



DEVELOPMENT THROUGH PARTNERSHIP

APPOINTMENT OF SUITABLY QUALIFIED AND EXPERIENCED PERSONS TO A RESEARCH REFERENCE PANEL FOR THE CIDB FOR A PERIOD OF 36 MONTHS

VOLUME 1 OF 4: INSTRUCTION TO BIDDERS

For cidb

Witness

Bidder

Witness

CHECKLIST OF RETURNABLE SCHEDULES AND DOCUMENTS

Please adhere to the following instructions

- **Tick in the relevant block below, the documents and schedules that form part of your response**
- **Use the prescribed sequence in attaching the annexes that complete the Bid Document**

	ITEM	MANDATORY	CHECK BOX (✓)
Annexure A.	Tender's experience		
Annexure B.	Approach paper		
Annexure C.	Key personnel experience		

For cidb

Witness

Bidder

Witness

INDEX

NO	CLAUSE HEADING	PAGE
1	GLOSSARY OF TERMS.....	4
2	BID SUBMISSION	6
3	BIDDERS' DUE DILIGENCE	7
4	COMPULSORY BRIEFING SESSION.....	7
5	BID DOCUMENTS.....	7
6	SUBMISSION OF PROPOSALS	7
7	RFP LIAISON STRUCTURE	8
8	GENERAL PROPOSAL REQUIREMENTS	9
9	PROPOSAL VALIDITY.....	11
10	QUALIFICATION AND EVALUATION	12
11	CONFIDENTIAL INFORMATION	17
12	INTELLECTUAL PROPERTY.....	17
13	INDEMNITY	17
14	GOVERNING LAWS AND RULES	18
15	INCORRECT OR MISLEADING INFORMATION	21

For cidb

Witness

Bidder

Witness

1 GLOSSARY OF TERMS

For purposes of this document, the following definitions are used and all references to legislation are to legislation as amended from time to time:

- 1.1 **“BBBEE”** has the meaning defined in the Broad Based Black Economic Empowerment Act, Number 53 of 2003;
- 1.2 **“Bid”** means a proposal submitted by a Bidder in response to this RFP;
- 1.3 **“Bidder”** means an owner/entity/ joint venture/ consortium who having received the RFP intends to respond thereto by submitting a proposal;
- 1.4 **“Black People”** has the meaning defined in the Broad Based Black Economic Empowerment Act 53 of 2003;
- 1.5 **“Consortium”** means any group of persons wishing to be considered for the provision of the Services required under this RFP, irrespective of whether there is any formal agreement between them;
- 1.6 **“Constitution”** means the Constitution of the Republic of South Africa, Act 108 of 1996;
- 1.7 **“cidb”** means the Construction Industry Development Board;
- 1.8 **“Government”** means the Government of South Africa constituted in terms of the Constitution, any one or more of the three spheres of Government being national, provincial and municipal;
- 1.9 **“Management Control”** means, in relation to any enterprise, the ability to direct or cause the direction of the business and management policies or practices of the enterprise
- 1.10 **“Member”** means, with respect to a Bidder, which is a Consortium, each member thereof, including each Relevant Entity
- 1.11 **“PFMA”** means the Public Finance Management Act, Number 1 of 1999;

For cidb

Witness

Bidder

Witness

- 1.12 **“Project”** means the appointment of suitably qualified and experienced persons to a research reference panel for the cidb for a period of 36 months
- 1.13 **“Project Officer”** The Officials authorised by the cidb to interact with Bidders for this RFP as named in this document;
- 1.14 **“Bidder”** means owner/ entity/ joint venture/ consortium responding to the RFP;
- 1.15 **“RFP”** means the request for proposal issued by the cidb which is made up of the following:
- (i) Volume 1 of 4: Instructions to Bidders,
 - (ii) Volume 2 of 4: SBD Forms
 - (iii) Volume 3 of 4: Terms of Reference
 - (iv) Volume 4 of 4: General Conditions of Contract
- 1.16 **“Successful Bidder”** means the Bidder who following evaluation of its proposal in response to the RFP is selected by the cidb as the party with whom to conclude the Service Level Agreement;
- 1.17 **“ZAR” or “Rand(s)”** means the South African Rand, being the official currency of South Africa.

For cidb

Witness

Bidder

Witness

2 BID SUBMISSION

- 2.1 The cidb provides the information which is contained in or sent with this RFP or which is made available in connection with any further enquiries or in subsequent Briefing Notes, in good faith.
- 2.2 This document (which expression shall include all other information, written or oral, made available during the procurement process) is being made available by the cidb to potential Bidders on the condition that it is used solely for this procurement process and for no other purpose. The cidb is not obliged to accept any response to this RFP.
- 2.3 Bidders to this RFP will be deemed to have satisfied themselves as to the authority of the cidb to procure the Project and to be fully acquainted with the laws of South Africa (including without limitation all statutes and regulations on a national, provincial and municipal level).
- 2.4 Bidders are therefore, at any stage of the Project, not entitled to request any additional information, advice or opinion from any of the officials of the cidb.
- 2.5 Each Bidder to whom this RFP (and other related documents) is made available must make his, her or its own independent assessment of the Project.
- 2.6 While reasonable care has been taken in preparing this RFP and other related documents, it does not purport to be comprehensive or to have been verified by the cidb, its officials, employees, advisors or any other person. The cidb, its officials, employees or any of its advisors do not accept any liability or responsibility for the adequacy, accuracy or completeness of any of the information or opinions stated in this RFP or other related documents.
- 2.7 No representation or warranty, express or implied, is or will be given by the cidb, or any of its officers, employees, servants, agents or advisors with respect to the information or opinions contained in this RFP or other related documents. Any liability in respect of such representations or warranties, howsoever arising is hereby expressly disclaimed.
- 2.8 The cidb reserves the right to amend, modify or withdraw this RFP, or to amend, modify or terminate any of the procedures or requirements of the RFP at any time and from time to time, without prior notice and without liability to compensate or reimburse any Bidder.
- 2.9 If any Bidder or Bidder, its employees, advisors or agents make or offer to make any gift to any public official or employee of the cidb, consultant to the cidb on the Project either directly or through an intermediary then, such Bidder or Bidder will be disqualified forthwith from participating in the procurement of the Project.

For cidb

Witness

Bidder

Witness

3 BIDDERS' DUE DILIGENCE

3.1 Upon receipt of proposals from Bidders, the cidb will assume that the Bidder has sufficiently familiarized themselves with the content of the RFP, its volumes, schedules and related annexures.

4 COMPULSORY BRIEFING SESSION

4.1 No compulsory briefing session is applicable for this bid.

5 BID DOCUMENTS

5.1 RFP documents, are obtainable from the cidb website: www.cidb.org.za

6 SUBMISSION OF PROPOSALS

6.1 Closing date

Bidders must submit their proposals on the **23 July 2021** not later than **11h00** at **Reception, cidb Head Office, SABS Campus, Block N & R, 2 Dr Lategan Road, Groenkloof, Pretoria** in the **Tender Box**.

Faxed and Emailed submissions will not be accepted.

6.2 Postponement of closing date

The cidb reserves the right to postpone the submission date as indicated in Clause 6.1 above, however, Bidders should not pre-empt or rely on any postponements of the submission date as the cidb does not foresee any reasons for postponement at this stage.

6.3 Late submissions

No late submissions will be accepted by the cidb.

6.4 Incomplete submissions

Incomplete submissions, namely submissions that do not contain a response as contemplated in this RFP will be marked as incomplete, and may, at the cidb's sole discretion, be rejected.

6.5 Proposals to be considered

Only proposals submitted by Bidders will be considered for evaluation.

For cidb

Witness

Bidder

Witness

6.6 Correction of Errors

The complete Proposals shall be submitted without alterations, erasures or omissions, except those to accord with instructions issued by the Project Officer through Briefing Notes, in which case, such corrections shall be initialled in black ink by the person or persons signing the proposal.

6.7 Amendments to Proposals

The cidb reserves the right, subject to compliance with legal administrative requirements, to request and accept any amendment to or modification of any aspect of any proposal from any selected or Successful Bidder at any time.

6.8 Cost of Submitting Proposals

6.8.1 Each Bidder, its relevant entities or any other person shall bear all costs associated with the preparation and submission of its proposal(s), including all its own costs incurred on any of the stages in the procurement process.

6.8.2 Should the process be terminated at any stage as a result of it being tainted by the corrupt activities of one or more of the Bidders and/or Member(s) whether in breach of the provisions of this RFP or other applicable legal requirements, then the cidb shall have the right to recover from the said Bidder and/or Member(s) whose conduct has tainted the process any other damages or costs to the cidb flowing from such termination.

7 RFP LIAISON STRUCTURE

7.1 The cidb has implemented a liaison structure whereby the Project has been allocated a Project Officer, Dr Ntebo Ngozwana.

7.1.1 Bidders are advised to address all correspondence relating to this Project to the following people as indicated below:

Technical Queries: Dr Ntebo Ngozwana

Telephone: +27(12) 482 7236

E-mail: NteboN@cidb.org.za

Bidding Process: Sphiwe Mlangeni

Telephone: +27(12) 482 7328

E-mail: SphiweM@cidb.org.za

For cidb

Witness

Bidder

Witness

- 7.1.2 All correspondence from the Bidder should be addressed to the Project Officer and must be signed by an authorised person or persons, legally binding the Bidder. All such signatures must indicate the name(s) of the person(s) signing them, their position(s) and the name of their organisation.
- 7.1.3 Any additional information, responses to queries and/or changes to the RFP will be communicated to Bidders in the form of Briefing Notes. Bidders are advised to ensure that they have received all issued Briefing Notes.
- 7.1.4 Bidders may ask for clarification on this RFP invite up to 5 (five) business days before the closing date specified for this RFP.

8 GENERAL PROPOSAL REQUIREMENTS

8.1 Format of Proposals

8.1.1 Signing requirements of a single entity

- 8.1.1.1 Where the Bidder is a single legal entity, the principal or person(s) duly authorised to legally bind the legal entity concerned shall sign the original proposal. Each such person or persons shall be properly authorised to sign such documentation by way of a formal resolution by the board of directors
- 8.1.1.2 , or its equivalent, of the organisation concerned. Copies of such an authorisation, authorising the signatory to the proposal, resolution, properly dated, must accompany each proposal in the format provided in the RFP.
- 8.1.1.3 In addition, the signatory shall make a written declaration to the effect that all documentation signed by him or her is factually correct and true.

8.1.2 Signing requirements of a consortium or joint venture

- 8.1.2.1 Proposals submitted by a consortium or a joint venture shall be signed by the lead Member so as to legally bind all the constituent members of the consortium.
- 8.1.2.2 Proof of the authorisation of the lead Member to act on behalf of the consortium or a joint venture shall be included in the proposal submitted.

For cidb

Witness

Bidder

Witness

- 8.1.2.3 The lead Member shall be the only authorised party to make legal statements and receive instruction for and on behalf of any and all partners of the consortium or the joint venture.
- 8.1.2.4 A copy of the agreement entered into by the consortium partners or the joint venture partners for the formation of the consortium or joint venture shall be submitted with the Proposal.
- 8.1.2.5 The consortium/joint venture must submit a consortium/joint venture BBBEE certificate.
- 8.1.2.6 In addition, every signatory shall make a written declaration to the effect that all documentation signed by him or her is factually correct and true.

8.1.3 Format of submissions

- 8.1.3.1 Bidders are requested to submit their bids in a clearly structured way. All parts of the proposal are to be clearly headed, pages should be numbered, and a detailed content listing is to be provided. The bids should follow a consistent numbering system (volumes, sections, headings, paragraphs, sub-paragraphs, etc.) that allows for easy cross-referencing, both within the proposal and also in terms of clarification questions, etc.
- 8.1.3.2 All proposals should be submitted in the format as prescribed (in PDF and MS Word or Microsoft compatible products) and according to the following instructions:
 - 8.1.3.2.1 **1 (one) original** printed and in an arch lever file and full **1 (one) electronic copy** saved in a memory stick clearly marked.
 - 8.1.3.2.2 Only proposals completed in English will be accepted.
 - 8.1.3.2.3 The onus is on the Bidder to submit all relevant information.
 - 8.1.3.2.4 Bidders must warrant that copy 1, together with the electronic copy, are identical to the submitted original and accept that any inconsistency between the original submission and any copy(ies) will be at their sole risk.

For cidb

Witness

Bidder

Witness

8.1.3.2.5 Bidders are nonetheless requested to avoid unnecessary duplication or repetition of information, and not to submit irrelevant information.

8.1.4 Identification of Proposal document

8.1.4.1 Bidders should prepare and submit proposals that are clearly and visibly identifiable as a **Proposal for Tender Number CIDB/003/2122** and include the following information on the outside of the Proposal:

- Name of the Bidder;
- Tender number;
- Bid description;
- “Original” or “Copy” clearly indicated;
- Date of submission; and
- Identification of each Proposal parcel.

8.1.4.2 Each and every Proposal parcel included in the proposal document should clearly indicate the following information:

- Name of Bidder;
- Tender number;
- Bid description;
- “Original” or “Copy” clearly indicated; and
- Parcel identification including volume description

9 PROPOSAL VALIDITY

9.1 Validity Period

Proposals shall remain valid and open for acceptance for a period **120 days from** the closing date, and any agreed extension of the validity period.

9.2 Extensions to the Validity Period

The cidb may, in exceptional circumstances, request the Bidder for an extension of the validity period, prior to the expiry of the original proposal validity period. The request and the response thereto shall be made in writing. A Bidder agreeing to the request will not be permitted to modify its Proposal.

For cidb

Witness

Bidder

Witness

10 QUALIFICATION AND EVALUATION

10.1 Evaluation Structure

10.1.1 The cidb has formed a series of bodies to undertake the evaluation process against the stated evaluation criteria. There will be a 3 (three) tier approach, being:

10.1.1.1 the Bid Evaluation Committee, comprised of officials from the cidb and any other government official(s) or external expert(s), who may be appointed by the accounting officer in writing, to provide professional advice and input regarding the, technical, financial, and BBEE aspects of the proposals, reporting to the Bid Adjudication Committee. The Bid Evaluation Committee, assisted by its sub-committees on technical, financial, and BBEE aspects, shall evaluate the proposals received from the Bidders.

10.1.1.2 the Bid Adjudication Committee comprised of the cidb's officials and any other government official(s) or external specialist(s) or expert(s) will consider the recommendations from the Bid Evaluation Committee on the Successful Bidder. The Bid Adjudication Committee will, on the basis of the recommendations received from the Bid Evaluation Committee, further recommend to the Accounting Officer the outcome of the Bid Evaluation Committee's report.

10.1.2 The Accounting Officer reserves the right to modify and amend the above procedures, subject to applicable law at its discretion in appropriate circumstances. Bidders will be notified of any material changes.

10.2 Evaluation Approach

10.2.1 The cidb has adopted a three (3) stage approach in assessing, analysing and evaluating Proposals, being:

10.2.1.1 **First stage:** Administrative. / Mandatory Requirements

10.2.1.2 **Second stage:** Functionality

10.2.1.3 **Third stage:** Price and B-BBEE

For cidb

Witness

Bidder

Witness

10.3 First stage: Administrative/Mandatory Requirements

The Bidders must fully comply with the Mandatory requirements and those bidders who fail to comply will be disqualified from the process.

10.4 Second stage: Functionality

10.4.1 The purpose of application of qualification criteria is to determine the functionality of each proposal by assessing the quality and the robustness thereof.

10.4.2 Below is a detailed breakdown of the scoring criteria for each individual proposal:

Functionality criteria	Description of quality criteria and sub-criteria	Points	
<p>These criteria will be used to evaluate each area of specialization as indicated above.</p> <p>Bidders must ensure that information relating to each area is indexed properly in order to score points for each area.</p>	Clearly demonstrate experience of the bidder in providing research and advisory services under each of the specialization area within the academic, Public and/or Corporate sector		
	Enterprise development e.g., contractor and supply chains	50	
	Construction skills development	50	
	Infrastructure Procurement	50	
	Construction economics	50	
	Social transformation	50	
	Innovation and Technology	50	
	Points for each sub-criteria will be allocated as per below:		
	Irrelevant experience or no substantiation, and no writing samples attached	0	

For cidb

Witness

Bidder

Witness

Bidders must submit Reference letters and the names of contactable references.	Bidder demonstrates reasonable understanding of research, has 2 years' experience practicing in the related area of specialization and has attached two samples of writing.	10	50
	Bidder demonstrates reasonable understanding of research, has 3 years' experience practicing in the related area of specialization and has attached three samples of writing.	20	
	Bidder demonstrates reasonable understanding of research, has 4 years' experience practicing in the related area of specialization and has attached four samples of writing.	30	
	Bidder demonstrates reasonable understanding of research, has 5 years' experience practicing in the related area of specialization and has attached five samples of writing.	40	
	Bidder demonstrates reasonable understanding of research, has 6 or more years' experience practicing in the related area of specialization and has attached six samples of writing.	50	
<p>Academic qualification of key Recognised NQF 5 qualification in the focus area of interest. = 6 points personnel</p> <p>Provide proof of a recognised academic qualification in the focus area applied for.</p> <p>Points will be allocated as follows:</p> <ol style="list-style-type: none"> 1. Recognised Bachelors degree or advanced diploma (NQF 7) qualification in the focus area of interest. = 6 points 2. Recognised Honours, Postgraduate diploma and Master's degree, (NQF 8 and 9) qualification in the focus area of interest. =12 points 3. Recognised PhD (NQF 10) qualification in the focus area of interest. = 20 points 			20

For cidb

Witness

Bidder

Witness

<p>(NB: Certified copies of qualifications MUST be attached in order for points to be awarded)</p>	
<p>Industry experience of key personnel</p> <p>Clearly demonstrate experience and level of operations of the key personnel that will be allocated to the cidb under each area of specialization.</p> <p>Points will be allocated as follows:</p> <ol style="list-style-type: none"> 1. 5 years' experience as a senior manager in a construction company, an organisation that provides professional services to the construction industry, or an office bearer of a recognised construction industry association = 10 points 2. 6 to 9 years' experience as a senior manager in a construction company, an organisation that provides professional services to the construction industry, or an office bearer of a recognised construction industry association = 20 points 3. 10 or more years' experience as a senior manager in a construction company, an organisation that provides professional services to the construction industry, or an office bearer of a recognised construction industry association = 30 points <p>(NB: detailed CVs indicating related construction industry experience MUST be attached in order for points to be awarded)</p>	<p>30</p>
<p>Total score</p>	<p>100</p>

Bidders from the second stage who will have scored **70** points, or more will qualify for the third stage in Price and BBBEE.

10.5 Third Stage: Price and BBBEE

10.5.1 Subsequent to the evaluation of essential minimum Criteria and functional criteria, the third stage of evaluation of the Bids will be in respect of price and preferential procurement only.

10.5.2 Price proposals should be submitted in South African Rand including Value Added Tax (**VAT**)

10.5.3 The bidder shall provide the price proposal as follows:

For cidb

Witness

Bidder

Witness

10.5.4 PLEASE NOTE: BIDDERS THAT OMIT AN ITEM FROM THE PRICING SCHEDULE CANNOT ADD THE ITEM ONCE THE TENDER HAS BEEN AWARDED.

PRICING SCHEDULE			
DESCRIPTION OF SERVICE	YEAR 1 FESS (VAT EXCLUSIVE)	YEAR 2 FESS (VAT EXCLUSIVE)	YEAR 3 FESS (VAT EXCLUSIVE)
Perusal of, and comment on written documents - rate per A4 page	R	R	R
Consultations per hour or part thereof	R	R	R
Preparation for meetings per hour or part thereof	R	R	R
Attendance of meetings per hour or part thereof	R	R	R
Transcription rates per A4 page	R	R	R
Professional service, e.g., statistical analysis, data analysis, etc. per hour or part thereof	R	R	R
Total (Excluding VAT)			R
VAT @15%			R
TOTAL COST (Including VAT)			R

10.5.5 The tenders will be evaluated on the basis of the point system as stipulated in the PPPFA. The bidder who achieves the highest total points out of 100 (hundred) will be recommended by the Bid Evaluation Committee (BEC) as the preferred tenderer. In compliance with the Preferential Procurement Regulations 2017, the 80/20 principle will apply for tender prices between the threshold of R30 000 (thirty thousand) to R50 000 000 (fifty million). The 90/10 principle will apply for tender prices with a Rand value above R 50 000 000 (fifty million).

10.5.6 Where it is unclear which preference points system will be applicable, 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.

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

10.5.8 The cidb reserves the right to negotiate price with the preferred bidder.

For cidb

Witness

Bidder

Witness

10.6 Determination and announcing of Successful Bidder

The cidb, through the accounting officer shall determine and select a Successful Bidder, after having considered the recommendations prepared by the Bid Evaluation Committee and the report(s) of the Bid Adjudication Committee based on the Bid Evaluation Committee’s recommendations.

11 CONFIDENTIAL INFORMATION

- 11.1 Bidders agree to keep information provided pursuant to this RFP confidential (“**Confidential Information**”).
- 11.2 All Confidential Information provided (including all copies thereof) remains the property of the cidb and must be delivered to the cidb on demand.
- 11.3 By receiving this RFP each Bidder and each of its Members agree to maintain its submission in response to this RFP confidential from third parties other than the cidb and its officials, officers and advisors who are required to review the same for the purpose of the procurement of the Project.
- 11.4 The Confidential Information provided by the cidb may be made available to a Bidder’s Relevant Entity, members, employees and professional advisors who are directly involved in the appraisal of such information (who must be made aware of the obligation of confidentiality).
- 11.5 Bidder’s Relevant Entity, members, employees and professional advisors shall not be entitled to, either in whole or in part; copy, reproduce, distribute or otherwise make available to any other party the Confidential Information without the prior written consent of the cidb.
- 11.6 The Confidential Information may not be used for any other purpose than that for which it is intended.
- 11.7 All Confidential Information provided (including all copies thereof) remains the property of the cidb and must be delivered to the cidb on demand.
- 11.8 Bidders, Relevant Entities, members, employees and professional advisors may be required to sign confidentiality agreements.

12 INTELLECTUAL PROPERTY

All materials and data which are submitted by Bidders shall become the sole property of the cidb, with the exception of copyrighted material, trade secrets or other proprietary information clearly identified as such by Bidders.

13 INDEMNITY

For cidb

Witness

Bidder

Witness

Bidders shall be deemed by their submission of a proposal to agree to indemnify the cidb and hold it harmless from any claim or liability and defend any action brought or legal step against the cidb for its refusal to disclose materials marked confidential, trade secret or other proprietary information to any person seeking access thereto.

14 GOVERNING LAWS AND RULES

14.1 The primary enabling legislation for the Project is the PFMA together with the cidb Act, which regulate and create the competency of the cidb to procure and implement the Project.

14.2 This RFP is issued by the cidb in terms of the cidb Act and SCM read with the PFMA, as the formal step of the procurement process.

14.3 Procurement of the Project will be carried out following prescribed legislation, which includes the Constitution, the Preferential Procurement Policy Framework Act, Number 5 of 2000 and the PFMA.

14.4 Bidder’s Responsibilities

14.4.1 If a Bidder identifies any ambiguities, errors or inconsistency between the various documents that form part of this RFP, the Bidders should notify the cidb and the cidb will provide clarification as to the intended position.

14.4.2 To the extent that any inconsistency exists between the terms of the General Conditions of Contract and any other provision in the RFP, but such inconsistency is not identified by any Bidder and/or clarified by the cidb prior to submission of the Bidder’s Proposal, the terms of the General Conditions of Contract shall prevail.

14.5 Contact Policy

14.5.1 Bidders and their constituent Members, as well as their agents and advisors and related parties may not contact the employees, advisors of the cidb or any other cidb’s official(s) who may be associated with this solicitation (other than the Project Officer), without the prior written approval of the Project Officer save in the case of pre-existing commercial relationships, in which case contact may be maintained only with respect thereto and, in making such permitted contact, no party may make reference to this solicitation or procurement.

14.5.2 This no-contact policy does not apply to any information deemed to be in the public domain, or which is readily available from public bodies within the Republic of South Africa where such information is not Project specific and is not under the control of the cidb.

14.5.3 Bidders, Members, their agents, advisors and related parties may not contact the employees, advisors of the cidb or any of the cidb official(s)

For cidb

Witness

Bidder

Witness

engaged in the Project, with a view to offering, whether directly or indirectly, any one or more of them an employment opportunity with the Bidder or any Member thereof.

14.6 Corruption

14.6.1 The cidb is committed to ethical and clean business practice and will not tolerate any impropriety in any respect and in particular with regard to the Project.

14.6.2 If any Bidder, Member or their employees, shareholders, representatives, advisors or agents make or offers to make any gift or other gratuity to any public official or employee of the cidb, relevant authority, or consultant to the cidb on the Project either directly or through an intermediary, the cidb reserves the right to terminate its relationship, without prejudice to any of Government's rights, with that Bidder or responsible party or entity.

14.6.3 The cidb and each Bidder must give an undertaking that everything possible would be done to avoid irregularities, bribery and corruption. The cidb reserves the right to appoint an independent probity auditor to monitor in this regard the procurement process and the activities during the contract period.

14.7 No partnership, No offer

14.7.1 This RFP, initially is not an offer to enter into contractual relations but merely a solicitation of proposals to select a Successful Bidder and to conclude negotiations with such Successful Bidder. Thereafter the Successful Bidder together with the cidb shall enter into a Service Level Agreement.

14.8 Independent Submission

14.8.1 By responding to this RFP each Bidder and its constituent Members certifies that:

14.8.1.1 its proposal has been submitted independently, without consultation, communication, or agreement for restricting competition, with any other Bidder or to any other competitor or potential competitor.

14.8.1.2 unless otherwise required by law, the relevant proposal has not been knowingly disclosed by it and will not knowingly be disclosed by it prior to opening, directly or indirectly to any other Bidder, member of another Bidder or to any competitor or potential competitor; and

For cidb

Witness

Bidder

Witness

14.8.1.3 no attempt has been made or will be made by it to induce any other person or firm to submit a proposal for the purpose of restricting competition.

14.8.2 The attention of each Bidder and their constituent Members is also drawn to Section 4(1) (b) (iii) of the Competition Act Number 89 of 1998, which prohibits 'collusive tendering'.

14.8.3 Any material failure on the part of a Bidder to comply with the Mandatory Response Requirements and Essential Minimum Requirements in this RFP, to the extent that same are not waived by the cidb, may result in a proposal being treated as non-compliant. Non-compliant responses may be rejected without being further evaluated.

14.9 Grounds for Disqualification

14.9.1 The following events, in addition to any other events contained in this RFP, constitute (without being exhaustive) grounds upon which a Bidder (or if appropriate in the cidb's determination, any Member thereof) may be disqualified at any stage of the Project procurement process:

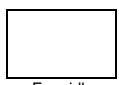
14.9.1.1 an infringement of the confidentiality undertaking by any Bidder, Member or any director, officer, agent, trustee or advisor of the Bidder and/or Member.

14.9.1.2 past, present, or future participation by any Bidder, Member or any director, officer, agent, trustee or advisor of the Bidder and/or Member in any activity which may constitute corruption, bribery or impropriety, during the Project procurement process, or any other government procurement process.

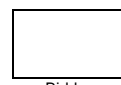
14.9.1.3 an infringement by any Bidder, Member or any director, officer, agent, trustee or advisor of the Bidder and/or Member of any one or more of the provisions of Contact Policy, Independent Submission, or Corruption or any portion of such section(s).

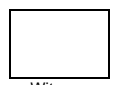
14.9.1.4 Any Bidder and/or their constituent Member(s) that engages or communicates with any of the officials, agents or advisors to the Project on any matter concerning the Project at any time during the Project procurement process, without due authority of the Project Officer, shall be disqualified from further participation in the procurement process.

14.9.1.5 Bidders are required to submit correct and true information. Failure to provide correct and true information constitutes a ground for disqualification.


For cidb


Witness


Bidder


Witness

14.9.1.6 Any change in composition, control or structure of a Bidder or any one or more of its Members from that set out in their response to the RFP, without the prior written consent for the cidb constitutes a ground for disqualification.

14.10 Undertaking by Bidders

14.10.1 By signing a submission in response to this RFP, each Bidder signatory warrants that save as disclosed in writing to the cidb , the response to the RFP and the information supplied by it (and its constituent members) remains true and warrants further that, save for any disclosures in writing to the cidb, each Member of the Bidder has:

14.10.1.1 not passed a resolution nor is the subject of an order by the court for the company's winding-up.

14.10.1.2 not been convicted of a criminal offence relating to the conduct of its business or profession.

14.10.1.3 not committed an act of grave misconduct in the course of its business or profession.

14.10.1.4 fulfilled obligations relating to the payment of taxes under the laws of the Republic of South Africa.

14.10.1.5 not made any misrepresentation in providing any of the information required in relation to the above; and

14.10.1.6 not had any of their directors and/or shareholders listed on the Register of Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act Number 12 of 2014, as a person prohibited from doing business with the public sector.

15 INCORRECT OR MISLEADING INFORMATION

The cidb may disqualify any Bidder and/or revoke any decision in respect of the selection of a Successful Bidder or the announcement of the successful conclusion of negotiations with the Successful Bidder if such decision was based on incorrect information which the Bidder or its constituent members, advisors and/or agents provided in response to this RFP.

For cidb

Witness

Bidder

Witness



DEVELOPMENT THROUGH PARTNERSHIP

**APPOINTMENT OF SUITABLY QUALIFIED AND
EXPERIENCED PERSONS TO A RESEARCH
REFERENCE PANEL FOR THE CIDB FOR A PERIOD OF
36 MONTHS**

VOLUME 3 OF 4: TERMS OF REFERENCE

TABLE OF CONTENTS

CONTENTS	PAGE NO
1. Client / Employers objectives	3
2. Project objectives	3
3. Description of services	3
4. Extent of services	4
5. Evaluation approach	4
6. Approvals	7
7. Access to land / buildings / sites	7

1. CLIENT'S / EMPLOYER'S OBJECTIVES

The Construction Industry Development Board (cidb) is a Schedule 3A public entity established in terms of the Construction Industry Development Board Act, 2000 ("the Act"), to provide strategic leadership to the construction industry for sustainable growth, reform and improvement of the construction sector and the industry's enhanced role in the country's economy. This Act requires the cidb to promote and implement policies, programs and projects within the construction industry aimed at procurement reform, standardization and uniformity in procurement documentation, practices and procedures.

The Act mandates the Board to promote appropriate research on any matter related to the construction industry and its development. The Act further states that to achieve this, the cidb may;

- Develop, promote and update a construction industry research agenda that defines national development priorities; and
- Establish a knowledge centre through which industry and clients can access knowledge and experience on innovation and best practice.

To realise this the cidb has established a Research and Development directorate that aims to guide and inform cidb development interventions to strengthen transformation, accelerate sustainable contractor development and infrastructure delivery mechanisms, such as procurement tools and process supportive of industry development, whilst building high level human resources and research capability within the construction industry.

2. PROJECT OBJECTIVES

The purpose of this Request for Bid (RFB) is to appoint suitably qualified and Experienced persons to a Research Reference Panel for the cidb for a period of 36 months. Entities, companies and persons with extensive working experience in the construction industry, academics in the built environment professionals and those with experience and expertise in the application of different research methodologies may submit proposals.

3. DESCRIPTION OF THE SERVICES

The cidb requires a panel of reviewers for their growing research agenda, to assist with the review and validation of research studies. The assignments will include review and validation of cidb initiated research studies as well as to assist with developing opinions pieces on issues affecting the construction industry as and when required.

4. EXTENT OF SERVICES

The role and responsibilities of the research reference panel will be to help with the review and validation of cidb initiated research studies as well as to assist with developing opinions pieces on issues affecting the construction industry as and when required. Briefly, the panel members will be required to:

FOCUS AREAS	ROLE AND RESPONSIBILITIES	TERMS OF SERVICE
<ul style="list-style-type: none"> ➤ Enterprise development e.g., contractor and supply chains ➤ Construction skills development ➤ Infrastructure Procurement ➤ Construction economics ➤ Social transformation ➤ Innovation and Technology 	<ul style="list-style-type: none"> ➤ Review proposed research for relevance to the construction industry, ➤ Comment on proposed methodologies, ➤ Provide access to research participants, ➤ Facilitate and support data collection, ➤ Provide data collection and analysis services, ➤ Review research reports, ➤ Provide timeous research consulting services, ➤ Provide opinion pieces as and when required, and ➤ Make presentations to different audiences as and when required. 	<ul style="list-style-type: none"> ➤ Prepare and avail themselves for scheduled consultations. ➤ Attend to instructions timeously with the relevant professionalism, skills, and diligence. ➤ Provide research opinions, written commentary and feedback on opinion pieces. ➤ Make presentations to cidb stakeholders as and when required

NB: Different panels comprising of subject matter experts will be established for each of the focus areas as per the table above. Bidders must indicate the focus area they are bidding for.

The number of service providers to be appointed for the panel will be capped at (5) five for each focus area.

5. EVALUATION APPROACH

5.1 The cidb has adopted a three (3) stage approach in assessing, analysing and evaluating Proposals, being:

5.1.1 First stage: Administrative. / Mandatory Requirements

5.1.2 Second stage: Functionality

5.1.3 Third stage: Price and B-BBEE

5.2 First stage: Administrative/Mandatory Requirements

The Bidders must fully comply with the Mandatory requirements and those bidders who fail to comply will be disqualified from the process.

5.3 Second stage: Functionality

5.3.1 The purpose of application of qualification criteria is to determine the functionality of each proposal by assessing the quality and the robustness thereof.

5.3.2. Below is a detailed breakdown of the scoring criteria for each individual proposal:

Functionality criteria	Description of quality criteria and sub-criteria	Points	
<p>These criteria will be used to evaluate each area of specialization as indicated above.</p> <p>Bidders must ensure that information relating to each area is indexed properly in order to score points for each area.</p> <p>Bidders must submit Reference letters and the names of contactable references.</p>	Clearly demonstrate experience of the bidder in providing research and advisory services under each of the specialization area within the academic, Public and/or Corporate sector		
	Enterprise development e.g., contractor and supply chains	50	
	Construction skills development	50	
	Infrastructure Procurement	50	
	Construction economics	50	
	Social transformation	50	
	Innovation and Technology	50	
	Points for each sub-criteria will be allocated as per below:		
	Irrelevant experience or no substantiation, and no writing samples attached	0	
	Bidder demonstrates reasonable understanding of research, has 2 years' experience practicing in the related area of specialization and has attached two samples of writing.	10	50
Bidder demonstrates reasonable understanding of research, has 3 years' experience practicing in the related area of specialization and has attached three samples of writing.	20		

	Bidder demonstrates reasonable understanding of research, has 4 years' experience practicing in the related area of specialization and has attached four samples of writing.	30	
	Bidder demonstrates reasonable understanding of research, has 5 years' experience practicing in the related area of specialization and has attached five samples of writing.	40	
	Bidder demonstrates reasonable understanding of research, has 6 or more years' experience practicing in the related area of specialization and has attached six samples of writing.	50	
<p>Academic qualification of key personnel Recognised NQF 5 qualification in the focus area of interest. = 6 points</p> <p>Provide proof of a recognised academic qualification in the focus area applied for.</p> <p>Points will be allocated as follows:</p> <ol style="list-style-type: none"> 1. Recognised Bachelors degree or advanced diploma (NQF 7) qualification in the focus area of interest. = 6 points 2. Recognised Honours, Postgraduate diploma and Master's degree, (NQF 8 and 9) qualification in the focus area of interest. =12 points 3. Recognised PhD (NQF 10) qualification in the focus area of interest. = 20 points <p>(NB: Certified copies of qualifications MUST be attached in order for points to be awarded)</p>			20
<p>Industry experience of key personnel</p> <p>Clearly demonstrate experience and level of operations of the key personnel that will be allocated to the cidb under each area of specialization.</p> <p>Points will be allocated as follows:</p> <ol style="list-style-type: none"> 1. 5 years' experience as a senior manager in a construction company, an organisation that provides professional services to the construction industry, or an office bearer of a recognised construction industry association = 10 points 2. 6 to 9 years' experience as a senior manager in a construction company, an organisation that provides professional services to the construction industry, or an office bearer of a recognised construction industry association = 20 points 3. 10 or more years' experience as a senior manager in a construction company, an organisation that provides professional services to the construction industry, or an office bearer of a recognised construction industry association = 30 points 			30

(NB: detailed CVs indicating related construction industry experience MUST be attached in order for points to be awarded)	
Total score	100

Bidders from the second stage who will have scored **70** points, or more will qualify for the third stage in Price and BBEE.

5.4 Third Stage: Price and BBEE

5.4.1 Subsequent to the evaluation of essential minimum Criteria and functional criteria, the third stage of evaluation of the Bids will be in respect of price and preferential procurement only.

5.4.2 Price proposals should be submitted in South African Rand including Value Added Tax (**VAT**)

The tenders will be evaluated on the basis of the point system as stipulated in the PPPFA. The bidder who achieves the highest total points out of 100 (hundred) will be recommended by the Bid Evaluation Committee (BEC) as the preferred tenderer. In compliance with the Preferential Procurement Regulations 2017, the 80/20 principle will apply for tender prices between the threshold of R30 000 (thirty thousand) to R50 000 000 (fifty million). The 90/10 principle will apply for tender prices with a Rand value above R 50 000 000 (fifty million).

Where it is unclear which preference points system will be applicable, 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.

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

The cidb reserves the right to negotiate price with the preferred bidder

6 APPROVALS

The service providers will work under the guidance and direction of the Director – Research and Development.

7 ACCESS TO LAND / BUILDINGS / SITES

During the fieldwork, the successful bidder shall be provided with access control cards for ease of access to the cidb buildings.

The bidder shall be allocated with an office space for the duration of their fieldwork.



DEVELOPMENT THROUGH PARTNERSHIP

**APPOINTMENT OF SUITABLY QUALIFIED AND EXPERIENCED
PERSONS TO A RESEARCH REFERENCE PANEL FOR THE
CIDB FOR A PERIOD OF 36 MONTHS**

VOLUME 4 OF 4: GENERAL CONDITIONS OF CONTRACT

**GOVERNMENT PROCUREMENT
GENERAL CONDITIONS OF CONTRACT****Notes**

The purpose of this document is to:

- (i) Draw special attention to certain general conditions applicable to government bids, contracts and orders; and
- (ii) To ensure that clients be familiar with regard to the rights and obligations of all parties involved in doing business with government.

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

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



The
Purchaser



Witness



The Seller



Witness

TABLE OF CONTENTS

NO.	CLAUSE HEADING	PAGE
1.	DEFINITIONS	3
2.	APPLICATION	5
3.	GENERAL	6
4.	STANDARDS.....	6
5.	USE OF CONTRACT DOCUMENTS AND INFORMATION INSPECTION	6
6.	PATENT RIGHTS	7
7.	PERFORMANCE SECURITY	7
8.	INSPECTIONS, TESTS AND ANALYSES.....	8
9.	PACKING	9
10.	DELIVERY AND DOCUMENTS.....	9
11.	INSURANCE.....	9
12.	TRANSPORTATION.....	10
13.	INCIDENTAL SERVICES.....	10
14.	SPARE PARTS.....	11
15.	WARRANTY	11
16.	PAYMENT	12
17.	PRICES.....	12
18.	VARIATION ORDERS	12
19.	ASSIGNMENT	13
20.	SUB- CONTRACTS	13
21.	DELAYS IN SUPPLIER PERFORMANCE.....	13
22.	PENALTIES	14
23.	TERMINATION FOR DEFAULT	14
24.	ANTIDUMPING AND COUNTERVAILING DUTIES AND RIGHTS.....	15

The

Purchaser

Witness

The Seller

Witness

25. FORCE MAJEURE 15

26. TERMINATION FOR INSOLVENCY 15

27. SETTLEMENT OF DISPUTES..... 16

28. LIMITATION OF LIABILITY 16

29. GOVERNING LANGUAGE 17

30. APPLICABLE LAW 17

31. NOTICES 17

32. TAXES AND DUTIES 17

33. TRANSFER OF CONTRACTS..... 18

34. AMENDMENT OF CONTRACTS..... 18

35. PROHIBITION OF RESTRICTED PRACTICES 18

The
Purchaser

Witness

The Seller

Witness

1. DEFINITIONS

The following terms shall be interpreted as indicated:

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

The
Purchaser

Witness

The Seller

Witness

- 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 Tender submission) designed to establish Tender 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 tender 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 goods covered by the Tender will be manufactured.
- 1.17. "**Local content**" means that portion of the tender price, which is not included in the imported content provided that local manufacture does take place.
- 1.18. "**Manufacture**" means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.19. "**Order**" means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20. "**Project site,**" where applicable, means the place indicated in tender documents.

The
Purchaser

Witness

The Seller

Witness

- 1.21. **“Purchaser”** means the organization purchasing the goods.
- 1.22. **“Republic”** means the Republic of South Africa.
- 1.23. **“SCC”** means the Special Conditions of Contract.
- 1.24. **“Services”** means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.
- 1.25. **“Supplier”** means the successful bidder who is awarded the contract to maintain and administer the required and specified service(s) to the State.
- 1.26. **“Tort”** means in breach of contract.
- 1.27. **“Turnkey”** means a procurement process where one service provider assumes total responsibility for all aspects of the project and delivers the full end product / service required by the contract.
- 1.28. **“Written” or “in writing”** means hand-written in ink or any form of electronic or mechanical writing.

2. APPLICATION

- 2.1. These general conditions are applicable to all Tenders, contracts and orders including Tenders for functional and professional services (excluding professional services related to the building and construction industry), sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the tender documents.
- 2.2. Where applicable, special conditions of contract are also laid down to cover specific goods, services or works.
- 2.3. Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply. Suspensive conditions

The
Purchaser

Witness

The Seller

Witness

3. GENERAL

- 3.1. Unless otherwise indicated in the tender documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a Tender. Where applicable a non-refundable fee for documents may be charged.
- 3.2. Invitations to Tender are usually published in locally distributed news media and on the municipality/municipal entity website.

4. STANDARDS

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

5. USE OF CONTRACT DOCUMENTS AND INFORMATION INSPECTION

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

The
Purchaser

Witness

The Seller

Witness

6. PATENT RIGHTS

- 6.1. The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof by the purchaser.
- 6.2. When a supplier developed documentation / projects for the municipality / municipal entity, the intellectual, copy and patent rights or ownership of such documents or projects will vest in the municipality / municipal entity payments due by either party under this agreement shall be made at such bank account in the Republic of South Africa as the other party may specify

7. PERFORMANCE SECURITY

- 7.1. Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.
- 7.2. The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.
- 7.3. The performance security shall be denominated in the currency of the contract or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:
- (a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the tender 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. the effective date, all the risks and benefits of ownership of the property, shall pass to the Purchaser.

The
Purchaser

Witness

The Seller

Witness

8. INSPECTIONS, TESTS AND ANALYSES

- 8.1. All pre-tender testing will be for the account of the bidder.
- 8.2. If it is a Tender condition that goods to be produced or services to be rendered should at any stage be subject to inspections, tests and analyses, the bidder or contractor's premises shall be open, at all reasonable hours, for inspection by a representative of the purchaser or organization acting on behalf of the purchaser.
- 8.3. If there are no inspection requirements indicated in the tender 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 goods 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 goods or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such goods or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6. Goods and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.
- 8.7. Any contract goods may on or after delivery be inspected, tested or analysed and may be rejected if found not to comply with the requirements of the contract. Such rejected goods 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 goods, which do comply with the requirements of the contract. Failing such removal the rejected goods shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute goods forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected goods, purchase such goods as may be necessary at the expense of the supplier.

The
Purchaser

Witness

The Seller

Witness

- 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 22 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, and in any subsequent instructions ordered by the purchaser.

10. DELIVERY AND DOCUMENTS

- 10.1. Delivery of the goods and arrangements for shipping and clearance obligations shall be made by the supplier in accordance with the terms specified in the contract. Each party shall, within 7 (seven) days of being called upon to do so by the conveyancer, sign all documents required to be signed, and furnish all documents required to be furnished by that party, to enable transfer of the property to be given to the Purchaser.

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 of any monies due to any party in terms of the adjustment account shall not constitute part of the purchase price and shall be affected separately from the payment of the purchase price.

The
Purchaser

Witness

The Seller

Witness

12. TRANSPORTATION

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

13. INCIDENTAL SERVICES

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

(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.

13.3. Seller confirms hereby that it is an Investment Company and not a Trader as contemplated in Section 34 of the Insolvency Act, 1936, as amended ("the Insolvency Act") and the parties hereto agree that notice of this transaction will not be required to be published as contemplated in Section 34 of the Insolvency Act.

The
Purchaser

Witness

The Seller

Witness

14. SPARE PARTS

14.1. As specified, 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 demand specific performance of this agreement and to take such action as may be necessary in order to implement and fulfil its rights in terms hereof and to recover any damage which it may suffer as a result of the defaulting party's breach of contract;

15. WARRANTY

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

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

The
Purchaser

Witness

The Seller

Witness

- 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 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, 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.
- 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.

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 Tender, with the exception of any price adjustments authorized or in the purchaser's request for Tender validity extension, as the case may be.

18. VARIATION ORDERS

- 18.1. In cases where the estimated value of the envisaged changes in purchase does not vary more than 15% of the total value of the original contract, the contractor may be instructed to deliver the goods or render the services as such. In cases of measurable quantities, the contractor may be approached to reduce the unit price, and such offers may be accepted provided that there is no escalation in price.

The
Purchaser

Witness

The Seller

Witness

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. SUB- CONTRACTS

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

21. DELAYS IN SUPPLIER 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. 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 goods are required, or the supplier’s services are not readily available.

21.4. 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 22.2 without the application of penalties.

21.5. Upon any delay beyond the delivery period in the case of a goods contract, the purchaser shall, without cancelling the contract, be entitled to purchase goods of a similar quality and up to the same quantity in substitution of the goods not supplied in

The
Purchaser

Witness

The Seller

Witness

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

22. PENALTIES

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

23. TERMINATION FOR DEFAULT

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

The
Purchaser

Witness

The Seller

Witness

24. ANTIDUMPING AND COUNTERVAILING DUTIES AND RIGHTS

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

25. FORCE MAJEURE

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

26. TERMINATION FOR INSOLVENCY

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

The
Purchaser

Witness

The Seller

Witness

27. SETTLEMENT OF DISPUTES

- 27.1. If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 27.2. If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.

28. LIMITATION OF LIABILITY

- 28.1. Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.
- 28.2. 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 for goods delivered and / or services rendered according to the prescripts of the contract.
- 28.3. Except in cases of criminal negligence or wilful 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.

The
Purchaser

Witness

The Seller

Witness

29. GOVERNING LANGUAGE

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

30. APPLICABLE LAW

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

31. NOTICES

- 31.1. Every written acceptance of a Tender 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 Tender 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 Tender SARS must have certified that the tax matters of the preferred bidder are in order.
- 32.4. No contract shall be concluded with any bidder whose municipal rates and taxes and municipal services charges are in arrears.

The
Purchaser

Witness

The Seller

Witness

33. TRANSFER OF CONTRACTS

- 33.1. The contractor shall not abandon, transfer, cede assign or sublet a contract or part thereof without the written permission of the purchases.

34. AMENDMENT OF CONTRACTS

- 34.1. No agreement to amend or vary a contract or order or the conditions, stipulations or provisions thereof shall be valid and of any force unless such agreement to amend or vary is entered into in writing and signed by the contracting parties. Any waiver of the requirement that the agreement to amend or vary shall be in writing, shall also be in writing.

35. PROHIBITION OF RESTRICTED PRACTICES

- 35.1. 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.
- 35.2. 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 section 59 of the Competition Act No. 89 of 1998.
- 35.3. If a bidder(s) or contractor(s) has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.

The
Purchaser

Witness

The Seller

Witness