Assessments/Wellness Roadshow
- 2.14. Life Management Services, Financial and Legal services
- 2.15. Programme Marketing and Communication
- 2.16. Occupational Health and Services
- 2.17. Managerial Consultancy Services
- a) Comprehensive briefing and training for Line Managers/Heads of departments and HR Specialists
  - b) Managerial referral services
  - c) Individual/Group Managerial Referral
- 2.18. To co-ordinate the Occupational Health and Services functions in relation to all COIDA/ Compensation claims
- 2.19. Policy and Procedure Development
- 2.20. Employee and Management Orientations
- 2.21. EWP must provide mental, legal, and financial employee wellness consultations and assistance

### **3. Proposal requirements**

Each bidder must submit a Technical Proposal. The technical Proposal must be clear and concise, comprehensive and directly address the specifics of the proposed scope of work. The Service Provider will, in combination with their description of services and Key Team Members resumes, demonstrate their experience in providing similar services on existing and prior assignments. This Technical Proposal must provide detailed information on the following

### 3.1. Company experience

- 3.1.1. The bidder must be registered as an organisation with the Employee Assistant Association of South Africa (EAPA-SA). The bidder must submit a valid certificate from EAPASA as proof of registration
- 3.1.2. The Service Provider should clearly state its skills and experience in a manner that demonstrates its capability to complete the service required. The Service Provider must provide at least four (4) signed contactable reference letters on a letterhead from existing/previous clients **within past 5 years from different clients** whom we may contact for references. The reference letter must include company name, contact name, address, phone number, duration of contract, value of the contract, a brief description of the services that you provided and the level of satisfaction.

### 3.2. Key Team Members

- 3.2.1. The bidder's key personnel of the proposed team must have relevant qualifications, skills and experience. The bidders must submit, as part of its proposal, the following:
- a) The structure and composition of the proposed team, clearly outlining the main disciplines/ specialties of this project and the key personnel responsible for each specialty.
  - b) CVs of the key personnel and specialists; and the CVs must clearly highlight qualifications, areas of experience/ competence relevant to the tasks and objectives of this project as outlined above
- 3.2.2. Dedicated Client Relationship Manager
- a) Exceptional communication and interpersonal skills
  - b) Comprehensive education in health and wellness
  - c) Minimum qualification is typically a bachelor's degree in a health or wellness field
  - d) Qualifications for this career include a bachelor's degree in public health, fitness, or a related field, as well as strong leadership, organization, and communication skills.
  - e) Equivalent NQF 7 qualifications or Bachelor of Arts in Disaster and Safety Management or any equivalent level NQF level 7
  - f) Required Minimum of 3 years' experience as relationship Manager in an EAP company. The relationship Manager must also have Financial and budgeting experience (Able to understand profit and loss calculations and basic business finance)
- 3.2.3. **Approach to the replacement of personnel when NYDA is dissatisfied with the** performance of an individual assigned by the Service Provider.

### 3.3. **Approach and Methodology**

The approach and methodology should detail the Bidder/s understanding of the scope of work and outline the proposed approach/methodology. It should explain why the approach and methodology is appropriate to achieving the scope of work as well as the objectives of TOR. This section should also set out any other matters that might affect the achievement of the assignment.

The approach and methodology should cover the following activities:

- 3.3.1. The detailed process of how the Professional Toll-free Support Line Services will be available to employees and their families 24 /7, 365 days and how a direct unlimited multilingual telephone counselling services will also be made available.
- 3.3.2. The process for provision of Professional Life Management Services
- 3.3.3. Professional Face-to-Face Counselling and advisory Services
- 3.3.4. Submit Monthly, Quarterly and Yearly Detailed Reporting
- 3.3.5. A detailed transition plan for implementing the service without service interruptions and engage with the incumbent service provider to ensure a smooth transition.
  - a) The appointed service providers will be required to start immediately after signing the contract and provide the services for a period of three (3) years, subject to annual review of service provider's performance. Transition and handover plan from previous EAP should be not more than 6-8 weeks also included ongoing cases.
  - b) The service provider will be responsible for content development and production of channels to communicate employee Assistance Programme (hereinafter the "EAP") to employees. These will include electronic channels (websites electronic newsletters, sms and emails.) as well as printed material consisting of:  
Posters for every branch and district, 530 pamphlets, 500 wallet cards. The aforementioned printed material must be aligned with NYDA corporate branding standard approved by Communication Department and must be made available within 30 business days from date of signature of agreement.
  - c) Turnaround times. - Timeous fulfilment of services must be provided the member against the following benchmarks.
    - Psychological coaching and counselling
    - Clinical reporting
    - CISM Services
    - Confidentiality and;
    - Quality Control

#### **4. SUBMISSION REQUIREMENTS**

- 4.1. **Tenders** that are faxed, sent via telex, and/ or electronic mail delivery will not be accepted.
- 4.2. One hardcopy must be the original submission, clearly marked "Original" and three (3) copied versions of the original. All submissions must be delivered in individual envelopes.
- 4.3. Each individual envelope must be clearly marked with the following information:
  - 4.3.1. Appointment of a service provider for the provision of Employee Wellness Programme to NYDA for the period of three (3) years
  - 4.3.2. Tender number: **RFP2021/06/NYDA**
  - 4.3.3. **Original** or copy 1 or copy 2 etc.
- 4.4. Bidders should take particular care to ensure that there are no discrepancies between all submissions to the NYDA. NYDA reserves the right to reject any tender if there are discrepancies.
- 4.5. All tenders received by NYDA will become the property of the NYDA and will not be returned to the service provider.
- 4.6. The tender must be inserted into the Tender Box available at the Reception Area of NYDA Head Office, 54 Maxwell Drive, Woodmead by 11:00 am on the date of closing of the Tender.
- 4.7. Unsuccessful bidders will be informed in writing when the process is concluded.
- 4.8.** A tender will be considered late if received after the specified date and time. Service providers are therefore strongly advised to ensure that Tenders be despatched allowing enough time for any unforeseen events that delay.

#### **5. INQUIRIES/COMMUNICATION**

- 5.1. Contact person for enquiries regarding the completion and submission of the tender document:**

Mr Sithembiso Mthombeni  
SCM Manager

Email: [sithembiso.mthombeni@nyda.gov.za](mailto:sithembiso.mthombeni@nyda.gov.za)

All clarifications or enquiries must be made in writing and received by the NYDA by 27 September 2021 before 16h00. Telephonic requests for clarification will not be accepted

## 6. TENDER EVALUATION/ADJUDICATION

The tender will be evaluated in three (3) phases:

a. **Compliance/eligibility;**

b. **Technical/Functionality;**

Bidders that obtain a minimum threshold of 65 out of 100 points to be considered responsive in terms of the functionality

c. **Price and B-BBEE assessment** will be done using the 80/20 points system.

### 6.1. COMPLIANCE/ELIGIBILITY EVALUATION

**Bidders who do not meet the requirements below will be immediately disqualified. Bids will only be compliant if bidder has submitted the following documents:**

NO	DESCRIPTION
1	A proof of registration as a vendor on the National Treasury Central Supply Database (CSD), which can be found at <a href="https://secure.csd.gov.za/">https://secure.csd.gov.za/</a> in compliance with National Treasury compliance paragraph 4.2 with instruction note 4a of 2016/2017
2	A proof that the bidder is in good standing with SARS. Such information will be verified through Central Supply Database (CSD) or using SARS e-filing pin in National Treasury compliance with instruction note 9 of 2017/2018 <b>prior</b> to the award of the bid.
3	SBD1 - Invitation to bid
4	SBD 4 - A completed and duly signed declaration of Interest. Should a conflict of interest be declared or identified, the bid would be declared non- responsive. NB Bidder must ensure all pages are complete and all questions answered, you are to indicate not applicable (N/A) where appropriate.
5	SBD 8- A completed and duly signed declaration of bidders past supply chain management practices. Should the bidder be found to have abused the supply chain management system, the bid would be declared non- responsive.
6	SBD 9 - A completed and duly signed certificate of independent bid determination. Should the agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding, the bid would be declared non- responsive.
7	A completed and signed pricing schedule using the template provided.
8	The bidder must submit a valid certificate from Employee Assistant Association of South Africa (EAPASA) as proof of registration
9	A submission of one hard copy of the original submission, clearly marked "Original" and three (3) copied versions of the original. <b>NB: four (4) documents in total.</b>



## 6.2. TECHNICAL/FUNCTIONALITY EVALUATION

The evaluation of the functionality of the proposals will be evaluated as per the criteria contained in the table below:

Category	Sub criteria	Total score	Score	Form of Evidence
<b>Experience in the provision of various employment wellness programme.</b> The signed letters on the client's letterhead <b>must include:</b> a brief description of the services that you provided, client name, contact name, address, phone number, and <b>duration of contract</b> and the level of satisfaction.				
This criterion covers experience in EWP.	More than 7 years of experience	20	20	Signed positive testimonial letters on the client's letterhead with contact details
	More than 5 to 7 years of experience		15	
	3 to 5 years of experience		10	
	Less than 3 years		0	
<b>Provision of at least four (4) signed positive testimonial letters from existing/previous clients (within past 5 years) which are of a similar size to the NYDA whom we may contact for references.</b> The signed letters <b>must include:</b> a brief description of the services that you provided, client name, contact name, address, phone number, and duration of contract, and the level of satisfaction.				
This criterion covers positive testimonial letters from current or previous clients within the previous 5 years	Four positive testimonial letters	20	20	Signed Positive testimonial letters on the client letter head with contact details
	Three positive testimonial letters		15	
	Two positive testimonial letters		10	
	No or one testimonial letter provided		0	
<b>Proposed Key Team Member in employment wellness programme NB:</b> No points will be allocated to a Relationship Manager without relevant qualifications and experience in an EWP company				
Dedicated Relationship Manager <b>NB:</b> Proof of qualification must be submitted.	More than 5 years' experience as Relationship Manager in an EWP company	20	20	Detailed CV of the dedicated Relationship Manager with relevant experience in an EWP company and proof of qualification
	3 to 5 years' experience as a Relationship Manager in an EWP company		10	
	Less than 3 years of experience		0	
<b>Preferential points for Youth owned companies</b>				
This sub-criterion covers youth owned companies	100% youth owned company	10	10	CIPC documents or CSD report
	At least 51% youth owned company		5	
	Less than 51% youth owned company		0	
<b>Methodology and Approach.</b>				
This sub-criterion should cover the detailed process of how the Professional Toll-free Support Line Services will be managed	The detailed process of how the Professional Toll-free Support Line Services will be handled as per <b>2.2</b>	10	10	Methodology and approach on the process of how the Professional Toll-free Support Line Services will be managed as per 2.2
	No detailed process or the process does not cover all the details as per <b>2.2</b>		0	
This criterion covers how the transition plan will be managed	A detailed transition plan with key activities and turnaround time as per <b>3.3.5</b>	10	10	Methodology and approach on how the transition plan will be managed as per 3.3.5
	No detailed transition plan with key activities and turnaround time as per <b>3.3.5</b>		0	
This criterion covers sample reports previously generated	Provide samples of monthly, Quarterly, and yearly reports previously generated as per <b>2.11</b>	10	10	Sample of monthly, Quarterly, and yearly reports as per 2.11
	No or incomplete sample reports provided as per <b>2.11</b>		0	
<b>Total points</b>		<b>100</b>		

**NB:** Any proposal not meeting a minimum threshold of 65 points on functionality will not be considered for further evaluation.

### 6.3.

### PRICE AND B-BBEE CONTRIBUTION EVALUATION

#### 6.3.1.

#### Price Schedule and Model

Bidders must provide the cost per employee inclusive of immediate family members living in the same household with the NYDA employee. The fees indicated below are the expected service fees to be charged for the differential services offered by EMP provider and all fees provided must be VAT inclusive.

#	Service description	Cost per employee inclusive of VAT
1	Provision of Professional Toll-free Support Line Services as per 2.2	R
2	Provision of Professional Life Management Services. As per 2.3	R
3	Administration, Counselling, Education and Support Services of Chronic and other illnesses.	R
4	Professional Face-to-Face Counselling and advisory Services as per 2.5	R
5	Critical Incident Stress Debriefing services.	R
6	Consultation, Professional Referral and Training Services.	R
7	Comprehensive Online health and Wellness Programmes direct to employees' email addresses provided by the employer.	R
8	Implementation and Promotion of EWP for the Head Office, branches and district offices	R
9	Corporate Wellness Workshops / Team Building which as per 2.10	R
10	Monthly, Quarterly and Yearly Detailed Reporting as per 2.11	R
11	Coordination of annual Wellness days with activities for Head Office, branches and district offices as per 2.12	R
12	Programme Awareness Services	R
13	Health Risk Assessments/Wellness Roadshow	R
14	Life Management Services, Financial and Legal services	R
15	Programme Marketing and Communication	R
16	Occupational Health and Services	R
17	Managerial Consultancy Services	R
18	To co-ordinate the Occupational Health and Services functions in relation to all COIDA/ Compensation claims	R
19	Employee and Management Orientations	R
20	EWP must provide mental, legal, and financial employee wellness consultations and assistance	R
<b>Total price per employee inclusive of VAT</b>		<b>R</b>

### 6.3.2. **Price instruction**

- 6.3.2.1. Bidder must price according to the price schedule provided;
- 6.3.2.2. Schedule must be completed in non-erasable ink and the use of correction fluid/tape is not permitted;
- 6.3.2.3. All prices quoted will remain firm for the first twelve (12) months, after anniversary date, the estimated price increase and percentage for remaining years will be determined by Consumer Price Index (CPI) or negotiated with the successful bidder.
- 6.3.2.4. Prices tendered must be valid for 120 days
- 6.3.2.5. Pricing should include VAT and must be in South African Rand.
- 6.3.2.6. Total price per employee will be used to apply Price and B-BBEE assessment. However, the total project cost will be determined by actual transaction costs

## **7. SPECIAL CONDITIONS**

- 7.1. NYDA reserves the right to withdraw or amend terms of reference/specifications by notice in writing by advertising in the media in which the tender was originally advertised prior to the closing date.
- 7.2. NYDA reserves the right not to award any of the tenders submitted.
- 7.3. The cost of preparing the tenders will not be reimbursed.
- 7.4. Shortlisted bidders may be invited for presentations.
- 7.5. Successful bidder will be required to sign a confidentiality/non-disclosure agreement.
- 7.6. NYDA reserves the right NOT to appoint any Service Provider or to withdraw this request for bids.
- 7.7. NYDA reserves the right to withdraw the awarding of the bid if the organisation and the successful bidder are unable to agree on the terms and conditions of the agreement within 60 calendar days of the awarding of this bid.
- 7.8. All contracts entered into by the organisation are subject to the attached general conditions of contract.

## **8. REVIEW PROCESS**

- 8.1.** In order to evaluate and adjudicate tenders effectively, it is imperative that bidders submit responsive tenders. To ensure a tender will be regarded as responsive it is imperative to comply with all conditions pertaining to the tender and to complete all the mandatory fields and questionnaires.
- 8.2.** All tenders duly lodged as per the tender requirements will be evaluated in accordance with the stipulated evaluation criteria.
- 8.3.** NYDA may require presentations from short-listed bidders as part of the tender process.

## **9. REASONS FOR REJECTION**

- 9.1.** Bidders shall not contact NYDA on any matter pertaining to the tender from the time the tender is closed to the time the tender has been adjudicated. The results of all tenders will be published by the NYDA. Any effort by a bidder to influence the tender evaluation, tender comparisons or tender award decisions in any matter, may result in rejection of the tender concerned.
- 9.2.** **NYDA** shall reject a tender if the bidder has committed a proven corrupt or fraudulent act in competing for a particular contract.
- 9.3.** **NYDA** reserves the right to contact references during the evaluation and adjudication process. Any effort by a bidder to influence the evaluation, comparisons or award decisions in any manner, may result in rejection of the quote/proposal concerned.

#### F. DECLARATION OF INTEREST SBD 4

1. Any legal person, including persons employed by the state<sup>1</sup>, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-
  - the bidder is employed by the state; and/or
  - the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.
2. **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**
  - 2.1 Full Name of bidder or his or her representative: .....
  - 2.2 Identity Number: .....
  - 2.3 Position occupied in the Company (director, trustee, shareholder<sup>2</sup>): .....
  - 2.4 Company Registration Number: .....
  - 2.5 Tax Reference Number: .....
  - 2.6 VAT Registration Number: .....
  - 2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / persal numbers must be indicated in paragraph 3 below.

<sup>1</sup>"State" means –

- (a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (b) any municipality or municipal entity;
- (c) provincial legislature;
- (d) national Assembly or the national Council of provinces; or
- (e) Parliament.

<sup>2</sup>"Shareholder" means a person who owns shares in the company and is actively involved in the management of the enterprise or business and exercises control over the enterprise.

2.7 Are you or any person connected with the bidder presently employed by the state? **YES / NO**

2.7.1 If so, furnish the following particulars:  
Name of person / director / trustee / shareholder/ member:.....  
Name of state institution at which you or the person connected to the bidder is employed : .....  
Position occupied in the state institution: .....

Any other particulars:  
.....  
.....  
.....

2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector? **YES / NO**

2.7.2.1 If yes, did you attached proof of such authority to the bid document? **YES / NO**  
(Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.

2.7.2.2 If no, furnish reasons for non-submission of such proof:  
.....  
.....  
.....

2.8 Did you or your spouse, or any of the company's directors / trustees / shareholders / members or their spouses conduct business with the state in the previous twelve months? **YES / NO**

2.8.1 If so, furnish particulars:  
.....  
.....  
.....

2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

2.9.1 If so, furnish particulars.  
.....  
.....  
.....

2.10 Are you, or any person connected with the bidder, aware of any relationship (family, friend, other) between any other bidder and any person employed by the state who may be involved with the evaluation and or adjudication of this bid? **YES/NO**

2.10.1 If so, furnish particulars.

.....  
.....

2.11 Do you or any of the directors / trustees / shareholders / members of the company have any interest in any other related companies whether or not they are bidding for this contract? **YES/NO**

2.11.1 If so, furnish particulars:

.....  
.....  
.....

### 3 Full details of directors / trustees / members / shareholders.

Full Name	Identity Number	Personal Tax Reference Number	State Number / Employee Peral Number

### 4 DECLARATION

I, THE UNDERSIGNED (NAME).....

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 3 ABOVE IS CORRECT.  
I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN

TERMS OF PARAGRAPH 23 OF THE GENERAL CONDITIONS OF CONTRACT

SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of bidder

**G. PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017 - 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 Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution

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

---

**1. GENERAL CONDITIONS**

- 1.1 The following preference point systems are applicable to all bids:
- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- 1.2 a) The value of this bid is estimated to not exceed R50 000 000 (all applicable taxes included) and therefore the ..... preference point system shall be applicable; or
- b) 80/20 preference point system will be applicable to this tender.
- 1.3 Points for this bid shall be awarded for:
- (a) Price; and
  - (b) B-BBEE Status Level of Contributor.
- 1.4 The maximum points for this bid are allocated as follows:
- |  | POINTS     |
|--|------------|
| PRICE  | 80         |
| B-BBEE STATUS LEVEL OF CONTRIBUTOR                       | 20         |
| <b>Total points for Price and B-BBEE must not exceed</b> | <b>100</b> |
- 1.5 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.
- 1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.



## 2. DEFINITIONS

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

## 3. POINTS AWARDED FOR PRICE

### 3.1 THE 80/20 PREFERENCE POINT SYSTEMS

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

#### 80/20

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

Where

$P_s$  = Points scored for price of bid under consideration

$P_t$  = Price of bid under consideration

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

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

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

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

#### 5. BID DECLARATION

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

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

- 6.1 B-BBEE Status Level of Contributor: := .....(maximum of 10 or 20 points)  
(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

#### 7. SUB-CONTRACTING

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

**(Tick applicable box)**

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

- 7.1.1 If yes, indicate:

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

**(Tick applicable box)**

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

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

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

8. **DECLARATION WITH REGARD TO COMPANY/FIRM**

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

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....  
 .....

8.6 COMPANY CLASSIFICATION

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

[TICK APPLICABLE BOX]

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

8.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

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

<p>WITNESSES</p> <p>1. ....</p> <p>2. ....</p>
--

<p>.....</p> <p>SIGNATURE(S) OF BIDDERS(S)</p>
<p>DATE: .....</p> <p>ADDRESS .....</p> <p>.....</p> <p>.....</p>

## H. DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES - SBD8

- 1 This Standard Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by institutions in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
- 3 The bid of any bidder may be disregarded if that bidder, or any of its directors have-
  - a. abused the institution's supply chain management system;
  - b. committed fraud or any other improper conduct in relation to such system; or
  - c. failed to perform on any previous contract.

**4 In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

Item	Question	Yes	No
4.1	Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?  (Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).  <b>The Database of Restricted Suppliers now resides on the National Treasury's website(<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) and can be accessed by clicking on its link at the bottom of the home page.</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?  <b>The Register for Tender Defaulters can be accessed on the National Treasury's website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) by clicking on its link at the bottom of the home page.</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
4.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		

**CERTIFICATION**

**I, THE UNDERSIGNED (FULL NAME).....**

**CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS TRUE AND CORRECT.**

**I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION MAY BE TAKEN AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.**

.....

**Signature**

.....

**Date**

.....

**Position**

.....

**Name of Bidder**

Js365bW

## **I. CERTIFICATE OF INDEPENDENT BID DETERMINATION - SBD 9**

- 1 This Standard Bidding Document (SBD) must form part of all bids<sup>1</sup> invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).<sup>2</sup> Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
  - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
  - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
- 4 This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

<sup>1</sup> Includes price quotations, advertised competitive bids, limited bids and proposals.

<sup>2</sup> Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

I, the undersigned, in submitting the accompanying bid:

---

(Bid Number and Description)

in response to the invitation for the bid made by:

---

(Name of Institution)

do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: \_\_\_\_\_ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
  - (a) has been requested to submit a bid in response to this bid invitation;
  - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
  - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder



6. 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<sup>3</sup> will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
  - (a) prices;
  - (b) geographical area where product or service will be rendered (market allocation)
  - (c) methods, factors or formulas used to calculate prices;
  - (d) the intention or decision to submit or not to submit, a bid;
  - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
  - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. 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.

**<sup>3</sup> Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.**

10. 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.

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

**GOVERNMENT PROCUREMENT**

**GENERAL CONDITIONS OF CONTRACT**

**NOTES**

**The purpose of this document is to:**

(i) Draw special attention to certain general conditions applicable to government bids, contracts and orders; and (ii) To ensure that clients be familiar with regard to the rights and obligations of all parties involved in doing business with government.

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

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

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## General Conditions of Contract

### 1. Definitions -

#### 1. The following terms shall be interpreted as indicated:

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

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

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

**1.4** "Corrupt practice" means the offering, giving, receiving, or soliciting of 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](http://www.treasury.gov.za)

**4. Standards -**

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

**4. Use of -  
consent,  
contract  
plan,  
documents and  
the  
information;  
  
inspection.**

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

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

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

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

**5. Patent -  
claims  
rights**

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

**6. Performance -  
contract award,  
security**

**7.1** Within thirty (30) days of receipt of the notification of 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.

**7. Inspections, tests –  
and analyses**

**8.1** All pre-bidding testing will be for the account of the bidder.

**8.2** If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department.

**8.3** If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.

**8.4** If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract



requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.

**8.5** Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.

**8.6** Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.

**8.7** Any contract supplies may on or after delivery be inspected, tested or analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.

**8.8** The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of GCC.

## **9. Packing -**

**9.1** The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

**9.2** The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in SCC, and in any subsequent instructions ordered by the purchaser.

## **10. Delivery and - accordance documents**

**10.1** Delivery of the goods shall be made by the supplier in 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.

- 11. Insurance -** **10.2** Documents to be submitted by the supplier are specified in SCC.  
**11.1** The goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the SCC.
- 12. Transportation -** **12.1** Should a price other than an all-inclusive delivered price be required, this shall be specified in the SCC.
- 13. Incidental services -** **13.1** The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:
- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
  - (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
  - (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
  - (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
  - (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.
- 13.2** Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.
- 14. Spare parts -** **14.1** As specified in SCC, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:
- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and
  - (b) in the event of termination of production of the spare parts:
    - (i) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
    - (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.
- 15. Warranty -** **15.1** The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design

and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.

**15.2** This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in SCC.

**15.3** The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.

**15.4** Upon receipt of such notice, the supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.

**15.5** If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

## **16. Payment -**

**16.1** The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.

**16.2** The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.

**16.3** Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.

**16.4** Payment will be made in Rand unless otherwise stipulated in SCC.

## **17. Prices -**

**17.1** Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized in SCC or in the purchaser's request for bid validity extension, as the case may be.

## **3. Contract – be Amendments concerned.**

**18.1** No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties

## **19. Assignment -**

**19.1** The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.

- 20. Subcontracts -** **20.1** The supplier shall notify the purchaser in writing of all subcontracts awarded under this contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.
- 21. Delays in the – supplier's performance** **21.1** Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.
- 21.2** If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.
- 21.3** No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.
- 21.4** The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.
- 21.5** Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.
- 21.6** Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without canceling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.
- 22. Penalties -** **22.1** Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or

performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.

**23. Termination –  
of  
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 –  
or  
and countervailing  
amount of a  
duties and rights**

**24.1** When, after the date of bid, provisional payments are required, antidumping or countervailing duties are imposed, or the 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 –  
the  
Disputes  
contract,**

**27.1** If any dispute or difference of any kind whatsoever arises between purchaser and the supplier in connection with or arising out of the 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 –  
in the  
of liability**

**28.1** Except in cases of criminal negligence or willful misconduct, and 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 –  
other  
language**

**29.1** The contract shall be written in English. All correspondence and 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.

**General Conditions of Contract (revised February 2008)**