Legal Aid South Africa
Your voice. For justice.
Independent and within reach.

REQUEST FOR PROPOSALS

PROVISION FOR VMWARE VSPHERE FOUNDATION AND VMWARE LIVE RECOVERY SUBSCRIPTION RENEWAL (36 MONTHS)

Tender No.:	***56/2026***
Closing Date:	***19 January 2027***
Closing Time:	***11H00 AM***
Tender Documents Submission:	***Legal Aid House***
	29 De Beer Street
	Braamfontein
	Johannesburg
	2001
Bid Enquiries:	***Ms. Buhle Sesiko***
Technical Enquiries:	***Dr. Joe Khosa***
Tel:	***(011) 877 2000***

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1 INTRODUCTION:

Legal Aid South Africa (abbreviated *"Legal Aid SA"* is national public entity established in terms of section 2 of the Legal Aid South Africa Act 39 of 2014("*Act")* read together with its Legal Aid Manual and Regulations. The objective of Legal Aid South Africa is to render or make available legal aid and legal advice, provide legal representation to persons at state expense and provide education and information concerning legal rights and obligations as envisaged in the Constitution and this Act. Legal Aid SA is funded by the Government and ensures access to justice and the realisation of the right to have legal representation.

Arising from this constitutional and legislative mandate, Legal Aid SA has defined its vision, mission and values as follows:

1.1 VISION:

A dynamic South Africa in which constitutional rights are realised to ensure a just society for all.

1.2 MISSION:

To remain a leader in the provision of equal access to justice to indigent and vulnerable persons by rendering quality legal services.

1.3 LEGAL AID SA VALUES:

- Passion for Justice
- Ubuntu
- Integrity
- Accountability
- Service Excellence
- People and Planet Focused

1.4 OUTCOMES AND OBJECTIVES:

Legal Aid SA intends to achieve the two outcomes listed below:

Outcome 1: Equal access to justice for all, focusing on indigent and vulnerable persons, thus contributing to building a just society.

Outcome 2: Respected, high performing and sustainable organisation providing accessible, quality legal services that impact positively on society, the economy and the environment.

The eleven related objectives in achieving the outcomes are listed below:

Objective 1: Empowered clients and communities making informed choices about their legal matters, rights and responsibilities.

Objective 2: All indigent and vulnerable members of society have equal access to public-funded legal services to protect and defend their rights.

Objective 3: A fair, efficient and effective justice system that ensures equal access to justice for all.

Objective 4: Delivering on our constitutional and statutory mandate thereby ensuring equal access to justice for all, in an independent, accountable and sustainable manner.

Objective 5: An organisation re-inventing and embedding sustainable and agile practices in every segment to positively impact on society, the economy and the environment.

Objective 6: Sustaining good governance, best practices and maintaining high ethical standards and integrity, high performance and accountability.

Objective 7: Legal Aid South Africa's regulatory framework is responsive to the changing legal, social and economic environment.

Objective 8: An effective, efficient, economic and environmentally responsive supply chain management system supporting client services delivery and internal business processes.

Objective 9: An appropriately resourced national footprint that is adaptable to changing technological and environmental factors to ensure improved access to our clients, communities, stakeholders and employees.

Objective 10: Knowledgeable, informed, self-directed and committed employees competently delivering the organisation's constitutional mandate and strategies in a sustainable manner.

Objective 11: Embracing emerging technologies including the Fourth Industrial Revolution to optimise its impact on business and the provision of client services through a responsive and adaptive IT environment.

2 CLOSING DATE:

The closing date for the submission of proposals is **11h00 AM on 19 January 2027.** All proposals should be submitted on or before the time and date specified and placed in the Legal Aid SA tender box, which is located in the foyer of **Legal Aid House, 29 De Beer Street, Braamfontein**, **Johannesburg.**

3 SECURITY AND INTEGRITY CLEARANCE:

All information documents, records and books provided by Legal Aid SA to any bidder, in connection with the request for proposals or otherwise, are strictly private and confidential. Any bidder will not disclose these to any third party, except with the express consent of Legal Aid SA, which will be granted in writing prior to such disclosure. Legal Aid SA, however, reserves the right to disclose any information provided by any bidder to any of the employees of Legal Aid SA.

4 PROPOSAL/TENDER SUBMISSION:

All annexures must be completed in full, using the given numbering format. All attachments or references to attachments must be clearly marked and be specific to information required. Any deviations may be ignored.

NB: Companies failing to adhere to the above requirements risk being disqualified from the evaluation process.

4.1 TENDER DOCUMENTS MARKING:

Tenders, completed as described, will be sealed in an envelope marked:

Tender Number: 56/2027

Closing Date: 19 January 2027 Time: 11h00 AM

Name of Company: _____ (Bidder)

and deposited in the locked tender box in the foyer in the reception area at:

Legal Aid House

29 De Beer Street

Braamfontein

Johannesburg

2017

4.2 TENDER FORMAT:

Tender Numbering Format must be adhered to. Compliance or non-compliance with detailed information must be indicated per paragraph as per Numbering Format. If there are additional and/or Alternative Product options, every option/alternative proposal to an item, must be separately bid for in the form of a separate proposal, with a complete schedule and description. Deviations from specifications and technical brochures must be submitted where applicable.

All documents submitted in response to this request for proposals will become the property of Legal Aid SA.

4.3 VALIDITY PERIOD:

The proposal must remain valid for a period of 150 days.

4.4 COMPLETENESS OF THE SOLUTION:

The bidder must complete all documents in full and submit these with the proposal.

The bidder must provide proof of registration on National Treasury's Central Supplier Database (CSD) which should reflect that the bidder is an active supplier, is tax compliant and is not a restricted supplier.

4.5 CONTRACTUAL IMPLICATIONS:

After awarding the Tender, this proposal together with its Tender terms, Conditions and Specifications will constitute a binding contract between Legal Aid SA and the successful bidder. The successful bidder will assume total responsibility, regardless of any third party or subcontracting agreements it may enter into. Legal Aid SA has the right not to award the tender.

4.6 CONDITIONS OF PAYMENT:

Legal Aid SA will approve all project plans and projected project activity costs. No project activity will be delivered to Legal Aid SA before an official order has been issued to the supplier and delivery will be within the specified time scale after the receipt of the official order.

4.7 QUALITY ASSURANCE:

Any defects, patent or latent, which are attributable to poor workmanship, will be rectified by the bidder at own cost and time and all costs relating to the correction of defects will be expressly and separately noted on billing documentation.

4.8 INTELLECTUAL PROPERTY RIGHTS:

Copyright, patent rights and other similar rights in any works or products created as a result of the performance of this proposal and its assignments will vest in and are hereby transferred to Legal Aid SA, unless specifically agreed otherwise, in the form of individual written Agreement signed by both parties.

For this purpose, only, all works created in terms of this proposal and the assignments thereof will be deemed to have been created under the control and direction of Legal Aid SA.

4.9 DISBURSEMENTS, TRAVEL AND SUBSISTENCE:

No bidder will be refunded any cost or disbursements incurred in respect of the project, save where the prior written approval of Legal Aid SA has been obtained in respect of such expenditure.

Any authorised disbursements will be refunded at the reasonable and actual cost determined by Legal Aid SA.

Any expenditure incurred by the successful bidder in respect of authorised travel for the project will be refunded in accordance with the Legal Aid SA travel policy as applicable from time to time. The rates payable for the use of private vehicles will be the prevailing rates quoted by the Automobile Association of South Africa

All claims in respect of authorised disbursements (travel and subsistence costs) must be substantiated by documentary evidence such as receipts and logs of kilometers traveled.

All expenses incurred by the bidder for the proposal and presentations are the responsibility of the bidder and will not be reimbursed by Legal Aid SA.

5 CONTRACTUAL DETAILS:

5.1 AWARDING OF CONTRACT:

Proven relevant experience and success, as well as the ability to deliver a reliable, efficient and effective service will be important considerations.

By the submission of a proposal, each bidder warrants that he/she/it is highly skilled, professional, competent and experienced in the area for which he/she/it has bid. Any work performed by a successful bidder will be evaluated against these criteria.

The bidder also warrants that the service provided will be of a superior standard, and is unlikely to cause undue difficulties.

The tender may be awarded, in part or in full, at the sole discretion of Legal Aid SA, to one or more concerns on a non-exclusive basis.

Proposals/tenders that are qualified by a bidder’s own conditions may be rejected as being invalid, and failure of the bidder to renounce such conditions when called upon to do so may invalidate the proposal.

Legal Aid SA may request clarification or additional information regarding any aspect of the proposal. The bidder must supply the requested information within 24 hours after the request

has been made, otherwise the bidder may be disqualified. Legal Aid SA may also request a demonstration, and bidders must comply with such a request within 24 hours.

6 EVALUATION CRITERIA AND REFERENCES:

The bidding companies will be evaluated on the criteria listed in the tender document and must take into account the information listed below:

1. Provide the names of reference sites that could be contacted by Legal Aid SA to carry out reference checks, and to substantiate claims contained in their proposal.
2. Demonstrate they are applying affirmative action employment practices and procurement programmes that promote empowerment of SMMEs and historically disadvantaged groups.
3. The bidder must provide proof of registration on National Treasury's Central Supplier Database (CSD) which should reflect that the bidder is an active supplier, is tax compliant and is not a restricted supplier.
4. Support for empowerment as specified by government (refer to form SBD 6.1 as per tender) the 80/20 system will be applicable.
5. Proposals will be evaluated both in terms of price - (80 points) and Specific Goal B-BBEE Level of Contribution status (20 points).
6. Please refer to SBD 6.1 for important information on B-BBEE requirements.

7 COMPANY INFORMATION:

7.1 Bidder's company details

Please complete all the questions below in as much detail as possible.

i. Company Name:

_____

ii. Contact Names and Numbers:

_____

iii. Company Address:

_____

iv. Indicate if the above company is the primary contractor or joint venture/ alliance partner:

_____

v. Number of personnel:

_____

vi. Turnover in the last three financial years:

_____

vii. Percentage growth in the last three years:

_____

viii. Valid Tax Clearance Certificate:

_____

8 DETAILED BREAKDOWN OF TOTAL CHARGES, IMPLEMENTATION AND SUPPORT SERVICES

Please supply a detailed breakdown of costs/charges and related charges as well as a total bid amount.

IMPORTANT CONDITIONS:

1. Failure on the part of the bidder to sign/mark this tender form and thus to acknowledge and accept the conditions in writing or to complete the attached forms, questionnaires and specifications in all respects, may invalidate the tender.

2. Tenders should be submitted in the format and numbering sequence similar to the tender document and should preferably not be qualified by the bidder's own conditions of tender. Failure to comply with these requirements or to renounce specifically the bidder's own conditions of tender when called upon to do so, may invalidate the tender.

3. If any of the conditions on this tender form are in conflict with any special conditions, stipulations or provisions incorporated in the tender, such special conditions, stipulations or provisions will apply.

4. Tender forms are not to be filled in by means of mechanical devices, e.g. Typewriters. All tender forms must be handwritten in BLACK ink.

5. Bidders will check the numbers of the pages and satisfy themselves that none are missing or duplicated. No liability will be accepted with regard to claims arising from the fact that pages are missing or duplicated.

6. In terms of Legal Aid SA's procurement policies, firm tender prices and delivery periods are preferred. `Consequently, bidders will clearly state whether prices and delivery periods will remain firm for the duration of the contract or not.

7. Where items are specified in detail, the specifications form an integral part of the tender document and bidders will indicate in the space provided whether the items offered are to specification or not.

8. In respect of the paragraphs where the items offered are strictly to specification, bidders will insert the words "as specified".

9. In cases where the items are not to specification, the deviations from the specifications will be indicated.

10. The tender prices will be quoted in South African currency, Rand, unless otherwise specified.

11. Unless specifically provided for in the tender document, no tenders transmitted by telegram, telex, facsimile, E-mail or similar apparatus will be considered.

These conditions form part of the tender and failure to comply therewith may invalidate a tender.

PART A
INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (*NAME OF DEPARTMENT/ PUBLIC ENTITY*)					
BID NUMBER:	56/2027	CLOSING DATE:	19 January 2027	CLOSING TIME:	11H00
DESCRIPTION	**PROVISION FOR VMWARE VSPHERE FOUNDATION AND VMWARE LIVE RECOVERY SUBSCRIPTION RENEWAL (36 MONTHS)**				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT *(STREET ADDRESS)*					
Legal Aid House, 29 De Beer Street, Braamfontein, Johannesburg, 2001					

BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO		**TECHNICAL ENQUIRIES MAY BE DIRECTED TO:**	
CONTACT PERSON	Buhle Sesiko	CONTACT PERSON	Joe Khosa
TELEPHONE NUMBER	011 877 2000	MOBILE NUMBER	**011 877 2000**
E-MAIL ADDRESS	FelicityZ@legal-aid.co.za	E-MAIL ADDRESS	JoeK@legal-aid.co.za

SUPPLIER INFORMATION						
NAME OF BIDDER						
POSTAL ADDRESS						
STREET ADDRESS						
TELEPHONE NUMBER	CODE			NUMBER		
CELLPHONE NUMBER						
FACSIMILE NUMBER	CODE			NUMBER		
E-MAIL ADDRESS						
VAT REGISTRATION NUMBER						
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		**OR**	CENTRAL SUPPLIER DATABASE No:		MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] ☐ Yes ☐ No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT			[TICK APPLICABLE BOX] ☐ Yes ☐ No

[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]

7.1.1.1 **ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?**	☐Yes ☐No [IF YES ENCLOSE PROOF]	7.1.1.2 **ARE YOU A FOREIGN BASED SUPPLIER FOR** THE GOODS /SERVICES /WORKS OFFERED?	☐Yes ☐No [IF YES, ANSWER PART B:3]

QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?	☐ YES ☐ NO
DOES THE ENTITY HAVE A BRANCH IN THE RSA?	☐ YES ☐ NO
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?	☐ YES ☐ NO
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?	☐ YES ☐ NO
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?	☐ YES ☐ NO

IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.

PART B

TERMS AND CONDITIONS FOR BIDDING

1.	**BID SUBMISSION:**
1.1.	BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2.	**ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.**
1.3.	THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
1.4.	**THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).**
2.	**TAX COMPLIANCE REQUIREMENTS**
2.1	BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2.2	BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
2.3	APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
2.4	BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
2.5	IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED; EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
2.6	WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
2.7	NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

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

SIGNATURE OF BIDDER: ……

CAPACITY UNDER WHICH THIS BID IS SIGNED: ……

(Proof of authority must be submitted e.g. company resolution)

DATE: ……...

TAX CLEARANCE CERTIFICATE REQUIREMENTS

It is a condition of bid that the taxes of the successful bidder must be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the bidder's tax obligations.

1. In order to meet this requirement bidders are required to complete in full the attached form TCC 001
"Application for a Tax Clearance Certificate" and submit it to any SARS branch office nationally. The Tax Clearance Certificate Requirements are also applicable to foreign bidders / individuals who wish to submit a bid.

2. SARS will then furnish the bidder with a Tax Clearance Certificate that will be valid for a period of 1 (one) year from the date of approval

3. The original Tax Clearance Certificate must be submitted together with the bid. Failure to submit the original and valid Tax Clearance Certificate will result in the invalidation of the bid. Certified copies of the Tax Clearance Certificate will not be accepted

4. In bids where Consortia / Joint Ventures / Sub-contractors are involved; each party must submit a separate Tax Clearance Certificate.

5. Copies of the TCC 001 "Application for a Tax Clearance Certificate" form are available from any SARS Branch office nationally or on the website www.sars.gov.za.

6. Applications for the Tax Clearance Certificates may also be made via eFiling. In order to use this provision, taxpayers will need to register with SARS as eFilers through the website www.sarsefiling.co.za

PRICING SCHEDULE – FIRM PRICES (PURCHASES)

NOTE: **ONLY FIRM PRICES WILL BE ACCEPTED. NON-FIRM PRICES (INCLUDING PRICES SUBJECT TO RATES OF EXCHANGE VARIATIONS) WILL NOT BE CONSIDERED**

IN CASES WHERE DIFFERENT DELIVERY POINTS INFLUENCE THE PRICING, A SEPARATE PRICING SCHEDULE MUST BE SUBMITTED FOR EACH DELIVERY POINT

Name of bidder……	Bid number. **56/2027**
Closing Time: **11h00 AM**	Closing date: **19 January 2027**

OFFER TO BE VALID FOR 150 DAYS FROM THE CLOSING DATE OF BID.

ITEM NO.	QUANTITY	DESCRIPTION	BID PRICE IN RSA CURRENCY ** (ALL APPLICABLE TAXES INCLUDED)

-
- Required by: …….

- At: …….

- Does the offer comply with the specification(s)? *YES/NO: ……

- If not to specification, indicate deviation(s): ……..

- Period required for delivery: ……..

  *Delivery: Firm/not firm: …….

- Delivery basis: …….

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

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

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[1] 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

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

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

2.2.1 If so, furnish particulars:

……

……

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

2.3.1 If so, furnish particulars:

……..

……..

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[2] 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.

[2] Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.

3.6 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

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

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

…… ……

Signature Date

…… ……

Position Name of bidder

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

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

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

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1. GENERAL CONDITIONS

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

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

1.2 To be completed by the organ of state

a) The applicable preference point system for this tender is the 80/20 preference point system.

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

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

(a) Price; and

(b) Specific Goals.

1.4 To be completed by the organ of state:

The maximum points for this tender are allocated as follows:

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

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

1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

2. DEFINITIONS

(a) **"tender"** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;

(b) **"price"** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;

(c) **"rand value"** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

(d) **"tender for income-generating contracts"** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and

(e) **"the Act"** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

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

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

80/20 **or** **90/10**

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

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

3.2.1. POINTS AWARDED FOR PRICE

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

80/20 **or** **90/10**

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmax = Price of highest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:

4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—

(a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or

(b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,

then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

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

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

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

The specific goals allocated points in terms of this tender: B-BBEE Status Level of Contributor	Number of points allocated (90/10 system) (To be completed by the organ of state)	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (90/10 system) (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)
1	N/A	**20**	N/A	
2	N/A	**18**	N/A	
3	N/A	**14**	N/A	
4	N/A	**12**	N/A	
5	N/A	**8**	N/A	
6	N/A	**6**	N/A	
7	N/A	**4**	N/A	
8	N/A	**2**	N/A	
Non- compliant contributor	N/A	**0**	N/A	

DECLARATION WITH REGARD TO COMPANY/FIRM

4.3. Name of company/firm…….

4.4. Company registration number: ……...

4.5. TYPE OF COMPANY/ FIRM

☐ Partnership/Joint Venture / Consortium

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

[TICK APPLICABLE BOX]

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

i) The information furnished is true and correct;

ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;

iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;

iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –

(a) disqualify the person from the tendering process;

(b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;

(c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;

(d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and

(e) forward the matter for criminal prosecution, if deemed necessary.

.....

SIGNATURE(S) OF TENDERER(S)

SURNAME AND NAME: .....

DATE: .....

ADDRESS: .....

14 GENERAL CONDITIONS OF THE CONTRACT:

The purpose of this document is to:

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

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

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

(iv) The General Conditions of Contract will form part of all bid documents and may not be amended.

(v) 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 GCC shall prevail.

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14.1 Definitions

The following terms shall be interpreted as indicated:

(a)"Closing time" means the date and hour specified in the bidding documents for the receipt of bids.

(b)"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.

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

(d) "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.

(e) "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.

(f) “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.

(g) “Day” means calendar day

(h) “Delivery” means delivery in compliance of the conditions of the contract or order.

(i) “Delivery ex stock” means immediate delivery directly from stock actually on hand.

(j) “Delivery into consignees store or to his site” means delivered and unloaded in the specified store or depot or on the specified site incompliance 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.

(k) "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.

(l) “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.

(m) “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.

(n) “GCC” means the General Conditions of Contract.

(o) “Goods” means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.

(p) “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.

(q) “Local content” means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.

(r) “Manufacture” means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.

(s) “Order” means an official written order issued for the supply of goods or works or the rendering of a service.

(t) “Project site,” where applicable, means the place indicated in bidding documents.

(u) “Purchaser” means the organization purchasing the goods.

(v) “Republic” means the Republic of South Africa.

(w) “SCC” means the Special Conditions of Contract.

(x) “Services” means those functional services ancillaries 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.

(y) “Written” or “in writing” means handwritten in ink or any form of electronic or mechanical writing.

14.2 Application

(a) 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.

(b) Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.

(c) Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

14.3 General

(a) 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.

(b) 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, Johannesburg 0001, or accessed electronically from www.treasury.gov.za

14.4 Standards

(a) The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.

14.5 Use of contract documents and information; inspection

(a) 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.

(b) The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause5.1 except for purposes of performing the contract.

(c) Any document, other than the contract itself mentioned in GCC clause 5.1shall 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.

(d) 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.

14.6 Patent rights

(a) 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.

14.7 Performance security

(a) 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.6

(b) 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.

(c) 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:

(d) 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

(e) a cashier's or certified cheque

(f) 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.

14.8 Inspections, tests and analyses

(a) All pre-bidding testing will be for the account of the bidder.

(b) 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 are representative of the Department or an organization acting on behalf of the Department.

(c) 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.

(d) 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.

(e) 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.

(f) 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.

(g) 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.

(h) 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.

14.9 Packing

(a) 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.

(b) 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.

14.10 Delivery and documents

(a) 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.

(b) Documents to be submitted by the supplier are specified in SCC.

14.11 Insurance

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

14.12 Transportation

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

14.13 Incidental services

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

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

(c) furnishing of tools required for assembly and/or maintenance of the supplied goods;

(d) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;

(e) 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

(f) 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.

(g) 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.

14.14 Spare parts

(a) 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:

(b) 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

(c) 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.

14.15 Warranty

(a) 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 actor omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.

(b) 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 loading in the source country, whichever period concludes earlier unless specified otherwise in SCC.

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

(d) 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.

(e) 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.

14.16 Payment

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

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

(c) 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.

(d) Payment will be made in Rand unless otherwise stipulated in SCC.

14.17 Prices

(a) 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 authorised in SCC or in the purchaser's request for bid validity extension, as the case may be.

14.18 Contract Amendments

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

14.19 Assignment

(a) 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.

14.20 Subcontracts

(a) The supplier shall notify the purchaser in writing of all subcontracts awarded under these 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.

14.21 Delays in the supplier's performance

(a) 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.

(b) 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.

(c) 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.

(d) 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.

(e) 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 Clause21.2 without the application of penalties.

(f) 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, been titled to claim damages from the supplier.

14.22 Penalties

(a) 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.

14.23 Termination for default

(a) 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:

- 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;

- if the Supplier fails to perform any other obligation(s) under the contract; or

- if the supplier, in the judgment of the purchaser, has engaged in corruption of fraudulent practices in competing for or in executing the contract

- 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.

14.24 Anti-dumping and countervailing duties and rights

(a) 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.

14.25 Force Majeure

(a) 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.

(b) 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.

14.26 Termination for insolvency

(a) 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.

14.27 Settlement of Disputes

(a) 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.

(b) 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 maybe commenced unless such notice is given to the other party.

(c) Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.

(d) Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.

(e) Notwithstanding any reference to mediation and/or court proceedings herein,

- the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and

- the purchaser shall pay the supplier any monies due the Supplier

14.28 Limitation of liability

(a) Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6;

- 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
- 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.

14.29 Governing language

(a) 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.

14.30 Applicable law

(a) The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.

14.31 Notices

(a) 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.

(b) 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.

14.32 Taxes and duties

(a) A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.

(b) A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.

(c) 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.

14.33 National Industrial Participation Programme (NIP)

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

15. Special Conditions

No bid will be awarded to suppliers who have not provided the following documents: -

15.1 Bidders must ensure that the SBD 1 form is fully completed and signed.

15.2 Bidders must ensure that the SBD 4 form is fully completed and signed.

15.3 Bidders must be registered with National Treasury on the Central Supplier Database and submit the CSD report which shows that the bidder is tax compliant, and if not tax compliant and the bidder is querying the status, submit proof of query to SARS.

15.4 Bidders must ensure that the SBD 6.1 form is fully completed and signed.

15.5 The contract will be for a minimum period five years as per the signed agreement.

15.6 All properties must be made available for inspection within five days of request. Failure to do so will result in your bid being disqualified.

15.7 The site inspection certificate must be completed and signed by the Legal Aid SA representative and the bidder in respect of such site inspection conducted.

15.8 Legal Aid SA will enter into further negotiations with the preferred bidder for further reductions in rental and refurbishment allowances. Failure of the bidder to participate in this process within five days of a request being made will result in Legal Aid SA setting aside the bid and negotiating with other qualifying bidders.

Legal Aid South Africa reserves the right not to make any appointment and shall not entertain any claim for costs that may have been incurred in the preparation and the submission of the proposals. Legal Aid SA reserves its rights not to enter into a lease longer than 5 years.