

REQUEST FOR PROPOSALS

<p>YOU ARE HEREBY INVITED TO SUBMIT A BID TO MEET THE REQUIREMENTS FOR THE APPOINTMENT OF A PANEL OF TWO LEGAL FIRMS TO PROVIDE LEGAL SERVICES AND LEGAL SUPPORT TO UMALUSI FOR A PERIOD OF THREE (3) YEARS.</p>	
BID NUMBER:	UMALUSI (23-24) T0005
DATE OF ADVERTISING:	31 March 2024
COMPULSORY BRIEFING SESSION DATE AND TIME:	<p>09 April 2024 at 10:00 MS Teams Precisely (bidders will not be permitted to enter the compulsory session after the set time)</p> <p>Link: Join the meeting now</p> <p>Meeting ID: 313 023 453 690</p> <p>Passcode: C9wNJz</p>
CLOSING DATE AND TIME:	30 April 2024 at 12:00 Precisely (bidders will not be permitted to submit the proposals after the set time)
CLOSING DATE FOR BID ENQUIRIES:	16 April 2024. All enquiries must be directed to tenders@umalusi.org.za
PERIOD FOR WHICH BIDS ARE REQUIRED TO REMAIN OPEN FOR ACCEPTANCE:	180 days (submissions must be valid for 180 days after the closing date)
DESCRIPTION OF BID:	APPOINTMENT OF A PANEL OF TWO LEGAL FIRMS TO PROVIDE LEGAL SERVICES AND LEGAL SUPPORT TO UMALUSI FOR A PERIOD OF THREE (3) YEARS.
BID DOCUMENTS DELIVERY ADDRESS:	<p>UMALUSI THUTO MFUNDO BUILDING 41 GENERAL VAN RYNEVELD STREET PERSEQUOR TECHNOPARK PRETORIA</p>
NAME OF BIDDER:	

CONTACT PERSON:	
EMAIL ADDRESS:	
TELEPHONE NUMBER:	
BIDDER'S STAMP OR SIGNATURE	

PART A: CHECKLIST OF COMPULSORY RETURNABLE SCHEDULES AND DOCUMENTS

Please adhere to the following instructions

- Tick in the relevant block below.
- Use the prescribed sequence in attaching the annexures when completing the Bid Document.
- Ensure that the following documents are completed and signed where applicable:

NB: Should any of these documents not be included, bidders **may** be disqualified on the basis of non-compliance.

YES	NO	
		Original bid and a copy (both hard copies; clearly marked as either original or copy) and one electronic copy. Important: Kindly note that every document that is submitted as part of the original submission must be <u>duly authorised with the required signatures or initials on each and every page</u> . Failure to comply will result in the bid being noted as incomplete.
		Part A:
		Specifications, Conditions of bid and undertakings by the bidder
		Certificate of authority for joint ventures
		Part B:
		Annexure A: Statement of Work
		Annexure B: SBD 1 – Invitation to Bid

		Annexure C: SBD 4 – Bidder's Disclosure
		Annexure D: SBD 6.1 - Preferential Procurement Regulation 2022
		Annexure E: General Conditions of Contract
		Annexure F: Bidder's Company Profile
		Annexure G: Expertise of Key Personnel
		Annexure H: SBD 3

PART A: SPECIFICATIONS, CONDITIONS OF BID AND UNDERTAKINGS BY BIDDER

1. DEFINITIONS

In this Request for Proposals, unless a contrary intention is apparent:

- 1.1 **Business day** means a day that is not a Saturday, Sunday or public holiday.
- 1.2 **Bid** means a written offer in the prescribed or stipulated form lodged by a bidder in response to an invitation in this Request for Proposals, containing an offer to provide goods, works or services in accordance with the specification as provided in this bid.
- 1.3 **Bidder** means a person or legal entity, or an unincorporated group of persons or legal entities, that submit a bid.
- 1.4 **Bidding process** means the process commenced by the issuing of this Request for Proposals and concluded upon formal announcement by Umalusi of the selection of a successful bidder(s) or upon the earlier termination of the process.
- 1.5 **Companies Act** means the Companies Act No. 71 of 2008, as amended.
- 1.6 **Closing time** means the time, specified as such under Clause 3 (bid timetable) in Part C, by which bids must be received.
- 1.7 **EME** means an exempted micro enterprise in terms of a Code of Good Practice on Black Economic Empowerment issued in terms of section 9(1) of the Broad-based Black Economic Empowerment Act.
- 1.8 **PFMA** means the Public Finance Management Act No. 1 of 1999, as amended.
- 1.9 **PPPFA** means the Preferential Procurement Policy Framework Act No. 5 of 2000, as amended.
- 1.10 **Preferential Procurement Regulations** means the Preferential Procurement Regulations of 2022, published in terms of the PPPFA.

- 1.11 **Proposed contract** means the agreement, including any other terms and conditions contained in or referred to in this bid that may be executed between Umalusi and the successful bidder.
- 1.12 **Request for Proposal** or **Bid** means this document (comprising each of the parts identified under Part A, Part B, Part C and Part D), including all annexures and any other documents so designated by Umalusi.
- 1.13 **SARS** means the South African Revenue Service.
- 1.14 **Services** means the services required by Umalusi, as specified in Part D of this Bid.
- 1.15 **SLA** means a Service Level Agreement.
- 1.16 **Specification** means the conditions of the bid set and any specification or description of Umalusi's requirements contained in this bid.
- 1.17 **Specific goals** means specific goals as contemplated in section 2(1)(d) of the Act, which may include contracting with persons or categories of persons historically disadvantaged by unfair discrimination on the basis of race, gender and disability, including the implementation of the programmes of the Reconstruction and Development Programme, as published in Government Gazette No. 16085 dated 23 November 1994.

2. SUPPLY CHAIN MANAGEMENT UNIT

- 2.1 Only questions, queries and clarifications that are submitted to this email address tenders@umalusi.org. will be addressed.
- 2.2 Bid documents must be submitted as follows:
- 2.2.1 Original bid and a copy (both hard copies; clearly marked as original or copy)
 - 2.2.2 One soft copy (on a USB)

2.3 Canvassing of any Umalusi employee will result in an immediate disqualification of the bidder.

3. BID TIMETABLE

- 3.1 This timetable is provided as an indication of the timing of the bidding process. It is indicative only and subject to change by Umalusi. Bidders are to provide proposals that will allow the achievement of the intended commencement date.

Activity	Date
Advertisement of bid	31 March 2024
Bid document available	01 April 2024
Briefing session	09 April 2024
Closing date for bid enquiries	16 April 2024
Closing date and time	30 April 2024 at 12:00 Precisely (bidders will not be permitted to submit the proposals after the set time)

All enquiries must be directed to: tenders@umalusi.org.za.

4. SUBMISSION OF BIDS

4.1 Hard copies of bids are to be submitted to:

Physical address of bid box	UMALUSI THUTO MFUNDO BUILDING 41 GENERAL VAN RYNEVELD STREET PERSEQUOR TECHNOPARK PRETORIA
Hours of access to bid box	Monday to Friday: 08:00 to 16:00
Information to be marked on package containing bid	Umalusi Supply Chain Management Unit Bid Reference

4.2 **Important:** Kindly note that every document that is submitted as part of the original submission must be duly authorised with the authorised signature or initials on each and every page. Failure to comply will result in the bid being noted as incomplete.

5. RULES GOVERNING THIS BID AND THE BIDDING PROCESS

5.1 Participation in the bidding process is subject to compliance with the rules contained in Part C of this bid.

- 5.2 All persons (whether a participant in this bidding process or not) having obtained or received this bid may only use it, and the information contained herein, in compliance with the rules contained in this bid.
- 5.3 All bidders are deemed to accept the rules contained in Part C of this bid.

6. STATUS OF REQUEST FOR PROPOSAL

- 6.1 This bid is an invitation for person(s) to submit a proposal(s) for the provision of the services as set out in the scope contained in this bid. Accordingly, this bid must not be construed, interpreted or relied upon, whether expressly or implicitly, as an offer capable of acceptance by any person(s), or as creating any form of contractual, promissory or other rights. No binding contract or other understanding for the supply of services will exist between Umalusi and any bidder unless and until Umalusi has executed a formal written contract with the successful bidder.

7. ACCURACY OF REQUEST FOR PROPOSAL

- 7.1 While all due care has been taken in connection with the preparation of this bid, Umalusi 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. Umalusi, and its officers and employees will not be liable with respect to any information communicated that is not accurate, current or complete.
- 7.2 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 Umalusi, the bidder must promptly notify Umalusi in writing of such discrepancy, ambiguity, error or inconsistency to afford Umalusi an opportunity to consider what corrective action is necessary (if any).
- 7.3 Any actual discrepancy, ambiguity, error or inconsistency in this bid or any other information provided by Umalusi will, if possible, be corrected and provided to all bidders without attribution to the bidder who provided the written notice.

8. ADDITIONS AND AMENDMENTS TO THE BID

- 8.1 Umalusi reserves the right to change any information in, or to issue any addendum to this bid before the closing time. Umalusi and its officers or employees will not be liable in connection with either the exercise of or failure to exercise this right.
- 8.2 If Umalusi exercises its right to change information in terms of Clause 8.1, it may seek amended bids from all bidders.

9. REPRESENTATIONS

No representations made by or on behalf of Umalusi in relation to this bid will be binding on Umalusi unless that representation is expressly incorporated into the contract ultimately entered into between Umalusi and the successful bidder.

10. CONFIDENTIALITY

- 10.1 The information contained in this document is of a confidential nature, and must only be used for purposes of responding to this bid. This confidentiality clause extends to supplier partners and/or implementation agents who you may decide to involve in preparing a response to this bid.
- 10.2 For purposes of this process, the term “confidential information” shall include all technical and business information, including, without limiting the generality of the foregoing, all secret knowledge and information (including any and all financial, commercial, market, technical, functional and scientific information, and information relating to a party’s strategic objectives and planning, and its past, present and future research and development), technical, functional and scientific requirements and specifications, data concerning business relationships, demonstrations, processes, machinery, know-how, architectural information, information contained in a party’s software and associated material and documentation, plans, designs and drawings, and all material of whatever description, whether subject to or protected by copyright, patent or trademark, registered or unregistered, or otherwise disclosed or communicated before or after the date of this process.
- 10.3 The receiving party shall not, during the period of validity of this process, or at any time thereafter, use or disclose, directly or indirectly, the confidential information of Umalusi (even if received before the date of this process) to any person, whether in the employment of the receiving party or not, who does not take part in the performance of this process.
- 10.4 The receiving party shall take all such steps as may be reasonably necessary to prevent Umalusi’s confidential information from coming into the possession of unauthorised third parties. In protecting the receiving party’s confidential information, Umalusi shall use the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorised use or disclosure of the confidential information as the receiving party uses to protect its own confidential information.
- 10.5 Any documentation, software or records relating to the confidential information of Umalusi, which comes into the possession of the receiving party during the period of validity of this process, or at any time thereafter, or which has come into its possession before the period of validity of this process:
- 10.5.1 shall be deemed to form part of the confidential information of Umalusi;
 - 10.5.2 shall be deemed to be the property of Umalusi;
 - 10.5.3 shall not be copied, reproduced, published, or circulated by the receiving party unless and to the extent that such copying is necessary for the performance of this process and all other processes as contemplated herein; and

10.5.4 shall be surrendered to Umalusi on demand and, in any event, on the termination of the investigations and negotiations, and the receiving party shall not retain any extracts.

11. REQUESTS FOR CLARIFICATION OR FURTHER INFORMATION

- 11.1 All communications relating to this bid and the bidding process must be directed to the supplied email address onlytenders@umalusi.org.
- 11.2 Any communication by a bidder to Umalusi will be effective upon receipt by Umalusi's Supply Chain Management Unit.
- 11.3 Umalusi has restricted the period during which it will accept questions or requests for further information or clarification and reserves the right not to respond to any enquiry or request, irrespective of when such enquiry or request is received.
- 11.4 A bidder may, by notifying the Supply Chain Management Unit in writing, withdraw a question submitted in accordance with this clause in circumstances where the bidder does not wish Umalusi to publish its response to the question to all bidders.

12. UNAUTHORISED COMMUNICATIONS

- 12.1 Communication (including promotional or advertising activities) with staff of Umalusi is not permitted during the bidding process, or otherwise, without the prior consent of the Bid Adjudication Committee.
- 12.2 Bidders must not otherwise engage in any activities that may be perceived as, or that may have the effect of, influencing the outcomes of the bidding process in any way.

13. IMPROPER ASSISTANCE, FRAUD AND CORRUPTION

- 13.1 Bidders may not seek or obtain the assistance of employees of Umalusi in the preparation of their bid responses.
- 13.2 Umalusi may, at its absolute discretion, immediately disqualify a bidder that it believes has sought or obtained such improper assistance.
- 13.3 Bidders are to be familiar with the implications of contravening the Prevention and Combating of Corrupt Activities Act, 2004, and any other relevant legislation.

14. CONFLICT OF INTEREST

- 14.1 A bidder must not, and must ensure that its officers, employees, agents and advisors do not, place themselves in a position that may give rise to actual, potential or perceived conflict of interest between the interests of Umalusi and the bidder's interests during the bidding process.
- 14.2 The bidder is required to provide details of any interests, relationships or clients that may or do give rise to a conflict of interest in relation to the supply of the services under any contract that may result from this bid. If the bidder submits its bid and a

subsequent conflict of interest arises, or is likely to arise, which was not disclosed in the bid, the bidder must notify Umalusi immediately in writing of that conflict.

14.3 Umalusi may immediately disqualify a bidder from the bidding process if the bidder fails to notify Umalusi of the conflict as required.

15. LATE BIDS

15.1 Bids must be delivered by the closing time.

15.2 Bids delivered after the closing time or lodged at a location or in a manner that is contrary to that specified in this bid will be disqualified from the bidding process and will be ineligible for consideration.

16. PREPARATION OF BIDS

16.1 Bidders must ensure that:

16.1.1 their Bid is submitted in the required format as stipulated in this bid; and

16.1.2 all the required information fields in the bid are completed in full and contain the information requested by Umalusi.

16.2 Umalusi may, at its absolute discretion, reject a bid that does not include the information requested or is not in the format required.

16.3 Unnecessarily elaborate responses or other representations beyond that which is sufficient to present a complete and effective bid proposal are not desired or required. Elaborate and expensive visual and other presentation aids are not necessary.

16.4 Where the bidder is unwilling to accept a specified condition, the non-acceptance must be clearly and expressly stated. Prominence must be given to the statement detailing the non-acceptance. It is not sufficient that the statement appears only as part of an attachment to the bid or is included in a general statement of the bidder's usual operating conditions.

16.5 An incomplete bid may be disqualified or assessed solely on the information completed or received with the bid.

17. ILLEGIBLE CONTENT, ALTERATION AND ERASURES

17.1 Umalusi may disregard any content in a bid that is illegible and will be under no obligation whatsoever to seek clarification from the bidder.

17.2 Umalusi may permit a bidder to correct an unintentional error in its bid where that error becomes known or apparent after the closing time, but in no event will any correction be permitted if Umalusi reasonably considers that the correction would materially alter the substance of the bid or affect the fairness of the bidding process.

18. RESPONSIBILITY FOR BIDDING COSTS

18.1 The bidder's participation or involvement in any stage of the bidding process is at the bidder's sole risk, cost, and expense. Umalusi will not be held responsible for, or pay for, any expense or loss that may be incurred by bidders in relation to the preparation or lodgement of their bid.

18.2 Umalusi is not liable to the bidder for any costs on the basis of any contractual, promissory or restitutionary grounds whatsoever as a consequence of any matter relating to the bidder's participation in the bidding process, including, without limitation, instances where:

18.2.1 the bidder is not engaged to perform under any contract; or

18.2.2 Umalusi exercises any right under this bid or by law.

19. DISCLOSURE OF BID CONTENTS AND BID INFORMATION

19.1 All bids received by Umalusi will be treated as confidential. Umalusi will not disclose the contents of any bid and bid information, except:

19.1.1 as required by law;

19.1.2 for the purpose of investigations by other government authorities having relevant jurisdiction;

19.1.3 to external consultants of Umalusi engaged to assist with the bidding process; or

19.1.4 for the general information of bidders required to be disclosed as per National Treasury Regulations, Guidelines, Instruction Notes or Practice Notes.

20. BID ACCEPTANCE

All bids received must remain open for acceptance for a maximum period of 180 (one hundred and eighty) days from the closing time. This period may be extended by written mutual agreement between Umalusi and the bidder(s).

21. EVALUATION PROCESS

21.1 The bid will be evaluated in four phases as follows:

21.1.1 Phase 1: Administrative compliance

Administrative criteria will be applied in the initial stage of the evaluation. Bidders who do not meet all the administrative compliance criteria may not be considered for Phase 2 of the evaluation.

21.1.2 Phase 2: Mandatory criteria

Only bidders who comply with the mandatory criteria requirements will be eligible for further evaluation. An offer that fails to meet the mandatory criteria requirements shall be disqualified.

21.1.3 Phase 3: Selection criteria

The selection criteria aim to assess the bidder's capability, reliability and ability to execute and maintain a bid and/or contract.

21.1.4 Phase 4: Specific goals and price

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 specific goals prescribed and must be supported by proof/documentation stated in the conditions of this tender. Those bidders that have passed the initial and first stages of the bidding process will be scored on the basis of price and the specific goals allocation in accordance with the applicable legislation. The successful bidder will typically be the bidder that scores the highest number of points in Phase 4 of the bid evaluation unless Umalusi exercises its right to cancel the tender or finds that there are valid businesses or transformative reasons that justify the award of the tender to a company that did not obtain the highest score.

21.1.1 Phase 1: Administrative compliance

21.1.1.1 The following administrative compliance will be applied in the initial stage of the evaluation. **Bidders are encouraged to fully comply with the administrative requirements.**

21.1.1.2 Bidders are required to complete the table below by indicating whether they comply with the requirement by marking the appropriate column with an 'X' in the table below. Bidders are required to corroborate each requirement, where applicable.

Requirements	Noncompliant	Compliant	Comment or reference to section in the bid document
1. Correctly completed tender document, signed where prescribed			

<p>2. Authorised signatories - attach proof that the person who signed the proposal has the authority to do so.</p>			
<p>3. Tenders must be tax compliant with the SARS (attach proof)</p>			
<p>4. Central Supplier Database proof of registration.</p>			
<p>5. Bidder has submitted all returnable documentation to Umalusi (Annexures and SBD forms) (SBD1; SBD 3.1; SBD 4 & SBD 6.1)</p>			
<p>6. Certificate of authority for Joint Ventures/Joint Venture agreement</p>			
<p>7. Company profile and CVs indicating expertise of key personnel</p>			
<p>8. General Conditions of Contract – signed or initialled on all pages.</p>			

21.1.2 Phase 2: Mandatory criteria

Please complete the table below by indicating “yes” or “no” to confirm whether this requirement is met and provide explanations/comments to support your answers.

NB: Bids that score **NO** for any items in the compulsory criteria section will be disqualified and will not advance to the next stage of evaluation.

MANDATORY CRITERIA REQUIREMENTS	YES/NO	PROVIDE DOCUMENTATION
Attendance of compulsory briefing session.		
The Bidder(s) must have a physical presence in Gauteng Province in the form of a site/branch or partnership arrangement/ working relationship with a firm based in Gauteng Province Proof must be submitted in the form of a lease agreement, rental office agreement, sale agreement, or municipal statement, which will be verified accordingly. The municipal statement must not be older than three (3) months after the closing date.		
The Bidder(s) must furnish Umalusi with a valid Fidelity Fund Certificate.		

21.1.3 Phase 3: Selection criteria

The selection criteria aim to assess the bidder's capability, reliability and ability to execute and maintain a bid and/or contract.

SELECTION CRITERIA	Comply (Yes or No)	Provide documentation
<p>1.</p>	<p>Experience of the law firm in Civil Litigation</p> <p>At least a Partner(s) and/or one Director(s) must have a minimum of seven (7) years post-admission experience in Civil Litigation</p> <p>Please furnish us with a CV(s) of Partner(s) and/or Director(s) containing at least the following:</p> <ul style="list-style-type: none"> • Personal information; • Qualification and date of admission; • Work experience 	
<p>2.</p>	<p>The Lead Attorney must have the Right of Appearance in the High Court of South Africa</p> <ul style="list-style-type: none"> • Valid Certificate provided by Lead Attorney(s) 	

<p>3.</p>	<p>Track record of the law firm</p> <p>Summary of judgment(s)/evidence of the firm's engagement for services rendered in the past 7 years in the following areas:</p> <ul style="list-style-type: none"> • Corporate & Commercial law • Constitutional Law • Administrative Law • Education Law 		
<p>SELECTION CRITERIA</p>		<p>Comply (Yes or No)</p>	<p>Provide documentation</p>
<p>4.</p>	<p>Reference checks</p> <p>Law firms must provide three (3) written references from clients where legal services were provided in the last three (3) years. The reference letters must be on the clients' letterhead and contain the following information:</p> <ul style="list-style-type: none"> • contact person; • contact number; and • e-mail address • Area of engagement in either Corporate & Commercial law; Constitutional, Administrative law; Education Law and Legislative drafting <p>The reference letter must explicitly specify the area of engagement for evaluation and purpose.</p>		

NB: Bidders who fully comply with the above selection criteria will be eligible to move on to Phase 4 of the evaluation, which is the price and specific goals evaluation.

Bidders who do not fully comply at this stage of the evaluation will not be evaluated during Phase 4 of the evaluation, which is price and specific goals.

21.1.3 Price and specific goals

21.1.3.1 In terms of the Preferential Procurement Regulations pertaining to the Preferential Procurement Framework Act, 2000 (Act No. 5 of 2000), responsive bids will be adjudicated by Umalusi on the **80/20-** or 90/10-point system in terms of which points are awarded to bidders based on the following:

Price points **80**
 Specific goals **20**

21.1.3.2 Price points

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

$$P_s = 80(1-(P_t-P_{min})/P_{min})$$

Where:

P_s = Points scored for comparative price of bid or offer under consideration

P_t = Comparative price of bid or offer under consideration

P_{min} = Comparative price of lowest acceptable bid or offer

21.1.3.3 Specific goals

A maximum of 20 points may be awarded in respect of specific goals, which points must be awarded to a bidder for attaining the specific goals in accordance with the table below:

Specific goals allocated points in terms of this tender	Number of points allocated (80/20 system) (to be completed by the organ of state)	Number of points claimed (80/20 system) (to be completed by the tenderer)
SMME (EME and QSE)	4	

Owned by black people (50% or more)	4	
Owned by people who are youth (20% or more)	4	
Owned by people who are women (10% or more)	4	
Owned by people with disabilities (5% or more)	4	

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

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

NB: (A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/SWORN AFFIDAVIT (FOR EMEs & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINT FOR SPECIFIC GOALS AND/OR ELIGIBILITY. ONLY AN ORIGINAL OR CERTIFIED COPY IS ACCEPTABLE. A CERTIFIED DISABILITY CERTIFICATE MUST BE SUBMITTED TO CLAIM/QUALIFY FOR DISABILITY POINTS.

22. NOTE TO BIDDERS

22.1 As part of the evaluation process, Umalusi will conduct a reference check on the provided referee. **Bidders who do not meet all the criteria will not be considered for award.**

23. STATUS OF BID

23.1 Each bid constitutes an irrevocable offer by the bidder to Umalusi to provide the services required and otherwise to satisfy the requirements of the specification as set out in this bid.

23.2 A bid must not be conditional on the following:

23.2.1 Board approval of the bidder or any related governing body of the bidder being obtained;

23.2.2 the bidder conducting due diligence or any other form of enquiry or investigation;

23.2.3 the bidder (or any other party) obtaining any regulatory approval or consent;

23.2.4 the bidder obtaining the consent or approval of any third party; or

23.2.5 the bidder stating that it wishes to discuss or negotiate any commercial terms of the contract.

23.3 Umalusi may, at its absolute discretion, disregard any bid that is, or is stated to be, subject to any one or more of the conditions detailed above (or any other relevant conditions).

23.4 Umalusi reserves the right to accept a bid in part or in whole or to negotiate with a bidder in accordance with the provisions of this bid and the applicable laws and regulations.

24. SUCCESSFUL BIDS

24.1 Selection as a successful bidder does not give rise to a contract (expressed or implied) between the successful bidder and Umalusi for the supply of the services. No legal relationship will exist between Umalusi and a successful bidder for the supply of the services until such time as a binding contract is executed by them.

24.2 Umalusi may, at its absolute discretion, decide not to enter into pre-contractual negotiations with a successful bidder.

24.3 A bidder is bound by its bid and all other documents forming part of the bidder's response and, if selected as a successful bidder, must enter into a contract on the basis of the bid with or without further negotiation.

25. NO OBLIGATION TO ENTER INTO CONTRACT

25.1 Umalusi is under no obligation to appoint a successful bidder or bidders (as the case may be), or to enter into a contract with a successful bidder or any other person, if it is unable to identify a bid that complies in all relevant respects with the requirements of Umalusi, or if, due to changed circumstances, there is no longer a need for the services requested, or if funds are no longer available to cover the total envisaged expenditure. For the avoidance of any doubt, in these circumstances, Umalusi will be free to proceed via any alternative process.

25.2 Umalusi may conduct a debriefing session for all bidders (successful and unsuccessful). Attendance at such debriefing session is optional.

26. BIDDER WARRANTIES

26.1 By submitting a bid, a bidder warrants that:

26.1.1 it did not rely on any express or implied statement, warranty or representation, whether oral, written or otherwise, made by or on behalf of Umalusi, its officers, employees or advisers other than any statement, warranty or representation expressly contained in the bid;

26.1.2 it did not use the improper assistance of Umalusi 's employees or information unlawfully obtained from them in compiling its bid;

26.1.3 it is responsible for all costs and expenses related to the preparation and lodgement of its bid, any subsequent negotiation, and any future process connected with or relating to the bidding process;

26.1.4 it accepts and will comply with the terms set out in this bid; and

26.1.5 it will provide additional information in a timely manner as requested by Umalusi to clarify any matters contained in the bid.

27. UMALUSI 'S RIGHTS

27.1 Notwithstanding anything else in this bid, and without limiting its rights by law or otherwise, Umalusi reserves the right, at its absolute discretion at any time, to:

27.1.1 cease to proceed with, or suspend the bidding process prior to the execution of a formal written contract;

27.1.2 alter the structure and/or the timing of this bid or the bidding process;

27.1.3 vary or extend any time or date specified in this bid;

27.1.4 terminate the participation of any bidder or any other person in the bidding process;

27.1.5 require additional information or clarification from any bidder or any other person;

27.1.6 provide additional information or clarification;

27.1.7 negotiate with any one or more bidders;

27.1.8 call for a new bid;

27.1.9 Reject any bid received after the closing time; or

27.1.10 Reject any bid that does not comply with the requirements of this bid.

28. GOVERNING LAWS

28.1 This bid and the bidding process are governed by the laws of the Republic of South Africa.

28.2 Each bidder must comply with relevant laws in preparing and lodging its bid and in taking part in the bidding process.

28.3 All bids must be completed using the English language and all costing must be in South African rand.

29. MANDATORY TERMS AND CONDITIONS

29.1 Bidders' attention is drawn to the below terms and conditions

29.2

This bid is subject to Umalusi's standard terms and conditions of the procurement contract stipulated in this bid document.

29.3

The laws of the Republic of South Africa govern this bid and the bidders hereby accept that the courts of the Republic of South Africa have jurisdiction over any legal disputes.

29.4

Umalusi shall not be liable for any costs incurred by the bidder in the preparation of the response to this bid.

29.5

In the case of a consortium, joint venture or subcontractors, all bidders are required to provide mandatory documents. This includes proof of how the individual company meets the set specific goals.

29.6

Umalusi reserves the right to cancel or reject any proposal and not to award the proposal to the lowest bidder or to award parts of the proposal to different bidders, or not to award the proposal at all.

29.7

By submitting a proposal in response to this bid, the bidders accept the evaluation criteria as it stands.

29.8

Should the parties at any time before and/or after the award of the proposal and prior to, and/or after conclusion of the contract fail to agree on any significant product price or service price adjustments, change in technical specification, change in services, etc., Umalusi shall be entitled, within 14 (fourteen) days of such failure to agree, to revoke the letter of award and cancel the proposal by giving the bidder not less than 14 (fourteen) days' written notice of such cancellation, in which event all fees on which the parties failed to agree regarding increases or decreases shall, for the duration of such notice period, remain fixed on those fees or prices applicable prior to the negotiations.

Such cancellation shall mean that Umalusi reserves the right to award the same proposal to next best bidder as it deems fit.

29.9

Any amendment or change of any nature made to this bid shall only be of force and effect if it is in writing, signed by an Umalusi signatory and added to this bid as an addendum.

29.10

Bidders who make use of subcontractors

The proposal shall be awarded to the bidder as a primary contractor, who shall be responsible for the management of the awarded proposal.

29.11

The evaluation of bids shall be performed by an evaluation panel established by Umalusi. Bids shall be evaluated on the basis of conformance to the required specifications as outlined in the bid. Points shall be allocated to each bidder, on the basis that the maximum number of points that may be scored for price is 80, and the maximum number of preference points that may be claimed according to the PPR is 20.

29.12

Should the bidder change any wording or phrase in this document, the bid shall be evaluated as though no change has been affected and the original wording or phrasing shall be used.

Signature(s) of bidder or assignee(s)	Date
Name of signing person (in block letters)	
Capacity	

Are you duly authorised to sign this bid?	
Name of bidder (in block letters)	

Domicilium citandi et executandi in the RSA (full street address of this place)
(in block letters)

.....

.....

Telephone number:

Fax number:

Cell phone number:

Email address.....

CERTIFICATE OF AUTHORITY FOR ENTITY OR JOINT VENTURES

This returnable schedule is to be completed by entity or joint ventures. We, the undersigned, are submitting this tender offer in joint venture and hereby authorize Mr/Ms

.....,
 authorized signatory of the company, close corporation or partnership

..... acting in the capacity of lead partner, to sign all documents in connection with the tender offer and any contract resulting from it on our behalf.

NAME OF FIRM	ADDRESS	DULY AUTHORISED SIGNATORY
		Signature..... Name..... Designation.....
		Signature..... Name..... Designation.....
		Signature..... Name..... Designation.....

Note:
 A copy of the Joint Venture Agreement clearly showing the percentage contribution of each partner to the Joint Venture shall be appended to this schedule

PART B ANNEXURE A: STATEMENT OF WORK

30. INTRODUCTION

Umalusi is a Schedule 3A public entity that sets and monitors standards for general and further education and training in South Africa in accordance with the National Qualifications Framework Act No. 67 of 2008 and the General and Further Education and Training Quality Assurance Act No 58 of 2001. The Council is tasked with the development and management of a sub-framework of qualifications for general and further education and training. More information can be obtained from www.umalusi.org.za.

31. SCOPE OF WORK

The successful bidders will be required to provide legal services and legal support for a period of 36 months in, amongst others, the following areas (categories):

1.1 The firm of attorneys must be able to conduct research and investigation on legislation applicable to public and independent schools, public and private colleges for Continuing Education and Training, and public and private assessment bodies assessing qualifications registered on the General and Further Education and Training Qualifications Sub-framework, including but not limited to the:

- National Qualifications Framework Act No. 67 of 2008, as amended.
- General and Further Education and Training Quality Assurance Act No. 58 of 2001, as amended.
- South African Schools Act No. 84 of 1996,
- Provincial regulations relating to registration of independent schools
- Norms and Standards relating to public schools
- National Education Policy Act No. 27 of 1996, as amended
- Continuing Education and Training Act No. 16 of 2006, as amended
- Higher Education Act No. 101 of 1997, as amended
- Policies and regulations pertaining to accreditation of independent schools, private colleges, private assessment

- Regulations pertaining to the Conduct, Administration, and Management of the National Senior Certificate Examinations, and other qualifications registered on the GFETQSF
- Policies relating to the qualifications registered on the sub-framework • Any other relevant legislation

- 1.2 Public law Constitutional and administrative law - inter alia the Constitution of the Republic of South Africa, 1996, the Promotion of Access to Information Act 2 of 2000, the Prevention of Organised Crime Act 121 of 1998, the Promotion of Administrative Justice Act 3 of 2000, Public Finance Management Act 1 of 1999, POPI Act, Treasury Regulations and Directives;
- 1.3 Law of Contract - drafting and vetting of contracts.
- 1.4 Litigation - Magistrates Court, High Court, CCMA etc.
- 1.5 Commercial Law –commercial law transactions.
- 1.6 Input into legislation
- 1.7 Input into policy
- 1.8 Legal opinion.

Detailed scope of work

Area of work	Scope of work	Skills required
--------------	---------------	-----------------

<p>Litigation</p>	<ul style="list-style-type: none"> • Conduct litigation on behalf of UMALUSI. • Develop and review appropriate litigation strategy in each matter. • Ensure that effective and efficient litigation process is followed. • Collect litigation costs. • Provide custody of all pleadings and documents in litigation matters. 	<ul style="list-style-type: none"> • Knowledge of litigation processes and procedures in various forums including, but not limited to, the High Court, Supreme Court of Appeal, Constitutional Court and Magistrate Court. • Comprehensive and coherent understanding of laws and regulations that
	<ul style="list-style-type: none"> • Provide oral and written legal advice throughout litigation process. • Avoid prescription, barring 	<p>determine and shape the role and responsibility of the UMALUSI and all stakeholders reporting to it.</p>

<p>Corporate & Commercial law</p>	<ul style="list-style-type: none"> • • Advice on projects / transactions such as restructuring, reorganisation within Umalusi. • Advice on legal issues arising from asset, risk and debt management by stakeholders Draft, review and • advise on broad range of complex contracts. Drafting and vetting service level agreements, general conditions of Contracts, procurement contracts, confidentiality agreements with • independent contractors, building contracts, etc. Provide legal opinions of corporate law / corporate governance, etc. Company law advisory work pertaining to public entities. 	<ul style="list-style-type: none"> • Experience in working in transactions of a corporate law in nature. • Experience in public entities restructuring exercises. • Experience in drafting construction contracts, financial laws. • Excellent research and drafting skills, for purposes of preparing legal opinions of a corporate law nature. • Ability to work and delivery of specific output on time. • Experience in providing advice in general commercial law. • Understanding public sector debt management. • Understanding legal and regulatory framework governing financial and fiscal affairs i.e. PFMA, Treasury regulations etc. • Knowledge of public sector procurement law.
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<p>Constitutional, Administrative law</p>	<ul style="list-style-type: none"> • Provide legal opinions in respect of constitutional, administrative and international law matters. • Provide legal opinions in respect of Appeals from stakeholders, clients and the general public • Ensure technical quality, adherence to the best practice and consistency with the constitution and other acts of Parliament. • Advise on the legal interpretation and legal implications of existing or proposed public or private international agreement to be entered into by Government 	<p>Experience in</p> <ul style="list-style-type: none"> • providing of constitutional administrative law <p>Understand regulatory framework</p> <p>Educational</p>
<p>Input into legislation</p>	<p>Draft and review of original and subordinate legislation. Ensure the</p> <ul style="list-style-type: none"> • technical quality adherence to the best practice and • consistency with the constitution and other legislation. <p>Legal advice during the drafting of Legislation, policies and regulations.</p> <ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • Advanced legislative drafting skills and experience through drafting and scrutiny of draft legislation, advising during drafting process and working in multidisciplinary or institutional teams responsible for the development of draft legislation.

		<ul style="list-style-type: none"> • Knowledge of modern drafting techniques and drafting rules and style. • Good command of English.
Educational law	<ul style="list-style-type: none"> • Advice on various statutes and regulations that govern the education system. 	Experience in shaping educational practices, ensuring quality, and safeguarding the rights of students, educators, and institutions.
Information and Technology law and Intellectual Property Law	<ul style="list-style-type: none"> • Advise on all aspects of IT law such as service level agreements pertaining to system integration software and website development. 	<ul style="list-style-type: none"> • Experience in IT law and cyber law. • Experience in Intellectual Property Law

32. Terms and conditions of the proposal

- a) Awarding of the bid will be subject to the Service Provider's acceptance of Umalusi Supply Chain Management Terms and Conditions.
- b) The Service Provider should not qualify the proposal with his/her own conditions. Any qualification to the terms and conditions of this quotation will result in disqualifications.
- c) The successful bidder may not represent an individual or juristic person in litigation against Umalusi. (Conflict of interest must be avoided at all times.
- d) The Bidder(s) accept that Umalusi may distribute or redistribute instructions in any manner that will ensure equitable file allocation to the panelists.
- e) Umalusi will not incur Travelling and Accommodation costs for the Panellists who resides outside the selected Province.

- f) Travel and subsistence expenses claimed by the service provider, and for which Umalusi is responsible, will be based on the prescribed Umalusi policy as applicable to Government employees.
- g) Any travel for which the service provider wishes to claim re-imburement in terms of the above shall be undertaken only with prior approval by Umalusi Management.
- h) Gauteng footprint will be linked to the travel rate within the province.

33. Pricing Schedule

It is understood that the legal fees are based on hourly rates and that budgets are compiled once the appointed law firm has assessed the likely extent of the work and is subject to approval by management. Financial proposals will be compared on the total estimated legal fees for the period of three years. However, legal firms are also required to submit a table of hourly rates as per the table below. Rates should be inclusive of overheads and VAT. If a particular category does not exist for the firm, it can be omitted.

Rates schedule	Hourly rate(including disbursement and VAT at 15%)
Director/Partner	
Senior Associate	
Associate	
Candidate Attorney	

Other:	
Average hourly rate	

Disbursements	Charge
Telephone Charges, Landline and Cellular Telephone calls	
Email	
Telefax (within South Africa)	
Telefax (Outside South Africa)	

Photocopies and Printing (Black and white)	
Photocopies and Printing (Colour)	
Kilometres rates for use of private cars	

NB: The service provider is required to provide the total estimated legal fees for a period of three years in line with the above rates inclusive of vat and disbursements based on the total estimated hours provided on the table below.

Average rate as per table above	Estimated Hours	Year 1	Year 2	Year 3	Total legal Fees
xxxx		xxxxxxx			xxxxx
xxxx			xxxxxxx		xxxxx
xxxx				xxxxxxx	xxxxx
Total fees					
Vat @ 15%		xxxxxxx	xxxxxxx	xxxxxxx	xxxxx
Total estimated legal fees Inclusive of vat		xxxxxxx	xxxxxxx	xxxxxxx	xxxxx

NB: Umalusi understand that the above legal fees are estimates, and that the actual fees might differ, and will be based on an initial assessment of the legal plan and subject to Umalusi approval. Hours spent may vary depending on the availability of information and does not take into account any unforeseen circumstances or any delays in provisioning of information by Umalusi.

SBD 1 ANNEXURE B: INVITATION TO BID

INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)

BID NUMBER:	UMALUSI (23-24) T0005	CLOSING DATE:		CLOSING TIME:	
DESCRIPTION					
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON		CONTACT PERSON			

TELEPHONE NUMBER		TELEPHONE NUMBER	
FACSIMILE NUMBER		FACSIMILE NUMBER	
E-MAIL ADDRESS		E-MAIL ADDRESS	

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

1 ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES OFFERED? <input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]	2 ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES OFFERED? <input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]

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:
<p>1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.</p> <p>1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED (NOT TO BE RETYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.</p> <p>1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.</p> <p>1.4. THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).</p>
2. TAX COMPLIANCE REQUIREMENTS
<p>2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.</p> <p>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.</p> <p>2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.</p> <p>2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.</p> <p>2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED; EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.</p> <p>2.6 WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.</p> <p>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."</p>

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:

--	--	--

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 consortium² will not be construed as collusive bidding.

3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.

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

3.5 There have been no consultations, communications, agreements, or arrangements made by the bidder with any official of the procuring institution in

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.

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

**ANNEXURE D – SBD 6.1 – PREFERENCE POINTS CLAIM FORM IN TERMS OF THE
PREFERENTIAL PROCUREMENT REGULATIONS 2022**

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

1. GENERAL CONDITIONS

- 1.1 The following preference point systems are applicable to invitations to tender:
- the 80/20 system for requirements with a rand value of up to R50 000 000 (all applicable taxes included); and
 - the 90/10 system for requirements with a rand value above R50 000 000 (all applicable taxes included).

1.2 To be completed by the organ of state

(delete whichever is not applicable for this tender).

- a) The applicable preference point system for this tender is the 80/20 preference point system.
- b) The 80/20 preference point system will be applicable in this tender.

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.
- (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 POINT SYSTEM

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

80/20

$$Ps = 80 \left(1 - \frac{Pt - Pmin}{Pmin} \right)$$

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 points is allocated for price on the following basis:

80/20

$$Ps = 80 \left(1 + \frac{Pt - Pmax}{Pmax} \right)$$

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	Number of points allocated (80/20 system) (to be completed by the organ of state)	Number of points claimed (80/20 system) (to be completed by the tenderer)
SMME (EME and QSE)	4	
Owned by black people (50% or more)	4	
Owned by people who are youth (30% or more)	4	
Owned by people who are women (30% or more)	4	
Owned by people with disabilities (30% or more)	4	

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 proprietor
- 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 advertised 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)

Name of Bidder

SURNAME AND NAME:

DATE:

ADDRESS:
.....
.....
.....

ANNEXURE E – GENERAL CONDITIONS OF CONTRACT

THE GENERAL CONDITIONS OF THE CONTRACT WILL FORM PART OF ALL BID DOCUMENTS AND MAY NOT BE AMENDED

**THE NATIONAL TREASURY Republic of
South Africa**



- 1. Definitions** 1. The following terms shall be interpreted as indicated:
- 1.1** "Closing time" means the date and hour specified in the bidding documents for the receipt of bids.
 - 1.2** "Contract" means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
 - 1.3** "Contract price" means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
 - 1.4** "Corrupt practice" means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.
 - 1.5** "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
 - 1.6** "Country of origin" means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
 - 1.7** "Day" means calendar day
 - 1.8** "Delivery" means delivery in compliance of the conditions of the contract or order.
 - 1.9** "Delivery ex stock" means immediate delivery directly from stock actually on hand.
 - 1.10** "Delivery into consignees store or to his site" means delivered and unloaded in the specified store or depot or on the specified site in compliance with the

Bid Initials
Bid's Signature.....
Date:.....

conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.

- 1.11** "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.
- 1.12** "Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- 1.13** "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.
- 1.14** "GCC" means the General Conditions of Contract.
- 1.15** "Goods" means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.16** "Imported content" means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.
- 1.17** "Local content" means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- 1.18** "Manufacture" means the production of products in a factory using labour, materials, components and machinery and includes other related valueadding activities.
- 1.19** "Order" means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20** "Project site," where applicable, means the place indicated in bidding documents.
- 1.21** "Purchaser" means the organization purchasing the goods
- 1.22** "Republic" means the Republic of South Africa
- 1.23** "SCC" means the Special Conditions of Contract
- 1.24** "Services" means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.

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1.25 "Written" or "in writing" means handwritten in ink or any form of electronic or mechanical writing.

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

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

2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply. **3. General** 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid.

Where applicable a non-refundable fee for documents may be charged. **3.2** With certain exceptions, invitations to bid are only

published in the Government Bid Bulletin. The Government Bid Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from www.treasury.gov.za

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

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

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

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

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

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

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

7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.

7.3 The performance security shall be denominated in the currency of the contract or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms.

(a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or

(b) a cashier's or certified cheque

7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified in SCC.

8. Inspections, tests and analyses 8.1 All pre-bidding testing will be for the account of the bidder. **tests and analyses**

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

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

8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.

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

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

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

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

9. Packing

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

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

10. Delivery and documents

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

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

11. Insurance

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

12. Transportation

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

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

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

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

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

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

15. Warranty 15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising

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from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the

supplied goods in the conditions prevailing in the country of final destination.

- 15.2 This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in SCC.
- 15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.
- 15.4 Upon receipt of such notice, the supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.
- 15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

16. Payment

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

17. Prices

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

18. Contract amendments

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

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

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

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

21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.

21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.

21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.

21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.

21.6 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without cancelling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.

22. Penalties 22.1 Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract,

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the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.

23. Termination for default

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

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

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

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

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

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

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firstmentioned person, is or was in the opinion of the Accounting Officer / Authority actively associated.

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

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

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

23.7 If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and

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

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

25. Force Majeure 25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other

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failure to perform his obligations under the contract is the result of an event of force majeure.

25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event. **26. Termination for** 26.1 The purchaser may at any time terminate the contract by **insolvency** giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the purchaser.

27. Settlement of 27.1 If any dispute or difference of any kind whatsoever arises **disputes** between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.

27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.

27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law. 27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.

27.5 Notwithstanding any reference to mediation and/or court proceedings herein **(a)** the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and

(b) the purchaser shall pay the supplier any monies due the supplier. **28.**

Limitation of 28.1 Except in cases of criminal negligence or wilful **liability** misconduct, and in the case of infringement pursuant to Clause 6;

(a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and

(b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

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

30. Applicable 30.1 The contract shall be interpreted in accordance with **law** South African laws, unless otherwise specified in SCC.

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

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

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

33. National Industrial Participation (NIP) Programme 33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.

34. Prohibition of restrictive practices 34.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).
34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.

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ANNEXURE G – SBD 3.3

UMALUSI (23-24) T0005

THE APPOINTMENT OF A PANEL OF TWO LEGAL FIRMS TO PROVIDE LEGAL SERVICES AND LEGAL SUPPORT TO UMALUSI FOR A PERIOD OF THREE (3) YEARS.

(Professional Services)

NAME OF BIDDER:
CLOSING TIME :12H00

OFFER TO BE VALID FOR 180 DAYS FROM THE CLOSING DATE OF BID.

ITEM NO	DESCRIPTION	BID PRICE IN RSA CURRENCY INCLUSIVE OF <u>VALUE ADDED TAX</u>
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Bid Initials

Bid's Signature.....

Date:.....

Bid Initials

Bid's Signature.....

Date:.....

1. The accompanying information must be used for the formulation of proposals.
2. Bidders are required to indicate rates based on the total Estimated cost for all the activities and including expenses inclusive of VAT for the project.
3. **TOTAL BID PRICE** R.....

Table A

Rates schedule	Hourly rate(including disbursement and VAT at 15%)
Director/Partner	
Senior Associate	
Associate	
Candidate Attorney	
Other:	
Average hourly rate	
Total (inclusive VAT)	

Table B

Disbursements	Charge
Telephone Charges, Landline and Cellular Telephone calls	
Email	
Telefax (within South Africa)	
Telefax (Outside South Africa)	
Photocopies and Printing (Black and white)	
Photocopies and Printing (Colour)	
Kilometres rates for use of private cars	

Total (inclusive VAT)	
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TOTAL COST(TABLE A + TABLE B)

Average rate as per table above	Estimated Hours	Year 1	Year 2	Year 3	Total legal Fees
Table A	1				
Table B					
Total fees(excl VAT)					
Vat @ 15%					
Total estimated legal fees Inclusive of VAT					

Bid Initials

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Bid's

Signature.....

Date:.....