

BID NUMBER

GEP01/LEG/17

BID DESCRIPTION

APPOINTMENT OF PANEL OF ATTORNEYS

ADVERT DATE

27 JANUARY 2017

COMPLUSORY BRIEFING SESSION

NO BRIEFING

CLOSING DATE

22 FEBRUARY 2017

CLOSING TIME

11H00 MIDDAY

DELIVERY OF BID

6TH FLOOR, 124 MAIN STREET, MARSHALLTOWN, JOHANNESBURG

ATTENTION

LUPHIWE MGUDLWA

Bidders should ensure that Bids are delivered in time to the correct address. If the bid is late, it shall not be accepted for consideration. GEP reception is accessible 8 hours a day (08H30 to 17H00) 5 days a week (Monday to Friday). Bidders must ensure that they sign the register at the reception when delivering Bids. Bidders must advise their couriers of the instruction above to avoid misplacement of bid responses.

ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS – (NOT TO BE RE-TYPED)

Checklist of documents to be submitted:

Please tick in the relevant block below

YES	NO	
<input type="checkbox"/>	<input type="checkbox"/>	One original tender document with three copies (clearly marked as original and copy 1 of 2, etc)
<input type="checkbox"/>	<input type="checkbox"/>	Original and valid Tax Clearance certificate.
<input type="checkbox"/>	<input type="checkbox"/>	Original Certified copies (Copy with original stamp) of your CIPRO company registration documents listing all members with percentages, in case of a CC.
<input type="checkbox"/>	<input type="checkbox"/>	Latest Original Certified copies of all share certificates (i.e. copy with original stamp), in case of a company.
<input type="checkbox"/>	<input type="checkbox"/>	Shareholding breakdown per race, gender and percentage shareholding with shareholders of the bidding company who are not individuals.
<input type="checkbox"/>	<input type="checkbox"/>	Declaration of interest
<input type="checkbox"/>	<input type="checkbox"/>	List of references of past and present clients (Company name, department, branch, contact person with office telephone number)
<input type="checkbox"/>	<input type="checkbox"/>	BEE rating certificate issued by a SANAS Accredited BEE verification agency

Please ensure that the following documents are completed:

YES

NO

Completed Bid Conditions

Completed Economic Empowerment

Completed Due Diligence

Completed Price Schedule with detailed breakdown

Kindly take note that:

1. Should all of these documents not be included, the bidder may be disqualified on the basis of non-compliance.
2. The same documents must be submitted for all other companies that are involved in the tender in case of a consortium.
3. The pricing schedule should be on a separate document.

Signed By:

Name: _____

Date: _____

1. CONDITIONS AND UNDERTAKINGS BY BIDDER BID

- 1.1 The Bid forms should not be retyped or redrafted but photocopies may be prepared and used. However, only documents with the original signature in black ink shall be accepted. Additional offers against any item should be made on a photocopy of the page in question.
 - 1.1.1 Black ink should be used when completing Bid documents.
- 1.1.2 Bidders should check the numbers of the pages to satisfy themselves that none is missing or duplicated. GEP will accept NO liability in regard to anything arising from the fact that pages are missing or duplicated.
- 1.2 I/We hereby Bid to supply all or any of the supplies and/or to procure all or any of the services described in the attached documents to GEP on the terms and conditions and in accordance with the specifications stipulated in the Bid documents (and which shall be taken as part of, and incorporated into, this Bid) at the prices inserted therein.
- 1.3 I/We agree that -
 - 1.3.1 The offer herein shall remain binding upon me/us and open for acceptance by GEP during the validity period indicated and calculated from the closing hour and date of the Bid;
 - 1.3.2 the laws of the Republic of South Africa shall govern the contract created by the acceptance of my/our Bid and that I/we choose domicilium citandi et executandi in the Republic as indicated below; and
- 1.4 NB: BIDDERS TERMS AND CONDITIONS ARE NOT ACCEPTABLE.
- 1.5 I/We furthermore confirm that I/we have satisfied myself/ourselves as to the correctness and validity of my/our Bid that the price(s) and rate(s) quoted cover all the work/item(s) specified in the Bid documents and that the price(s) and rate(s) cover all my/our obligations under a resulting contract and that I/we accept that any mistakes regarding price(s) and calculations will be at my/our risk.
- 1.6 I/We hereby accept full responsibility for the proper execution and fulfillment of all obligations and conditions devolving on me/us under this Bid as the Principal(s) liable for the due fulfillment of this contract.

Signature(s) of Bidder or assignee(s)

Date

Name of signing person (in block letters)

Capacity

Are you duly authorized to sign this bid?

Name of Bidder [company name] (in block letters)

Postal address (in block letters)

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

.....

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.....

.....

Telephone Number: FAX Number.....

Cell Number.....

2. BID CONDITIONS

- 2.1 Bidders shall provide full and accurate answers to all (including mandatory) questions posed in this document, and, are required to explicitly state either "Comply" or "Not Comply" or "Partial" (with a √)" regarding compliance with the requirements. Where necessary, the bidder shall substantiate their response to a specific question.
- 2.2 A "√" under "Comply" will be interpreted as full compliance/acceptance to the applicable paragraph. A "√" under "Comply" will be interpreted that the Bidder/s has/have read and understood the paragraph, but the bidder does not accept the content of the applicable paragraph. A "√" under "Partial" will be interpreted and evaluated objectively against explanations and supporting documentation accordingly.

NOTE: If PARTIAL is indicated as the level of compliance and NO supporting documentation is provided that clearly clarifies the Bidder/s position, the paragraph will be evaluated as "Non Comply".

It is mandatory for the bidders to comply with the following bid conditions.

- 2.3 The following bid conditions will govern the contract between GEP and the successful bidder:

Requirement	ACCEPT	NOT ACCEPT
2.3.1 Bidders are invited to offer the Services in accordance with the attached Specifications and the conditions within this document.		
2.3.2 The successful Bidder/s will be contracted to procure the Services for a period to be agreed after which GEP reserves the right to review and extend the contract for further period/s at the GEP's discretion.		
2.3.3 The fees will be negotiated.		
Interpretation of requirements	ACCEPT	NOT ACCEPT
2.3.4 The Bidder/s shall accept GEP's interpretation of any specific requirement in the Bid documents or Specifications should there be a difference of interpretation between the Bidder/s and GEP.		
2.3.6		

Should there be any discrepancies between the Bid conditions and any other documentation that forms part of this RFB, the Bid conditions shall take preference.		
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Documentation	ACCEPT	NOT ACCEPT
2.3.7 Fully comprehensive service documentation shall be supplied in English by each Bidder, which shall explicitly and detail, describe the service/s offered. This documentation shall include sufficient detail to clearly give the reader a precise and unambiguous description of the service/s offered. Incomplete or incomprehensive service documentation will result in rejection of the offer.		
2.3.8 Bidder's name and address should clearly appear on the outside of tender documents and on envelope.		
2.3.9 GEP reserves the right to evaluate and consider any Bids that do not comply strictly to this RFP.		
2.3.10 Acceptance of any Bids will only indicate, without any obligations on the part of either GEP and/or a Bidder, the willingness of such parties to enter into negotiations, which may or may not result in a contract/order as the case may be.		
2.3.11 GEP reserves the right to make a selection solely on the information received in the Bids or to negotiate further with one or more Bidder/s.		
2.3.12 The Bidder/s selected for further negotiations, if any, will be chosen on the basis of the greatest benefit to GEP and not necessarily on the basis of lowest price or any other criteria.		
2.3.13 Should GEP consider it necessary, the Bidder/s shall agree to an inspection of the resources and works of the Bidder, if so requires.		
2.3.14 Should GEP consider it necessary, GEP will visit the Bidder/s customer sites.		
2.3.15 GEP reserves the right:		
2.3.15.1 to cancel this RFP at any time;		
2.3.15.2 not to accept any Bids;		

2.3.15.3 to accept one or more Bids for further negotiation and;		
2.3.15.4 to contact any Bidder during the evaluation period, to clarify information only, without informing any other Bidder.		

Copyright	ACCEPT	NOT ACCEPT
2.3.16 The specifications are the intellectual property of GEP.		
2.3.17 The contents of any specifications are the property of GEP and are confidential. It shall not in any manner be reproduced, destroyed, lent or given away without the permission.		
2.3.18 All details, dimensions and instructions shown on any drawings, diagrams and specifications quoted, shall form part of this bid document.		
2.3.19 If there is any contradictory requirements between the specifications, the drawings referred to and other specifications that have been quoted, the order of precedence, from highest to lowest is: <ul style="list-style-type: none"> • Statutory and mandatory requirements, • This bid document, • Contract Conditions. 		
2.3.20 The Bidder accepts that GEP will have the right to contract with any other Service Provider for provision of services not covered by this specification.		
2.3.21 Bidder must also submit: A written statement to the specification of GEP by the bidder, that none of his personnel have any involvement or interest in the bidder's business.		
2.3.22 GEP will also reject an offer if the Bidder/s fail to complete the compliance section/s in the format as described in paragraphs 2.1.and 2.1.		
2.3.23 The Procuring of the Services shall not take place until GEP has given final approval of all procedures.		
2.3.24 GEP will evaluate the bids against the following criteria: <ul style="list-style-type: none"> • Compliance to the Specifications/ Functionality • Price • BEE 		

• Compliance to Bid Condition		
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Addenda	ACCEPT	NOT ACCEPT
2.3.25 In the event that modifications, clarifications or additions to the RFB become necessary, all Bidders will be notified, in writing, addenda to this RFB.		
2.3.26 All costs incurred in the preparation, presentation and demonstration of the response shall be for the account of the bidder. All supporting documentation and manuals submitted with RFB will become GEP property unless otherwise stated by the Bidder/s at the time of submission.		
2.3.27 Any material submitted by the Bidder/s, which is considered to be confidential in nature, must be clearly marked as such.		
2.3.29 Payments of invoices will be effected on by last day of the calendar month following the calendar month of receipt of a correct and original invoice. Invoices/statements should be submitted after GEP has acknowledged receipt of the services procured or goods supplied. A correct and original monthly statement reflected the above invoices must be submitted to GEP by the 5th of each month.		

Please note that the following clauses of GEP's conditions and Procedures governing the Procurement of Services.

2.4 CONTRACT TERMINATION

2.4.1 A contract/s with a successful Bidder/s may be terminated by the GEP on the grounds of valid commercial or operational requirements that were not foreseen at the time of the Request for Bid being submitted and the contract being entered into. GEP, if it wishes to terminate the contract, shall be required to give 30 (thirty) days written notice of its intention to terminate the contract. Such notice must be preceded by bona fide discussion between GEP and the successful Bidder. In this instance GEP shall only remain liable for all amounts due to the successful Bidder with respect to the period ending on the date of the cancellation, and shall not be held liable for any damages or losses on the basis of such a termination of the contract.

2.5 DISPUTE RESOLUTION

- 2.5.1 All disputes arising out of this RFB or relating to the legal validity of this RFB or any part thereof shall be resolved under this paragraph. The parties must refer any dispute to be resolved by:
- Negotiation, in terms of paragraph 2.5.3; failing which
 - Mediation, in terms of paragraph 2.5.4; failing which
 - Arbitration, in terms of paragraph 2.5.6.
- 2.5.2 Paragraph Clause 2.5.1 shall not preclude any party from access to an appropriate court of law for interim relief in respect of urgent matters by way of an interdict, or mandamus pending finalisation of the dispute resolution process contemplated in paragraph 2.5.1, for which purpose the parties irrevocably submit to the jurisdiction of a division of the High Court of the Republic of South Africa.
- 2.5.3 Within ten (10) days of notification, the parties must seek an amicable resolution to the dispute by referring the dispute to designated and authorized representatives of each of the parties to negotiate and resolve the dispute. If an amicable resolution to the dispute is found the authorized representatives of the parties must sign, within the ten (10) day period, an agreement confirming that the dispute has been resolved.
- 2.5.4 If negotiation in terms of paragraph 2.5.3 fails, the parties must, within fifteen (15) days of the negotiations failing, refer the dispute for resolution by mediation under the rules of the Arbitration Foundation of Southern Africa (or its successor or body nominated in writing by it in its stead).
- 2.5.5 The periods for negotiation (specified in paragraph 2.5.3) or for referral of the dispute for mediation (specified in paragraph 2.5.4), may be shortened or lengthened by written agreement between the parties.
- 2.5.6 In the event of the mediation contemplated in paragraph 2.5.4 failing the parties shall refer the dispute, within fifteen (15) days of the mediation failing, for resolution by expedited arbitration under the current rules of the Arbitration Foundation of Southern Africa (or its successor or body nominated in writing by it in its stead).
- 2.5.7 A single arbitrator shall be appointed by agreement between the parties within ten (10) days of the dispute being referred for arbitration, failing which the arbitrator shall be appointed by the Secretariat of the Arbitration Foundation of Southern Africa (or its successor or body nominated in writing by it in its stead).
- 2.5.8 At all times, every reasonable effort shall be made to ensure that such arbitrator has the necessary technical skills to enable him to adjudicate the dispute in a satisfactory manner.
- 2.5.9 The South African law shall apply.
- 2.5.10 The parties shall be entitled to legal representation.

- 2.5.11 The award of the arbitrator shall be final and binding on the parties, who hereby agree to give effect to the award. Either party shall be entitled to have the arbitrator's award made an order of court at the cost of the party requesting same.
- 2.5.13 This paragraph shall constitute the irrevocable consent of the parties to the dispute resolution proceeding in terms hereof and neither of the parties shall be entitled to withdraw there from or to claim at any arbitration proceedings that they are not bound by the arbitration provisions of this RFB.
- 2.5.14 Both parties shall comply with all the provisions of the RFB and with all due diligence during the determination of such dispute should the latter arise during the course of the RFB.

2.6 PAYMENT TERMS - LOCAL CREDITORS

- 2.6.1 Original, detailed, correct and complete tax invoices, monthly statements (where applicable), VAT registration numbers (where applicable), verification of bank details (in the format required) and any other relevant supporting documents must be submitted to GEP after it has acknowledged receipt in writing of the services procured or goods received, to its satisfaction.
- 2.6.2 Tax invoices and all necessary supporting documents contemplated in 9.1 above must be submitted to the GEP by the 1st (first) business day of a calendar month in order for payment to be effected by the end of the same calendar month. Otherwise payment shall be effected by the end of the following calendar month. Payments shall furthermore only be made on condition that the required documentation submitted are the originals, correct and complete.
- 2.6.3 No penalty interest shall be permitted to be charged in the event of the requirements referred to in 9.1 and 9.2 above not being complied with.
- 2.6.4 Payment shall be effected by electronic bank transfer or any other method of payment decided to be used by GEP from time to time and at the GEP's sole discretion.

2.7 TERMINATION

- 2.7.1 The following clause will be applicable to all contracts entered into/orders placed by GEP: If, at any time during the currency of this Bid and subsequent contract/order, GEP in its reasonable discretion determines that the other party has, in respect of this bid, contract/order or any other contract/order or agreement to which they were or are parties to:
- Acted dishonestly and/or in bad faith, and/or
 - Has made any intentional or negligent misrepresentation to GEP whether in any negotiations preceding the conclusion of, or in the execution of this RFB or any other agreement between the parties,

Then GEP shall be entitled by written notice to the other party forthwith to cancel this contract/order. Upon such cancellation, GEP shall be entitled, in addition to all other remedies available to it, to recover from the other party all damages it has suffered by virtue of such conduct by the other party. Should, at the time of such cancellation, GEP be indebted to the other party for any amounts whatsoever, GEP shall be entitled to withhold payment in respect thereof for a period of 90 (ninety) days from the date of cancellation in order to investigate the party's conduct and any damages suffered by GEP. NO payment by GEP to the other party after the lapse of such period shall preclude GEP thereafter, from recovering from the other party any such damages as it may have suffered.

2.8 SPECIFIC INFORMATION REQUIRED

For ease of reference and evaluating purposes, please furnish replies under the same headings and refer individually to all specific paragraph numbers. Please be clear in your response and use definite answers.

2.9 COPIES REQUIRED

It is a condition that the Bidder/s shall furnish an offer comprising of one original plus 3 (three) copies for the supply of products and services enumerated in this Request for Bid Document. The Bidder/s shall ensure that all the relevant information and documentation is submitted with the original as well as the copies. GEP shall not be liable should it become evident that a Bidder/s offer/s is/are not accepted and the reason for such non-acceptance is as a result of the Bidder/s failure to include the information in all three copies.

2.10 DUE DILIGENCE

Bidder/s must supply Financial Information as requested in par 2.11.10 and Annexure C.

2.11 GENERAL VENDOR INFORMATION

The following general information is required from the prospective vendor:

2.11.1 NAME OF COMPANY/TRADING AS:

- Postal Address
- Street Address
- Telephone and facsimile numbers

- 2.11.2 COMPANY HEAD OFFICE:
- Postal Address
 - Street Address
 - Telephone and facsimile numbers
- 2.11.3 Contact person
- 2.11.4 List of Directors/Partners/affiliated companies with proof of shareholding with this companies/trust - Compulsory
- 2.11.5 List of shareholders (Certified original copies of individual share certificates/certified original copies of Cipro registration document indicating members with percentage interest) – Compulsory.
- 2.11.6 Date of registration – Compulsory – [if applicable]
- 2.11.7 Company registration number. – Compulsory [if applicable]
- 2.11.8 Draw or attach the organizational structure of your company:
- a) Ownership structure, i.e. the % shareholding by major investors and controlling interest in affiliated companies.
 - b) Basic functional structure, i.e. the administrative section of your company with which GEP will be dealing on a day-to-day basis.
- 2.11.9 Original Valid Tax Clearance Certificate. - Compulsory
- 2.11.10 Audited Financial Statements with auditor's report of the company for the past three years. / Financial Statements of a CC for the past three years prepared by an independent accountant with proof. – Compulsory
- 2.12 INFRASTRUCTURE
- a) Would you describe your business as international, national or regional?
 - b) List all branches and offices of your company countrywide (Republic of South Africa) together with telephone numbers.
- 2.13 ACTIVITY AND SERVICE PROFILE
- 2.13.1 Detailed description of main field of expertise/area of operation of company.
- 2.13.2 Range of services offered.

- 2.13.3 Reference list of some contracts completed during the last 3 to 5 years, including value, duration, location and contact persons
- 2.13.4 List of current contracts and value thereof. Submit a list of current contracts, contact person and contract numbers.
- Has any contract with your company ever been cancelled by a client? If YES, provide details.
- 2.14 MANAGEMENT AND SERVICING
- 2.14.1 Please supply a full description of how the company is organized together with an organization organogram.
- 2.14.2 Please indicate a breakdown of staff compliment into management/ supervisors/ Administration/ guards/ other services (specify).
- 2.14.3 Please provide details of qualifications and selection process with regards to management/supervisory expertise in the company.
- 2.15 REASONS FOR DISQUALIFICATION
- 2.15.1 GEP reserves the right to disqualify any bidder which does any one or more of the following, and such disqualification may take place without prior notice to the offending bidder, however the bidder shall be notified in writing of such disqualification:
- 2.15.1.1 bidders who do not submit a valid and original Tax Clearance Certificate on the closing date and time of the bid;
- 2.15.1.2 bidders who submitted incomplete information and documentation according to the requirements of this RFB;
- 2.15.1.3 bidders who submitted information that is fraudulent, factually untrue or inaccurate, for example memberships that do not exist, BEE credentials, experience, etc.;
- 2.15.1.4 bidders who received information not available to other vendors through fraudulent means; and/or
- 2.15.1.5 bidders who do not comply with mandatory requirements as stipulated in this RFP.
- 2.15.2 There shall be no public opening of the Bids received; however, the list of bids received may be published on the GEP website. There shall be no discussions with any enterprise until evaluation of the proposal has been complete. Any subsequent discussions shall be at the discretion of the GEP. Unless specifically provided for in the proposal document, bids submitted by means of telegram, telex, facsimile or similar means shall not be considered.

- 2.15.3 No Bids from any bidder with offices within the RSA shall be accepted if sent via the Internet or e-mail. However Bids from international bidders with no office or representation in the RSA shall be accepted if received via the Internet or e-mail before the closing date and time.
- 2.16. Such Bids shall not be made available for evaluation until the original signed documentation is received within three (3) working days after the closing date, otherwise the proposal shall be disqualified. International bidders must submit proof that they do not have any offices or representation in South Africa.

2.17 ENQUIRIES

2.17.1 Enquiries regarding this Request for Bid should be submitted via e-mail to:

Bid enquiries:

Proposal Enquiries	Luphiwe Mgudlwa	lmgudlwa@gep.co.za
Technical Enquiries	Tlhalefang Matabane	tmatabane@gep.co.za

Enquiries should reference specific paragraph numbers, where appropriate.

All questions/ enquiries must be forwarded in writing not later than 12:00 on 15th February 2017.

Questions/enquiries received after 12:00 on the 15th February 2017 will not be entertained.

3 GENERAL CONDITIONS OF CONTRACTS

3.1 Definitions

The following terms shall be interpreted as indicated:

- 3.1.1 "Closing time" means the date and hour specified in the bidding documents for the receipt of bids.
- 3.1.2 "Contract" means the written agreement entered into between the purchaser and the supplier, as recorded in the contract from signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- 3.1.3 "Contract price" means the price payable to the supplier under the contract for the full and proper performance of this contractual obligation.

- 3.1.4 “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.
- 3.1.5 “Countervailing duties” are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
- 3.1.6 “Country of origin” means the place where 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 basis characteristics or in purpose or utility from its components.
- 3.1.7 “Day” means calendar day.
- 3.1.8 “Delivery” means delivery in compliance of the conditions of the contract or order.
- 3.1.9 “Delivery ex stock” means immediate delivery directly from stock actually on hand.
- 3.1.10 “Delivery into consignees store or to his site” means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
- 3.1.11 “Dumping” occurs when a private enterprise abroad market its good on own initiative in the RSA at lower prices than that of the country or origin and which have the potential to harm the local industries in the RSA.
- 3.1.12 “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 resolutions, fires floods, epidemics, quarantine restrictions and freight embargoes.
- 3.1.13 “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.
- 3.1.14 “GCC” mean the General Conditions of Contract.
- 3.1.15 “Good” means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 3.1.16 “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 transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.

- 3.1.17 “Local content” means that portion of the bidding price, which is not included in the imported content provided that local manufacture does take place.
- 3.1.18 “Manufacture” means the production of products in a factory using labour, materials components and machinery and includes other related value-adding activities.
- 3.1.19 “Order” means an official written order issued for the supply of goods or works or the procuring of a service.
- 3.1.20 “Project site” where applicable, means the place indicated in bidding documents.
- 3.1.21 “Purchaser” means the organization purchasing the goods.
- 3.1.22 “Republic” means the Republic of South Africa.
- 3.1.23 “SCC” means the Special Conditions of Contract.
- 3.1.24 “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.
- 3.1.25 “Written” or “in writing” means handwritten in ink or any form of electronic or mechanical writing.
- 3.1.26
- 3.2 Application
- 3.2.1 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.
- 3.2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.
- 3.2.3 Where such special conditions of contract are in conflict with these general conditions, the special shall apply.
- 3.3 General
- 3.3.1 Unless otherwise indicated in the bidding documents, the purchase 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.
- 3.3.2 With certain exceptions, invitations for bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from www.treasury.gov.za.
- 3.4 Standards
- 3.4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.
- 3.5 Use of contracts documents and information

- 3.5.1 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 as far as may be necessary for purposes of such performance.
- 3.5.2 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.
- 3.5.3 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.
- 3.5.4 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
- 3.6 Patent rights
- 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.
- 3.6 Performance Security
- 3.6.1 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 GCC
- 3.6.2 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 contracts.
- 3.6.3 The performance security shall be denominated in the currency of the contract, or in freely convertible currency acceptable to the purchaser and shall be in one of the following:
- (a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or broad, 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
- 3.6.4 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.
- 3.7 Inspections, tests and analyses
- 3.7.1 All pre-bidding testing will be for the account of the bidder.

- 3.7.2 If it is a bid condition that supplies to be produced or services to be procured 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.
- 3.7.3 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 payments arrangements with the testing authority concerned.
- 3.7.4 If the inspection, test and analyses referred to in clauses 3.2 and 3.3 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.
- 3.7.5 Where the supplies or services referred to in clauses 3.2 and 3.3 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.
- 3.7.6 Supplies and services, which are, referred to in clauses 3.2 and 3.3 and which do not comply with the contract requirements may be rejected.
- 3.7.7 Any contract supplies may, on or after delivery, be inspected; tested or analyzed and may be rejected if found no 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 purchase 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.
- 3.7.8 The provisions of clauses 3.4 to 3.7 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.
- 3.8 Packing
- 3.8.1 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 precipitations 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.
- 3.8.2 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.

3.9 Delivery and documents

3.9.1 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.

3.10 Insurance

3.10.1 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.

3.11 Transportation

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

3.12 Incidental services

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

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

3.12.2 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.

3.13 Spare parts

3.13.1 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.

3.14 Warranty

3.14.1 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.

3.14.2 This warranty shall remain valid 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.

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

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

3.14.5 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.

3.15 Payment

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

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

3.15.3 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.

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

3.16 Prices

3.16.1 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.

3.17 Contract Amendments

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

3.18 Assignment

3.18.1 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.

3.19 Subcontracts

3.19.1 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.

3.20 Delays in the supplier's performance

3.20.1 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.

3.20.2 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.

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

3.20.4 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.

3.20.5 Except as provided under GCC clause 3.25, a delay by the supplier in the performance of its delivery obligations shall procure the supplier liable to the imposition of penalties, pursuant to GCC clause 3.22, unless an extension of time is agreed upon pursuant to GCC clause 3.21.2 without the application of penalties.

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

- 3.21 Penalties
- 3.21.1 Subject to GCC clause 3.25, 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 3.23.
- 3.22 Termination for default
- 3.22.1 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 if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
- 3.22.2 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 terminate.
- 3.23 Anti-dumping and countervailing duties and rights
- 3.23.1 When, after the date of bid, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required of 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 favorable difference shall on demand be paid forthwith by the contractor to 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 procured, or is to deliver or procure in terms of the contract or any other contract or any other amount which may be due to him.
- 3.24 Force Majeure
- 3.24.1 Notwithstanding the provisions of GCC clauses 3.22 and 3.23, the supplier shall not be liable for forfeiture or 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.

- 3.24.2 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 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.
- 3.25 Termination for insolvency
- 3.25.1 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 prejudice or affect any right of action or remedy, which has accrued or will accrue thereafter to the purchaser.
- 3.26 Settlement of Disputes
- 3.26.1 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.
- 3.26.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by 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.
- 3.26.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.
- 3.26.4 Mediation proceedings shall be conducted in accordance with the rules or procedure specified in the SCC.
- 3.26.5 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.
- 3.27 Limitation of liability
- 3.27.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to clause 3.6;
- (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 or 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.

3.28 Governing language

3.29.1 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.

3.30 Applicable law

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

3.31 Notices

3.31.1 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.

3.31.2 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

3.32 Taxes and duties

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

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

3.32.3 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.

ANNEXURE A: SCOPE OF WORK

TERMS OF REFERENCE ON THE APPOINTMENT OF GEP PANEL OF ATTORNEYS

1. OBJECTIVE

The purpose of appointing the panel of attorneys is to establish a data base of legal skills available to GEP and that can be contracted by GEP to provide specialized legal advice and services.

1. INVITATION

- 1.1. Firm of attorneys are invited to send proposals to GEP for consideration. In preparing a proposal, it is emphasized that a profile of the firm of attorneys together with demonstrated expertise in the particular fields of law be submitted.
- 1.2. The proposal must be limited to a maximum of 5 (five) pages and must address the following headings in the following order (functionality requirements):
 - 1.2.1. Experience (Education and professional background of team members and Specialty);
 - 1.2.2. Capability (competence, track record and electronic capabilities including equipment)
 - 1.2.3. Ability (capacity); and
 - 1.2.4. Location (offices).

2. SKILLS TRANSFER

The firms of attorneys will also be required to ensure transfer of skills to in-house legal unit of GEP.

3. SCOPE PERIOD

- 3.1. The legal firms appointed will form part of a panel of attorneys who will provide legal services to GEP legal unit on an ad hoc basis, and will be instructed as required.
- 3.2. Firms of attorneys will be required to render services to GEP on a wide legal range of issues pertaining to, inter alia the following fields of law:
 - 3.2.1. Banking and finance;
 - 3.2.2. Commercial law;
 - 3.2.3. Corporate law;
 - 3.2.4. Corporate governance;
 - 3.2.5. Constitutional law;

- 3.2.6. Debt collection / Debt recovery;
- 3.2.7. Information technology;
- 3.2.8. Intellectual property law;
- 3.2.9. International law;
- 3.2.10. Insolvency law;
- 3.2.11. General litigation;
- 3.2.12. Legal opinion on complex matters;
- 3.2.13. Legislative drafting;
- 3.2.14. Labour and employment law;
- 3.2.15. Multinational agreements; and
- 3.2.16. Public Private Partnerships.

4. REPORTING RELATIONSHIP

The respective firms of attorneys will report to the Head of legal of GEP.

5. CONDITIONS OF TENDER

- 5.1. Appointment of panel:
 - 5.1.1. Only legal firms established in accordance with the provisions of the Attorneys Act No. 53 of 1979 will be considered for this tender.
 - 5.1.2. The requirements of the Preferential Procurement Policy Framework Act No. 5 of 2000 will be applicable to the selection process in respect of this proposal.
 - 5.1.3. Firms of attorneys who do not score 70% (sixty percent) or more on the technical evaluation will not be appointed to the panel.
 - 5.1.4. Service level agreement will be signed with each firm of attorneys appointed to the panel and will be required to sign confidential and indemnity agreement with GEP.
 - 5.1.5. Panel members are not guaranteed any work under this proposal.
 - 5.1.6. The basis of engaging firms of attorneys will be on an assignment basis (ad hoc).
 - 5.1.7. GEP reserves the right to interview panel members that are short listed for specific assignments.
 - 5.1.8. GEP may, at its sole discretion award and assign any part of an instruction to more than one panel members.
 - 5.1.9. GEP may at its own discretion vary an instruction to include more work.
 - 5.1.10. The firms of attorneys may not cede or assign any part of its agreement with GEP nor subcontract any part of the work assigned to them without the prior written authorization of GEP.

- 5.1.11. The contract period for this tender is 2 (two) years.
- 5.1.12. Assignments awarded to existing panel members in the last 3 (three) months of the contract will be allowed to continue.

6. BID EVALUATION CRITERIA

- 6.1. The following criteria will be used in particular as the criteria for appointment, apart from those laid down in the Preferential Procurement Policy Framework.
- 6.2. Firms of attorneys who do not score 70% (Seventy Percent) or more on the functional evaluation will not be appointed for the panel.
- 6.3. All proposals received shall be evaluated on the following phase out approach:
 - 6.3.1. Phase 1: Compliance to the terms of reference and conditions of the proposal.
 - 6.3.2. Phase 2: Prequalification criteria: Functionality criteria.
 - 6.3.3. Phase 3: Preference for Broad-Based Economic Empowerment (BBBEE) status level of contribution (90/10 preference points system), where 90 points are allocated to Price, and 10 points are allocated to BBBEE status level.

Functionality requirements Total = 100

7. EVALUATION CRITERIA

The proposals will be evaluated using the 90:10 points system. 90 points will be awarded for price and functionality and 10 points for affirmative business enterprise.

7.1. Mandatory

	Comply	Not Comply
At least 3yrs proven records on the required services		
Substantiate / Comments		

7.2. TECHNICAL REQUIREMENTS

The functional / technical criterion that was utilized to test the capability of service providers was set as follows:

Technical / Functionality will be evaluated against the following detailed requirements:

ITEM No.	CRITERIA	MAXIMUM WEIGHT
1. EXPERIENCE	<ul style="list-style-type: none"> • Relevant experience • Education • Professional background • Specialty (Please attach CV's of the legal team members)	40
2. CAPABILITY	<ul style="list-style-type: none"> • Competency • Track record • Electronic capability and equipment (e.g. emails and systems) (Three references of similar work undertaken – list names, addresses, telephone numbers of 3 (three) clients for which work has been accomplished and briefly describe the type of service provided for them)	40
3. ABILITY	<ul style="list-style-type: none"> • Capacity • Transfer of skill 	10

4. LOCATION	<ul style="list-style-type: none"> Offices (accessibility) 	10
Functionality Total		100

Threshold on functionality 70%

All Bidders who score LESS than (70% out of 100%) on functionality will not be considered for further evaluation on Price and BEE.

3 The evaluation for Price and BEE shall be based on the 90/10 PPPFA principle and the points for evaluation criteria are as follows:

Evaluation Criteria		Points
1.	Price	90
2.	Black Economic Empowerment	10
3.	Total	100

Price: The price will be evaluated against the proposals offered by Bidders.

8. INVITATION REQUIREMENTS

The respective firms of attorneys will report to the Head of legal of GEP.

9. PROPOSAL REQUIREMENTS

- 9.1. Each proposal must include brief history of the firm and outline the firm's geographical structure (excluding associations with other law firms)
- 9.2. list of clients for whom legal services were rendered on a regular basis in the past 3 (three) years (the most recently served clients must be mentioned first and specify the nature of all work done)

- 9.3. The specialist fields of law of the firm and brief CV's of core service team that will be attending to GEP work with specific reference to their education/professional background and experience.
- 9.4. If a firm of attorneys has expertise in more than one field of law, all relevant fields must be indicated in the proposal together with demonstrated experience in the specified areas of law.
- 9.5. The hourly rate of each attorney must be included in the proposal.

10. INTELLECTUAL PROPERTY RIGHTS

- 10.1. All copyright and intellectual property rights that may result as consequences of the work to be performed will become the property of GEP.
- 10.2. Firms of attorneys must hand over all documents and information in any format, including copies thereof, that it received from GEP or that it had access to during the assignment immediately after completion of the assignment to GEP.
- 10.3. Firms of attorneys shall deliver to GEP, on completion of an assignment, any security devices, passwords or protective mechanisms to the soft versions of documents that were written and GEP will have the right to amend and change these without obligation whatsoever to the firms of attorneys upon completion of the assignment.

11. PROCUREMENT POLICIES AND PROCEDURES

The general conditions of tender, contract and order will be applicable to this proposal.

12. CONTACT NUMBER

For any further technical enquiries, the following persons can be contacted:
Ms. Tlhalefang Matabane

ANNEXURE B: BLACK ECONOMIC EMPOWERMENT

**SBD 6.1
PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT
REGULATIONS 2011**

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

NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2011.

1. GENERAL CONDITIONS

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

- the 80/20 system for requirements with a Rand value of up to R1 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R1 000 000 (all applicable taxes included).

1.2 The value of this bid is estimated to exceed/not exceed R1 000 000 (all applicable taxes included) and therefore the.....system shall be applicable.

1.3 Preference points for this bid shall be awarded for:

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

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

POINTS

1.3.1.1 PRICE

1.3.1.2 B-BBEE STATUS LEVEL OF CONTRIBUTION

Total points for Price and B-BBEE must not exceed 100

1.4 Failure on the part of a bidder to fill in and/or to sign this form and submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System (SANAS) or a Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA) or an Accounting Officer as contemplated in the Close Corporation Act (CCA) together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

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

2. DEFINITIONS

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

2.2 “B-BBEE” means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;

2.3 “B-BBEE status level of contributor” means the B-BBEE status received by a measured entity Based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

2.4 “bid” means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;

2.5 “Broad-Based Black Economic Empowerment Act” means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

2.6 “comparative price” means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;

2.7 “consortium or joint venture” 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;

2.7 “contract” means the agreement that results from the acceptance of a bid by an organ of state;

2.8 “EME” means any enterprise with an annual total revenue of R5 million or less.

2.10 “Firm price” means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;

2.11 “functionality” means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;

- 2.12 “non-firm prices” means all prices other than “firm” prices;
 - 2.13 “person” includes a juristic person;
 - 2.14 “rand value” means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;
 - 2.15 “sub-contract” means the primary contractor’s assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;
 - 2.16 “total revenue” bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad- Based Black Economic Empowerment Act and promulgated in the Government Gazette on 9 February7;
 - 2.17 “trust” means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
 - 2.18 “trustee” means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.
3. ADJUDICATION USING A POINT SYSTEM
- 3.1 The bidder obtaining the highest number of total points will be awarded the contract.
 - 3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts;.
 - 3.3 Points scored must be rounded off to the nearest 2 decimal places.
 - 3.4 In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for B-BBEE.
 - 3.5 However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal preference points for B-BBEE, the successful bid must be the one scoring the highest score for functionality.
 - 3.6 Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

4. POINTS AWARDED FOR PRICE

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

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

80/20 or 90/10

$$P_s = 80 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right) \quad \text{or} \quad P_s = 90 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

P_s = Points scored for comparative price of bid under consideration

P_t = Comparative price of bid under consideration

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

5. Points awarded for B-BBEE Status Level of Contribution

5.1 In terms of Regulation 5 (2) and 6 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	8	16
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

- 5.2 Bidders who qualify as EMEs in terms of the B-BBEE Act must submit a certificate issued by an Accounting Officer as contemplated in the CCA or a Verification Agency accredited by SANAS or a Registered Auditor. Registered auditors do not need to meet the prerequisite for IRBA's approval for the purpose of conducting verification and issuing EMEs with B-BBEE Status Level Certificates.
- 5.3 Bidders other than EMEs must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.
- 5.4 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a Legal entity provided that the entity submits their B-BBEE status level certificate.
- 5.5 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an Unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard As if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- 5.6 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- 5.7 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
- 5.8 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.

6. BID DECLARATION

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

7. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.3.1.2 AND 5.1

7.1 B-BBEE Status Level of Contribution: =(maximum of 10 or 20 points)
 (Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or an Accounting Officer as contemplated in the CCA).

8 SUB-CONTRACTING

8.1 Will any portion of the contract be sub-contracted? YES / NO (delete which is not applicable)

8.1.1 If yes, indicate:

- (i) what percentage of the contract will be subcontracted?%
- (ii) the name of the sub-contractor?
- (iii) the B-BBEE status level of the sub-contractor?
- (iv) whether the sub-contractor is an EME? YES / NO (delete which is not applicable)

9 DECLARATION WITH REGARD TO COMPANY/FIRM

9.1 Name of company/firm

9.2 VAT registration number :

9.3 Company registration number
 :

9.4 TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
- One person business/sole propriety
- Close corporation
- Company
- (Pty) Limited

[Tick applicable box]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

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

9.6 COMPANY CLASSIFICATION

- Manufacturer
- Supplier
- Professional service provider
- Other service providers, e.g. transporter, etc.

[Tick applicable box]

9.7 Total number of years the company/firm has been in business?

9.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contribution indicated in paragraph 7 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- (i) The information furnished is true and correct;
- (ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form.
- (iii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 7, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- (iv) If the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
 - (a) disqualify the person from the bidding process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person’s conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;

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

(e) forward the matter for criminal prosecution

WITNESSES:

1.
SIGNATURE(S) OF BIDDER(S)

.....

.....

DATE:.....

ANNEXURE C: DUE DILIGENCE AND DECLARATION OF INTEREST

DUE DILIGENCE: FINANCIAL ASSESSMENT

A. SUPPLIER EVALUATION QUESTIONNAIRE

This questionnaire must be completed by all potential Bidder/s. This information is critical for Bidder/s evaluation purposes and must be completed honestly and accurately.

- 1.1 Complete names of your company’s five key customers in terms of average business conducted as a percentage of accounts receivable / total debtor book.

Customer					
% Receivable	0 - 20%	>20 - 40%	>40 - 60%	>60 - 80%	>80 - 100%

- 1.2 How often did your company experience industrial action incidence e.g. strikes, go-slows, etc. Please indicate the number of incidences by completing the relevant block

Past Year	Past Two Years	Past Three Years

- 1.3 Kindly indicate your company’s investment in productive resources (as a percentage of turnovers).

Resources	Training
% Turnover	

- 1.4 Indicate your company’s top management experience by ticking the relevant boxes below.

Experience					
Avg. Years	Less than 5years	5-10 years	10-15 years	15-20 years	over 20 years

- 1.5 Does your company have Electronic Data Interface Capabilities (EDI)? Please indicate by ticking the relevant box.

- 1.5.1 Does your company have electronic interfaces into customer applications?

YES	NO

- 1.5.2 Can information received from buyers be fed into your applications electronically?

B. Information Needed For Financial Assessment

The following information must be submitted with the RFB documents;

- Annual Certified / Audited Financial Statements i.e. Balance Sheet, Income Statement / Detailed Income Statement and Cash Flow Statement - for the past three years. Should the Bidder/s be an agent, the abovementioned financial statements for the provider of the services must also be submitted?
- A detailed description of business relationships / agreement between the Bidder and their licensor / franchisee / partner shall be provided as well as the identification of any restrictions.
- A statement by the Bidder confirming that none of his personnel has any involvement or interest in GEP.
- Contact names and telephone numbers of at least three key / largest customers of the Bidder/s.
- Bidder/s banking details i.e. account number, name of main bank and branch.
- Group Structure or Family Tree (including percentage shareholding or member interests).
- Non-listed entities to submit a brief report or review on operations, current financial results and future plans.

All requested information in A and B above must be completed / submitted. This information is critical for assessment purposes. Should abovementioned information be unavailable for any reason, GEP will award a 0 point for information not submitted.

ANNEXURE D: TAX CLEARANCE

SBD 2

TAX CLEARANCE CERTIFICATE REQUIREMENTS

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

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

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

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

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

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

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

ANNEXURE E:

DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state¹, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favoritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-
 - the bidder is employed by the state; and/or
 - the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

2. In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.
 - 2.1 Full Name of bidder or his or her representative:
 - 2.2 Identity Number:
.....
 - 2.3 Position occupied in the Company (director, trustee, shareholder²):
.....
 - 2.4 Company Registration Number:
.....
 - 2.5 Tax Reference Number:
.....
 - 2.6 VAT Registration Number:
 - 2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / persal numbers must be indicated in paragraph 3 below.

1“State” means –

- (a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (b) any municipality or municipal entity;
- (c) provincial legislature;
- (d) national Assembly or the national Council of provinces; or
- (e) Parliament.

2”Shareholder” means a person who owns shares in the company and is actively involved in the management of the enterprise or business and exercises control over the enterprise.

2.7 Are you or any person connected with the bidder presently employed by the state? YES / NO

2.7.1 If so, furnish the following particulars:
Name of person / director / trustee / shareholder/ member:

.....

Name of state institution at which you or the person connected to the bidder is employed :

.....

Position occupied in the state institution:

.....

Any other particulars:

.....

.....

.....

2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector? YES / NO

2.7.2.1 If yes, did you attached proof of such authority to the bid document? YES / NO

(Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.

2.7.2.2 If no, furnish reasons for non-submission of such proof:

.....

.....

.....

2.8 Did you or your spouse, or any of the company's directors / trustees / shareholders / members or their spouses conduct business with the state in the previous twelve months? YES / NO

2.8.1 If so, furnish particulars:

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

2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid? YES / NO

If so, furnish particulars.

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

Are you, or any person connected with the bidder, aware of any relationship (family, friend, other) between any other bidder and any person employed by the state who may be involved with the evaluation and or adjudication of this bid? YES/NO

1 If so, furnish particulars.

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

2.11 Do you or any of the directors / trustees / shareholders / members of the company have any interest in any other related companies whether or not they are bidding for this contract? YES/NO

2.11.1 If so, furnish particulars:

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

Full details of directors / trustees / members / shareholders.

Full Name	Identity Number	Personal Tax Reference Number	State Employee Number / Peral Number

4 DECLARATION

I, THE UNDERSIGNED (NAME).....

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 3 ABOVE IS CORRECT. I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 23 OF THE GENERAL CONDITIONS OF CONTRACT SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature Date

.....
Position Name of bidder

ANNEXURE F: PRICING SCHEDULE

This annexure should be completed and signed by the Bidder’s authorised personnel as indicated below:

- 1 Please indicate your total bid price here: R..... (compulsory)
- 2 Important: It is mandatory to indicate your total bid price as requested above. This price must be the same as the total bid price you submit in your pricing schedule. Should the total bid prices differ, the one indicated above shall be considered the correct price.
- 3 NOTE: All prices must be VAT inclusive and must be quoted in South African Rand (ZAR).
- 4 Are the rates quoted firm for the full period of the contract?

YES	NO
-----	----
- 5 Mandatory: If not firm for the full period, provide details of the basis on which adjustments shall be applied e.g. CPI, and also details of the cost breakdown.

Basis of adjustment	Period of 12 months
Cost Breakdown:	
Management fee	
Transactional fee	
Additional Costs:	
NB: Please provide two options of payment as requested above.	

7.

No price adjustments that are 100% linked to exchange rate variations shall be allowed.	Comply	Not comply
Substantiate / Comments		

8.

The bidder must indicate clearly which portion of the service price as well as the monthly costs is linked to the exchange rate.	Comply	Not comply
Substantiate / Comments		

9.

All additional costs must be clearly specified.	Comply	Not comply
Substantiate / Comments		

Price Declaration Form

Dear Sir,

Having read through and examined the Tender Document, Tender no GEP01/LEG/17 the General Conditions, The Requirement and all other Annexes to the Tender Document, we offer to provide Legal Expertise to GEP's Offices, for the total tendered contract sum of:

R _____ (including VAT)

In Words: R_____ (including VAT)

We confirm that this price covers all services to provide Legal Expertise to GEP's Office, including but not limited to the supply of all required. We confirm that GEP will incur no additional costs whatsoever over and above this amount in connection with the services related to provision of insurance broking service. We undertake to hold this offer open for acceptance for a period of 90 days from the date of submission of offers. We further undertake that upon final acceptance of our offer, we will commence with delivery when required to do so by the Client.

Moreover, we agree that until formal Contract Documents have been prepared and executed, this Form of Tender, together with a written acceptance from the Client shall constitute a binding agreement between us, governed by the terms and conditions set out in this Request for Proposals.

We understand that you are not bound to accept the lowest or any offer and that we must bear all costs which we have incurred in connection with preparing and submitting this tender.

We hereby undertake for the period during which this tender remains open for acceptance not to divulge to any persons, other than the persons to which the tender is submitted, any information relating to the submission of this tender or the details therein except where such is necessary for the submission of this tender.

SIGNED _____ DATE _____

(Print name of signatory)

Designation _____

FOR AND ON BEHALF OF: COMPANY NAME _____

Tel No _____

Fax No _____

Cell No _____

ANNEXURE G

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

- 1 This Standard Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by institutions in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
- 3 The bid of any bidder may be disregarded if that bidder, or any of its directors have-
 - a. abused the institution's supply chain management system;
 - b. committed fraud or any other improper conduct in relation to such system; or
 - c. Failed to perform on any previous contract.
- 4 In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

Item	Question	Yes	No
4.1	Is the bidder or any of its directors listed on the National Treasury's database as companies or persons prohibited from doing business with the public sector? (Companies or persons who are listed on this database were informed in writing of this restriction by the National Treasury after the audi alteram partem rule was applied).	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? To access this Register enter the National Treasury's website, www.treasury.gov.za , click on the icon "Register for Tender Defaulters" or submit your written request for a hard copy of the Register to facsimile number (012) 3265445.	Yes <input type="checkbox"/>	No <input type="checkbox"/>

4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
4.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		

CERTIFICATION

I, THE UNDERSIGNED (FULL NAME).....
 CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS TRUE AND CORRECT.
 EXCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION MAY BE TAKEN AGAINST
 ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
 Signature

.....
 Date

.....
 Position

.....
 Name of Bidder

ANNEXURE H

CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Standard Bidding Document (SBD) must form part of all bids¹ invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).² Collusive bidding is a pe se prohibition meaning that it cannot be justified under any grounds.
- 3 Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
 - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
 - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
- 4 This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

¹ Includes price quotations, advertised competitive bids, limited bids and proposals.

² Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Institution)

do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: _____ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder
6. 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 consortium³ will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - (a) prices;

- (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
 - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. 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.
10. 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.

11.

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder