

## CONSTRUCTION EDUCATION AND TRAINING AUTHORITY

**BID NO:021-2024/2025**

### APPOINTMENT OF A PANEL OF LEGAL SERVICE PROVIDERS

<b>RFP NUMBER:</b>	<b>BID NO:021-2024/2025</b>
<b>DESCRIPTION:</b>	<b>APPOINTMENT OF A PANEL OF LEGAL SERVICE PROVIDERS</b>
<b>PUBLISH DATE:</b>	<b>09 December 2024</b>
<b>CLOSING DATE:</b>	<b>24 January 2025</b>
<b>CLOSING TIME:</b>	<b>11h00 (the closing time as per the clock at CETA Reception where the Tender Box is placed)</b>
<b>VALIDITY PERIOD</b>	<b>120 days from the closing date</b>
<b>PREFERENCE POINT SYSTEM</b>	<b>80/20</b>
<b>COMPULSORY SITE BRIEFING</b>	<b>CETA Head Office at no.</b>  <b>52 14th Road Noordwyk Midrand</b>  <b>Date and Time: 10 January 2025 at 10H00</b>
<b>BID RESPONSES MUST BE HAND DELIVERED TO:</b>	<b>CETA Head Office</b>  <b>52 -54 on 14<sup>th</sup> Road</b>  <b>Noordwyk</b>  <b>Midrand</b>  <b>1687</b>
<b>ATTENTION:</b>	<b>Supply Chain Management</b>
<p><b>NB: Bidders must ensure that they sign the tender register at the CETA Head Office Reception when delivering their bids responses. Bidders who will use Courier companies are to ensure that the Courier company writes the name of the bidding company on the tender register at CETA H/O Reception. Submissions not registered on the tender register will be disqualified.</b></p> <p><b>The closing time is as per the clock displayed at the CETA Head Office Reception; and NO late bids shall be accepted by the CETA.</b></p> <p><b>The CETA reserves the right not to appoint or to cancel this tender at any time as circumstances dictates. It should be noted that the award may not necessarily be to the lowest bidder; and that cost effectiveness does not equal the lowest price quote.</b></p>	

## **COMPULSORY DOCUMENTS – CRITERION 1 – (Main bidder)**

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

1. Proof of registration with the National Treasury Central Supplier Database (CSD).
2. Valid Legal Practitioners' Fidelity Fund Certificate (Company).
3. Letter of good standing with the Legal Practice Council (All allocated legal practitioners).  
Letters of good standing from the relevant Legal Practice Council for the lead Legal Practitioner and three (3) support admitted legal practitioners which must be valid at the date of closing of this tender.
4. Valid Certificate in Labour Dispute Resolution Practice (CLDRP)

*NB: For this bid no subcontracting will be allowed due to the nature of the professional services.*

## **BID CONDITIONS**

1. All bidders are required to register on the National Treasury Central Supplier Database (CSD). The CSD proof of registration will be used by CETA to verify the bidder's tax compliant status at the time of bid award.
2. This tender will only be awarded to bidders who are Tax compliant on National Treasury CSD at the time of award.
3. Bidders who meet all the requirements on criterion 1 (compulsory requirements) will be further evaluated on criterion 2 (functionality). Bidders who are successfully evaluated on criterion 2 will be further evaluated on criterion 3 (Price and Preference Evaluation)

## **FRAUD AND CORRUPTION**

- The Institution will not tolerate fraudulent or corrupt activities, whether internal or external to the Institution, and will vigorously pursue and prosecute any parties, by all legal means available, which engage in such practices or attempt to do so.

- All service providers are to take note of the implications of contravening the Prevention and Combating of Corrupt Activities Act, Act No. 12 of 2004 and any other Acts applicable.
- Stakeholders are encouraged to report any fraudulent, corrupt and/or unethical activities to the CETA via the anonymous CETA Ethics and Fraud Hotline. Disclosures can be reported 24 hours a day, 7 days a week, 365 days a year on any of the following:

Toll-free telephone number: 0800 053 927  
WhatsApp number: 0860 004 004  
Secure email address: [ceta@behonest.co.za](mailto:ceta@behonest.co.za)  
Online and chat: [www.behonest.co.za](http://www.behonest.co.za)

## OTHER REQUIRED DOCUMENTS

### B-BBEE CERTIFICATE

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

1. EMEs:  
**Certified Sworn affidavit** confirming their annual total revenue of R10 million, on or less and level of blackownership or a B-BBEE level verification certificate.
2. QSEs  
**Certified Sworn affidavit** confirming their annual total revenue of between R10 million and R50 million and level of black ownership or B-BBE level verification certificate
3. Bidders other than EMEs and QSEs:  
**Valid B-BBEE** status level verification certificate verified by a SANAS accredited verification agency, or an **certified copy** thereof.
4. Completed and signed:
  - SBD 1
  - SBD 4
  - SBD 6.1
  - SBD 7.2
  - GCCs.

## **SPECIFIC GOALS**

- Bidders must submit proof of documentation required in terms of this Bid to claim points for specific goals.

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

## **BID SUBMISSION**

Bidders are required to submit one (1) hardcopy proposal as included in the bound printed pack; plus a soft or e-copy of all documents in the hard copy in an unlocked USB.

No late bid submissions will be accepted by the CETA.

## **TERMS OF REFERENCE**

### **APPOINTMENT OF A PANEL OF LEGAL SERVICE PROVIDERS**

#### **1. INTRODUCTION**

The Construction Education and Training Authority (CETA) is a Schedule 3A Public Entity established in terms of the Skills Development Act, No.97 of 1998. The CETA exists to provide skills development services by implementing the objectives of the National Skills Development Plan 2030 (NSDP 2030) and to ensure that people obtain the critical or scarce skills that are needed to build the capacity of the construction sector to become economically sustainable and globally competitive. The CETA's mandate is to promote and ensure quality skills provisioning, education and training in the construction sector.

#### **2. PURPOSE**

The CETA calls for bids from credible, experienced, and reputable professional legal firms (admitted and enrolled as such in terms of Section 24 and 30 of the Legal Practice Act, 2014)

to be appointed to the CETA Panel of Legal service providers to handle (amongst others) matters relating to:

- Employment law & Labour relations matters,
- Legal advisory on CETA's legal administrative matters,
- Contract management,
- Claims and litigations,
- Corporate communication, and
- Any relevant public sector legislative matter.

Section 51(1)(a)(i) of the Public Finance Management Act, 1999 (PFMA), as amended, requires an “An accounting authority for a public entity must ensure that public entity has and maintains effective, efficient and transparent systems of financial and risk management and internal control”. In line with the requirements of the PFMA and Treasury Regulations, the CETA seeks to appoint a panel of suitably qualified and experienced service providers to be on its Panel of Legal Practitioners / Providers for a

period of five (5) years. The Panel of Legal Practitioners will ensure that the CETA has easy access, on an "as and when required" basis, to experienced law firms that will protect the interests of the CETA and assist the CETA in executing its mandate in an efficient and effective manner.

The CETA seeks to appoint a maximum of 10 legal service providers to its Legal Panel. The successful appointees must have a demonstrable track record in serving organisations and handling matters of a highly sensitive nature and in complex and regulated business environment.

### **3. SCOPE OF WORK**

The successful legal practices will, as and when required by the CETA render legal services on a wide range of areas, including but not limited the listed below:

- 3.1 Handling litigations and claims on behalf of the CETA in the Magistrate Court, High Court, Labour Court and CCMA, and any court of law proceedings (including allocation of relevant legal representatives where applicable such as briefing of legal councils and advocates).
- 3.2 Provide comprehensive legal advisory and administrative support to the CETA Legal unit and its personnel.
- 3.3 Provide Corporate, Commercial and Regulatory Compliance legal advice.
- 3.4 Provide labour related legal support and advisory, including handling labour related matters as per CETA instructions.
- 3.5 Provide legal opinion on certain CETA processes' compliance with relevant laws, regulations, Acts, and government guidelines and based on jurisprudence.
- 3.6 Handle the CETA's general legal issues as per instructions given for such; including liaising with relevant institutions on behalf of the CETA where required to do so for matters assigned.
- 3.7 Debt Collection/Debt Recovery.
- 3.8 Conduct Legal Due Diligence, where instructed by the CETA.
- 3.9 Review and draft policies and/or legislation and provide Training on various pieces of legislation and any other related legal issues.
- 3.10 Assist the CETA with some of its contract management functions and administration, where required.
- 3.11 Assist with corporate communication that may need legal inputs (including media communication), where relevant.
- 3.12 Advise the Board on matters of corporate governance and changes to legislation.
- 3.13 Assist the CETA's audit process, including provision of legal confirmations and any other

reporting as and when required.

- 3.14 Provide legal opinions and advise as and when requested by the CETA.
- 3.15 Any other field of Law that is relevant to the working environment of the CETA.
- 3.16 Any other legal related matter as may be required by CETA from time to time.

Bidders to indicate which categories of the Panel they are bidding towards, and points will be allocated according to the number of categories offered by bidders.

- Indicate legal service area of specialization in categories below:

CATEGORIES	Yes/ No
Provision of advice / opinions on specific legal issues	
Review and draft policies and/or legislation	
High Court & Magistrate Court, Labour Court Litigation	
Procurement Law, Administrative Law and Constitutional Law	
Commercial Law, Contract Law, Intellectual Property Law, and Construction Law	
Conveyancing and Property Law	
Corporate communication that may need legal inputs (including media communication),	
Advising the Board on matters of corporate governance and changes to legislation	
Dealing with objections to awards made in terms of the Supply Chain Management Procedures	
The drafting and vetting of specific contracts	
Employment Law and Labour Relations Matters including CCMA representation	
General Legal Matters	
Debt Collection/Debt Recovery	

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

## 1. SPECIFIC DELIVERABLES EXPECTED

The appointed firms will be responsible for the deliverables, including:

- 1.1 Project Implementation Plan and Project charters.
- 1.2 Preparation and submission of regular progress reports to the CETA manager designated.
- 1.3 Skills transfer plan as part of contractual imperatives.
- 1.4 Submission of monthly reports to CETA for the progress made to date on pending and ongoing matters.

- 1.5 Submission of monthly invoices and statements for the account.
- 1.6 Submission of a final LEGAL report to the CEO and the Accounting Authority indicating pre-status, milestones achieved and future recommendations, if any.
- 1.7 Submission of the Project Close-out report and hand-over certificate confirming legal firms has successfully discharged responsibilities as per instructions given by CETA.

## **2. TEAM REQUIREMENTS AND CAPACITY**

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

## **3. OTHER REQUIREMENTS**

- 3.1 Interested parties must submit estimations based on hourly rates. A panel will be appointed to assist in providing effective and competent legal services as and when instructed by the CETA.
- 3.2 Appointment to the panel does not in any way guarantee that a legal firm will receive instructions and/or that it is due a portion of any instructions.
- 3.3 The panel services will be allocated on rotational basis and at the discretion of the CETA.
- 3.4 The rates quoted should not be above the DPSA rates for the 2021 financial year per each team member and levels.



- 3.5 Falsified documents will result in immediate disqualification and reporting of a bidder engaging on such relevant authorities for action.
- 3.6 Due diligence on recommended bidders will be performed for the recommended bidder/s.
- 3.7 To support the evaluation process, bidders are required to provide the following documents:
- 3.8 Company profile
- 3.9 A detailed list of the proposed team to support the CETA

Name and Surname	Position	Role/Responsibilities	Legal Practitioner (Yes/No)	Qualifications	Experience
		Directors/Partner			
		Associate Partner			
		Senior Associate			
		Associate/Professional Assistant			
		Junior Associate			
		Candidate Attorney			
		Other			

**NB: None submission of letter of good standing with legal practice council for each legal practitioners will result in a disqualification.**

- 3.9.1 A detailed list of government and public entity experience

Project	Year	Client's name	Contact person and telephone numbers


## 4. PROJECT DURATION

The CETA Legal Panel services are required for a duration of a period not exceeding five (5) years from the official date of appointment.

### PRICING SCHEDULE

The CETA reserves the right to negotiate with the preferred bidders identified in the evaluation process, regarding any terms and conditions, including rationalisation of the fees to ensure cost containment measures in terms of the National Treasury Guidelines prior to awarding the bid

The tariff structure / fee structure per hour (including VAT): Senior Admitted Legal Practitioner (Attorney) (10 years post admission and above) Junior Admitted Legal Practitioner (Attorney) (1-9 years post admission).

No	Description	QTY	Rate per hour(Exc. VAT)	Total rate perhour (Inc. VAT)
1.	Directors/Partner	Per individual		
2.	Associate Partner	Per individual		
3.	Senior Associate	Per individual		
4.	Associate/ Professional Assistant	Per individual		
5.	Junior Associate	Per individual		
6.	Candidate Attorney	Per individual		
	<b>Total Year 1 (incl. VAT)</b>			
	<b>Total rate per hour for the duration of the project (Inc. VAT)</b>			

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

NB: The rates quoted should not be above the DPSA rates for the 2022 financial year per each team member and levels.

NB: The total summed up rate will be used for evaluation purposes and will not result in total contract amount. NB: Travel disbursements to be paid in line with CETA travel policy and subject to pre-approval.

## **DISBURSEMENTS**

NB: All disbursements are to be charged on an actual cost basis with no mark-ups. The appointed legal practitioner should charge in terms of the fee structure as outlined below. The rate shall be adjusted annually as the prevailing CPI at the anniversary of the contract.

Item	Class / Rate
Flights	Economy
Car hire	Suitable class as per CETA S&T Policies
Travel rate per Kilometre	As per CETA S&T Policies
Copies	Not exceeding R6,50 per page
Telephone and E-mails	Per applicable hourly rate

## **5. SPECIAL TERMS AND CONDITIONS**

5.1 The following are General Special Terms and Conditions applicable to this bid:

- 5.1.1 The appointment of a successful bidder to the CETA panel of Legal Practitioners will be for a fixed period of 5 years, which shall be subject to performance review by the CETA as set out in the Service Level Agreement (SLA) to be concluded between the CETA and the successful bidders.
- 5.1.2 Each successful bidder shall be required to sign an SLA after being appointed.
- 5.1.3 If the CETA and the successful bidder do not reach consensus on the SLA, the said firm will

cease to be on the Panel of firms of Legal Practitioners with immediate effect (“Suspensive Condition”).

- 5.1.4 The successful bidder will be instructed to provide services as and when required.
- 5.1.5 While the CETA will use reasonable endeavours to achieve a fair allocation of work to the Legal Practitioners, the successful bidder acknowledges that their appointment to the Panel does not guarantee allocation of work.
- 5.1.6 However, a rotation system based on satisfactory performance on previous assignments and achieved points shall be used to ensure a fair distribution of the work amongst panelists.
- 5.1.7 Initially, bidders will be allocated work on a rotational basis or through quotation basis. The register will be maintained to ensure fair distribution of work during the five years of the contract. A rotation system will only be used to allocate work based on their chronological order of award in the database; unless certain sensitivities exists regarding the matter of instruction; where CETA may use its discretion as to which legal practitioner to instruct.
- 5.1.8 When appointing members from the panel to act, the first choice will be the one operating in the same city/province as the company to be placed into litigation. On completion of the issued work, bidder will be added at the bottom of the list for future allocation.
- 5.1.9 Upon the issuing of an instruction by the CETA, the legal practitioner will respond within the time set out in the instruction with a proposal outlining their proposed approach and methodology to the legal matter, the resources they will dedicate to it as well as their total estimated fee. The CETA may, in its sole discretion, instruct a matter or any part thereof to more than one Legal Practitioner.
- 5.1.10 Legal Practice assigned any work may not cede, assign or sub-contract any part thereof to any third party unless with the prior consent of the CETA.
- 5.1.11 Service delivery levels and quality of work will be a critical factor for further and/or continuation of allocation work to the firm of legal practitioners.
- 5.1.12 The successful Legal Practitioner shall report directly to the Senior Manager: Legal and Compliance or any person delegated by the CETA CEO in writing with regard to finalising court papers, further instructions, status update reports, all administration pertaining to any particular instruction and any matters arising from this RFP.
- 5.1.13 The CETA shall be entitled in its sole discretion, to remove a successful Legal Practice from the panel before the expiry of the 5 year’s period by written notice for non-compliance with

any obligation contained in this RFP, applicable laws and/or breach of the SLA and recall all the files in the legal practice's possession.

- 5.1.14 Notwithstanding the establishment of a panel of Legal Practitioners, the CETA reserves the right to procure the provision of legal services from any Legal Practice outside the Panel in accordance with applicable laws.

## **5.2 Training, development and skills transfer to the CETA**

- 5.2.1 The successful firm of Legal Practitioner undertakes to provide the CETA with continuous Legal Education and Training, on reasonable notice from the CETA, which shall include but not be limited to the provision of seminars, lectures, newsletters, workshops and regular legislative, case law and other updates. The Legal Practice shall provide such continuous legal education and training at no additional cost to the CETA.
- 5.2.2 The successful Legal Practitioner undertakes to contribute towards skills development and skills transfer at no additional cost to the CETA.
- 5.2.3 Such skills development and transfer programme may take the form of, but is not limited to:
- The absorption of CETA legal interns and other staff for article of clerkship to enable them towards qualification for admission as Legal Practitioners.
  - Involving or working with CETA legal staff to enable them to gain exposure, skills and experience in certain fields of law or transactions.
  - Secondment of the CETA's legal staff to work on certain matters together with appropriately qualified and experienced staff of the Legal Practice.

## **6. Terms and conditions of Request for Proposals (RFP)**

- 6.1 This document may contain confidential information that is the property of the CETA.
- 6.2 No part of the contents may be used, copied, disclosed, or conveyed in whole or in part to any party in any manner whatsoever other than for preparing a proposal in response to this RFP without prior written permission from the CETA.
- 6.3 All copyright and intellectual property herein vests with the CETA.
- 6.4 Late and incomplete submissions will not be accepted.
- 6.5 No services must be rendered, or goods delivered before an official CETA Purchase Order form has been received.

6.6 This RFP will be evaluated in terms of the 80/20 preference point system.

## **7. General rules and instructions**

### **7.1 News and press releases**

7.1.1 Bidders or their agents shall not make any news releases concerning this RFP or the awarding of the same or any resulting agreement(s) without the consent of, and then only in co-ordination with, the CETA.

### **7.2 Precedence of documents**

7.2.1 This RFP consists of a number of sections. Where there is a contradiction in terms between the clauses, phrases, words, stipulations, or terms and herein referred to generally as stipulations in this RFP and the stipulations in any other document attached hereto, or the RFP submitted hereto, the relevant stipulations in this RFP shall take precedence.

7.2.2 Where this RFP is silent on any matter, the relevant stipulations addressing such matter, and which appearing section 217 of the Constitution of the republic shall take precedence. Bidders shall refrain from incorporating any additional stipulations in its proposal submitted in terms hereof other than in the form of a clearly marked recommendation that the CETA may in its sole discretion elect to import or to ignore. Any such inclusion shall not be used for any purpose of interpretation unless it has been so imported or acknowledged by the CETA. It remains the exclusive domain and election of the CETA as to which of these stipulations are applicable and to what extent. Bidders are hereby acknowledging that the decision of the CETA in this regard is final and binding. The onus to enquire and obtain clarity in this regard rests with the Bidder(s). The Bidder(s) shall take care to restrict its enquiries in this regard to the most reasonable interpretation required to ensure the necessary consensus.

### **7.3 Preferential procurement reform**

7.3.1 The CETA supports B-BBEE as an essential ingredient of its business.

7.3.2 In accordance with government policy, the CETA insists that the private sector demonstrates its commitment and track record to B-BBEE in the areas of ownership (shareholding), skills transfer, employment equity and procurement practices (SMME Development) etc.

### **7.4 Language**

7.4.1 Bids shall be submitted in English.

## 7.5 Gender

7.5.1 Any word implying any gender shall be interpreted to imply all other genders.

## 7.6 Occupational Injuries and Diseases Act 13 of 1993

7.6.1 The Bidder warrants that all its employees (including the employees of any subcontractor that may be appointed) are covered in terms of the Compensation for Occupational Injuries and Diseases Act 13 of 1993 and that the cover shall remain in force for the duration of the adjudication of this RFP and / or subsequent agreement. the CETA reserves the right to request the Bidder to submit documentary proof of the Bidder's registration and "good standing" with the Compensation Fund, or similar proof acceptable to the CETA.

## 7.7 Processing of the Bidder's Personal Information

7.7.1 All Personal Information of the Bidder, its employs, representatives, associates and sub-contractors ("Bidder Personal Information") required under this RFP is collected and processed for the purpose of assessing the content of its tender proposal and awarding the bid. The Bidder is advised that Bidder Personal Information may be passed on to third parties to whom the CETA is compelled by law to provide such information. For example, where appropriate, the CETA is compelled to submit information to National Treasury's Database of Restricted Suppliers.

7.7.2 All Personal Information collected will be processed in accordance with Protection of Personal Information Act, 2013 (POPIA) and with the CETA's Data Privacy Policy.

7.7.3 The following persons will have access to the Personal Information collected:

- The CETA personnel participating in procurement/award procedures; and the auditors.

## 7.8 Confidentiality

7.8.1 Bids submitted for this RFP will not be revealed to any other bidders and will be treated as contractually binding;

7.8.2 The CETA reserves all the rights afforded to it by the POPIA in the processing of any of its personal information as contained in Bid Proposals.

7.8.3 The Bidder acknowledges that it will obtain and have access to personal information of the



CETA and agrees that it shall only process the information disclosed by the CETA in terms of this bid award and only for the purposes as detailed in this RFP and in accordance with any applicable law.

- 7.8.4 The bidder shall notify the CETA in writing of any unauthorised access to personal information and the information of a third party, through cybercrimes or suspected cybercrimes, in its knowledge and report such crimes or suspected crimes to the relevant authorities in accordance with applicable laws, after becoming aware of such.

## **7.9 Supplier Performance**

- 7.9.1 The CETA conducts regular performance reviews in accordance with the requirements for the classification of the contract and or stakeholder by making use of supplier evaluation forms. The evaluation is conducted against the deliverables or scope of the contract with a minimum of an annual review done for contracts longer than a year and a review at completion of contract for those contracts less than a year.
- 7.9.2 Ad-hoc performance reviews shall be conducted where non-performance is identified outside the review period.
- 7.9.3 Non-performance will be addressed with at least a formal letter advising specific nonperforming areas and stating remedial action/s required within specific time frames. Nonadherence to remedial actions shall lead to escalating performance management actions.
- 7.9.4 Any party to this agreement may request to participate in a joint performance review where appropriate and seek continuous improvement opportunities.
- 7.9.5 Bid Formats Bid submissions must be submitted in a PDF format that is protected from any modifications, deletions, or additions. submit One hard copy and one Universal Serial Bus (USB) will be accepted and bidders are encouraged to follow this method of bid submission.

## **8. EVALUATION CRITERIA**

### **Criterion 1 – Compulsory Requirements**

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

## Criterion 2 – Functionality

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

Reference letters of completed projects	Total – 15 points
<p><b>Bidders must have specific experience and submit 10 recent (not older than 5 years) references in respect of similar work undertaken</b> (the references must be in the form of written proof(s) on the referees' letterheads. The references must include the relevant contact person, nature of service, contract amount, and commencement date, duration of contract, telephone number, and email addresses).</p>	
<p>Bidders must attach recent reference letters (a minimum of 10 letters per indicated area), not older than 5 years, confirming experience in area(s) of which they are bidding for.</p> <p>Reference letters for the provision of legal services</p> <ul style="list-style-type: none"> <li>• Submission of more than 10 letters -15 points</li> <li>• Submission of 8 to 10 letters - 10 points</li> <li>• Submission of 4 to 7 letters - 5 points</li> <li>• Submission of 3 letters - 3 points</li> <li>• Submission of less than letters - 0 points</li> </ul>	
Methodology and Approach	Total – 10 points

Demonstration of the proposed system and content of the submission to address the identified needs of the CETA as per scope requirements.

The bidders must submit a detailed approach and methodology describing:

- How the bidder will render the legal services and the types of cases handled by the bidders in their area of practice,
- The prospective bidder must provide evidence to demonstrate how it prepares a litigation strategy or what methodology it uses, that may assist the CETA in dealing with legal issues and handling its court cases in a cost-effective, pragmatic and efficient manner.

### **Scoring Matrix**

- **Excellent** - Proposal meet 'Good' rating and provides value add, cost saving, innovation and efficiency and/or has gone beyond the call of the scope of work requirement  
***Bidders are required to cover at least 100% of the below to earn this rating:***
  - *Understanding of skills related legislation, policies, and regulation applicable to the SETAs*
  - *Understanding of project contracts and their meaning in the context of SETAs and their mandate*
  - *Ability to handle all aspects of litigation*
  - *Skills transfer to the CETA legal department*
  - *Reporting (monthly and ad hoc reports, incident specific report, close-out reports)*
  - *Demonstration of ability to effectively manage instructions from CETA to ensure timely, professional and quality service is provided to the CETA*

- **Good** - Proposal addresses majority of the scope of work requirements, project plan, proposals fit the scope of work and takes into account all critical activities necessary to meet requirement and there are adequate details provide.  
**Bidders are required to cover at least 70% of the below to earn this rating:**
  - *Understanding of skills related legislation, policies, and regulation applicable to the SETAs*
  - *Understanding of project contracts and their meaning in the context of SETAs and their mandate*
  - *Ability to handle all aspects of litigation*
  - *Skills transfer to the CETA legal department*
  - *Reporting (monthly and ad hoc reports, incident specific report, close-out reports)*
  - *Demonstration of ability to effectively manage instructions from CETA to ensure timely, professional and quality service is provided to the CETA*
- **Poor** - Proposal unlikely to satisfy scope. Bidder does not deal with the critical aspects of the scope requirements, failed to demonstrate understanding of work and/or methodology and approach provided is consistent with the scope of work required **Bidders who only cover less than 70% of the below to earn this rating:**
  - *Understanding of skills related legislation, policies, and regulation applicable to the SETAs*
  - *Understanding of project contracts and their meaning in the context of SETAs and their mandate*
  - *Ability to handle all aspects of litigation*
  - *Skills transfer to the CETA legal department*
  - *Reporting (monthly and ad hoc reports, incident specific report, close-out reports)*
  - *Demonstration of ability to effectively manage instructions from CETA to ensure timely, professional and quality service is provided to the CETA*

Points allocation - Max 10 points

- Excellent – 10 points

<ul style="list-style-type: none"> <li>• Good – 5 points</li> <li>• Poor – 0 points</li> </ul>	
<b>Company Experience and demonstration of proven capacity</b>	<b>Total – 10 points</b>
Company experience in dealing with public entities cases - <b>Max 10 points</b> <ul style="list-style-type: none"> <li>• At least 5 or more cases – 10 points</li> <li>• At least 2 to 4 cases - 5 points</li> <li>• Less than 2 case - 0 points</li> </ul>	
<b>Ability to provide for the different areas of specialization</b>	<b>Total – 10</b>

	points
Company's ability to offer different areas of specialization as per scope - <b>Max 10 points</b> <ul style="list-style-type: none"><li>• Offers at least 5 areas of specialization – 10 points</li><li>• Offers at least 3 to 4 areas of specialization – 5 points</li></ul>	

Qualification and Experience of Team	Total – 55 points
<p>Bidders are expected to provide a proposed team for this project clearly indicating each team members role, qualification, and experience. As a minimum to earn points, the team members below should be included on the proposed team.</p>	
<p>Concise CVs with certified copies of qualification, and proof of registration of each team members with relevant Legal Practice Council and valid Admission certificates. Attorneys must submit proof of admission with the high court and registration with the LPC for areas needing such accreditation. • Letter of good standing with LPC and, concise CVs / Biography with at least three (3) contactable references.</p> <p><b>PROPOSED CANDIDATE'S QUALIFICATIONS</b></p> <p>Bidders are required to provide certified copies of qualifications and certificates of team members to be allocated points.</p> <p><b><u>Director/Partner/Associate Partner</u></b></p> <ul style="list-style-type: none"> <li>• Qualification at a minimum – Law Degree ( LLB) / NQF 8 – <b>5 points</b></li> </ul> <p><b><u>Associate/ Professional Assistant</u></b></p> <ul style="list-style-type: none"> <li>• Completed law degree (LLB) – <b>5 points</b></li> <li>• Certificate of Admission as a legal practitioner – <b>5 points</b></li> </ul> <p><b><u>Junior Associate</u></b></p> <ul style="list-style-type: none"> <li>• Completed law degree (LLB) – <b>5 points</b></li> <li>• Certificate of Admission as a legal practitioner – <b>5 points</b></li> </ul>	<p><b>Total 30 points</b></p>

<p><b>PROPOSED CANDIDATE'S EXPERIENCE</b></p> <p>Bidders are required to provide a detailed CV and or details of the proposed team experience applicable to this project.</p> <p><b><u>Director/Partner/Associate Partner</u></b></p> <ul style="list-style-type: none"> <li>• 10 years or more legal service experience – <b>10 points</b></li> <li>• 5 years to 9 years legal service experience – <b>8 points</b></li> <li>• 2 years to 4 years legal service experience – <b>5 points</b></li> <li>• Less than 2 years legal service experience – <b>0 point</b></li> </ul> <p><b><u>Associate/ Professional Assistant</u></b></p> <ul style="list-style-type: none"> <li>• 5 years or more legal service experience – <b>5 points</b></li> <li>• 2 years to 4 legal service experience – <b>3 points</b></li> <li>• Less than 2 legal service experience – <b>0 point</b></li> </ul> <p><b><u>Junior Associate</u></b></p> <ul style="list-style-type: none"> <li>• Post articles more than 2 years legal service experience – <b>5 points</b></li> <li>• Post articles 0 to 2 years legal service experience – <b>3 points</b></li> </ul> <p><b><u>Candidate Attorney</u></b></p> <ul style="list-style-type: none"> <li>• Completed articles – <b>5 points</b></li> </ul>	<p><b>Total 25 points</b></p>
--	-------------------------------



<ul style="list-style-type: none"> <li>• Non-completed articles – <b>3 points</b></li> </ul> <p><b>TOTAL</b></p>	<p><b>TOTAL points</b></p>
--	----------------------------

## Criterion 3 – Price and Preference

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

### SPECIFIC PREFERENTIAL GOALS FOR THIS BID WILL AS FOLLOWS

Preference Specific goals for this bid and points claimed are indicated per the table below:

The specific goals allocated points	Criteria	Number of points allocated (80/20 system)	Number of points claimed (80/20 system) (To be completed by the tenderer)
B-BBEE contribution level score of the bidder	B-BBEE Level 1	10	
	B-BBEE Level 2	8	
	B-BBEE Level 3	6	
	B-BBEE Level 4	4	
	B-BBEE Level 5-6	2	
	B-BBEE Level 7-8	1	
	Non-compliant contributor	0	
	100% - 51% Women Ownership	5	
	51% - 35% Women Ownership	3	

CETA transformation strategic position to empower designated groups in line with the Transformation Policy	35% - 20% Women Ownership	1	
	100% - 51% Youth Ownership	5	
	51% - 35% Youth Ownership	3	
	35% - 20% Youth Ownership	1	

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

**BID NO: 021-2024/2025 terms of reference were approved as follows:**

**Name:..... Signature:..... Date:.....**

**BSC Chairperson**

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

**Department: Supply Chain Management Unit**

**Contact Person: Dr. M Sifunda**

**Tel: 011 265 5900/5942**

**E-mail: [scmtenders@ceta.co.za](mailto:scmtenders@ceta.co.za)**

**ANY ENQUIRIES REGARDING TECHNICAL INFORMATION MAY BE DIRECTED TO:**

**E-mail address: [NqobileT@ceta.co.za](mailto:NqobileT@ceta.co.za) and [cc scmtenders@ceta.co.za](mailto:cc scmtenders@ceta.co.za)**

Below is the address of office to be delivered at:

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

**PART A  
INVITATION TO BID**

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (CETA)</b>					
BID NUMBER:	<b>BID NO:021-2024/2025</b>	CLOSING DATE:	<b>24 January 2025</b>	CLOSING TIME:	<b>11H00</b>
DESCRIPTION	<b>APPOINTMENT OF A PANEL OF LEGAL SERVICE PROVIDERS</b>				
<b>THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).</b>					
<b>BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)</b>					
<b>CETA HEAD OFFICE</b>					
<b>CETA CAMPUS</b>					
<b>52 ON 14<sup>TH</sup> ROAD</b>					
<b>NOORDWYK, MIDRAND, 1687</b>					
<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					
		TCS PIN:		OR	CSD No:
		<input type="checkbox"/>		<input type="checkbox"/>	
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]	<input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT <input type="checkbox"/> Yes <input type="checkbox"/> No		
IF YES, WHO WAS THE CERTIFICATE ISSUED BY?					
AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA) AND NAME THE APPLICABLE IN THE TICK BOX	<input type="checkbox"/>	AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA)			
	<input type="checkbox"/>	A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS)			
	<input type="checkbox"/>	A REGISTERED AUDITOR			
		NAME:			
<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 <b>IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No  [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR <b>THE GOODS/ SERVICES/ WORKS OFFERED?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No  [IF YES ANSWER PART B:3 BELOW ]
<b>SIGNATURE OF BIDDER</b>	.....	<b>DATE</b>	
<b>CAPACITY UNDER WHICH THIS BID IS SIGNED (Attach proof of authority to sign this bid; e.g. resolution of directors, etc.)</b>			
<b>TOTAL NUMBER OF ITEMS OFFERED</b>		<b>TOTAL BID PRICE (ALL INCLUSIVE)</b>	
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:</b>		<b>TECHNICAL INFORMATION MAY BE DIRECTED TO:</b>	
DEPARTMENT/ PUBLIC ENTITY	CETA	CONTACT PERSON	Nokwanda Dlamini
CONTACT PERSON	Dr. Sibusiso Sifunda	TELEPHONE NUMBER	011 265 5900
TELEPHONE NUMBER	011 256 5900/5942	FACSIMILE NUMBER	-
FACSIMILE NUMBER	-	E-MAIL ADDRESS	<a href="mailto:Nokwandad@ceta.co.za">Nokwandad@ceta.co.za</a>
E-MAIL ADDRESS	<a href="mailto:scmtenders@ceta.co.za">scmtenders@ceta.co.za</a>		

## 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. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED– (NOT TO BE RE-TYPED) OR ONLINE
1.3. THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD 7)
<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 VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.
2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE <a href="http://WWW.SARS.GOV.ZA">WWW.SARS.GOV.ZA</a> .
2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS TOGETHER WITH THE BID.
2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE PROOF OF TCS / PIN / CSD NUMBER.
2.6 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.

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

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

## BIDDER'S DISCLOSURE

**1. PURPOSE OF THE FORM**

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

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

**2. Bidder's declaration**

- 2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling 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:

.....  
 .....

- 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**

---

<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.

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

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

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

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of bidder

<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.

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

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

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

### 1. GENERAL CONDITIONS

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

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

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

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

1.2 Points for this bid shall be awarded for:

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

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

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

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

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

## 2. DEFINITIONS

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

## 3. POINTS AWARDED FOR PRICE

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

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

$$\begin{array}{ccc} \mathbf{80/20} & \mathbf{or} & \mathbf{90/10} \\ P_s = 80 \left[ 1 - \frac{P_t - P_{\min}}{P_t - P_{\min}} \right] & \text{or} & P_s = 90 \left[ 1 - \frac{P_t - P_{\min}}{P_t - P_{\min}} \right] \end{array}$$

$$\left( \frac{P_{\min}}{P_t} \right)^{P_s}$$

Where

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

$P_t$  = Price of bid under consideration

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

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

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

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

## BID DECLARATION

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

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

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

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

## SUB-CONTRACTING

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

(*Tick applicable box*)

YES		NO	
-----	--	----	--

If yes, indicate:

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

(*Tick applicable box*)

YES		NO	

Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations, 2012

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

## 5. DECLARATION WITH REGARD TO COMPANY/FIRM

5.1 Name of company/firm:.....

5.2 VAT registration number:.....

5.3 Company registration number:.....

5.4 TYPE OF COMPANY/ FIRM

- Y Partnership/Joint Venture / Consortium
- Y One person business/sole propriety
- Y Close corporation

Y      Company  
Y      (Pty) Limited  
[TICK APPLICABLE BOX]

## 5.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

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

## 5.6 COMPANY CLASSIFICATION

5.6.1      Manufacturer

5.6.2      Supplier

5.6.3      Professional service provider

5.6.4      Other service providers, e.g. transporter, etc.

[TICK APPLICABLE BOX]

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

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

- i)      The information furnished is true and correct;
- ii)     The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii)    In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv)     If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –

- (a)     disqualify the person from the bidding process;
- (b)     recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
- (c)     cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
- (d)     recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
- (e)     forward the matter for criminal prosecution.

WITNESSES

1. ....

2. ....

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

DATE: .....

ADDRESS .....

.....

.....

## CONTRACT FORM - RENDERING OF SERVICES

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

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

1. I hereby undertake to supply all or any of the goods and/or works described in the attached bidding documents to CETA in accordance with the requirements and specifications stipulated in bid number..... at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the purchaser during the validity period indicated and calculated from the closing time of bid.
2. The following documents shall be deemed to form and be read and construed as part of this agreement:
  - (i) Bidding documents, viz
    - Invitation to bid;
    - Tax clearance certificate;
    - Pricing schedule(s);
    - Technical Specification(s);
    - Declaration of interest;
    - Declaration of bidder's past SCM practices;
    - Certificate of Independent Bid Determination
    - Special Conditions of Contract;
  - (ii) General Conditions of Contract; and
  - (iii) Other (specify)
3. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the goods and/or works specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfilment of this contract.
5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
6. I confirm that I am duly authorised to sign this contract.

NAME (PRINT) .....

CAPACITY .....

SIGNATURE .....

NAME OF FIRM .....

### WITNESSES

1 .....

2. ....

DATE: .....

.....



**CONTRACT FORM - RENDERING OF SERVICES**

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

I..... in my capacity as.....

accept your bid under reference number .....dated..... for the rendering of services

indicated hereunder and/or further specified in the annexure(s).

An official order indicating service delivery instructions is forthcoming.

I undertake to make payment for the services rendered in accordance with the terms and conditions of the contract, within 30 (thirty) days after receipt of an invoice.

DESCRIPTION OF SERVICE	PRICE (ALL APPLICABLE TAXES INCLUDED)	COMPLETION DATE

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

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

NAME (PRINT) .....

SIGNATURE .....

OFFICIAL STAMP

--

**WITNESSES**

1 .....

2 .....

DATE: .....

## GOVERNMENT PROCUREMENT GENERAL CONDITIONS OF CONTRACT July 2010

### NOTES

The purpose of this document is to:

- (i) Draw special attention to certain general conditions applicable to government bids, contracts and orders; and

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

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

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

### TABLE OF CLAUSES

1. Definitions
2. Application
3. General
4. Standards
5. Use of contract documents and information; inspection
6. Patent rights
7. Performance security
8. Inspections, tests and analysis
9. Packing
10. Delivery and documents
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## General Conditions of Contract

### 1. Definitions

1. The following terms shall be interpreted as indicated:
  - 1.1 "Closing time" means the date and hour specified in the bidding documents for the receipt of bids.
  - 1.2 "Contract" means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
  - 1.3 "Contract price" means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
  - 1.4 "Corrupt practice" means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.
  - 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its

products internationally.

- 1.6 “Country of origin” means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
- 1.7 “Day” means calendar day.
- 1.8 “Delivery” means delivery in compliance of the conditions of the contract or order.
- 1.9 “Delivery ex stock” means immediate delivery directly from stock actually on hand.
- 1.10 “Delivery into consignees store or to his site” means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
- 1.11 “Dumping” occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.
- 1.12 “Force majeure” means an event beyond the control of the supplier and not involving the supplier’s fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- 1.13 “Fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.
- 1.14 “GCC” means the General Conditions of Contract.
- 1.15 “Goods” means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.16 “Imported content” means that portion of the bidding price represented by

the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.

- 1.17 "Local content" means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- 1.18 "Manufacture" means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.19 "Order" means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20 "Project site," where applicable, means the place indicated in bidding documents.
- 1.21 "Purchaser" means the organization purchasing the goods.
- 1.22 "Republic" means the Republic of South Africa.
- 1.23 "SCC" means the Special Conditions of Contract.
- 1.24 "Services" means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.
- 1.25 "Written" or "in writing" means handwritten in ink or any form of electronic or mechanical writing.

## **2. Application**

- 2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
- 2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.
- 2.3 Where such special conditions of contract are in conflict with these general

conditions, the special conditions shall apply.

### **3. General**

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

### **4. Standards**

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

### **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 analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of



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

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

## **9. Packing**

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

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

## **10. Delivery and documents**

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

10.2 Documents to be submitted by the supplier are specified in SCC.

## **11. Insurance**

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

## **12. Transportation**

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

## **13. Incidental Services**

13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:

- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;

- (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
- (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
- (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
- (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.

13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.

## 14. Spare parts

14.1 As specified in SCC, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:

- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and
- (b) in the event of termination of production of the spare parts:
  - (i) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
  - (ii) Following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

## 15. Warranty

15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.

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

otherwise in SCC.

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

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

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

## **16. Payment**

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

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

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

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

## **17. Prices**

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

## **18. Contract Amendments**

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

## **19. Assignment**

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

## **20. Subcontracts**

20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.

## **21. Delays in the supplier's performance**

21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.

- 21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.
- 21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.
- 21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.
- 21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.
- 21.6 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without canceling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.

## **22. Penalties**

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

## **23. Termination for default**

- 23.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:

- (a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
- (b) if the Supplier fails to perform any other obligation(s) under the contract; or
- (c) if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.

23.3 Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.

23.4 If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the intended penalty as not objected against and may impose it on the supplier.

23.5 Any restriction imposed on any person by the Accounting Officer / Authority will, at the discretion of the Accounting Officer / Authority, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Accounting Officer / Authority actively associated.

23.6 If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:

- (i) the name and address of the supplier and / or person restricted by the purchaser;
- (ii) the date of commencement of the restriction
- (iii) the period of restriction; and
- (iv) the reasons for the restriction.

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

23.7 If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.

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

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

## **25. Force Majeure**

25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.

25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

## **26. Termination for insolvency**

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

<b>27. Settlement Disputes</b>	<p><b>of</b> 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.</p> <p>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.</p> <p>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.</p> <p>27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.</p> <p>27.5 Notwithstanding any reference to mediation and/or court proceedings herein,</p> <p>(a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and</p> <p>(b) the purchaser shall pay the supplier any monies due the supplier.</p>
<b>28. Limitation of Liability</b>	<p>28.1 Except in cases of criminal negligence or wilful misconduct, and in the case of infringement pursuant to Clause 6;</p> <p>(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</p> <p>(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.</p>
<b>29. Governing Language</b>	<p>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.</p>
<b>30. Applicable Law</b>	<p>30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.</p>

## 31. Notices

- 31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice

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

## 32. Taxes and Duties

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

## 33. National Industrial Participation (NIP) Programme

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

## 34. Prohibition of Restrictive Practices

- 34.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).
- 34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.
- 34.3 If a bidder(s) or contractor(s), has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part,



and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of bidder