



SPECIAL CONDITIONS OF CONTRACT

RT75-1-2021

**SUPPLY AND DELIVERY OF MALE AND FEMALE CONDOMS AND
LUBRICANT TO THE STATE FOR THE PERIOD ENDING 31 JANUARY
2025**

**NON-COMPULSORY BRIEFING SESSION TO BE HELD ON THE
14 MARCH 2024 ON MICROSOFT TEAMS**

CLOSING DATE AND TIME OF BID

1 APRIL 2024 AT 11H00

BID VALIDITY PERIOD: 180 DAYS

National Treasury

Transversal Contracting



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LIST OF ABBREVIATIONS

Abb	Full Name
BAC	Bid Adjudication Committee
BEC	Bid Evaluation Committee
CPA	Contract Price Adjustment
CSD	Central Supplier Database
GCC	General Conditions of Contract
OCPO	Office of the Chief Procurement Officer
SBD	Standard Bidding Document
SAHPRA	South African Health Products Regulatory Authority
SARS	South African Revenue Services
SCC	Special Conditions of Contract
SCM	Supply Chain Management
TC	Transversal Contract
TCD	Transversal Contract Document
TIC	Tender Information Centre
PFMA	Public Finance Management Act
PPPFA	Preferential Procurement Policy Frame Act 5 of 2000
QAC	Quality Assurance Certificate
RoE	Rate of Exchange
VAT	Value-Added Tax



LIST OF ATTACHMENTS AND ANNEXURES

- i. Standard Bidding Documents (SBD's)
- ii. Transversal Contracting Documents (TCD's)
- iii. General Conditions of Contract (GCC)
- iv. Annexure A -Technical Specification
- v. Annexure B - Pricing Schedule

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Table 1: Bid Document Checklist and Returnable

#	Document Name ¹	Included in the published bid document?	To be returned by the bidder?	Bidder to tick Yes if the document is submitted
PHASE 1: ADMINISTRATIVE REQUIREMENTS EVALUATION				
1.	SBD 1 Invitation to Bid	Yes	Yes	
2.	Proof of authority must be submitted as per SBD 1	No	Yes	
3.	SBD 4 Bidder's Disclosure	Yes	Yes	
4.	SBD 5 National Industrial Participation Program	Yes	Yes	
5.	SBD 6.1 Preference Points Claim Form	Yes	Yes	
6.	Full CSD report	No	Yes	
7.	Written confirmation for disclosing tax status by SARS	No	Yes	
PHASE 2: MANDATORY REQUIREMENTS EVALUATION				
8.	Pricing Schedule (Annexure B)	Yes	Yes	
9.	SAHPRA License	No	Yes	
PHASE 3: TECHNICAL COMPLIANCE EVALUATION				
10.	Detailed Technical Specifications (Annexure A)	Yes	Yes	
11.	Quality Assurance Certificate ISO 13845	No	Yes	
12.	TCD 13 Authorization Declaration	Yes	Yes	
13.	TCD 13.1 List of goods or services offered	Yes	Yes	
14.	TCD 13.2 Letter of Undertaking	Yes	Yes	
15.	Test Report from SABS	No	Yes	
PHASE 4: PRICE & SPECIFIC GOALS EVALUATION				
16.	Pricing Schedule (Annexure B)	Yes	Yes	
17.	SBD 6.2 Local Content and its Annexures	Yes	Yes	
18.	Other supporting documents required for local content	No	Yes	

¹ Table 1 is provided as guidance to assist bidders with documents that must be returned with the bid. The list is not exhaustive, and it is the responsibility of the bidder to provide all required documents as per the provision of each clause in this bid



#	Document Name ¹	Included in the published bid document?	To be returned by the bidder?	Bidder to tick Yes if the document is submitted
OTHER BID DOCUMENT REQUIREMENTS				
19.	Special Conditions of Contract	Yes	Yes	
20.	General Condition of Contract	Yes	Yes	
21.	Historical Exchange Rates References TCD 14	Yes	No	



SECTION A: INTRODUCTION AND TERMS OF REFERENCE

1. DESCRIPTION AND FORMAT OF THE BID

- 1.1 This bid is for the supply and delivery of male and female condoms and lubricant to the State for the period ending 31 January 2025 .
- 1.2 This bid document is structured as follows:
 - 1.2.1 Section A: Introduction and Terms of Reference
 - 1.2.2 Section B: Conditions of Bid
 - 1.2.2.1 Part 1: Evaluation Criteria
 - 1.2.2.2 Part 2: Additional Bid Requirements
 - 1.2.2.3 Part 3: Recommendation and Appointment of Bidders
 - 1.2.3 Section C: Conditions of Contract

2. LEGISLATIVE AND REGULATORY FRAMEWORK

- 2.1 This bid and all contracts emanating therefrom will be subject to General Conditions of Contract issued in accordance with Treasury Regulation 16A published in terms of the Public Finance Management Act, 1999 (Act 1 of 1999) (PFMA) as well as the Preferential Procurement Policy Framework Act 2000 (PPPFA) with its latest 2022 regulations.
- 2.2 The Special Conditions of Contract (SCC) are supplementary to that of the General Conditions of Contract (GCC). However, where the Special Conditions of Contract conflict with the General Conditions of Contract, the Special Conditions of Contract prevail.
- 2.3 This bid is subject to all applicable industry-related legislation, particularly the legislation stated below:
 - 2.3.1 Medicines and Related Substances Amendment Act, No. 72 of 2008 (Amendment Act) read together with a further Amendment Act, Medicines, and Related Substances Act No. 14 of 2015.

3. OBJECTIVE OF THE BID

- 3.1 To arrange the RT75-1-2021 transversal contract for the supply and delivery of male and female condoms and lubricant to the State for the period ending 31 January 2025.
- 3.2 To apply the 90/10 preference, point system as per Preferential Procurement Regulations (PPR) 2022 and to only consider bids offering goods with local content and production (local value added)
- 3.3 For the promotion of Local Content and Production as specific goal (maximum 10 points) allocated in terms of Preferential Procurement Regulations 2022 issued according to the Preferential Procurement



Policy Framework Act, 2000 (Act 5 of 2000).

4. BRIEFING SESSION

4.1 A non-compulsory virtual briefing session will be held as follows:

Venue: Microsoft Teams. The link to register and attend the briefing session is attached as [RT75-1-2021 Briefing session link](#)

Date: 14 March 2024

Time: 10h00 am

4.2 The bid information session is not compulsory but will provide bidders with an opportunity to obtain clarity on certain aspects of the procurement process as set out in this bid document.

4.3 The National Treasury reserves the right to answer questions at the briefing session and/or to respond formally after the briefing session.

5. TERMS OF REFERENCE

5.1 TECHNICAL SPECIFICATIONS

5.1.1 The bid for the supply and delivery of male and female condoms and lubricant has 4 line items. The detailed technical specifications are as per the attached Annexure A.

5.1.2 The items are as follows:

Table 2: Summary of Technical Specifications Categories

#	CATEGORY NAME	QUANTITIES
1	Male condom – Vanila	75 000 000
2	Male condom – Strawberry	180 000 000
3	Male condom – Banana	165 000 000
4	Male condom – Grape	180 000 000



SECTION B: CONDITIONS OF BID

6. PART 1: EVALUATION CRITERIA

6.1 The details of the evaluation phases are outlined below:

Table 3: Evaluation Criteria

Phase 1	Phase 2	Phase 3	Phase 4
Administrative and Legislation Evaluation	Mandatory Evaluation	Technical Compliance	Price and Specific goals
Compliance with legislative and other bid requirement	Compliance with mandatory and other bid requirements	Compliance with the item's technical specifications	Bids evaluated in terms of the 90/10 preference points system

6.1.1 The State may conduct due diligence during any of the evaluation phases to confirm the information submitted by the bidder and any misrepresentation by the bidder may disqualify the bid thereof.

6.2 PHASE 1: ADMINISTRATION AND LEGISLATION REQUIREMENTS EVALUATION

6.2.1 Bidders are required to submit the below documents to comply with the policy to guide uniformity in procurement reform processes. The documents to be submitted by the bidders are as follows:

6.2.1.1 **SBD 1** – Invitation form to bid.

6.2.1.2 **Proof of Authority** – This is a company resolution for the capacity under which this bid is signed as per SBD 1

6.2.1.3 **SBD 4** – Bidders Disclosure

6.2.1.4 **SBD 5** – The National Industrial Participation Programme

6.2.1.5 **SBD 6.1** – Preference points claim form.

6.2.1.6 **Central Supplier Database** – A Central Supplier Database report must be submitted.

6.2.1.7 **Written Confirmation to disclose tax status** – It is a requirement that bidders grant a written confirmation when submitting this bid response that SARS may on an ongoing basis during the tenure of the transversal contract disclose the bidder's tax compliance status and by submitting this bid such confirmation is deemed to have been granted.



6.3 **PHASE 2: MANDATORY REQUIREMENTS**

6.3.1 Bidders' must submit all required documents indicated hereunder with the bid documents at the closing date and time of the bid. During this phase bidders' responses will be evaluated against the mandatory requirements for compliance. Bidders who fail to comply with any of the mandatory criteria will be disqualified.

6.3.2 **South African Health Products Regulatory Authority (SAHPRA) Requirement**

6.3.2.1 Where bidders have offered an item that is classified as a Medical Device and In Vitro Diagnostic (IVD), bidders are required to adhere to Medicines and Related Substances Amendment Act, No. 72 of 2008 (Amendment Act) read together with a further Amendment Act, Medicines and Related Substances Act No. 14 of 2015 and its Regulations on Medical Devices and IVD. Non-compliance with these conditions will invalidate the relevant item.

6.3.2.2 Manufacturers, distributors, and wholesalers, as referred to Section 22C(1)(b) of the original Medicines and Related Substances Act, 1965 (Act No. 101 of 1965), must obtain a licence for the manufacturing, importing, exporting, distribution, or wholesaling of medical devices and IVDs, as issued by SAHPRA.

6.3.2.3 Bidders must submit with the bid, on or before the closing date and time of bid approved medical device and IVDs establishment licence. Failure to submit the required licence, the items that required the license will be disqualified.

6.3.3 **Pricing Schedule**

6.3.3.1 The pricing schedule (see Annexure B) provided in this bid forms an integral part of the bid document and bidders must ensure that it is completed without changing the structure thereof. All pricing offered must be on a national level.

6.3.3.2 Bidders are required to complete and submit a mandatory Pricing Schedule Annexure B as a response to how much the items offered will be charged. Non-submission of the Pricing Schedule will invalidate the bid response.

6.3.3.3 Prices submitted in this bid must be filled in on the field provided on the pricing schedule provided with the bid. Price structures that do not comply with this requirement may invalidate the bid.

6.4 **PHASE 3: TECHNICAL SPECIFICATION COMPLIANCE**

6.4.1 During this phase bidders' responses will be evaluated based on technical requirements for each item offered. Non-compliance to all the evaluation requirements below will result in disqualification of the relevant line item being evaluated.



6.4.2 Standards/Specifications

- 6.4.2.1 Items must comply with technical specifications (**Annexure A**) as stated in the bid document of each item. The technical specification as per the pricing schedule is a summary description and the attached **Annexure A** is the detailed technical Specification of all the items. Non-compliance to the technical specification requirement will invalidate the items to which the compliance is not adhered.
- 6.4.2.2 Where specific specifications and/ or standards are applicable for each item, the quality of products shall not be less than the requirements of the latest edition of such specifications and/or standards throughout the contract period.
- 6.4.2.3 The State may consider products that have a reasonable deviation to the technical specification. This is subject to the deviation providing a better output and provided that the deviation not causing any clinical and functional harm to the target population and users that the product is aimed at and that the functional output of the item technical specification is achieved. This will therefore be decided upon based on the clinical judgement and expertise of the Bid Evaluation Committee.

6.4.3 Quality Assurance Requirements

- 6.4.3.1 Bidders are required to submit at the closing date and time of bid, valid quality assurance certificates (QAC) ISO 13485 to confirm compliance. The holder of the certificates must be the original manufacturer of the product. Failure to submit the QAC will invalidate the items which the certificate is not submitted.

6.4.4 Authorization Declaration

- 6.4.4.1 All bidders must complete the "Authorisation Declaration" (TCD 13 and TCD 13.1) for all relevant goods or services in full, sign it and submit it together with the bid response at the closing date and time of the bid invitation.
- 6.4.4.2 Any bidder who is not an original manufacturer of the equipment must submit a valid Third-Party Undertaking letter (template provided as TCBD 13.2) in full for all relevant goods or services. The letter of undertaking must include but not be limited to the following:
- Item(s) number, item description and brand/model name.
 - The letter must be on the original manufacturer's letterhead, dated and signed.
 - Letter must be not older than 30 days at the closing date and time of bid
 - The letter must have the contact's name, physical and postal address, telephone, and email details and the capacity with which a person is signing the letter.
 - All the information on the letter must be in English.
- 6.4.4.3 Letter of undertaking must be from an Original Product Manufacturer (OPM) be submitted with bid at the closing date and time of bid.



6.4.4.4 The State reserves the right to verify any information supplied by the bidder in the Authorisation Declaration and should the information be found to be false or incorrect, the State will exercise any of the remedies available to it in this bid document.

6.4.4.5 The bidder must ensure that all financial and supply arrangements for goods or services have been mutually agreed upon between the bidder and the third party (manufacturer). No agreement between the bidder and the third (3rd) party will be binding on the State.

6.4.4.6 Failure to submit a duly completed and signed Authorisation Declaration, with the required annexure(s), by the above provisions may invalidate the bid for such goods offered.

6.4.5 **SABS Mark Permit Documentation**

6.4.5.1 Bidders must submit a copy of the **complete documentation** "SABS permit to Apply Certificate Mark" i.e. not a face sheet but all additional documentation including the precise manufacturing process (es) that the certificate mark applies to.

6.4.6 **Manufacturer's Capability Report**

6.4.6.1 All bidders must submit a Manufacturer's Capability Report with the bid documents at closing date and time of the bid. The capability report must be issued by South African Bureau of Standards (SABS) to the original product manufacturers of the product offered. The capability report must address manufacturers' capability and capacity to manufacture the required male condoms.

6.4.6.2 The capability report must address the following elements but not limited to:

- Production capacity and capability (per Batch, Monthly and Yearly)
- Company organisation
- Physical address of the manufacturing facility
- Facilities
- Quality control systems
- Incoming inspections
- In-process quality control
- Final inspection
- Packaging
- Non-conforming product
- Communication/documentation control and work movement

6.4.6.3 In the event of the bidder sourcing the product(s) from another manufacturer, a capability report from that manufacturer must be obtained. The capability report must accompany the bid at closing date and time of the bid.



- 6.4.6.4 The capability report must not be older than twelve (12) months.
- 6.4.6.5 The cost of obtaining the capability report will be for the account of the bidder.
- 6.4.6.6 In the event that a capability report cannot be obtained from SABS prior to the closing date and time of bid, the bidder must obtain proof (issued by SABS) that the capability audit has been requested from the institution before or on the closing date and time of the bid. In this case, bidders must submit the capability reports to National Treasury prior to the evaluation meeting of this bid take place, the meeting normally takes place within 30 days from the closing date and time of bid.
- 6.4.6.7 It is the responsibility of the bidder to ensure that the capability report is submitted to National Treasury within the stipulated timelines.
- 6.4.7 Test report from South African Bureau of Standards (SABS).**
- 6.4.7.1 All bidders are required to submit a test report issued by a South African Bureau of Standards (SABS) for all items. The test reports must not be older than twelve (12) months at the closing date of the bid.
- 6.4.7.2 In this regard, samples of all items must be submitted to SABS for testing in quantities required as per SABS specifications for the purpose of obtaining a test report for the items offered prior to the closing date and time of bid.
- 6.4.7.3 The procedures for sampling frame guidelines and testing for product compliance may differ and should be obtained from SABS prior to submission of samples. The cost of compliance testing will be for the account of the prospective bidder.
- 6.4.7.4 No samples must be sent to National Treasury and or National Department of Health.
- 6.4.7.5 In the event that a test report cannot be obtained from the testing institution prior to the closing date and time of the bid, the bidder must submit proof (acknowledge letter issued by the SABS) that the sample had been submitted for testing on or before the closing date and time of the bid.
- 6.4.7.6 In an event where a bidder has submitted a letter from SABS confirming that samples have submitted for testing, bidders are giving a consent to National Treasury to engage with SABS to verify that bidders have submitted the samples for testing and National Treasury may request such test reports directly from SABS.
- 6.4.7.7 It is the responsibility of the bidder to ensure that the test reports are submitted to National Treasury as soon as SABS issue the reports.
- 6.4.7.8 Samples must be submitted to the address indicated below, prior to closing date and time of bid:

Physical Address: South African Bureau of Standards, 1 Dr Lategan Road, Groenkloof, 0001.



Contact person: Ms Isabella Masemola

Contact details: Tel: 012 428 6131 and OR E-mail: Isabella.masemola@sabs.co.za

- 6.4.7.9 It is the responsibility of the bidder to ensure that samples have been received at the address provided. All samples for awarded items may be retained by the SABS for quality control purposes.
- 6.4.7.10 Bids not supported by test reports will be disregarded in respect of the item (s) for which test reports are not submitted.
- 6.4.7.11 Bidders must enquire at South African Bureau of Standards office's countrywide for the relevant standards specifications for SANS, SABS, ISO AND CKS. Obtaining any standards/specifications will be the responsibility and for the account of the prospective bidder. To purchase standards, obtain quotes or enquire about the availability of eStandards, please contact Standards Sales at: Physical Address: 1 Dr Lategan Road, Groenkloof, Pretoria. Contact person: Ms Matlala Raphiri, Tel: 012 428 6057/6694 E-mail: matlala.raphiri@sabs.co.za; Website: www.sabs.co.za and follow the "Search/Buy Standards" link
- 6.4.8 **Product Artwork -**
- 6.4.8.1 Artwork for all products can be viewed on the website for information only and not for submission of samples. Only successful bidders will receive further communication regarding the final packaging of the male and female condoms.
- 6.5 **PHASE 4: PRICE AND SPECIFIC GOALS**
- 6.5.1 **Pricing Schedule and structure requirements**
- 6.5.1.1 Prices quoted must be furnished based on "delivered to State facility" country-wide inclusive of VAT.
- 6.5.1.2 The pricing schedule provided in this bid forms an integral part of the bid document and bidders must ensure that it is completed without changing the structure thereof. Bidders are required to complete a mandatory Pricing Schedule as a response to how much the items offered will be charged.
- 6.5.1.3 Due diligence on market-related pricing reasonability may be conducted. The State reserve the right to disqualify bid offers which are under-quoted and or are above market value. In this case, the bidder may be required to submit supporting documentation to the State to prove that the pricing is not under-quoted or above market value.
- 6.5.1.4 Conditional discounts offered will not be taken into consideration during evaluation.
- 6.5.1.5 Prices submitted in this bid must be filled in on the field provided on the pricing schedule supplied with the bid. Price structures that do not comply with this requirement may invalidate the bid.



6.5.1.6 The Pricing Schedule (**Annexure B**) must be submitted in two forms, as hardcopy which must be included in the bid document and in an Excel, spreadsheet saved in a USB/memory stick at the closing date and time of bid. Both the hard copy and the Excel version must be the same (replica).

6.5.2 Preferential Point System

6.5.2.1 The pricing evaluation will be in terms of the Preferential Procurement Regulations as per the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000), responsive bids will be adjudicated by the State on the 90/10 preference point system based on:

- a) The bid price (Maximum of 90 points)
- b) Historically disadvantaged individuals as well as specific goals (maximum 10 points)

6.5.2.2 The following formula will be used to calculate the points for price:

$$P_s = 90 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where,

P_s = Points scored for the comparative price a of bid under consideration

P_t = Comparative price of a bid under consideration

P_{\min} = Comparative price of lowest acceptable bid

6.5.2.3 **The points for historically disadvantaged individuals as well as other specific goals are allocated as follows:**

Table 4: Allocated Goals

GOALS	POINTS
Preference points for equity ownership by historically disadvantaged Individuals who, due to the apartheid policy that had been in place had no franchise in national elections prior to the introduction of the Constitution of the RSA, 1983 (Act 110 of 1983) or the Constitution of the RSA, 1993 (Act 200 of 1993), ("the Interim Constitution") and or	2
Other Specific Goals (RDP goals) - Local Manufacturing (locally produced product)	8

- a) The points scored by a bidder in respect of the goals indicated above will be added to the points scored for price.
- b) Bidders are required to complete the SBD 6.1 forms in order to claim preference points. Only a bidder who has completed and signed the declaration part of the SBD 6.1 and preference points claim forms will be considered for preference points.
- c) The bidder's Central Supplier Database (CSD) and CIPC registration documents will serve as proof of ownership and directorship of the company.



- d) Failure on the part of a bidder to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender will not be allocated with the points claimed.
- e) The State may, before a bid is adjudicated or at any time, require a bidder to substantiate claims it has made about preference.
- f) Points scored will be rounded off to the nearest 2 decimals.
- g) If two or more bids have scored equal total points, the contract will be awarded to the bidder scoring the highest number of points for the specified goals. Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.
- h) A contract may, on reasonable and justifiable grounds, be awarded to a bid that did not score the highest number of points. in terms of section 2(1) (f) of the PPPFA Act, the State will only consider bids offering goods with more local content and/or local value added.
- i) Preference points may not be claimed in respect of individuals who are not actively involved in the management of an enterprise or business and who do not exercise control over an enterprise or business commensurate with their degree of ownership.

6.5.2.4 Specific goals in relation to procuring locally produced products.

- a) Bidders must submit SBD 6.2 to claim points for local content. Preference points may only be claimed for products, which will be manufactured (fabricated, processed or assembled), in the Republic of South Africa. In cases where production has not yet commenced at time of bid closure, evidence shall be produced that at the time of bid closure, the bidder was irrevocably committed to local production of the product.
- b) Local content means that portion of the bid price, which is not included in imported content, provided that local manufacture does take place.
- c) Imported content means that portion of the bid price represented by the costs of components, parts or materials which have been or are still to be imported (whether by the bidder or his suppliers or sub-contractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duties, sales duties, or other similar taxes or duties at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies for which a bid has been submitted are manufactured.
- d) Bidders must indicate in the pricing schedule (Annexure B) which product(s) [item number(s)] is/are manufactured locally and indicate the local content % of each product / item in relation to the bid price. The points will be calculated automatically in the pricing schedule. Points claimed will be indicated in the "points claimed" column.



- 6.5.2.5 The following formula must be applied to calculate the number of points out of the points allocated to for specific goals:

$$\text{PSLC} = \text{MLC} \times \frac{\text{PLC}}{100}$$

Where:

PSLC= Points scored for a local content

MLC = Maximum points allocated for Local Content

PLC = Percentage of Local Content for product offered

- 6.5.2.6 To qualify for the points of local manufacturing, the definition of a locally produced product will be limited to at least the conversion process (substantiated value adds) being in the Republic of South Africa. Substantial supporting documents may be required at any point in time before and post-award of the contract. Due diligence, which includes site visits, may be conducted in this regard.

- 6.5.2.7 The following aspects must be complied with:

- a) The manufacturing processes is classified into two categories, primary manufacturing, and secondary manufacturing. Bidders must indicate on the pricing schedule if the product is imported, locally manufactured (primary or secondary)
- b) Bid offers for items which have been declared as primary or secondary manufactured locally must meet the following minimum threshold for local production and content:

Table 5 - Maximum threshold for all items

Local Content	Primary Manufacturing Minimum Threshold	Secondary Manufacturing Minimum Threshold
Male Condoms	80%	50%

Table 6 - Male condom threshold

Process/ Product Name:	Primary Manufacturing Minimum Threshold	Secondary Manufacturing Minimum Threshold
<u>Overall Materials Component</u>	<u>70%</u>	<u>60%</u>
Latex	0%	0%
Chemicals	60%	0%



Process/ Product Name:	Primary Manufacturing Minimum Threshold	Secondary Manufacturing Minimum Threshold
Foiling	100%	100%
Silicon	100%	100%
Shelf and Outer Packaging	100%	100%
<u>Manufacturing Process</u>	<u>90%</u>	<u>40%</u>
Compounding	50%	0%
Dipping	100%	0%
Tumbling	100%	0%
Testing	100%	100%
Packaging	100%	100%

- c) Only the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:2011 must be used to calculate local content.
- d) The technical specification and the Guidance on the calculation of local content together with the Local Content Declaration Templates namely [Annex C (Local Content Declaration: Summary Schedule), D (Imported Content Declaration: Supporting Schedule to Annex C) and E (Local Content Declaration: Supporting Schedule to Annex C)] are accessible to all bidders on the dti's website http://www.dti.gov.za/industrial_development/ip.jsp at no cost.
- e) The local content (LC) expressed as a percentage of the bid price must be calculated in accordance with the following formula:

$$LC = (1 - X/Y) * 100$$

Where:

X is the imported content in Rand

Y is the bid price in Rand excluding value added tax (VAT)

- f) Prices referred to in the determination of X must be converted to Rand (ZAR) by using the exchange rate published by the South African Reserve Bank (SARB) at 12:00 on the date of advertisement of the bid.\



- g) The DTI has a right, as and when necessary, to request for auditors' certificates confirming the authenticity of the declarations made in respect of local content.
- h) Items which have been declared that are produced locally (primary or secondary) and do not meet the minimum threshold of the local content will be disqualified and will not be evaluated further.
- i) Suppliers must not sub-contract in such a manner that the local production and content of the overall value of the items concerned is reduced to below the stipulated minimum threshold.
- j) Where, after the award of this bid, suppliers experience challenges in meeting the stipulated minimum threshold for local content, the DTI must be informed accordingly to verify and in consultation with the National Treasury provide directives in this regard.

6.5.3 **NB: The supplementary bid RT75-1-2021** is an extension to the main contract RT75-2021 and therefore bidders who have been awarded and allocated quantities on the main contract RT75-2021 will not be eligible to be allocated any quantities on the supplementary bid RT75-1-2021. Bidders who fall in this criterion will be disqualified during this evaluation phase.

6.5.4 **Applicable Taxes**

- a) All bid prices must be inclusive of all applicable taxes.
- b) All bid prices must be inclusive of fifteen percent (15%) Value Added Tax.
- c) Failure to comply with this condition may invalidate the bid.

6.5.5 **Cost Breakdown**

6.5.5.1 Bidders are requested to submit the cost breakdown of their pricing for each item offered on the response fields allocated on the pricing schedule for each item offered. The cost breakdown submitted will be utilized during the price adjustment considerations.

6.5.5.2 Bidders should itemise the cost of each item into various components which are cost-drivers. The cost needs to be broken down into direct and indirect costs. Each cost driver should be assigned a percentage of the total cost.

6.5.5.3 Example:

Table 7: Example of Cost Breakdown

Cost-driver	% Total Cost
Imported raw material	30%
Local raw material	20%
Labour	15%



Cost-driver	% Total Cost
Transport	30%
Other (Indicate)	5%
The total % of the item	100%

6.5.6 TCD 14 Historical Exchange Rates

- 6.5.6.1 In terms of cost price adjustment, bidders should make use of any relevant currency for the items offered by calculating the average for the period 1 April 2023 to 27 September 2023 using the Reserve Bank published rates for the specific currency. Bidders are to visit <https://www.resbank.co.za/> to obtain the relevant rates. Reference to **TCD 14** on the procedure to download historical exchange rates from the Reserve Bank website for instructions.

6.5.7 Responsive Bids

- 6.5.7.1 Bidders are required to submit responsive bids by completing all pricing and item information on the provided pricing schedule (Annexure B) for the individual items and all required forms. Non-submission of the pricing schedule (Annexure B) will invalidate the bid response.



7. PART 2: ADDITIONAL BID REQUIREMENTS

7.1 COMPANY REGISTRATION AND ORGANOGRAM

7.1.1 Shareholding portfolio by proof of registration of the company with Companies Intellectual Property Commission (or use abbreviation if already abbreviated above – delete statement). An additional document detailing the shareholding of the bidder in an organogram format in support of the proof of company registration must be submitted.

7.1.2 If by law registration with CIPC is not required, proof of ownership/shareholding must be provided.

7.2 COMPANY PROFILE

7.2.1 Bidders are requested to submit a company profile which includes, but is not limited, to the following: -

7.2.1.1 Business structure and strategies; and

7.2.1.2 Details of the bidder's directors/owners (Full name and surname and ID or passport number)

7.2.1.3 Years of company existence and experience relevant to this bid.

7.3 TERMS AND CONDITIONS OF BID

7.3.1 Counter Conditions

7.3.1.1 Bidders' attention is drawn to the fact that amendments to any of the bid conditions or setting of counter conditions by bidders may result in the invalidation of such bids.

7.3.1.2 The National Treasury reserves the right to change or supplement any information or to issue any addendum to this bid before the closing date and time. The National Treasury and its officers, employees and advisors will not be liable in connection with either the exercise of or failure to exercise this right.

7.3.1.3 If the National Treasury exercises its right to change or supplement information in terms of the above clause, it may seek amended bid documents from all bidders.

7.3.2 Fronting

7.3.2.1 The National Treasury supports the spirit of broad-based black economic empowerment and recognizes that real empowerment can only be achieved through individuals and businesses conducting themselves by the Constitution and in an honest, fair, equitable, transparent, and legally compliant manner. Against this background, the National Treasury does not support any form of fronting.

7.3.2.2 The National Treasury, in ensuring that bidders lawfully conduct themselves will, as part of the bid evaluation processes, conduct, or initiate the necessary enquiries/investigations to determine the accuracy of the representation made in this bid document. Should any of the fronting indicators as contained in the Guidelines on Complex Structures and Transactions and Fronting, issued by the



Department of Trade, Industry and Competition, be established during such enquiry/investigation, the onus will be on the bidder to prove that fronting does not exist.

- 7.3.2.3 Failure to do so by the bidder within fourteen (14) days from the date of notification by the National Treasury may invalidate the bid/contract and may also result in the restriction of the bidder from conducting business with the public sector for a period not exceeding ten (10) years, in addition to any other remedies the National Treasury may have against the bidder concerned.

7.4 **SUBMISSION OF BIDS**

7.4.1 **PHYSICAL AND HARDCOPY BID SUBMISSION**

- 7.4.1.1 Bidders are required to submit hard copies at the National Treasury, 240 Madiba Street, TIC, and Deposit the bid in the tender box.
- 7.4.1.2 The hard copy of the bid response will serve as the legal bid document.
- 7.4.1.3 Bidders' attention is drawn to the sequential submission format as per the checklist in Table 1.
- 7.4.1.4 Bidders must submit the bid at TIC situated at corner 240 Thabo Sehume and Madiba Streets, Pretoria in the following format:
- a. One (1) original hard copy
 - b. One (1) memory stick or USB with all the documents on the original hard copy and an Excel version of the pricing schedule. Bidders must ensure that the USB is marked with the bidder's name.
- 7.4.1.5 All documents on the USB submitted must be an exact copy of the hard copy documents. Any discrepancies between the USB document and the original hard copy, the hard copy will take precedence.
- 7.4.1.6 A bid should be submitted in a sealed envelope or sealed suitable cover on which the name and address of the bidder, the bid number and the closing date must be visible.
- 7.4.1.7 Submit all bid queries via email to Demand.Acquisition2@treasury.gov.za.

7.5 **LATE BIDS**

- 7.5.1 Bids received after the closing date and time at the TIC will NOT be accepted for consideration and where practical, be returned unopened to the bidder.

7.6 **COMMUNICATION AND CONFIDENTIALITY**

- 7.6.1 The Chief Directorate: Transversal Contracting (TC) within the Office of the Chief Procurement Officer (OCPO) may communicate with bidders where clarity is sought after the closing date and time of the bid and before the award of the transversal contract, or extend the validity period of the bid, if necessary.



- 7.6.2 Any communication to any State official or a person acting in an advisory capacity for the State in respect of this bid between the closing date and the award of the bid by the bidder is discouraged.
- 7.6.3 Whilst all due care has been taken in connection with the preparation of this bid, the National Treasury makes no representations or warranties that the content in this bid or any information communicated to or provided to bidders during the bidding process is, or will be, accurate, current, or complete. The National Treasury, and its officers, employees and advisors will not be liable concerning any information communicated which is not accurate, current, or complete.
- 7.6.4 If a bidder finds or reasonably believes it has found any discrepancy, ambiguity, error or inconsistency in this bid or any other information provided by the National Treasury (other than minor clerical matters), the bidder must promptly notify the National Treasury in writing of such discrepancy, ambiguity, error or inconsistency to allow the National Treasury to consider what corrective action is necessary (if any).
- 7.6.5 Any actual discrepancy, ambiguity, error or inconsistency in this bid or any other information provided by the National Treasury will, if possible, be corrected and provided to all bidders without attribution to the bidder who provided the written notice.
- 7.6.6 All communication between the bidder and the National Treasury TC office must be done in writing as per the Contact Details below.
- 7.6.7 No representations made by or on behalf of the National Treasury about this bid will be binding on the National Treasury unless that representation is expressly incorporated into the contract ultimately entered between the National Treasury and the successful bidder(s).
- 7.6.8 All persons (including all bidders) obtaining or receiving this bid and any other information in connection with this bid, or the tendering process must keep the contents of the bid and other such information confidential, and not disclose or use the information except as required for developing a response to this bid.
- 7.7 **CONTACT DETAILS**
- 7.7.1 **General:** - National Treasury, Office of the Chief Procurement Officer, Chief Directorate: Transversal Contracting, Private Bag x115, Pretoria, 0001. Physical address: 240 Madiba Street, corner Thabo Sehume and Madiba Streets, Pretoria
- 7.7.2 **Bid Enquiries:** - All enquiries should be in writing to Demand.Acquisition2@treasury.gov.za. The closing date for receipt of all enquiries is **28 March 2023**. All enquiries beyond the closing date will not be considered.



8. PART 3: RECOMMENDATION AND APPOINTMENT OF BIDDERS

8.1 Once the evaluation process is complete there will be a recommendation report by the BEC to the Bid Adjudication Committee (BAC) which has the authority to either support (approve) or not support (not approve) the recommendation/s and appointment/s.

8.2 On approval of the recommendation/s and appointment/s, the successful bidder(s) will sign an appointment letter together with the master transversal agreement for the supply and delivery of male and female condoms and lubricant of this bid and the unsuccessful bidder(s) will be informed accordingly. The following paragraphs will be applicable when making a recommendation:

8.3 Tax Compliance Requirements

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

8.3.2 The Tax Compliance status requirements are also applicable to potential foreign bidders/individuals who wish to submit a bid.

8.3.3 Bidders are required to be registered on the Central Supplier Database (CSD) and the National Treasury shall verify the bidder's tax compliance status through the CSD or SARS.

8.3.4 Where Consortia / Joint Ventures / Sub-Contractors are involved, each party must be registered on the CSD, and their tax compliance status will be verified through the CSD or SARS.

8.4 Multiple Award

8.4.1 The State reserves the right to award the same item to more than one (1) bidder to address item availability and compatibility. Benchmarking will be applied to ensure that pricing is affordable, market-related and aligned to end-user requirements. The maximum number of bidders per item to be awarded will be at the discretion of BEC.

8.4.2 In terms of section 2(1) (f) of the PPPFA Act, the State will only consider bids offering goods with qualifying local content and/or local value added as per paragraph 6.5.3.7 below.

8.4.3 Bidders who have been awarded and allocated quantities on the main contract RT75-2021 will not be eligible to be allocated any quantities on the supplementary bid RT75-1-2021. Bidders who fall in this criterion will be disqualified on Price and Specific goals evaluation phase.

8.5 Negotiations

8.5.1 The State reserves the right to negotiate with the shortlisted bidders before or after the award. The terms and conditions for negotiations will be communicated to the shortlisted bidders before the invitation to negotiations. This phase is meant to ensure value for money is achieved through the measure of quality



that will assess the monetary cost of the items or services against the quality and or benefits of that item or services.

8.6 Due Diligence

8.6.1 The State reserves the right to conduct due diligence before the final award or at any time during the transversal contract period and this may include pre-announced/ non-announced site visits. During the due diligence process, the information submitted by the bidder will be verified and any misrepresentation thereof may disqualify the bid in whole or parts thereof.

8.6.2 The State also reserves the right to conduct any evaluation verifications before the final award or at any time during the transversal term contract period.

8.6.3 Where applicable, the BEC reserves the right to subject item samples to applicable clinical evaluations, applications, or tests at any State facility to verify compliance with the technical specifications. This will be arranged with the bidder.

8.7 Right of Award

8.7.1 The State reserves its following rights -

8.7.1.1 To award the bid in part or in full,

8.7.1.2 Not to make any award in this bid or accept any bids submitted,

8.7.1.3 Request further technical information from any bidder after the closing date,

8.7.1.4 Verify information and documentation of the bidder(s),

8.7.1.5 Not to accept any of the bids submitted,

8.7.1.6 To withdraw or amend any of the bid conditions by notice in writing to all bidders before closing of the bid and post-award, and

8.7.1.7 If an incorrect award has been made to remedy the matter in any lawful manner it may deem fit.



SECTION C: CONDITIONS OF CONTRACT

9. CONCLUSION OF CONTRACT

- 9.1 The Contract between National Treasury and the preferred bidder/s (Service Provider) collectively referred to as the Parties shall come into effect after the service provider has been issued with an unconditional letter of acceptance to their bid.
- 9.2 The Service Provider (s) shall be appointed in terms of this bid. The following will form part of the contract documents between the Parties as far as this RT75-1-2021 is concerned:
- 9.2.1 Bid Documents
 - 9.2.2 Letter of Appointment
 - 9.2.3 Award Documents
 - 9.2.4 Acknowledgement letter
- 9.3 If there is any contradiction between the abovementioned documents, the special conditions of the contract shall take precedence. For Section B, the term “service provider “shall refer to the preferred bidder appointed in terms of the RT75-1-2021 transversal contract.

10. PARTICIPATING STATE INSTITUTIONS

- 10.1 The following institution will be participating in the contract for RT75-1-2021:
- 10.1.1 **Provincial Departments of Health:** Eastern Cape, Free State, Gauteng, Kwa-Zulu Natal, Limpopo, Mpumalanga, Northern Cape, North West and Western Cape
 - 10.1.2 **National Department:** Correctional Services and Department of Defense.

11. POST-AWARD PARTICIPATION

- 11.1 PFMA public institutions listed in Schedules 1, 2, 3A, 3B, 3C, 3D and Local Government may send an application to the National Treasury post-award to request participation in the transversal contract.
- 11.2 In terms of Treasury Regulation 16A6.5 Accounting Officer/Accounting Authority of National and Provincial departments, constitutional institutions, and public entities listed in schedules 1, 3A, and 3C to the PFMA may opt to participate in a transversal contract facilitated by the relevant treasury.
- 11.3 Regulation 32 of the Municipal SCM Regulations provides that a Supply Chain Management policy may allow the accounting officer to procure goods or services for a municipality or municipal entity under a contract secured by another organ of the state.



12. CONTRACT MANAGEMENT: ROLES AND RESPONSIBILITIES

12.1 Contract Administration

12.1.1 The administration and facilitation of the transversal contract is the responsibility of the National Treasury and all correspondence in this regard must be directed to the Transversal Contracting Department via email on TCcontracts1@treasury.gov.za

12.1.2 Suppliers must advise the Chief Directorate: Transversal Contracting, National Treasury immediately when unforeseeable circumstances will adversely affect the execution of the transversal contract. Full particulars of such circumstances as well as the period of delay must be furnished.

12.2 Supplier Performance Management

12.2.1 Supplier performance management will be the responsibility of the purchasing institution and where supplier performance disputes cannot be resolved between the supplier and the relevant purchasing institution, National Treasury: Transversal Contracting must be contacted for corrective actions.

12.2.2 Supplier performance rating Form (to be provided for by the National Treasury after the bid award) will be instituted, and every supplier must complete it to ensure good performance.

12.2.3 End-user State institutions are required to report to the National Treasury on where supplier's performance is not satisfactory.

12.2.4 Successful suppliers will have their performance scored. National Treasury will provide a template that will be used to measure overall performance in terms of the transversal contract. Suppliers who score an unacceptable performance rating may not be awarded future contracts of the same bid and may have the transversal contract terminated before the end of the transversal contract period.

13. CONTRACT PRICE ADJUSTMENT

13.1 Formula

13.1.1 Prices submitted for this bid will be regarded as non-firm and may be subject to adjustment(s) in terms of the following formula, defined areas of cost and defined periods.

13.1.2 Applications for price adjustments must be accompanied by documentary evidence in support of any adjustment claim.

13.1.3 The following price adjustment formula will be applicable for calculating contract price adjustments (CPA).

**Table 8: Contract Price Adjustment Formula**

$Pa = (1 - V)Pt \left(D1 \frac{R1t}{R1o} + D2 \frac{R2t}{R2o} + D3 \frac{R3t}{R3o} + + Dn \frac{Rnt}{Rno} \right) + VPt$		
Pa	=	The new adjusted price to be calculated
V	=	Fixed portion of the bid price (15% or 0.15)
Pt	=	Original bid price. Note that Pt must always be the original bid price and not an adjusted price
(1-V)Pt	=	Adjustable portion of the bid price (85% or 0.85)
D1 – Dn	=	Each factor (or percentage) of the bid price, e.g., material, labour, transport, overheads, etc. The total of the various factors (or percentages) D1 – Dn must add up to 1 (or 100%)
R1t – Rnt	=	End Index. Index figure obtained from the index at the end of each adjustment period.
R1o–Rno	=	Base Index. Index figure at the time of bidding.
VPt	=	15% (or 0.15) of the original bid price. This portion of the bid price remains fixed, i.e. it is not subject to price adjustment

13.2 Formula component definitions

13.2.1 Adjustable amount

13.2.1.1 The adjustable amount is the portion of the bid price which is subject to adjustment. In this bid, the adjustable amount is 85% of the original bid price. For example, if the bid price is R1000, then only R850 will be subject to adjustment.

13.2.2 Fixed portion

13.2.2.1 The fixed portion represents those costs that will not change over the adjustment period and do NOT represent the profit margin. In this bid, the fixed portion is 15% of the original bid price. Using the same example as above, it would amount to R150 which will remain fixed over the contract periods.

13.2.3 Cost components and proportions

13.2.3.1 The cost components of the contract price usually constitute the cost of materials (raw material or finished product), cost of direct labour, cost of transport and those other costs that are inclined to change. The proportions are the contribution to the contract price of each of these cost components. In this bid, the following cost components will be used to calculate contract price adjustments.

13.2.3.2 Bidders are requested to submit the cost breakdown of the bid price for each item with their bid. Should the cost breakdown be the same for all items on the bid, bidders must indicate it clearly in the bid



document.

- 13.2.3.3 National Treasury will analyse the cost breakdown submitted by the successful bidders and upon approval, the cost breakdown will be utilized throughout the contract period to process price adjustments applications or process automatic adjustments as per the timeline below.
- 13.2.3.4 Successful bidders who are direct importers of raw material / finished products can apply for RoE adjustment under cost element D1. If the successful bidder is not a direct importer of raw material / finished product, cost component D1 would not be applicable and only local cost components (D2 - Dn) would be applicable.

Table 9: Contract Price Adjustment Cost Components

Cost Component	% Contribution
D1 – Imported Raw Material / Finished product	
D2 - Local Raw Material / Finished product (if applicable)	
D3 – Labour	
D4 – Transport	
D5 – Overheads	
D6 – Other	
TOTAL (Cost components must add up to 100%)	100

13.2.4 Applicable indices/references

- 13.2.4.1 The applicable index refers to the relevant market index, which is a true reflection of price movement(s) in the cost over time. In this bid, the following indices or references will be applicable:

Table 10: Applicable Indices/References

Cost component	Index Publication	Index Reference
D1 – Imported Finished product (if applicable);	Reserve bank ROE publication/ Supplier / Manufacturer invoice(s) and remittance advice. ²	Documentary evidence to accompany the claim and ROE
D2 - Local Finished product (if applicable):	Specify (STATS SA Index)	STATS SA Table (Specify)

² In cases where invoices are supplied as documentary evidence, it is advised that invoices closest to the Base Index date and the End Index date be submitted. It should ideally reflect the adjustment period.



Cost component	Index Publication	Index Reference
D3 – Labour	STATS SA P0141 (CPI), Table E; OR Labour Agreement ³	Table E - All Items (CPI Headline) OR Labour agreement to be provided/ Regulated Pricing Adjustment
D4 – Transport	Stats SA P0141 (CPI) Table E	Transport – Other Running Cost
D5 – Overheads	Specify (STATS SA Index)	STATS SA Table (Specify)
D6 – Other	Specify (STATS SA Index)	STATS SA Table (Specify)

13.2.5 Base index date

13.2.5.1 The base index date applicable to the formula is defined as the date at which the price adjustment starts. In this bid, the base index date is **March 2024**.

13.2.6 End index date

13.2.6.1 The end index dates are the dates at predetermined points in time during the contract period. In this bid the end indices are defined in the next paragraph (Price Adjustment Periods).

13.2.7 Price adjustment periods

13.2.7.1 Price adjustment shall be applied on an annual basis at the anniversary of the transversal contract from the closing date of the bid. The adjusting month shall be a month before the effective date of the adjustments.

13.2.8 Rates of exchange (RoE) – Base and average rates

13.2.8.1 If material and/or finished products are imported the following will apply:

13.2.8.2 The formula described above will be used and the imported cost component of the bid price (D1) will be adjusted considering the base RoE rate referred paragraph in the below paragraph and the average RoE rate over the period under review indicated in the below paragraph.

13.2.8.3 If the RoE adjustment goes hand in hand with a material/product price increase, the material/product price (in foreign currency) will be converted to South African currency using the base rate for the earlier invoice and the average RoE rate for the period under review as indicated in the paragraph below for

³ In the absence of a labour agreement, the labour cost component will be adjusted with CPI Headline inflation.



the later invoice.

- 13.2.8.4 The imported cost component (D1) will be adjusted together with all the other cost components indicated in the paragraph above and at the predetermined dates indicated in the paragraph above.
- 13.2.8.5 The Rate(s) of exchange to be used in this bid in the conversion of the bid price of the item (s) to South African currency is indicated in the table below.

Table 11:CPA Rate Of Exchange

Currency Name	Rates of exchange: 1 September 2023 to 23 February 2024
US Dollar	
Euro	
Pound	

- 13.2.8.6 Should the bidder make use of any other currency not mentioned above, the bidder is requested to calculate the average for the period **1 September 2023 to 23 February 2024** using the Reserve Bank published rates for the specific currency. Visit www.reservebank.co.za to obtain the relevant rates. Please refer to TCBD 14 (Procedure to download historical exchange rates from the Reserve Bank website) for instructions.
- 13.2.8.7 Contract price adjustments due to rate of exchange variations are based on 6 months average exchange rates as published by the Reserve Bank.
- 13.2.9 **General**
- 13.2.9.1 Unless prior approval has been obtained from the National Treasury, Transversal Contracting, no adjustment in contract prices will be made.
- 13.2.9.2 Application for price adjustment must be accompanied by documentary evidence in support of any adjustment.
- 13.2.9.3 CPA application will be applied strictly according to the specified formula and parameters above as well as the cost breakdown supplied by bidders in their bid documents.
- 13.2.9.4 If the supplier's CPA application, based on the above formula and parameters, differs from Transversal Contracting verification, Transversal Contracting will consult with the supplier to resolve the differences.
- 13.2.9.5 Bidders are referred to in the paragraph regarding counter conditions.
- 13.2.9.6 An electronic price adjustment calculator will be available on request from Transversal Contracting.
- 13.2.9.7 The State reserves the right to negotiate a price adjustment or not to grant any price adjustment.

**14. DELIVERY AND QUANTITIES****14.1 Delivery Basis**

- 14.1.1 Lead times for delivery shall not exceed eight (8) weeks. Delivery period exceeding the prescribed maximum of eight (8) weeks may be cancelled without notice.

14.2 Quantities

- 14.2.1 No quantities are reflected in this bid as orders will be placed based on an 'as and when required' and no guarantee is given or implied as to the actual quantity/quantities that will be procured during the transversal contract period.
- 14.2.2 Orders will be placed by participating institutions and they will also be responsible for the payment to Suppliers for the products delivered and/or services rendered.

15. DELIVERY ADHERENCE, ORDERS AND PAYMENTS**15.1 Orders**

- 15.1.1 Suppliers should note that each purchasing State institution is responsible for generating the order(s) as well as the payment(s) thereof.
- 15.1.2 Suppliers should note that the order(s) will be placed as and when required during the transversal contract period and delivery points will be specified by the relevant purchasing State institution(s).
- 15.1.3 The instructions appearing on the official order form regarding the supply, dispatch and submission of invoices must be strictly adhered to and under no circumstances should the Supplier deviate from the orders issued by the purchasing State institutions.
- 15.1.4 The State is under no obligation to accept any quantity(ies) which is more than the ordered quantity(ies).

15.2 Delivery Adherence

- 15.2.1 Delivery of items must be made as per the instructions appearing on the official purchase order forms issued by purchasing State institutions.
- 15.2.2 All deliveries or dispatches must be accompanied by a delivery note stating the official order number against which the delivery has been affected.
- 15.2.3 In respect of items awarded, Suppliers must adhere strictly to the delivery lead times quoted in their bids.
- 15.2.4 Deliveries not complying with the purchase order forms will be returned to the Supplier(s) at the Supplier's expense.

**16. ITEM ADHERENCE / SUBSTITUTION**

- 16.1.1 In the event where a bidder offers a specific brand against an item and the item is subsequently awarded to the bidder, it is required of the successful bidder to continue to supply the brand awarded throughout the contract period.
- 16.1.2 In the event that the model/brand is discontinued and or replaced with a new model, National Treasury, Transversal Contracting must be notified of such an occurrence and upon approval, an official amendment will be issued. The supplier is required to submit supporting documents from the manufacturer substantiating the changes.
- 16.1.3 It must be noted that the new model/ brand will be required to undergo the evaluation process prior to receiving approval of the model change issued by National Treasury. The new model must adhere to the technical specification for the item.
- 16.1.4 Furthermore, suppliers are to take note that the price of the new model should not be higher from the current contract price of the original model.
- 16.1.5 Suppliers are not allowed to deliver a new models/brand other than the model/brand awarded to them prior to an approval of model/brand change from National Treasury.
- 16.1.6 National Treasury reserve the right not to approve any model change applications.

17. CONTINUITY OF SUPPLY

- 17.1 The supplier must maintain sufficient stock to meet demand throughout the contract and inform the National Treasury at first knowledge of any circumstances that may result in interrupted supply, including but not limited to:
 - 17.1.1 Industrial action,
 - 17.1.2 Manufacturing Pipeline
 - 17.1.3 Any other supply challenges.
- 17.2 In terms of the General Conditions of Contract and Special Requirements and Conditions of Contract, the Department of Health reserves the right to purchase outside of the contract to meet its requirements if:
 - 17.2.1 The contracted supplier fails to perform in terms of the contract.
 - 17.2.2 The item(s) are urgently required and not immediately available; □
 - 17.2.3 In the case of an emergency.

18. PACKAGING AND LABELLING**18.1 Packaging**

- 18.1.1 All deliveries made against this contract, in all modes of transport, are to be packed in suitable containers.



- 18.1.2 Packaging must be suitable for further dispatch, storage and stacking according to Good Wholesaling Practice and Good Distribution Practice.
- 18.1.3 Packaging must be suitable for transportation and should prevent exposure to conditions that could adversely affect the stability and integrity of the product.
- 18.1.4 The packing must be uniform for the duration of the contract period. All products must be packed in acceptable containers, specifically developed for the product.
- 18.1.5 Where a particular stacking and storage configuration is recommended by the supplier, this should be clearly illustrated on the outer packaging.
- 18.1.6 Where the contents of the shipper pack represent a standard supply quantity of an item, the following must be adhered to:
- 18.1.6.1 Outer packaging flanges must be sealed with suitable tape that will display evidence of tampering.
- 18.1.6.2 The contents must be packed in neat, uniform rows and columns that will facilitate easy counting when opened.
- 18.1.7 Where the contents of a shipper pack represent a non-standard supply quantity, the following must be adhered to:
- 18.1.7.1 Outer packaging flanges must be sealed with suitable tape that will display evidence of tampering.
- 18.1.7.2 The shipper pack must contain only one product, mixing of multiple items in a single shipper is not allowed.
- 18.1.7.3 The outer packaging must be marked as a "Part Box".
- 18.1.8 Suppliers must ensure that products delivered are received in good order at the point of delivery.
- 18.2 Labelling**
- 18.2.1 All containers, packing and cartons must be clearly labelled. Bulk packs must be labelled in letters not less than font size 48.
- 18.2.2 The following information must be clearly and indelibly printed on all shelf and shipper packs, including any part boxes packaging in at least English language:

Table 12: Labelling Details

#	Details
1.	Proprietary name (if applicable)
2.	Name of the product
3.	A Product code as relevant
4.	The trade name or trademark of the manufacturer
5.	Size of the product



#	Details
6.	Quantity of the contents
7.	Name of manufacturer
8.	Date of manufacture
9.	Name and address of importer/distributor (if not manufacturer)
10.	Expiry date (Where applicable)
11.	Batch/lot number. Products must have the same batch/lot number on the outer box as on the inner box.

19. ASSIGNMENTS AND CESSIONS OF CONTRACTS AND CHANGES IN CONTACT DETAILS

19.1 Where a contracted supplier plans to merge with or is going to be acquired by another entity, the contracted supplier must inform the National Treasury in writing 90 days before such event of relevant details.

19.2 Assignments of Contract

19.2.1 Assignment of contract refers to the transfer of rights and obligations in a contract from an assigned to an assignee. The effect of this is that the service provider appointed through a competitive bidding process transfers the contract in its entirety that is, the obligation (the responsibility of rendering the services) and the right (of receiving payment for service rendered) to a third party that did not participate in the bidding process or a bidder that participated in the bidding process but was not successful.

19.2.2 Assignment of contracts is therefore not allowed as it will be contrary to principles of section 217 of the Constitution particularly, fairness, transparency, and competitiveness.

19.3 Cession of Contracts

19.3.1 Cession refers to the transfer of only the rights a service provider has in terms of a contract from it to a third party. cession will be limited only to those cession agreements in favour of registered Financial Services Providers (FSP) and state institutions established for the express purpose of providing funding to businesses and entities (State Institutions).

19.3.1.1 The written request for cession must be by the service provider and not a third party, and the written request by the service provider must be accompanied by the cession agreement.

19.4 Changes in the Service Provider Contact Details

19.5 A contracted supplier must inform the National Treasury within 7 days of any changes of address, name, and or contact details.

**20. POST-AWARD PRODUCT COMPLIANCE PROCEDURES**

- 20.1 Suppliers must ensure that the product confirms the technical specification and its relevant quality standards throughout the contract period. Where there is a justified concern regarding the quality of the product, the State reserves the right to request the supplier (at its own cost) to submit a product for testing to confirm compliance with the relevant item technical specification and requirements at the SANAS accredited institution.
- 20.2 The State reserves the right to conduct any sample or site inspection directly or through a third party appointed by the state.

21. CONSIGNMENT/BATCH TESTING

- 21.1 All contractors must arrange random sampling (Sampling frame according to SABS guidelines) at the point of packaging of the finished products. Sampling must be carried out by an independent and SANAS recognised organisation. Samples must be taken from production lots produced at the source factory within the preceding 30 days from the date of sampling. Samples must be submitted for batch testing which will be done according to National Department of Health/World Health Organisation standards and specifications.
- 21.2 To ensure security of supply, alternative laboratories will be considered for batch testing post award. The lab must be SANAS accredited and be approved by National Department of Health to be utilized for consignment testing.
- 21.3 The contractors shall before the confirmation of orders and issue of delivery site quantities and delivery dates, provide the STI & HIV Aids Prevention unit of the Department of Health with compliance certificates proving adherence to the specification for each batch prior to shipment from the manufacturer.
- 21.4 Copies of these certificates must also accompany the proof of delivery documentation submitted for payment.
- 21.5 At the time of sampling the sampling agent will require certified documentation from the manufacturer indicating batch size of every batch sampled.
- 21.6 Sampling and testing organisations appointed by the Department of Health shall carry out all these certification tests.
- 21.7 The cost of these tests shall be borne by the Department of Health. The cost of tests in the event of failure of batches will be for the account of the contractor.
- 21.8 Test results are final and no requests for testing by other testing laboratories will be entertained by the Department of Health. Any performance failure (water, airburst, package seal integrity tests) will result



in immediate and non-negotiable rejection of the batch.

- 21.9 Any cases of minor design failures will be treated on a case-by case basis taking into account the needs of the programme in relation to the particular failure. However, if an application for concession is made by a contractor and subsequently granted by the Department of Health, all testing costs for the concession batches will be borne by the contractor.
- 21.10 All lot sizes for testing shall be at least 1000 gross (i.e. 144 000 pieces), up to maximum of 288 000 pieces. All lot sizes must be certified at the time of sampling and this information must be communicated by the contractor to the Department of Health as soon as possible after certification. A lot is a single grade, class and composition manufactured under essentially the same conditions. All condoms comprising a lot will:
- Have an identical formulation.
 - Have the same dimensions, shape, colour and texture
 - Be manufactured on the same production line
 - Be vulcanised under identical conditions
 - Be manufactured within a period of 24 hours
 - Not be made up of separate interrupted runs
- 21.11 With respect to the female condoms the supplier must submit complete documentation on the in-house manufacturing level, quality assurance programme in place at the point of manufacture. This will include descriptions of sampling and testing protocols, equipment in use including place of manufacture, date commissioned and calibration schedules and procedures. Original compliance test reports for every production batch (including tensile (cross-sectional seam), air inflation (measuring peak pressure) and water leakage tests), duly certified by senior management must be provided at the time of sampling.

22. COMPLIANCE TESTED STOCK LEVELS

- 22.1 Contractors will be required to maintain, for the duration of contract, an in-country stock-holding of three months available for immediate distribution. This stock must be tested and certified. Stock levels should be estimated from the anticipated requirements of the Department as indicated in the contract award, unless otherwise instructed in writing by the Department. The required levels for compliant product may be adjusted by the Department to respond to changing programmatic requirements.
- 22.2 Suppliers will be expected to deliver condoms according to delivery schedules issued periodically by the Department of Health against current compliant stock levels to any or all of 150–200 sites within the country. Delivery quantities shall generally range from 60 000 to 2 000 000 condoms per male condom site and 5 000 to 60 000 condoms per female condom site. Once the delivery sites and quantities list is issued to suppliers, deliveries shall be made within the time specified by the supplier on the bid



document. To the extent possible for male condoms, the procurer will serve sites utilising stock available in the nearest proximity.

23. SHELF LIFE

- 23.1 Where applicable, products, upon delivery must have at least greater or equals to 12 months of shelf-life before date of expiry.
- 23.2 Contractors may make written applications to the purchasing institution to deliver goods with a shorter shelf-life, provided such applications are accompanied by an undertaking that unused short- dated stock shall be unconditionally replaced before or after expiry.
- 23.3 Any delivery of short dated supplies without prior written approval must be collected by the respective suppliers at their own cost.
- 23.4 Any participating institution may, without prejudice, decline written applications to deliver short dated stock.

24. TEMPERATURE CONDITIONS

- 24.1 Suppliers must ensure that medical devices are stored under conditions specified to prevent deterioration by light, moisture, temperature or other conditions. Storage conditions must be monitored and recorded periodically, where appropriate. Records of the storage conditions must be maintained by the supplier.
- 24.2 Suppliers must establish adequate methods of transportation to achieve safe and secure delivery of all medical devices from their point of collection to their point of delivery. Medical devices must be transported in such a way that: their identification is not lost; they do not contaminate, and are not contaminated by, other medical devices or materials/substances adequate precautions are taken against spillage, breakage or theft; they are secure and not subjected to unacceptable degrees of heat, cold, light, moisture or other adverse influence, or to attack by microorganisms and pests. medical devices requiring controlled temperature storage or other special control and conditions are transported by appropriate or specialised means.
- 24.3 If kits are stored incorrectly and adversely affect results, then the supplier will replace the testing sites in collaboration with the purchasing institution.

25. REGISTRATION ON DATABASES OF PARTICIPATING INSTITUTIONS

- 25.1 Suppliers must ensure continuous compliance with all statutory requirements which may affect their complying status on the Central Supplier Database managed by the National Treasury.
- 25.2 All suppliers must ensure registration on all participating institutions within 30 days of accepting the



award.

- 25.3 Suppliers must ensure that they register with all the participating institutions the items that they have been awarded in the contract. Suppliers must take note that the participating institutions have different systems that they use internally to capture awarded contract information including that of awarded suppliers
- 25.4 Failure to meet this requirement will result in an inability to process orders and payments for goods.

26. MONITORING

- 26.1 Monitoring audits may be conducted periodically and randomly by the National Treasury, Provincial Health Departments, and the National Department of Health or by a service provider appointed by the State to determine continuous compliance with the product and terms of the contract. The Participating Institutions, will monitor the performance of contracted suppliers and maintain a report for compliance with the terms of this contract as follows:
- 26.1.1 Compliance with delivery lead times
- 26.1.2 Percentage of orders supplied in full first time
- 26.1.3 Compliance with reporting requirements according to reporting schedule.
- 26.1.4 Attendance of compulsory meeting: The National Treasury compulsory meetings with suppliers to review supplier performance. The schedules of the meetings will be sent to successful bidders.
- 26.2 The state may conduct a random audit(s) with or without prior appointment arrangements with the appointed Supplier(s).
- 26.3 The National Treasury will conduct meetings with the Participating Institutions and Suppliers to discuss transversal contracting issues.
- 26.4 The National Treasury may request Participating Institutions to impose penalties, where deemed necessary, as per Sections 21 and 22 of the General Conditions of Contract.
- 26.5 Any change in the status of supply performance during the contract period must be reported within seven (7) days of receipt of such information to the National Treasury.
- 26.6 Reporting and Supplier(s) meetings will be on a six-monthly basis and will be scheduled post-award.
- 26.7 All successful Suppliers are required to submit historical value and volume reports via e-mail every quarter to: TCcontracts1@treasury.gov.za
- 26.8 Detailed reporting requirements from Suppliers will be provided to awarded Suppliers.



27. TERMINATION

- 27.1 The State shall be entitled to terminate this agreement if one or more of the following occur: –
- 27.1.1 The Supplier decides to transfer the contract or cede the contract.
 - 27.1.2 The supplier does not honor contractual obligations including the submission of information.
 - 27.1.3 The supplier is provisionally or finally liquidated, making it impossible for the supplier to perform its functions in terms of this transversal contract.
 - 27.1.4 The supplier enters settlement arrangements with their creditors.
 - 27.1.5 The supplier commits an act of insolvency.
 - 27.1.6 If the supplier is a member of an unincorporated joint venture or consortium and the membership of such joint venture or consortium changes.
 - 27.1.7 There is a change in ownership of the supplier that has the effect that over 50% ownership of the Supplier belongs to the new owner without prior written approval of the State.
 - 27.1.8 Overall poor performance rating during the contract period

END