

## Commission for Conciliation, Mediation and Arbitration

28 Harrison Street, Cnr Main Street, Johannesburg

Private Bag X 94, Marshalltown, 2107

Telephone: (011) 377 6906, Fax: (011) 838 0019



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### ERRATUM

**BID NUMBER: CCMA/2023/09-LEG**

**DESCRIPTION: APPOINTMENT OF PANEL OF ATTORNEYS TO PROVIDE LEGAL SERVICES ON AN AS AND WHEN BASIS FOR THE CCMA FOR A PERIOD OF THIRTY - SIX (36) MONTHS**

Dear Bidders,

The purpose of this erratum is to inform bidders of the below changes on the bid document.

#### **Page 13 Table A Mandatory Technical Requirement**

The requirement has been changed to reads as follows:

##### **1. Registration with the Legal Practice Council**

The individual partner/s or director/s of the bidder must be registered and in good standing with the Legal Practice Council. Valid proof of individual partner/s' or director/s' certificate/s of good standing with the Legal Practice Council must be provided. (Attach proof of certified certificate/s)

##### **2. Fidelity Fund Insurance**

The Bidder must provide proof of Fidelity Fund Insurance Cover for partner/s or director/s of the bidder's team. Valid proof of a Fidelity Fund Certificate/s to be provided. **(Attach proof of certified certificate/s)**

##### **3. 3. Right of appearance**

The Bidder must provide proof of Right of appearance of its proposed team in the High Court of South Africa (Attach proof of certified certificate/s)  
**(No changes made)**

#### **Page 15**

The last criteria of Element 1 which reads as "The bidders **may** show notable awards and achievements received by accredited / recognised institutions / organisations".

The criteria have been changed to read as "The bidder shows notable awards and achievements received by accredited / recognised institutions / organisations".



The closing date of the bid has been extended from 29<sup>th</sup> January 2024 to 02 February 2024 at 11:am at CCMA National Office, 28 Harrison Street, JCI Building, 8th Floor, Johannesburg (Deposit in the tender box).

For further enquiries, please contact: [Tenderenquiries@cma.org.za](mailto:Tenderenquiries@cma.org.za).

*Livhuwani Mavhungu*

Livhuwani Mavhungu  
24/01/2024 14:53:24(UTC+02:00)  
Signed by Livhuwani Mavhungu,  
LivhuwaniMa@ccma.org.za .....  
**Livhuwani Mavhungu**  
**Acting SCM Manager**



**CCMA/2023/09 - LEG**

**APPOINTMENT OF PANEL OF ATTORNEYS TO  
PROVIDE LEGAL SERVICES ON AN AS AND WHEN  
BASIS FOR THE CCMA FOR A PERIOD OF THIRTY -  
SIX (36) MONTHS**

**A Non-Compulsory Briefing Session will be held as follows:**

**Date: 15 January 2024 at 11:00 am Through Microsoft Teams (Virtual)**

**Bid Closing Date, time and venue:**

**Extended to 02 February 2024 at 11:00am**

**at CCMA National Office, 28 Harrison Street, JCI Building, 8th Floor, Johannesburg  
(Deposit in the tender box)**

**NON - COMPULSORY BRIEFING SESSION:**

**BELOW IS THE LINK TO ACCESS THE NON-COMPULSORY BRIEFING SESSION**

**[Click here to join the meeting](#)**

**Meeting ID: 317 828 006 45**

**Passcode: cydT4**

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## SECTION 1: GENERAL CONDITIONS OF BID

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## 1. Proprietary Information

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CCMA considers this Request for Proposal (RFP) and all related information, either written or verbal, which is provided to the respondent, to be proprietary to CCMA. It shall be kept confidential by the respondent and its officers, employees, agents and representatives. The respondent shall not disclose, publish, or advertise this RFP or related information to any third party without the prior written consent of CCMA.

## 2. Enquiries

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- 2.1 All communication and attempts to solicit information of any kind relative to this RFP should be channelled **in writing** to:

Name:	Ms. Thulisa Mpumlo
Telephone Number:	+27 11 377 6823
Email address:	<a href="mailto:Tenderenquiries@ccma.org.za">Tenderenquiries@ccma.org.za</a>

- 2.2 Closing date for enquiries in relation to this RFP will be **19 January 2024 at 16:00pm**.
- 2.3 The enquiries will be consolidated, and CCMA will issue one response and such response will be posted, within two days after the last day of enquiries, onto the CCMA website ([www.ccma.org.za](http://www.ccma.org.za)) under tenders i.e., next to the same RFP document.
- 2.4 The CCMA may respond to any enquiry in its absolute discretion and the bidder acknowledges that it will have no claim against the CCMA on the basis that its bid was disadvantaged by lack of information, or inability to resolve ambiguities.

## 3. Bid Validity Period

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Responses to this RFP received from bidders will be valid for a period of **120** days counted from the bid closing date.

## 4. Instructions on submission of Bids

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- 4.1 Bids should be submitted in duplicate (2 hard copies) and one electronic copy (on USB) in PDF format all bound in a sealed envelope endorsed, **CCMA/2023/09 -LEG: CCMA PANEL OF ATTORNEYS**. The sealed envelope must be placed in the bid box at the Main Reception area of the CCMA National Office, 28 Harrison Street, JCI Building, 8<sup>th</sup> Floor, Johannesburg, 2001 by no later than **11:00 AM [Telkom time] on the 02 of February 2024**.

- 4.2 Bids must be submitted in the prescribed response format, herein reflected as **Response Format**.
- 4.3 The bid closing date, bidder name and the return address must also be endorsed on the envelope.
- 4.4 If a courier service company is being used for delivery of the bid response, the bid description must be endorsed on the delivery note/courier packaging and the courier must ensure that documents are placed / deposited into the bid box found on the 8<sup>th</sup> floor Reception area, JCI Building, 28 Harrison Street, Johannesburg, 2001. **The CCMA will not be held responsible for any delays where bid documents are handed to the CCMA Receptionist/ officials.**
- 4.5 No bid response received by telegram, telex, email, facsimile or similar medium will be considered.
- 4.6 Where a bid response is not in the bid box at the time of the bid closing, such a bid document will be regarded as a late bid. **It is the CCMA's policy not to consider late bids for tender evaluation.**

## 5. Preparation of Bid Response

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- 5.1 All the documentation submitted in response to this RFP must be in English.
- 5.2 The bidder is responsible for all the costs that it shall incur related to the preparation and submission of the bid document.
- 5.3 Bids submitted by bidders which are or comprised of companies must be signed by a person or persons duly authorised thereto by a resolution of the applicable Board of Directors, a copy of which Resolution, duly certified, must be submitted with the bid.
- 5.4 The bidder should check the numbers of the pages of its bid to satisfy itself that none of their documents are missing or duplicated. No liability will be accepted by CCMA in regard to anything arising from the fact that pages/documents of a bid are missing or duplicated.
- 5.5 A valid Tax Clearance Certificate with the tax compliance status PIN must be included in the bid response to verify bidders' tax compliance status.
- 5.6 All bidders must be registered on the Central Supplier Database (CSD) prior to submitting bids and include in their bid a copy of their Master Registration Number (Supplier Number) in order for CCMA to verify the bidder's tax status on CSD and other Governing compliances.

## 6. Supplier Performance Management

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Supplier Performance Management is viewed by the CCMA as a critical component in ensuring value for money acquisition and good supplier / or service provider relations between the CCMA and all its suppliers.

The successful bidder shall, upon receipt of written notification of an award, be required to conclude a Service Level Agreement (SLA) with the CCMA, which will form an integral part of the supply

agreement. The SLA will serve as a tool to measure, monitor and assess the supplier 's performance and ensure effective delivery of service, quality and value-add to CCMA's business.

## **7. Supplier Development**

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The CCMA promotes enterprise development. In this regard, successful bidders may be required to mentor SMMEs and/ or Youth-Owned businesses. The implications of such arrangement will be subject to negotiations between the CCMA and the successful bidder.

## **8. CCMA's Rights**

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- 8.1** The CCMA is entitled to amend any bid conditions, bid validity period, RFP specifications, or extend the bid closing date, all before the bid closing date. All bidders, to whom the RFP documents have been issued and where the CCMA has record of such bidders, may be advised in writing of such amendments in good time and any such changes will be posted on the CCMA's website under the relevant tender information. All prospective bidders should therefore ensure that they visit the website regularly and before they submit their bid response to ensure that they are kept updated on any amendments in this regard.
- 8.2** The CCMA reserves the right not to accept the lowest priced bid or any bid in part or in whole. The CCMA normally awards the contract to the bidder who proves to be fully capable of handling the contract and whose bid is functionally acceptable and/or financially advantageous to the CCMA.
- 8.3** The CCMA reserves the right to award this bid as a whole or in part.
- 8.4** The CCMA reserves the right to conduct site visits at bidder's corporate offices and / or at client sites if so required.
- 8.5** The CCMA reserves the right to consider the guidelines and prescribed hourly remuneration rates for consultants as provided in the **National Treasury Instruction 03 of 2017/2018: Cost Containment Measures**, where relevant.
- 8.6** The CCMA reserves the right to request all relevant information, agreements and other documents to verify information supplied in the bid response. The bidder hereby gives consent to the CCMA to conduct background checks on the bidding entity and any of its directors / trustees / shareholders / members.

## **9. Undertakings by the Bidder**

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- 9.1** By submitting a bid in response to the RFP, the bidder will be taken to offer to render all or any of the services described in the bid response submitted by it to the CCMA on the terms and conditions and in accordance with the specifications stipulated in this RFP document.



- 9.2 The bidder may be required to attend an interview should CCMA require such and the bidder shall be notified thereof in good time before the actual presentation date. Such interview may include a practical demonstration of understanding products or services as called for in this RFP.
- 9.3 The bidder agrees that the offer contained in its bid shall remain binding upon him/her and receptive for acceptance by the CCMA during the bid validity period indicated in the RFP and calculated from the bid closing hour and date such offer and its acceptance shall be subject to the terms and conditions contained in this RFP document read with the bid.
- 9.4 The bidder furthermore confirms that he/she has satisfied himself/herself as to the correctness and validity of his/her bid response; that the price(s) and rate(s) quoted cover all the work/item(s) specified in the bid response documents; and that the price(s) and rate(s) cover all his/her obligations under a resulting contract for the services contemplated in this RFP; and that he/she accepts that any mistakes regarding price(s) and calculations will be at his/her risk.
- 9.5 The successful bidder accepts full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on him/her under the supply agreement and SLA to be concluded with CCMA, as the principal(s) liable for the due fulfilment of such contract.
- 9.6 The bidder accepts that all costs incurred in the preparation, presentation and demonstration of the solution offered by it shall be for the account of the bidder. All supporting documentation and manuals submitted with its bid will become CCMA property unless otherwise stated by the bidder/s at the time of submission.

## 10. Reasons for disqualification

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- 10.1 The CCMA reserves the right to disqualify any bidder which does any one or more of the following, and such disqualification may take place without prior notice to the offending bidder, however the bidder will be notified in writing of such disqualification:
- 10.1.1 Bidders who fail to comply with the National Treasury Directives with regard to Tax Compliance Matters;
- 10.1.2 bidders who submit incomplete information and documentation according to the requirements of this RFP document;
- 10.1.3 bidders who submit information that is fraudulent, factually untrue or inaccurate;
- 10.1.4 bidders who receive information not available to other potential bidders through fraudulent means;
- 10.1.5 bidders who do not comply with **mandatory requirements** if stipulated in the RFP document; and/or

- 10.1.6 Bidders who fail to attend a compulsory briefing session if stipulated in the tender advert and/or in this RFP document.

## 11. Response Format (Returnable Schedules)

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Bidders shall submit their bid responses in accordance with the response format specified below (each schedule must be clearly marked):

- 11.1 Cover Page:** (the cover page must clearly indicate the RFP reference number, bid description and the bidder's name)

**11.2 Schedule 1:**

- 11.2.1 Executive Summary
- 11.2.2 RFP document (duly completed and signed)
- 11.2.3 Company Registration Documents
- 11.2.4 Central Supplier Database Report

**11.3 Schedule 2**

- 11.3.1 Valid tax clearance certificate(s), A tax compliance status PIN must be included in the bid response to verify bidders' tax compliance status;
- 11.3.2 Annexure A: Response format for Stage 2
- 11.3.3 Annexure B: Pricing Schedule
- 11.3.4 Annexure 1: SBD 1 (duly completed and signed)
- 11.3.5 Annexure 2: SBD 3.3. (duly completed and signed);
- 11.3.6 Annexure 3: SBD 4 (duly completed and signed);
- 11.3.7 Annexure 4: SBD 6.1 (duly completed and signed)
- 11.3.8 Annexure 5: SBD 7.2 (duly completed and signed);
- 11.3.9 Annexure 6: CCMA's Standard Condition of bid and General Condition of Contract (signed)
- 11.3.10 Financial Statements for the latest financial year signed by an independent registered Accountant.
- 11.3.11 Copy of Joint Venture/ Consortium/ Subcontracting Agreement duly signed by all parties (if applicable).
- 11.3.12 POPIA consent form (duly completed and signed)
- 11.3.13 BBBEE Certificate

**Note: If a bidder is a Consortium, Joint Venture or Prime Contractor with Subcontractor(s), the documents listed above (11.3.1-08, 11.3.10-12) must be submitted for each Consortium/ JV member or Prime Contractor and Subcontractor(s).**

**11.4 Schedule 3:**

- 11.4.1 Response to Section 2 of this document, in line with the format indicated in this RFP document.

## 12. Bid Proposals screening.

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Bids shall be screened in terms of the following process and conditions:

**12.1** Initial Screening: During this phase, bid responses will be reviewed for the purposes of assessing compliance with RFP requirements including the general bid conditions, which requirements include the following:

- Submission of a valid Tax Clearance Certificate with a tax compliance status PIN.
- Submission of Company Registration Documents.
- BEE Status Certification as referenced above.
- Completion of all Standard Bidding Documents and other requirements, as reflected in this RFP.

## SECTION 2: FUNCTIONAL REQUIREMENTS SPECIFICATION

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## 1. FUNCTIONAL REQUIREMENTS SPECIFICATION

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### 1.1 EVALUATION CRITERIA

Bid responses will be evaluated in accordance with the following criteria as follows:

#### **Special instructions to bidders**

Bidders shall provide full and accurate answers to the questions posed in this RFP document, and, where required explicitly state either “Comply/Non-Compliance” regarding compliance with the requirements. Bidders **must** substantiate their response to all questions, including full details on how their proposal/solution will address specific functional/ technical requirements; failure to substantiate may lead to the bidder being disqualified. All documents as indicated must be supplied as part of the bid response.

#### **STAGE 1 – MANDATORY COMPLIANCE:**

Bidders will be assessed on their full compliance with mandatory requirements; only bidders who fully meet mandatory requirements will proceed to be evaluated to the next phase. Bidders who do not fully meet mandatory requirements will be automatically eliminated.

Failure to comply with Mandatory Requirements will lead to the bidder being disqualified.

#### **STAGE 2 – FUNCTIONALITY / TECHNICAL EVALUATION:**

Bidders will be evaluated on functionality; only bidders who pass the minimum functionality threshold of **65** points will proceed to the next phase – Price and BBEE preference system.

#### **STAGE – 3 PRICE EVALUATION:**

Price proposals will be evaluated on the 80/20 principle in line with Preferential Procurement Regulations of 2022, where 80 points are allocated for price and the 20 points for preference points level procurement system.

## 2. MANDATORY REQUIREMENTS (STAGE 1 OF EVALUATION)

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The prospective bidders must complete the table below with Comply/Non-Compliance:

If any '**NON-COMPLIANCE**' is indicated to the mandatory requirements, the bid will automatically be eliminated.

**TABLE A**

Mandatory Technical Requirement	Comply	Non-compliance	Page number in Proposal
<b>1. Registration with the Legal Practice Council</b> The individual partner/s or director/s of the bidder must be registered and in good standing with the Legal Practice Council. Valid proof of individual partner/s' or director/s' certificate/s of good standing with the Legal Practice Council must be provided. <b>(Attach proof of certified certificate/s)</b>			
<b>2. Fidelity Fund Insurance</b> The Bidder must provide proof of Fidelity Fund Insurance Cover for partner/s or director/s of the bidder's team. Valid proof of a Fidelity Fund Certificate/s to be provided. <b>(Attach proof of certified certificate/s)</b>			
<b>3. Right of appearance</b> The Bidder must provide proof of Right of appearance of its proposed team in the High Court of South Africa <b>(Attach proof of certified certificate/s)</b>			

**NB: Documents in respect of 1, 2 and 3 which are not certified will not be accepted.**

**Furthermore, copies of previously certified documents will also not be accepted.**

**The date of certification must not be older than six (6) months.**

### **3. FUNCTIONALITY ELEMENTS (STAGE 2 OF EVALUATION)**

**Below is the summary of the five elements that will be taken into consideration for the purposes of functional evaluation criteria, totalling 100 points.**

ELEMENTS	WEIGHT
1. Demonstrable Relevant Experience of the Bidder in providing advice and legal services in the relevant area of specialisation	20
2. References of work previously done in terms of number of	25

	assignments awarded, complexity of matters and extent of engagement.	
3.	Demonstrable Relevant Experience of the Bidder's Team in providing advice and legal services in the relevant area of specialisation	20
4.	Demonstrate reach of legal services provided in various geographical locations across South Africa, including proximity to Magistrates and High Courts	10
5.	Details of the recent transactions/ matters the Bidder has handled for each service category.	25

### **Detailed Functional Criteria**

**(DO NOT COMPLETE THIS TABLE – FOR EVALUATION SCORING ONLY)** However, please use the layout of the table below for structuring of the proposal and address each of the five elements of Functional Criteria in detail.

**Note to the Bidder:** The bidder must attach evidence of compliance with the requirements stated below. The bidder must provide an index to its attachments.

<b>ELEMENT 1: Demonstrable Relevant Experience of the Bidder in providing advice and legal services in the relevant area of specialisation</b>		<b>Scoring points</b> <b>Maximum of 20</b>
All bidders must provide a document titled” <b>Company profile, systems of quality and level of exposure</b> ” which deals with the following:		
Exposition of the establishment, history and constitution of the firm.	= 4 points	
Specifics regarding affiliation of firm with either local or international firms and / or associations. <b>Attach Proof (No proof no points)</b>	= 2 points	
System of identifying and managing conflicts of interests that may arise.	= 4 points	
Systems in place for performance monitoring and management of all staff.	= 4 points	



Years of experience of the firm in the service category or categories indicated with a brief summary of matters in which the Bidder provided advice, opinions, representation and other legal services in the relevant area/s of specialisation:  Note: The bidder needs to have experience in the service category or categories bidding for.	= 4 points	
The bidder shows notable awards and achievements received by accredited / recognised institutions / organisations.	= 2 points	

<b>ELEMENT 2: References of work previously done in terms of number of assignments awarded, complexity of matters and extent of engagement.</b>		<b>Scoring points Maximum of 25</b>
<p><b>Reference Letters</b></p> <p>Bidders must provide written contactable references not older than 3 (three) years from previous and /or current clients where similar services to the selected categories were rendered.</p> <p>Attach reference letters.</p> <p>The reference letters from the bidder's clients must include:</p> <ul style="list-style-type: none"> <li>• company name</li> <li>• company letter head</li> <li>• contact person</li> <li>• contactable telephone numbers</li> <li>• start and end date of services provided</li> </ul> <p><b>NB: Failure to provide the reference letters with all the above-mentioned requirements will result in the bidder scoring a zero</b></p> <p>5 or more clients with traceable References = 25 points  4 clients with traceable Reference Letters = 15 points  3 clients with traceable Reference Letters = 10 points  2 clients with traceable Reference Letter = 5 points  1 client with traceable Reference Letter = 1 points  0 client with traceable reference Letter = 0</p>	<p>= 25 points  = 15 points  = 10 points  = 5 points  = 1 point  = 0 point</p>	
<b>ELEMENT 3: Demonstrable Relevant Experience of the Bidder's Team in providing advice and legal services in the relevant area of specialisation</b>		<b>Scoring points Maximum of 20</b>

Qualification LLB for members of the proposed bidders legal team should be attached. = 5 points				Maximum of 5
Years of experience	4-6 = 4 max	7-15 = 8 max	16-20 =12 max	20+ = 15 max
	Note: the evaluation of qualifications and legal experience of the bidder's team will be done collectively, and not per team member. Please refer to <b>Table (d) and Annexure A</b> of this document for the format in which the required information must be provided.			
<b>ELEMENT 4:</b> Demonstrate reach of legal services provided in various geographical locations across South Africa, including proximity to Magistrates and High Courts				<b>Scoring points</b> <b>Maximum of 10</b>
Large firm: Offices in 5 or more provinces in South Africa		= 10 points		
Large firm: Offices in 3 – 4 provinces in South Africa		= 7 points		
Large firm: Offices in 1 - 2 provinces in South Africa without appointing correspondent attorneys		= 4 points		
Medium firm: Offices in 3 or more provinces in South Africa		= 10 points		
Medium firm: Offices in 2 provinces in South Africa without appointing correspondent attorneys.		= 7 points		
Medium firm: Offices in 1 province in South Africa without appointing correspondent attorneys		= 4 points		
Small firm: Offices in 2 or more provinces in South Africa.		= 10 points		
Small firm: Offices in 1 province in South Africa without appointing correspondent attorneys		= 7 points		
Please provide list of office addresses with proof (eg municipal account not older than 3 months) and note that information may be verified.				
<b>ELEMENT 5:</b> Details of the recent transactions/ matters the Bidder has handled for each service category.				<b>Scoring Point 25</b>
<b>Evidence of experience in service categories offered</b> Complexity will be evaluated on the following but not limited to: a) Nature of the matter ➤ Detailed description of legal issue e.g. unfair labour practice = 5 points ➤ Area of law e.g. labour law = 5 points b) Technicalities ➤ Resources utilised: services utilised (e.g. Counsel/ experts) = 5 points ➤ Sources consulted in relation to the legal matters attended to (e.g. legislations and case law) = 5 points				<b>Maximum of 25</b>

c) Public interest/ Landmark judgements (Any) = 5 points Projects / matters worked and clients serviced	
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#### 4. PRICE EVALUATION (STAGE 3 OF EVALUATION):

Price proposals will be evaluated on the 80/20 principle in line with Preferential Procurement Regulations of 2022, where 80 points are allocated for price and the 20 points preference points level points as follows:

Technical / Functional Criteria	Weightings
Total technical/functional	100
<b>Minimum threshold</b>	<b>65</b>
<b>Price</b>	
Points allocated for price	80
<b>Preference Points Level</b>	
Points allocated	20
<b>TOTAL FOR PRICE and PREFERENCE POINTS</b>	<b>100</b>

Bidders who score a minimum threshold of **65 out of 100** points on the functionality evaluation criteria will be considered for further evaluation on Price and preference points level. Bidders who fail to attain the required minimum threshold will not be evaluated further.

#### 5. INTRODUCTION AND BACKGROUND

1. The Commission for Conciliation, Mediation and Arbitration (CCMA) is an independent statutory organisation that was established by the Labour Relations Act of 1995 (LRA) to deliver dispute prevention and resolution services to the people of South Africa. The core mandate of the CCMA, as one of the organisations charged with implementing the LRA, is derived from the purpose of the LRA which, amongst others, is to advance economic development, social justice, labour peace and the democratisation of the workplace.

2. The purpose of this RFP is to appoint a panel of attorneys, ie legal firms which shall be engaged on an “as and when required basis” to provide legal advisory or representation services to the CCMA (“hereinafter referred to as “panel of attorneys”, “legal firms” or “the bidder”.

## 6. TERMS OF REFERENCE

The Legal Services Unit is responsible for providing objective, value adding and innovative legal advisory services to the CCMA. The Unit ensures that the organisation’s legal risks are managed adequately and the CCMA’s exposure to litigation is minimised. To this end, the CCMA seeks to establish a panel of attorneys to provide legal services on an “as and when required basis”. Therefore, the CCMA requests proposals from capable legal firms of good standing within the legal fraternity. The duration of the contract will be for a period of 36 months commencing from the 01 April 2024 to 31 March 2027 with no escalation of fees during this period.

The required legal services have been categorised into fourteen (14) categories as reflected below. The bidder must indicate, in the table below, with a tick (✓) the categories for which it is bidding:

**TABLE B**

	<b>SERVICE CATEGORIES (SC)</b>	<b>SCOPE OF WORK</b>	<b>SKILLS REQUIRED</b>	<b>PLEASE TICK (✓)</b>
1.	Litigation and alternative dispute resolution (ADR)	<ul style="list-style-type: none"> <li>• Provide litigation services in various action and application procedures, including urgent and interdictory applications within the Magistrates’ Courts, Regional Courts, Labour Courts, High Courts, Appeal Courts, Constitutional Court and other dispute resolution fora.</li> </ul>	<ul style="list-style-type: none"> <li>• In depth understanding and experience of applying all Court Rules and legislation regulating the conduct and procedure of litigation and ADR proceedings within the mentioned courts, as well as the legal issue at hand.</li> <li>• Litigation skills, including preparation and presentation of evidence and arguments in court and</li> </ul>	

	SERVICE CATEGORIES (SC)	SCOPE OF WORK	SKILLS REQUIRED	PLEASE TICK (✓)
		<ul style="list-style-type: none"> <li>•Develop and review appropriate litigation strategy in each matter.</li> <li>•Ensure effective and efficient litigation processes are followed.</li> <li>•Collect litigation costs.</li> <li>•Provide custody of all pleadings and documents in litigation matters.</li> <li>•Provide oral and written legal advice throughout litigation proceedings.</li> <li>•Avoid prescriptions, barring and default judgments.</li> <li>•Court appearances with and / or without the assistance of Counsel</li> <li>•Settlement negotiations</li> <li>•Attend to taxation of bill of cost.</li> <li>•Attend to administrative / filling</li> </ul>	<p>outside court.</p> <ul style="list-style-type: none"> <li>•Negotiation skills.</li> <li>•Drafting skills in respect of all court papers, in particular affidavits and heads of arguments.</li> </ul>	

	<b>SERVICE CATEGORIES (SC)</b>	<b>SCOPE OF WORK</b>	<b>SKILLS REQUIRED</b>	<b>PLEASE TICK (✓)</b>
		functions associated with litigation.		
2.	Contractual Law	<ul style="list-style-type: none"> <li>• Providing services of interpretation of various contracts, evaluating risk factors within the contracts.</li> <li>• Drafting various complex agreements i.e. commercial, employment, MOU's, consultancy and etc.</li> <li>• Applying contractual terms to litigation proceedings</li> <li>• Giving written opinions on the validity, interpretation, application and enforcement of contractual terms.</li> </ul>	<ul style="list-style-type: none"> <li>• Understanding and knowledge of Contractual law.</li> <li>• Experience in evaluating, negotiating and drafting agreements.</li> <li>• Understanding and proper application of the rules of interpretation.</li> <li>• Understanding the application of public procurement and supply chain management within the context of contracts.</li> </ul>	
3.	Corporate, commercial and finance Law	<ul style="list-style-type: none"> <li>• Advice on projects / transactions of a corporate law nature.</li> <li>• Advice on legal issues arising from asset, risk and debt management.</li> <li>• Draft, review and advice on a broad</li> </ul>	<ul style="list-style-type: none"> <li>• Experience in working in transactions of a corporate law nature.</li> <li>• Experience in restructuring exercise.</li> <li>• Experience in drafting complex documents and opinions.</li> </ul>	

	SERVICE CATEGORIES (SC)	SCOPE OF WORK	SKILLS REQUIRED	PLEASE TICK (✓)
		<p>range of complex commercial documents.</p> <ul style="list-style-type: none"> <li>• Provide legally sound opinions of a corporate law nature.</li> <li>• Conducting due diligence activities.</li> </ul>	<ul style="list-style-type: none"> <li>• Excellent research and drafting skills, for purpose of preparing legal opinions of a corporate law nature.</li> <li>• Knowledge and understanding of applicable corporate law legislation, including King IV and its successors.</li> <li>• Litigation experience on complex commercial contracts.</li> </ul>	
4.	Property Law	<ul style="list-style-type: none"> <li>• Provide advice and sound legal opinion on lease agreements and breaches, and all related property matters including liability and business continuity.</li> <li>• Where necessary deal with breach of lease agreements appropriately</li> <li>• Resolve complex disputes relating to lease agreements / breaches and related disputes.</li> </ul>	<ul style="list-style-type: none"> <li>• Knowledge and understanding of complex, commercial property law</li> <li>• Ability to provide sound opinions and litigate on property disputes.</li> <li>• Dispute resolution including negotiation skills, representation at arbitration and court proceedings.</li> </ul>	
5.	Competition Law	<ul style="list-style-type: none"> <li>• Provide advice and</li> </ul>	<ul style="list-style-type: none"> <li>• Knowledge and</li> </ul>	

	SERVICE CATEGORIES (SC)	SCOPE OF WORK	SKILLS REQUIRED	PLEASE TICK (✓)
		<p>sound legal opinion on all matters relating to competition law.</p>	<p>understanding of Competition law and regulations relating to same.</p> <ul style="list-style-type: none"> <li>• Excellent interpretation and drafting skills for the purpose of formulating advice and / or opinions.</li> <li>• Submissions to and representation at Competition Tribunal.</li> </ul>	
6.	Insurance Law	<ul style="list-style-type: none"> <li>• Advice on legal issues arising from assets, risk and debt management as well as other long and short term insurance issues.</li> <li>• Advice and sound legal opinions on insurance agreements.</li> <li>• Assist in insurance claims of various nature, including, should the need arise, litigation processes in Insurance law disputes.</li> </ul>	<ul style="list-style-type: none"> <li>• Knowledge and experience of laws regulating the insurance industry.</li> <li>• Drafting, evaluation and negotiation skills.</li> <li>• Developing litigation strategies and all necessary drafting, advice, opinions and reporting on insurance law matters.</li> <li>• Investigation and reporting skills</li> </ul>	



	SERVICE CATEGORIES (SC)	SCOPE OF WORK	SKILLS REQUIRED	PLEASE TICK (✓)
		<ul style="list-style-type: none"> <li>•Conduct forensic investigations.</li> </ul>		
7.	Insolvency Law and Business rescue	<ul style="list-style-type: none"> <li>•Provide legal opinions and sound legal advice on all insolvency law matters.</li> <li>•Assist and conduct litigation proceedings, advice on strategy and continuous oral and written.</li> </ul>	<ul style="list-style-type: none"> <li>•Knowledge and experience in insolvency law.</li> <li>• Excellent interpretation and writing skills.</li> <li>• Dispute resolution skills.</li> </ul>	
8.	Intellectual Property Law	<ul style="list-style-type: none"> <li>•Advice, oral or written, on intellectual property disputes, legislation, compliance requirements and developments of Intellectual Property (IP) monitoring strategy and portfolio.</li> <li>•Assisting with registration of IP and protection.</li> <li>• Domain renewals</li> </ul>	<ul style="list-style-type: none"> <li>•Knowledge and experience in intellectual property (IP) law and related regulations, and procedures.</li> <li>•Knowledge and access to CIPC regarding monitoring of renewals of registered IP.</li> <li>•Knowledge and understanding of CIPC processes.</li> </ul>	
9.	Labour and Employment Law	<ul style="list-style-type: none"> <li>•Provide legal opinions on labour, employment benefits and employment law</li> </ul>	<ul style="list-style-type: none"> <li>•Experience in labour and employment law litigation and arbitration.</li> </ul>	

	<b>SERVICE CATEGORIES (SC)</b>	<b>SCOPE OF WORK</b>	<b>SKILLS REQUIRED</b>	<b>PLEASE TICK (✓)</b>
		<p>related matters.</p> <ul style="list-style-type: none"> <li>• Assist in disciplinary hearings, arbitrations and other dispute resolution fora.</li> <li>• Assist in the conduct of investigations of complaints or grievances.</li> <li>• Draft charge sheets</li> <li>• Assist in defending labour related disputes</li> <li>• Assist in developing or amending CCMA's disciplinary code and related matters.</li> <li>• Attend to applications at the Labour Court, including reviews, contempts and compels.</li> <li>• Drafting and advice regarding strikes and picketing rules.</li> </ul>	<ul style="list-style-type: none"> <li>• Understand the regulatory framework governing public service employment.</li> <li>• An understanding of labour law and employment law jurisprudence for purposes of providing informed legal opinions.</li> <li>• Knowledge and understanding of bargaining councils and other dispute resolution fora.</li> <li>• Excellent communication and drafting skills</li> <li>• Ability to draft and present compelling arguments.</li> </ul>	
10.	Governance, Administrative & Constitutional Law	<ul style="list-style-type: none"> <li>• Provide legal opinions in respect of constitutional and administrative law</li> </ul>	<ul style="list-style-type: none"> <li>• Experience in providing opinions in constitutional and administrative law</li> </ul>	

	SERVICE CATEGORIES (SC)	SCOPE OF WORK	SKILLS REQUIRED	PLEASE TICK (✓)
		<p>matters.</p> <ul style="list-style-type: none"> <li>•Ensure technical quality advice to best practices and consistency with legislation regulating public entities i.e. PFMA, PAJA, POPIA, Treasury Regulations, PAIA, constitution, King IV and its successors.</li> <li>•Knowledge of all administrative justice and information legislation and regulations.</li> <li>•Assist in developing internal policies in line with regulatory legislation.</li> <li>• Advice on and deal with disputes arising from accreditation of bargaining councils / panellist.</li> </ul>	<p>matters.</p> <ul style="list-style-type: none"> <li>•Experience of constitutional and administrative jurisprudence.</li> <li>•Compliance monitoring skills</li> <li>•Advisory skills</li> <li>•Legal interpretation and writing skills</li> <li>•Dispute resolution and litigation</li> </ul>	
11.	Criminal Law	<ul style="list-style-type: none"> <li>•Provide legal advice and litigation strategy on criminal law matters.</li> <li>•Provide oral and written updates on</li> </ul>	<ul style="list-style-type: none"> <li>•Knowledge and understanding of criminal law procedure, laws, rules and processes.</li> <li>•Experience in</li> </ul>	

	<b>SERVICE CATEGORIES (SC)</b>	<b>SCOPE OF WORK</b>	<b>SKILLS REQUIRED</b>	<b>PLEASE TICK (✓)</b>
		<p>criminal law matters.</p> <ul style="list-style-type: none"> <li>•Drafting of all legal documents.</li> <li>•Appearing in court on criminal law matters, including commercial crimes court.</li> </ul>	<p>undertaking criminal law matters in various courts, including, but not limited to, Magistrates' Courts, Regional Courts, commercial crimes courts, High Courts and Appeal Courts.</p> <ul style="list-style-type: none"> <li>•Exceptional preparation and presentation skills</li> <li>•Exceptional negotiation skills</li> </ul>	
12.	Information Communications Technology (ICT), Cyber Law	<ul style="list-style-type: none"> <li>•Advice on all aspects of ICT law, such as service level agreements pertaining to system integration, software and website development.</li> <li>•Advice on ICT compliance and infringements</li> <li>•Assist in development of internal ICT policies in line with legal prescripts</li> </ul>	<ul style="list-style-type: none"> <li>•Experience and understanding of Information Communications Technology and cyber laws.</li> <li>•Exceptional interpretation and writing skills.</li> </ul>	
13.	Public Private Partnerships	<ul style="list-style-type: none"> <li>•Advice on the structuring of PPP</li> </ul>	<ul style="list-style-type: none"> <li>•Knowledge of South African PPP market,</li> </ul>	

	<b>SERVICE CATEGORIES (SC)</b>	<b>SCOPE OF WORK</b>	<b>SKILLS REQUIRED</b>	<b>PLEASE TICK (✓)</b>
	(PPP)	<p>projects.</p> <ul style="list-style-type: none"> <li>•Draft and / or review and / or analyse project documentation, including, but not limited to, PPP agreements, design, operation, maintenance and construction subcontracts, finance and security documents, sponsor support agreements, legal opinions, feasibility studies, due diligence and expert reports.</li> <li>•Provide oral and written legal advice throughout the PPP cycle.</li> <li>•Risk identification, allocation and mitigation in PPP agreements.</li> <li>•Advice on legislative and regulatory matters relating to PPP's.</li> <li>•Assist with the negotiations with the</li> </ul>	<p>factors driving the demand of PPP's, PPP regulatory framework including, but not limited to, PPP Manual, Standardised Provisions, Tourism PPP Toolkit, Constitution, Public Finance Management Act, Labour Relations Act, Municipal Finance Management Act, Municipal Systems Act, Treasury Regulations and Practice Notes, Municipal Service Delivery and PPP guidelines and Code of Good Practice for Black Economic Empowerment in PPP's.</p> <ul style="list-style-type: none"> <li>•Understanding key concepts e.g. value for money and public sector comparator.</li> <li>•Expertise in risk analysis, allocation and mitigation.</li> <li>•Expertise in drafting, analysing and review of PPP documentation and structuring of BEE</li> </ul>	

	SERVICE CATEGORIES (SC)	SCOPE OF WORK	SKILLS REQUIRED	PLEASE TICK (✓)
		<p>preferred bidders.</p> <ul style="list-style-type: none"> <li>•Negotiating project documents.</li> <li>•Advice on PPP policies and guidelines.</li> </ul>	<p>in PPP's.</p> <ul style="list-style-type: none"> <li>•Expertise drafting and negotiation.</li> <li>•Knowledge and understanding of project financing.</li> </ul>	
14.	Debt collections, investigations which includes Forensic Investigations and General legal advisory services.	<ul style="list-style-type: none"> <li>• Provide debt collection services, including drafting letter of demands, follow up, summons, attachments, executions, etc.</li> <li>• Provide legal advice and expertise in matters of a general nature.</li> <li>• Conduct due diligence exercises.</li> <li>• Conduct fraud and other forms of investigations.</li> <li>• To conduct track and trace reports on a no trace no charge basis.</li> </ul>	<ul style="list-style-type: none"> <li>• Expertise in debt collection</li> <li>• Understanding of enforcement processes, directives and rules.</li> <li>• Investigation, interview, document evaluation, evidence interpretation, application of the law and report drafting skills.</li> </ul>	

The CCMA would like to promote transformation and development of small firms in this industry and as such the bidder must indicate, in the table below, with a **tick (✓)** the relevant category:

**TABLE C**

<b>Firm Categories</b>	<b>Definition</b>	<b>PLEASE TICK (✓)</b>	<b>Reference page number or Annexure in the proposal</b>
Category 1: Small Firms	Firm with an annual turnover of not more than R10 million		
Category 2: Medium Firms	Firm with an annual turnover greater than R10 million but below R50 million		
Category 3: Large Firms	Firm with an annual turnover greater than R50 million		

**Note: The bidder must submit its 2022/2023 (or the latest) Financial Statements as proof of annual turnover.**

### **PROJECT TIMELINES**

The appointed service provider(s) will be required to be available to start immediately after signing the contract and provide the services for a period of 36 (thirty-six) months, on an “as and when required basis”. There is no guarantee that the firm will be instructed.

### **NON - COMPULSORY BRIEFING SESSION**

A non - compulsory Briefing Session will be held as follows:

Date: 15 January 2024

Time: 11H00am

Venue: Through Microsoft Teams (Virtual)

### **INVITATION OF BID**

CCMA reserves the right to invite bidders for presentations before the award of the bid.

### SECTION 3: ANNEXURES

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**ANNEXURE A: RESPONSE FORMAT FOR STAGE 2****Bidder's Experience and the proposed Project Team**

Request for Proposal No: \_\_\_\_\_

Name of Bidder: \_\_\_\_\_

Authorised signatory: \_\_\_\_\_

*[Note to the Bidder: The bidder must complete the information set out below in response to the requirements stated in Stage 2 of this bid document. If the bidder requires more space than is provided below it must prepare a document in substantially the same format setting out all the information referred to below and return it with this Returnable Schedule 3.]*

**BIDDER AND TEAM EXPERIENCE:**

The bidder must provide the following information for each of the service category the bidder is bidding for.

**TABLE D**

Details of the bidder's proposed team of lawyers (please refer to Stage 2 of this RFP document):

Name	Position/ Designation	Qualifications	Relevant Experience	
			Projects / matters worked and clients serviced	Years of experience

*Note: the evaluation of qualifications and legal experience of the bidder's team will be done collectively, on aggregate and not per team member*

## ANNEXURE B – PRICING SCHEDULE

The bidder must complete the Pricing Schedule which is attached on a separate spreadsheet. The completed Pricing Schedule must be submitted with the bid response as Returnable Schedule 4.

All prices / rates indicated below will be fixed at that rate for all three (3) years of the contract.

There will be no annual escalation of prices / rates.

PRICING SCHEDULE FOR PANEL OF ATTORNEYS	
Description	Hourly rate Incl VAT
Attorneys / Legal Practitioners with more than 15 Years post article experience	
Attorneys / Legal Practitioners with 7 - 15 Years post article experience	
Attorneys / Legal Practitioners with 3 – 6 Years post article experience	
Attorneys / Legal Practitioners with less than 3 Years post article experience	
Candidate Attorneys	
Description	Disbursements rate
Travelling costs by vehicle per km	As fixed by the Minister of Finance for each financial year
Emails per 15 minutes	
Printing / photocopies Per page	
<b>TOTAL INCL VAT (INCL DISBURSEMENTS RATE)</b>	
<b>NOTE: the preparation, sorting, and arrangement of documents, briefs, paginating, filling, copies, faxing, printing and other administrative tasks will be paid at an hourly rate of a candidate attorneys, in 15-minute intervals.</b>	
<b>Telephone call rates must be charged at the actual cost rate charged by the telephone network service provider.</b>	

**Note:** Bidders are requested to complete the pricing schedule in full, failure to complete the table will result in disqualification of the bid.

# ANNEXURE 1: SBD 1

## PART A INVITATION TO BID

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)</b>					
BID NUMBER:	CCMA/2023/09 - LEG	CLOSING DATE:	02 February 2024	CLOSING TIME:	11:00AM
DESCRIPTION	APPOINTMENT OF PANEL OF ATTORNEYS TO PROVIDE LEGAL SERVICES ON AN AS AND WHEN BASIS FOR THE CCMA FOR A PERIOD OF THIRTY -SIX (36) MONTHS				
<b>BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)</b>					
Thulisa Mpumlo					
<a href="mailto:Tenderenquiries@ccma.org.za">Tenderenquiries@ccma.org.za</a>					
011 733 6823					
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>			<b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>		
CONTACT PERSON		CONTACT PERSON			
TELEPHONE NUMBER		TELEPHONE NUMBER			
FACSIMILE NUMBER		FACSIMILE NUMBER			
E-MAIL ADDRESS		E-MAIL ADDRESS			
<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>					

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR THE <b>GOODS /SERVICES /WORKS OFFERED?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW ]
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#### QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?	<input type="checkbox"/> YES <input type="checkbox"/> NO
DOES THE ENTITY HAVE A BRANCH IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?	<input type="checkbox"/> YES <input type="checkbox"/> NO
<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, 2022, 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 PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED. 2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH

**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: .....

CCMA/2023/09-LEG

## ANNEXURE 2: SBD 3.3 (TO BE ENCLOSED IN ENVELOPE 2)

SBD 3.3

### **PRICING SCHEDULE** (Professional Services)

NAME OF BIDDER: .....	BID NO.: .....
CLOSING TIME 11:00	CLOSING DATE.....

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

ITEM NO	DESCRIPTION	BID PRICE IN RSA CURRENCY **(ALL APPLICABLE TAXES INCLUDED)	
1.	The accompanying information must be used for the formulation of proposals.		
2.	Bidders are required to indicate a ceiling price based on the total estimated time for completion of all phases and including all expenses inclusive of all applicable taxes for the project.	R.....	
3.	PHASES ACCORDING TO WHICH THE PROJECT WILL BE COMPLETED, COST PER PHASE AND MAN-DAYS TO BE SPENT		
	.....	R.....	..... days
	.....	R.....	..... days
	.....	R.....	..... days
	.....	R.....	..... days
3.1	Travel expenses (specify, for example rate/km and total km, class of airtravel, etc). Only actual costs are recoverable. Proof of the expenses incurred must accompany certified invoices.		
	DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY AMOUNT
	.....	.....	R.....
	.....	.....	R.....
	.....	.....	R.....
	.....	.....	R.....
	TOTAL: R.....		

\*\* "all applicable taxes" includes value- added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies.

- 3.2 Other expenses, for example accommodation (specify, eg. Three star hotel, bed and breakfast, telephone cost, reproduction cost, etc.). On basis of these particulars, certified invoices will be checked for correctness. Proof of the expenses must accompany invoices.

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT
.....	.....	.....	R.....
.....	.....	.....	R.....
.....	.....	.....	R.....
.....	.....	.....	R.....

TOTAL: R.....

4. Period required for commencement with project after Acceptance of bid .....  
 5. Estimated man-days for completion of project .....  
 6. Are the rates quoted firm for the full period of contract? \*YES/NO  
 7. If not firm for the full period, provide details of the basis on which Adjustments will be applied for, for example consumer price index. ....  
 .....  
 .....  
 .....

\*[DELETE IF NOT APPLICABLE]



## ANNEXURE 3: SBD 4

### BIDDER'S DISCLOSURE

#### 1. PURPOSE OF THE FORM

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

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

#### 2. Bidder's declaration

- 2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest<sup>1</sup> in the enterprise, employed by the state? **YES/NO**

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

Full Name	Identity Number	Name of State institution

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

- 2.2.1 If so, furnish particulars:

---

(1) <sup>1</sup> the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.

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

- 2.3.1 If so, furnish particulars:

.....  
.....

### 3 DECLARATION

I, the undersigned, (name)..... in submitting the accompanying bid, do hereby make the following statements that I certify to be true and complete in every respect:

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium<sup>2</sup> will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.
- 3.6 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in

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(2) <sup>2</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.

terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 and 3 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of bidder

## ANNEXURE 4: SBD 6.1

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

This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for B-BBEE.

**NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022**

#### 1. GENERAL CONDITIONS

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

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

#### 1.2 To be completed by the organ of state

*(delete whichever is not applicable for this tender).*

- a) The applicable preference point system for this tender is the 80/20 preference point system.
- b) The 80/20 preference point system will be applicable in this tender. The lowest/ highest acceptable tender will be used to determine the accurate system once tenders are received.

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

- (a) Price; and
- (b) B-BBEE.

#### 1.4 To be completed by the organ of state:

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	80
B-BBEE	20
Total points for Price and B-BBEE	100

- 1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for B-BBEE with the tender, will be interpreted to mean that preference points for B-BBEE are not claimed.
- 1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

## 2. DEFINITIONS

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

## 3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

### 3.1. POINTS AWARDED FOR PRICE

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

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

<b>80/20</b>	<b>or</b>	<b>90/10</b>
$P_s = 80 \left( 1 - \frac{P_t - P_{min}}{P_{min}} \right) \text{ or } P_s = 90 \left( 1 - \frac{P_t - P_{min}}{P_{min}} \right)$		

Where

$P_s$  = Points scored for price of tender under consideration  
 $P_t$  = Price of tender under consideration  
 $P_{min}$  = Price of lowest acceptable tender

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

#### 3.2.1. POINTS AWARDED FOR PRICE

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

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

Where

$P_s$  = Points scored for price of tender under consideration  
 $P_t$  = Price of tender under consideration  
 $P_{max}$  = Price of highest acceptable tender

### 4. POINTS AWARDED FOR B-BBEE

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

will apply and that the lowest acceptable tender will be used to determine the applicable preference point system, then the organ of state must indicate the points allocated for B-BBEE for both the 90/10 and 80/20 preference point system.

**Table 1: B-BBEE for the tender and points claimed are indicated per the table below.**

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

*Note to tenderers: The tenderer must indicate how they claim points for each preference point system.)*

The B-BBEE allocated points in terms of this tender. (B-BBEE Status Level of Contributor)	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (To be completed by the tenderer)
1	20	
2	18	
3	14	
4	12	
5	8	
6	6	
7	4	
8	2	
Non-compliant contributor	0	

#### DECLARATION WITH REGARD TO COMPANY/FIRM

4.3. Name of company/firm.....

4.4. Company registration number: .....

4.5. TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

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

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

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

**SURNAME AND NAME:** .....

**DATE:** .....

**ADDRESS:** .....

.....

.....



## ANNEXURE 5: SBD 7.2

### CONTRACT FORM - RENDERING OF SERVICES

**THIS FORM MUST BE FILLED IN DUPLICATE BY BOTH THE SERVICE PROVIDER (PART 1) AND THE PURCHASER (PART 2). BOTH FORMS MUST BE SIGNED IN THE ORIGINAL SO THAT THE SERVICE PROVIDER AND THE PURCHASER WOULD BE IN POSSESSION OF ORIGINALLY SIGNED CONTRACTS FOR THEIR RESPECTIVE RECORDS.**

#### PART 1 (TO BE FILLED IN BY THE SERVICE PROVIDER)

1. I hereby undertake to render services described in the attached bidding documents to (name of the institution)..... in accordance with the requirements and task directives / proposals specifications stipulated in Bid Number..... at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the Purchaser during the validity period indicated and calculated from the closing date of the bid.
2. The following documents shall be deemed to form and be read and construed as part of this agreement:
  - (i) Bidding documents, viz
    - Invitation to bid;
    - Tax clearance certificate;
    - Pricing schedule(s);
    - Filled in task directive/proposal;
    - Preference claims for Broad Based Black Economic Empowerment Status Level of Contribution in terms of the Preferential Procurement Regulations 2011;
    - Declaration of interest;
    - Declaration of bidder's past SCM practices;
    - Certificate of Independent Bid Determination;
    - Special Conditions of Contract;
  - (ii) General Conditions of Contract; and
  - (iii) Other (specify)
3. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the services specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfilment of this contract.

5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
6. I confirm that I am duly authorised to sign this contract.

NAME (PRINT) .....

CAPACITY .....

SIGNATURE .....

NAME OF FIRM .....

DATE .....

WITNESSES

1 .....

2 .....

**CONTRACT FORM - RENDERING OF SERVICES**  
**SBD7.2**

**PART 2 (TO BE FILLED IN BY THE PURCHASER)**

I.....in my capacity  
as.....accept your bid under reference number  
.....dated.....for the rendering of services indicated hereunder and/or further  
specified in the annexure(s).

1. An official order indicating service delivery instructions is forthcoming.
2. I undertake to make payment for the services rendered in accordance with the terms and conditions of the contract, within 30 (thirty) days after receipt of an invoice.

DESCRIPTION OF SERVICE	PRICE (ALL APPLICABLE TAXES INCLUDED)	COMPLETION DATE	B-BBEE STATUS LEVEL OF CONTRIBUTION	MINIMUM THRESHOLD FOR LOCAL PRODUCTION AND CONTENT (if applicable)

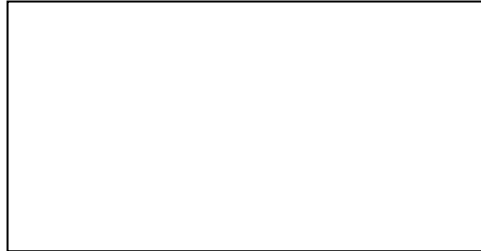
4. I confirm that I am duly authorized to sign this contract.

SIGNED AT .....ON.....

NAME (PRINT) .....

SIGNATURE .....

OFFICIAL STAMP

A large, empty rectangular box intended for an official stamp or seal.

WITNESSES

1 .....

2 .....

## ANNEXURE 6: CCMA'S STANDARD CONDITIONS OF BID

CCMA'S  
STANDARD  
CONDITIONS OF BID

---

1 GENERAL

- Actions** 1 CCMA's *Representative* and each *bidder* submitting a bid shall act timeously as stated in these Conditions of Bid and in a manner which is fair, equitable, transparent, competitive and cost-effective.
- Interpretation** 2 Terms shown in *italics* vary for each bid. The details of each term for this bid are identified in the Bid Data. Terms shown in capital initials are defined terms in the appropriate conditions of contract.
- 3 Any additional or amended requirements in the Bid Data, and additional requirements given in the Schedules in the *bid returnables* are deemed to be part of these Conditions of Bid.
- 4 The Conditions of Bid and the Bid Data shall not form part of any contract arising from this invitation to bid.
- Communication** 5 Each communication between the CCMA and a *bidder* shall be to or from CCMA's *Representative* only, and in a form that can be read, copied and recorded. Communication shall be in the English language. CCMA takes no responsibility for non-receipt of communications from or by a *bidder*.
- CCMA's rights to accept or reject any bid** 6 CCMA may accept or reject any variation, deviation, bid, or alternative bid, and may cancel the bid process and reject all bids at any time prior to the formation of a contract. CCMA's *Representative* will not accept or incur any liability to a *bidder* for such cancellation and rejection, but will give written reasons for the action upon written request to do so. CCMA reserves the right to accept the whole of any part of any bid.

After the cancellation of the bid process or the rejection of all bids CCMA may abandon the proposed work and services, have it performed in any other manner, or re-issue a similar invitation to bid at any time.

## 2 BIDDER'S OBLIGATIONS

The *bidder* shall comply with the following obligations when submitting a bid and shall:

- |   |   |  |
|---|---|--|
| <b>Eligibility</b>  | 1 | Submit a bid only if the <i>bidder</i> complies with the <i>criteria</i> stated in the Bid Data and the <i>bidder</i> , or any of his principals, is not under any restriction to do business with the CCMA.                                       |
| <b>Cost of bidding</b>                                    | 2 | Accept that the CCMA will not compensate the <i>bidder</i> for any costs incurred in the preparation and submission of a bid, including the costs of any testing necessary to demonstrate that aspects of the bid satisfy the evaluation criteria. |
| <b>Check documents</b>                                    | 3 | Check the <i>bid documents</i> on receipt, including pages within them, and notify CCMA's <i>Representative</i> of any discrepancy or omissions.   |
| <b>Confidentiality and copyright of documents</b>         | 4 | Treat as confidential all matters arising in connection with the bid. Use and copy the documents provided by the CCMA only for the purpose of preparing and submitting a bid in response to this invitation.                                       |
| <b>Standardised specifications and other publications</b> | 5 | Obtain, as necessary for submitting a bid, copies of the latest revision of standardised specifications and other publications, which are not attached but which are incorporated into the <i>bid documents</i> by reference.                      |
|   | 7 | Acknowledge receipt of Addenda to the <i>bid documents</i> , which CCMA's  |

*Representative* may issue, and if necessary apply for an extension to the *deadline for bid submission*, in order to take the Addenda into account.

- |  |    |  |
|--|----|--|
| <b>Site visit and / or clarification meeting</b> | 8  | Attend a site visit and/or clarification meeting at which <i>bidders</i> may familiarise themselves with the proposed work, services or supply, location, etc. and raise questions.. Details of the meeting(s) are stated in the Bid Data.   |
| <b>Seek clarification</b>                        | 9  | Request clarification of the <i>bid documents</i> , if necessary, by notifying CCMA's <i>Representative</i> earlier than the <i>closing time for clarification of queries</i> .  |
| Insurance  | 10 | Be informed that the extent (if any) of insurance provided by the CCMA may not be for the full cover required in terms of the relevant category listed in Section 8 of the <i>conditions of contract</i> , the <i>bidder</i> is advised to seek qualified advice regarding insurance.  |
| <b>Pricing the bid</b>                           | 11 | Include in the rates, prices, and the bid total of the prices (if any) all duties, taxes (except VAT), and other levies payable by the successful <i>bidder</i> . Such duties, taxes and levies are those applicable 14 days prior to the <i>deadline for bid submission</i> .   |
|  | 12 | Show Value Added Tax (VAT) payable by the CCMA separately as an addition to the bid total of the prices.   |
|  | 13 | Provide rates and prices that are fixed for the duration of the contract and not subject to adjustment except as provided for in the <i>conditions of contract</i> .   |
|  | 14 | State the rates and Prices in South African Rand unless instructed otherwise as an additional condition in the Bid Data.   |
| <b>Alterations to documents</b>                  | 15 | Not make any alterations or additions to the <i>bid documents</i> , except to comply with instructions issued by CCMA's <i>Representative</i> or if necessary to correct errors made by the <i>bidder</i> . All such alterations shall be initialled by all signatories to the bid. Corrections may not be made using correction fluid, correction tape or the like. |



**Alternative  
bids**

- 16 Submit alternative bids only if a main bid, strictly in accordance with all the requirements of the *bid documents* is also submitted. The alternative bid is submitted with the main bid together with a schedule that compares the requirements of the *bid documents* with the alternative requirements the *bidder* proposes.
- 17 Accept that an alternative bid may be based only on the criteria stated in the Bid Data and as acceptable to the CCMA.

**Submitting a  
bid**

- 18 The CCMA require one original bidding document, indexed according to the page numbers and content as well as one CD of the same.
- Submit a bid for providing the whole of the works, services or supply identified in the Contract Data unless stated otherwise as an additional condition in the Bid Data.
- 19 Return the *bid returnables* to the CCMA, completing without exception all the forms, data and schedules included therein.
- 20 Submit the bid as an original plus the number of copies stated in the Bid Data and provide an English translation for documentation submitted in a language other than English. Bids may not be written in pencil but must be completed in ink.
- 21 Sign the original and all copies of the bid where indicated. The CCMA will hold the signatory duly authorised and liable on behalf of the *bidder*.
- 22 Seal the original and each copy of the bid as separate packages marking the packages as "ORIGINAL" and "COPY". Each package shall state on the outside the CCMA's national office address and invitation to bid number stated in the Bid Data, as well as the *bidder's* name and contact address.
- 23 Seal original and copies together in an outer package that states on the outside only the CCMA's national office address and invitation to bid number

as stated in the Bid Data. The outer package must be marked "CONFIDENTIAL"

- 24 Where a two-envelope system is required in terms of the bid data, place and seal the returnable documents listed in the bid data in an envelope marked "financial proposal" and place the remaining returnable documents in an envelope marked "technical proposal". Each envelope shall state on the outside the CCMA's national office address and identification details stated in the bid data, as well as the bidder's name and contact details. Make sure both parts of the bid are delivered as a single package.
- 25 Accept that the CCMA will not assume any responsibility for the misplacement or premature opening of the bid if the outer package is not sealed and marked as stated

Note:

The CCMA prefers not to receive bids by post, and takes no responsibility for delays in the postal system or in transit within or between CCMA offices.

Where bids are sent per fax, the CCMA takes no responsibility for difficulties in transmission caused by line or equipment faults.

Where bids are sent via courier, the CCMA takes no responsibility for bids delivered to any other site than the bid office.

CCMA employees are not permitted to deposit a bid into the CCMA's bid box on behalf of a bidder, except those lodged by post or courier.

- Closing time**
- 26 Ensure that the CCMA has received the bid at the address and in the bid box no later than the *deadline for bid submission*. Proof of posting will not be taken by the CCMA as proof of delivery. The CCMA will not accept a bid submitted telephonically, e-mail or by telegraph unless stated otherwise in the Bid Data.
- 27 Accept that, if the CCMA extends the *deadline for bid submission* for any reason, the requirements of these Conditions of Bid apply equally to the extended deadline.
- Bid validity**
- 28 Hold the bid(s) valid for acceptance by the CCMA at any time within the *validity period* after the *deadline for bid submission*.

	29	Extend the <i>validity period</i> for a specified additional period if the CCMA requests the <i>bidder</i> to extend it. A <i>bidder</i> agreeing to the request will not be required or permitted to modify a bid, except to the extent the CCMA may allow for the effects of inflation over the additional period.
<b>Clarification of bid after submission</b>	30	Provide, on request from the CCMA's <i>Representative</i> during the evaluation of bids, any other material that has a bearing on the bid, the bidder's commercial position (including notarised joint venture agreements), preferencing arrangements or samples of materials, considered necessary by the CCMA for the purpose of a full and fair risk assessment. This may include providing a breakdown of rates or Prices. No change in the total of the Prices or substance of the bid is sought, offered, or permitted except as required by the CCMA's <i>Representative</i> to confirm the correction of arithmetical errors discovered in the evaluation of bids. The total of the Prices stated by the <i>bidder</i> as corrected by the CCMA's <i>Representative</i> with the concurrence of the <i>bidder</i> , shall be binding upon the <i>bidder</i>
<b>Submit bonds, policies etc.</b>	31	If instructed by the CCMA's <i>Representative</i> (before the formation of a contract), submit for the CCMA's acceptance, the bonds, guarantees, policies and certificates of insurance required to be provided by the successful <i>bidder</i> in terms of the <i>conditions of contract</i> .
	32	Undertake to check the final draft of the contract provided by CCMA's <i>Representative</i> , and sign the Form of Agreement all within the time required by these Conditions of Bid.
	33	Where an agent on behalf of a principal submits a bid, an authenticated copy of the authority to act as an agent must be submitted with the bid.
<b>Fulfil BEE requirements</b>	34	Comply with CCMA's requirements regarding BBEE.

CCMA's *Representative*, shall:

- |                                 |   |   |
|---------------------------------|---|---|
| <b>Respond to clarification</b> | 1 | Respond to a request for clarification received earlier than the <i>closing time for clarification of queries</i> . The response is notified to all <i>bidders</i> .  |
| <b>Issue Addenda</b>            | 2 | If necessary, issue Addenda that may amend, amplify, or add to the <i>bid documents</i> , to each <i>bidder</i> . If a <i>bidders</i> applies for an extension to the <i>deadline for bid submission</i> , in order to take Addenda into account in preparing a bid, the CCMA may grant such an extension and CCMA's <i>Representative</i> shall notify the extension to all <i>bidders</i> . |
| <b>Return late bids</b>         | 3 | Return bids received after the <i>deadline for bid submission</i> unopened to the <i>bidder</i> submitting a late bid. Bids will be deemed late if they are not on the designated fax or in the designated bid box at the date and time stipulated as the deadline for bid submission.  |
| <b>Bid opening</b>              | 4 | Open the bids in the presence of the <i>bidders'</i> representatives who choose to attend at the time and place stated in the Bid Data. Bids for which an acceptable notice of withdrawal has been submitted will not be opened.  |
|                                 | 5 | Announce at the opening the name of each <i>bidder</i> only. Die unsuccessful bidder may request a debriefing meeting with the Supply Chain Manager on request.   |
| <b>Two-envelope system</b>      | 6 | Where stated in the bid data that a two-envelope system is to be followed, open only the technical proposals in the presence of bidder's representatives and announce the name of each bid.   |
|                                 | 7 | Evaluate the quality of the technical proposals, then advise bidders who remain in contention for the award of the contract. Return unopened financial proposals to bidders whose technical proposals failed to achieve the minimum criteria.   |

<b>Non-disclosure</b>	8	Not disclose to <i>bidders</i> , or to any other person not officially concerned with such processes, information relating to the evaluation and comparison of bids and recommendations for the award of a contract, until after the award of the contract to the successful bidder.
<b>Grounds for rejection</b>	9	Consider rejecting a bid if there is any effort by a <i>bidder</i> to influence the processing of bids or contract award.
<b>Disqualification</b>	10	Instantly disqualify a <i>bidder</i> (and his bid) if it is established that the <i>bidder</i> offered an inducement to any person with a view to influencing the placing of a contract arising from this invitation to bid.
<b>Test for responsiveness</b>	11	Determine before detailed evaluation, whether each bid properly received <ul style="list-style-type: none"> <li>• meets the requirements of these Conditions of Bid,</li> <li>• has been properly signed, and</li> <li>• is responsive to the requirements of the <i>bid documents</i>.</li> </ul>
	12	Judge a <i>responsive bid</i> as one which conforms to all the terms, conditions, and specifications of the <i>bid documents</i> without material deviation or qualification. A material deviation or qualification is one which, in the CCMA's opinion would <ul style="list-style-type: none"> <li>• detrimentally affect the scope, quality, or performance of the works, services or supply identified in the Contract Data,</li> <li>• change the CCMA's or the <i>bidder's</i> risks and responsibilities under the contract, or</li> <li>• affect the competitive position of other <i>bidders</i> presenting responsive bids, if it were to be rectified.</li> </ul>
<b>Non-responsive bids</b>	13	Reject a non-responsive bid, and not allow it to be subsequently made responsive by correction or withdrawal of the non-conforming deviation or reservation.
<b>Arithmetical errors</b>	14	Check responsive bids for arithmetical errors, correcting them as follows: <ul style="list-style-type: none"> <li>• Where there is a discrepancy between the amounts in figures and in words, the amount in words shall govern.</li> </ul>

		<ul style="list-style-type: none"> <li>• If a bill of quantities applies and there is a discrepancy between the rate and the line item total, resulting from multiplying the rate by the quantity, the rate as quoted shall govern. Where there is an obviously gross misplacement of the decimal point in the rate, the line item total as quoted shall govern, and the rate will be corrected.</li> <li>• Where there is an error in the total of the Prices, either as a result of other corrections required by this checking process or in the <i>bidder's</i> addition of prices, the total of the Prices, if any, will be corrected.</li> <li>• The corrected price will be communicated to the bidder. The bidder may withdraw the bid, but may not change the bid price.</li> </ul>
	15	Reject a bid if the <i>bidder</i> does not accept the corrected total of the Prices (if any).
<b>Evaluating the bid</b>	16	Evaluate responsive bids in accordance with the <i>procedure and criteria</i> stated in the Bid Data. The evaluated bid price will be disclosed only to the relevant CCMA bid committee and will not be disclosed to <i>bidders</i> or any other person.
<b>Clarification of a bid</b>	17	Obtain from a <i>bidder</i> clarification of any matter in the bid which may not be clear or could give rise to ambiguity in a contract arising from this bid if the matter were not to be clarified.
<b>Acceptance of bid</b>	18	Notify CCMA's acceptance to the successful <i>bidder</i> before the expiry of the <i>validity period</i> , or agreed additional period. Providing the notice of acceptance does not contain any qualifying statements, it will constitute the formation of a contract between the CCMA and the successful <i>bidder</i> .
<b>Notice to unsuccessful bidders</b>	19	After the successful <i>bidder</i> has acknowledged the CCMA's notice of acceptance, notify other <i>bidders</i> that their bids have not been accepted, following the CCMA's current procedures.
<b>Prepare contract documents</b>	20	<p>Revise the contract documents issued by the CCMA as part of the <i>bid documents</i> to take account of</p> <ul style="list-style-type: none"> <li>• Addenda issued during the bid period,</li> <li>• inclusion of some of the <i>bid returnables</i>, and</li> <li>• other revisions agreed between the CCMA and the successful <i>bidder</i>,</li> </ul>

before the issue of the CCMA's notice of acceptance (of the bid).

- The schedule of deviations attached to the form of offer and acceptance, if any.

<b>Issue final contract</b>	21	Issue the final contract documents to the successful <i>bidder</i> for acceptance within one week of the date of the CCMA's notice of acceptance.
<b>Sign Form of Agreement</b>	22	Arrange for authorised signatories of both parties to complete and sign the original and one copy of the Form of Agreement within two weeks of the date of the CCMA's notice of acceptance of the bid. If either party requires the signatories to initial every page of the contract documents, the signatories for the other party comply with the request.
<b>Complete Adjudicator's Contract</b>	23	Unless alternative arrangements have been agreed, arrange for both parties to complete and sign the Form of Agreement and Contract Data with the selected adjudicator.
<b>Provide copies of the contracts</b>	24	Provide to the successful <i>bidder</i> the number of copies stated in the Bid Data of the signed copy of the contracts within three weeks of the date of the CCMA's acceptance of the bid.

## **ANNEXURE 7: GENERAL CONDITIONS OF CONTRACTS**



### **GOVERNMENT PROCUREMENT GENERAL CONDITIONS OF CONTRACT**



## TABLE OF CLAUSES

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## General Conditions of Contract

1. **Definitions**
  1. The following terms shall be interpreted as indicated:
    - 1.1. "Closing time" means the date and hour specified in the bidding documents for the receipt of bids.
    - 1.2. "Contract" means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
    - 1.3. "Contract price" means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
    - 1.4. "Corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.
    - 1.5. "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
    - 1.6. "Country of origin" means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
    - 1.7. "Day" means calendar day.
    - 1.8. "Delivery" means delivery in compliance of the conditions of the contract or order.
    - 1.9. "Delivery ex stock" means immediate delivery directly from stock actually on hand.
    - 1.10. "Delivery into consignees store or to his site" means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
    - 1.11. "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.
    - 1.12. "Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.

- 1.13. "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.
- 1.14. "GCC" means the General Conditions of Contract.
- 1.15. "Goods" means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.16. "Imported content" means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.
- 1.17. "Local content" means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- 1.18. "Manufacture" means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.19. "Order" means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20. "Project site," where applicable, means the place indicated in bidding documents.
- 1.21. "Purchaser" means the organization purchasing the goods.
- 1.22. "Republic" means the Republic of South Africa.
- 1.23. "SCC" means the Special Conditions of Contract.
- 1.24. "Services" means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.
- 1.25. "Written" or "in writing" means handwritten in ink or any form of electronic or mechanical writing.

## **2. Application**

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

- 2.2. Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.
- 2.3. Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

### **3. General**

- 3.1. Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.
- 3.2. With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from [www.treasury.gov.za](http://www.treasury.gov.za)

### **4. Standards**

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

### **5. Use of contract documents and information; inspection.**

- 5.1. The supplier shall not, without the purchaser's prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 5.2. The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.
- 5.3. Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so required by the purchaser.
- 5.4. The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

### **6. Patent rights**

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

### **7. Performance security**

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

- 7.2. The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.
- 7.3. The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:
  - (a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or
  - (b) a cashier's or certified cheque
- 7.4. The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified in SCC.

## **8. Inspections, tests and analyses**

- 8.1. All pre-bidding testing will be for the account of the bidder.
- 8.2. If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department.
- 8.3. If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4. If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
- 8.5. Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6. Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.
- 8.7. Any contract supplies may on or after delivery be inspected, tested or analysed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies

which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.

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

## **9. Packing**

- 9.1. The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.
- 9.2. The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in SCC, and in any subsequent instructions ordered by the purchaser.

## **10. Delivery and documents**

- 10.1. Delivery of the goods shall be made by the supplier in accordance with the terms specified in the contract. The details of shipping and/or other documents to be furnished by the supplier are specified in SCC.
- 10.2. Documents to be submitted by the supplier are specified in SCC.

## **11. Insurance**

- 11.1. The goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the SCC.

## **12. Transportation**

- 12.1. Should a price other than an all-inclusive delivered price be required, this shall be specified in the SCC.

## **13. Incidental services**

- 13.1. The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:
- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
  - (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;

- (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
  - (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
  - (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.
- 13.2. Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.

#### **14. Spare parts**

- 14.1. As specified in SCC, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:
- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and
  - (b) in the event of termination of production of the spare parts:
    - (i) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
    - (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

#### **15. Warranty**

- 15.1. The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.
- 15.2. This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in SCC.



- 15.3. The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.
- 15.4. Upon receipt of such notice, the supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.
- 15.5. If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

## **16. Payment**

- 16.1. The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.
- 16.2. The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfilment of other obligations stipulated in the contract.
- 16.3. Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.
- 16.4. Payment will be made in Rand unless otherwise stipulated in SCC.

## **17. Prices**

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

## **18. Contract amendments**

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

## **19. Assignment**

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

## **20. Subcontracts**

- 20.1. The supplier shall notify the purchaser in writing of all subcontracts awarded under this 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 cancelling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.

## **22. Penalties**

- 22.1. Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.

## **23. Termination for default**

- 23.1. The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:
  - (a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;

- (b) if the Supplier fails to perform any other obligation(s) under the contract; or
  - (c) if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
- 23.2. In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.
- 23.3. Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.
- 23.4. If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the intended penalty as not objected against and may impose it on the supplier.
- 23.5. Any restriction imposed on any person by the Accounting Officer / Authority will, at the discretion of the Accounting Officer / Authority, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Accounting Officer / Authority actively associated.
- 23.6. If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:
- (i) the name and address of the supplier and / or person restricted by the purchaser;
  - (ii) the date of commencement of the restriction
  - (iii) the period of restriction; and
  - (iv) the reasons for the restriction.

These details will be loaded in the National Treasury's central database of suppliers or persons prohibited from doing business with the public sector.

- 23.7. If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, the court may also rule that such person's name be

endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.

#### **24. Anti-dumping and countervailing duties and rights**

- 24.1. When, after the date of bid, provisional payments are required, or antidumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference shall on demand be paid forthwith by the contractor to the State or the State may deduct such amounts from moneys (if any) which may otherwise be due to the contractor in regard to supplies or services which he delivered or rendered, or is to deliver or render in terms of the contract or any other contract or any other amount which may be due to him

#### **25. Force Majeure**

- 25.1. Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.
- 25.2. If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

#### **26. Termination for insolvency**

- 26.1. The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the purchaser.

## **27. Settlement of Disputes**

- 27.1. If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 27.2. If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.
- 27.3. Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.
- 27.4. Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.
- 27.5. Notwithstanding any reference to mediation and/or court proceedings herein,
  - (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
  - (b) the purchaser shall pay the supplier any monies due the supplier.

## **28. Limitation of liability**

- 28.1. Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6;
  - (a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and
  - (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

## **29. Governing language**

- 29.1. The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.

## **30. Applicable law**

- 30.1. The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.

## **31. Notices**

- 31.1. Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to

the address notified later by him in writing and such posting shall be deemed to be proper service of such notice

- 31.2. The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

### **32. Taxes and duties**

- 32.1. A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
- 32.2. A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- 32.3. No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.

### **33. National Industrial Participation (NIP) Programme**

- 33.1. The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.

### **34. Prohibition of Restrictive practices**

- 34.1. In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).
- 34.2. If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.
- 34.3. If a bidder(s) or contractor(s), has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.

## ANNEXURE 8: POPIA CONSENT FORM



## COMMISSION FOR CONCILIATION, MEDIATION & ARBITRATION

**TO THE CCMA**

**PROTECTION OF PERSONAL INFORMATION ACT, 4 OF 2013**

By signing this form;

- a) I/we hereby grant my/our voluntary consent that my/our personal information may be processed, collected, used and disclosed in compliance with the Protection of Personal Information Act, 4 of 2013.
- b) I/we furthermore agree that my/our personal information may be used for the lawful and reasonable purposes in as far as the CCMA (responsible party) must use my/our information in the performance of its public legal duty.
- c) I/we understand that my/our personal information may be disclosed to a third party in as far as the CCMA must fulfil its public legal duty.
- d) I/we furthermore understand that there are instances in terms of abovementioned Act where my express consent is not necessary to permit the processing of personal information, which may be related to litigation or when the information is publicly available. Further details are available on the CCMA website.

**SIGNED AT** \_\_\_\_\_ **ON THIS** \_\_\_\_\_ **DAY OF** \_\_\_\_\_ **2024**

**COMPANY NAME:** \_\_\_\_\_

**INITIAL AND SURNAME OF REPRESENTATIVE OF THE COMPANY:** \_\_\_\_\_

**SIGNATURE OF REPRESENTATIVE OF THE COMPANY:** \_\_\_\_\_

## ANNEXURE 9: SWORN AFFIDAVIT

### SWORN AFFIDAVIT – B-BBEE EXEMPTED MICRO ENTERPRISE

I, the undersigned,

Full name & Surname	
Identity number	

Hereby declare under oath as follows:

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

Enterprise Name	
Trading Name	
Registration Number	
Enterprise Address	

3. I hereby declare under oath that:

- The enterprise is \_\_\_\_\_% black owned;
- The enterprise is \_\_\_\_\_% black woman owned;
- Based on the management accounts and other information available on the \_\_\_\_\_ financial year, the income did not exceed R10,000,000.00 (ten million rands);
- Please confirm on the table below the B-BBEE level contributor, **by ticking the applicable box.**

100% black owned	<b>Level One</b> (135% B-BBEE procurement recognition)	
More than 51% black	<b>Level Two</b> (125% B-BBEE procurement	



owned	recognition)	
Less than 51% black owned	<b>Level Four</b> (100% B-BBEE procurement recognition)	

4. The entity is an empowering supplier in terms of **the dti** Codes of Good Practice.
5. I know and understand the contents of this affidavit and I have no objection to take the prescribed oath and consider the oath binding on my conscience and on the owners of the enterprise which I represent in this matter.
6. The sworn affidavit will be valid for a period of 12 months from the date signed by commissioner.

Deponent Signature: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Commissioner of Oaths  
Signature & stamp

## SWORN AFFIDAVIT – B-BBEE QUALIFYING SMALL ENTERPRISE - GENERAL

\_\_\_\_\_  
I, the undersigned,

<b>Full name &amp; Surname</b>	
<b>Identity number</b>	

Hereby declare under oath as follows:

1. The contents of this statement are to the best of my knowledge a true reflection of the facts.
2. I am a Member / Director / Owner of the following enterprise and am duly authorised to act on its behalf:

<b>Enterprise Name:</b>	
<b>Trading Name (If Applicable):</b>	
<b>Registration Number:</b>	
<b>Enterprise Physical Address:</b>	
<b>Type of Entity (CC, (Pty) Ltd, Sole Prop etc.):</b>	
<b>Nature of Business:</b>	

<b>Definition of “Black People”</b>	<p>As per the Broad-Based Black Economic Empowerment Act 53 of 2003 as Amended by Act No 46 of 2013 “Black People” is a generic term which means Africans, Coloureds and Indians –</p> <p>(a) who are citizens of the Republic of South Africa by birth or descent; or</p> <p>(b) who became citizens of the Republic of South Africa by naturalisation-</p> <p>i. before 27 April 1994; or</p> <p>ii. on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalization prior to that date;”</p>
<b>Definition of “Black Designated Groups”</b>	<p>“Black Designated Groups means:</p> <p>(a) unemployed black people not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution;</p> <p>(b) Black people who are youth as defined in the National Youth Commission Act of 1996;</p> <p>(c) Black people who are persons with disabilities as defined in the Code of Good Practice on employment of people with disabilities issued under the Employment Equity Act;</p> <p>(d) Black people living in rural and under developed areas;</p> <p>(e) Black military veterans who qualifies to be called a military veteran in terms of the Military Veterans Act 18 of 2011;”</p>

3. I hereby declare under Oath that:

- The Enterprise is \_\_\_\_\_% Black Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- The Enterprise is \_\_\_\_\_% Black Female Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- The Enterprise is \_\_\_\_\_% Black Designated Group Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- Black Designated Group Owned % Breakdown as per the definition stated above:
  - Black Youth % = \_\_\_\_\_%
  - Black Disabled % = \_\_\_\_\_%
  - Black Unemployed % = \_\_\_\_\_%
  - Black People living in Rural areas % = \_\_\_\_\_%

- Black Military Veterans % = \_\_\_\_\_%
- Based on the Financial Statements/Management Accounts and other information available on the latest financial year-end of \_\_\_\_\_, the annual Total Revenue was between R10,000,000.00 (Ten Million Rands) and R50,000,000.00 (Fifty Million Rands),
- Please confirm on the table below the B-BBEE level contributor, **by ticking the applicable box.**

100% Black Owned	<b>Level One</b> (135% B-BBEE procurement recognition level)	
At Least 51% black owned	<b>Level Two</b> (125% B-BBEE procurement recognition level)	

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

Deponent Signature: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Commissioner of Oaths  
Signature & stamp