



**02 MAY 2025**

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**TERMS OF REFERENCE**

**APPOINTMENT OF A SERVICE PROVIDER TO PROVIDE LEASING OF A CORPORATE OFFICE SPACE FOR A PERIOD OF THREE (3) YEARS**

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**USAASA/01/OSA/2024/25**

**PART A  
INVITATION TO BID**

|   |   |               |  |   |       |
|---|---|---------------|--|---|-------|
| <b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)</b>  |   |               |  |   |       |
| BID NUMBER:   | USAASA/01/OSA/2024/25   | CLOSING DATE: | 02 MAY 2025  | CLOSING TIME:   | 11:00 |
| DESCRIPTION   | APPOINTMENT OF A SERVICE PROVIDER TO PROVIDE LEASING OF A CORPORATE OFFICE SPACE FOR A PERIOD OF THREE (3) YEARS. |               |  |   |       |
| <b>BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)</b>  |   |               |  |   |       |
| 94 BEKKER ROAD  |   |               |  |   |       |
| THORNHILL OFFICE PARK   |   |               |  |   |       |
| VORNA VALLEY  |   |               |  |   |       |
| MIDRAND 1685  |   |               |  |   |       |
| <b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>   |   |               | <b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>                           |   |       |
| CONTACT PERSON  | VIOLET MASAELE AND LYDIA MALEKA   |               | CONTACT PERSON   | PONTHSO MESHE   |       |
| TELEPHONE NUMBER  | 011 564 1600  |               | TELEPHONE NUMBER   | 011 564 1600  |       |
| FACSIMILE NUMBER  | 011 564 1629  |               | FACSIMILE NUMBER   | 011 564 1629  |       |
| E-MAIL ADDRESS  | SCM@USAASA.ORG.ZA   |               | E-MAIL ADDRESS   | PONTSHOM@USAASA.ORG.ZA  |       |
| <b>SUPPLIER INFORMATION</b>   |   |               |  |   |       |
| NAME OF BIDDER  |   |               |  |   |       |
| POSTAL ADDRESS  |   |               |  |   |       |
| STREET ADDRESS  |   |               |  |   |       |
| TELEPHONE NUMBER  | CODE  |               | NUMBER   |   |       |
| CELLPHONE NUMBER  |   |               |  |   |       |
| FACSIMILE NUMBER  | CODE  |               | NUMBER   |   |       |
| E-MAIL ADDRESS  |   |               |  |   |       |
| VAT REGISTRATION NUMBER   |   |               |  |   |       |
| SUPPLIER COMPLIANCE STATUS  | TAX COMPLIANCE SYSTEM PIN:  |               | OR   | CENTRAL SUPPLIER DATABASE No:   | MAAA  |
| B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE  | TICK APPLICABLE BOX]<br><input type="checkbox"/> Yes <input type="checkbox"/> No                                  |               | B-BBEE STATUS LEVEL SWORN AFFIDAVIT                                      | [TICK APPLICABLE BOX]<br><input type="checkbox"/> Yes <input type="checkbox"/> No                     |       |
| <b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES &amp; QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]</b>   |   |               |  |   |       |
| ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?   | <input type="checkbox"/> Yes <input type="checkbox"/> No<br>(IF YES ENCLOSE PROOF)                                |               | ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED? | <input type="checkbox"/> Yes <input type="checkbox"/> No<br>(IF YES, ANSWER THE QUESTIONNAIRE BELOW ] |       |
| <b>QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>   |   |               |  |   |       |
| IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?   |   |               |  | <input type="checkbox"/> YES <input type="checkbox"/> NO  |       |
| DOES THE ENTITY HAVE A BRANCH IN THE RSA?   |   |               |  | <input type="checkbox"/> YES <input type="checkbox"/> NO  |       |
| DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?  |   |               |  | <input type="checkbox"/> YES <input type="checkbox"/> NO  |       |
| DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?   |   |               |  | <input type="checkbox"/> YES <input type="checkbox"/> NO  |       |
| IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?   |   |               |  | <input type="checkbox"/> YES <input type="checkbox"/> NO  |       |
| IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW. |   |               |  |   |       |

**PART B  
TERMS AND CONDITIONS FOR BIDDING**

|  |
|--|
| <b>1. BID SUBMISSION:</b>  |
| 1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.   |
| 1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED-(NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.   |
| 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT. |
| 1.4. THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).  |
| <b>2. TAX COMPLIANCE REQUIREMENTS</b>  |
| 2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.   |
| 2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.  |
| 2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.   |
| 2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.   |
| 2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.   |
| 2.6 WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.  |
| 2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."                        |

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

SIGNATURE OF BIDDER: .....

CAPACITY UNDER WHICH THIS BID IS SIGNED: .....  
(Proof of authority must be submitted e.g. company resolution)

DATE: .....



## **TERMS OF REFERENCE FOR LEASING OF A CORPORATE OFFICE SPACE FOR A PERIOD OF THREE (3) YEARS**

### **1. PURPOSE**

1.1 To invite proposals from landlords and agencies to provide corporate office space for USAASA's use. The proposed lease agreement will span three (3) years.

### **2. BACKGROUND**

2.1 The Universal Service and Access Agency of South Africa ("the Agency") is established in terms of Section 80 of the Electronic Communications Act Number 36 of 2005 ("the ECA") as a statutory body with a sole mandate of promoting the goal of universal access and universal service to electronic communications network services ("ECNS"), electronic communications services ("ECS") and Broadcasting Services ("BS").

2.2 In accordance with Section 82(5) of the ECA, and amongst other legislative functions, the Agency is required to Manage the Universal Service and Access Fund ("USAF"). The USAF is established in terms of Section 87 of the ECA and generated through the universal service obligation defined by the Independent Communications Authority of South Africa ("ICASA") through provisions of Section 89 of the ECA.

### **3. SCOPE OF WORK**

3.1 The successful bidder must provide a suitable building within the specified area that meets USAASA's operational and logistical requirements. The leased or sub-leased premises must adhere to all applicable laws, regulations, and standards, including the Occupational Health and Safety Act and relevant municipal by-laws.

### **4. OFFICE BUILDING SPECIFICATIONS**

- a. The office accommodation should be within 20km radius from the current USAASA physical address. Public transport accessibility is essential (subject to site visit).
- b. USAASA requires all bidders to address the specified requirements related to functionality and pricing. Each bidder's proposal must include a detailed checklist demonstrating compliance with the requirements outlined in Sections 4 and 5 of the Terms of Reference. The bid proposal must comprehensively respond to the following requirements:

#### **4.1 GRADE AND SIZE REQUIREMENTS**

- 4.1.1. Office building must meet Grade A or Grade B standards (see Annexure 1).
- 4.1.2. Minimum size of 650 m<sup>2</sup> and a maximum size of 850 m<sup>2</sup> in line with the National Treasury directive for the provision of office space for officials.
- 4.1.3. Office/Hybrid structure to be determined by demarcation.
- 4.1.4. Proof of ownership and grade certification (not older than 12 months), issued by the South African Property Owners Association (SAPOA) in line with the Associations requirements.

#### **4.2 SECURITY AND ACCESSIBILITY**

- 4.2.1. Ensure the premises are secure and equipped with modern facilities advanced security technology, a reliable fire detection system, fully serviced and compliant fire extinguishers etc. and secure windows and doors that allow for natural ventilation and proper lighting in and outside the building.
- 4.2.2. Should the proposed office space be on the ground or first floor, such windows and/or exterior doors must be fitted with adequate security

measures before occupation, except for emergency exit areas, at no cost to USAASA.

4.2.3. Accessible location near public transport amenities.

4.2.4. The building must accommodate 60 staff members.

4.2.5. Declared a gun-free zone.

#### **4.3 OCCUPATIONAL COMPLIANCE**

4.3.1. Compliance with the Occupational Health and Safety Act, ensuring that health and safety measures account for potential future outbreaks similar to COVID-19.

4.3.2. Facilities must support individuals living with disabilities (ramps, elevators, ablution facilities).

#### **4.4 LEASE AND OCCUPATION DETAILS**

##### **Lease Period:**

4.4.1. Lease for three (3) years with an option for early termination on reasonable grounds.

##### **Occupation Date:**

4.4.2. Building ready for occupation within three months after service provider appointment.

4.4.3. The prospective lessor must allow for renovations/installations before occupation (occupational benefits).

4.4.4. The bidder must confirm in their proposal whether a tenant installation allowance will be made available for the lessee to effect renovations.

4.4.5. Note: Bidders are required to advise USAASA without delay if the availability status of the property changes.

#### **4.5 PARKING FACILITIES**

##### **Parking Requirements:**

4.5.1. Minimum of 60 parking bays, inclusive of 2 for individuals with disabilities. These parking spaces must be for the exclusive use of USAASA.

**Parking must be:**

- 4.5.2. Covered or sheltered (safe basement parking is preferable) and reserved exclusively for USAASA staff, visitors, and delivery vehicles.
- 4.5.3. Equipped with CCTV cameras and access control.
- 4.5.4. Protected from extreme weather conditions and any other unreasonable parking conditions.
- 4.5.5. No shared use with mixed-use buildings i.e. other offices and apartments.
- 4.5.6. A Safe and secure environment in the same building to be leased to USAASA (not in any adjacent or nearby building) and must be available daily, on a 24-hour basis, for the duration of the lease.

**4.6 OFFICE FACILITIES**

**Workspace and Utilities:**

- 4.6.1. Boardroom with a capacity for 30 people.
- 4.6.2. Three (3) meeting rooms accommodating 15 people combined.
- 4.6.3. Kitchen and pause area that can seat two tables with chairs for 6 -10 people. The kitchen and pause area can either be combined in one room or in two separate rooms.
- 4.6.4. Storage facilities.

**Ablution facilities:**

- 4.6.5. Minimum six (6) male, six (6) female, and two (2) disability-friendly ablution units all equipped with proper and adequate ventilation and/or windows.
- 4.6.6. The Landlord will be responsible supply and installation of all sanitary equipment (toilet roll holders, soap dispensers, paper dispensers, hygiene and sanitation bins, and any other hygiene requirements).
- 4.6.7. The bidder must specify in their proposal what they will provide in response to the requirement outlined in 4.6.2.2 and include the associated cost.

### **Server Room Requirements:**

- 4.6.8. Minimum 6 m<sup>2</sup> with raised flooring and a separate UPS storage room (3 m<sup>2</sup>).
- 4.6.9. Secure access, air conditioning, fire suppression system, and UPS with backup generator connectivity.
- 4.6.10 IT to quantify how many electrical outlets will be needed for server equipment.

## **4.7 INFRASTRUCTURE AND COMPLIANCE**

### **Building Infrastructure:**

- 4.7.1 Broadband Infrastructure: The building must have an existing network infrastructure to enable the installation of high-speed broadband/fibre- please provide details of the existing network infrastructure for corporate offices.
- 4.7.2 Heating, Ventilation, and Air Conditioning systems for heating and air conditioning.
- 4.7.3 Elevator or a ramp where applicable.
- 4.7.4 Non-slippery flooring (e.g. tiled/wooden) suitable for office use.

### **Utility Compliance:**

- 4.7.5 The municipal water supply where applicable shall be metered separately for USAASA. USAASA requires the service provider to provide water equipment at the service provider's cost to achieve the desired water pressure. The installation of water supply is to comply with all relevant regulations and by-laws. In addition, the landlord is expected to provide backup water supply in the event USAASA encounters unplanned water interruptions at own cost.
- 4.7.6 Electricity supply with power factor correction, Auto Voltage Regulation (AVR), and separate metering.
- 4.7.7 The electricity installation must comply with all relevant regulations and by-laws. Sufficient power supply is to be provided to meet demand at



peak times. It must be considered that all USAASA staff will be equipped with a computer or laptop. There must be primary continuous emergency power supply (i.e. power supply backup at the landlord's own cost). The proposed building must be configured and wired to power the backup in case of power outages. USAASA will not contribute to any upgrading / provisioning of additional power supply to the building/site.

- 4.7.8 The premises must have provision for backup electricity and power supply 24/7 including maintenance and refill of diesel at no cost to USAASA.

#### **4.8 GREEN OFFICE BUILDING COMPLIANCE**

- 4.8.1 Compliance with required green office standards such as the Green Star SA rating system, developed by the Green Building Council South Africa (GBCSA).
- 4.8.2 Energy-efficient systems (LED lighting, energy-saving HVAC) and water conservation measures.

#### **4.9 SAFETY AND EMERGENCY PROVISIONS**

##### **Fire Safety and Management:**

- 4.9.1 Compliance with National Building Regulations SANS 10400 as amended and provision of fire detection systems with features included but not limited to those outlined in public 12 of 32 address system, warning alarms, and fire suppression equipment. (make and model descriptions must be provided).
- 4.9.2 Provisioning, certification, and continuous maintenance of the installations and equipment will be the service provider's responsibility for the duration of the lease period. Fire extinguishers will be serviced by the service provider/landlord at intervals stipulated on the fire extinguisher canister.
- 4.9.3 Provide emergency evacuation routes and exits.

#### **4.10 HEALTH AND ACCESSIBILITY**

4.10.1 Non-slippery stairs and appropriate handrails installed in line with the National Building Regulations. They should allow free and safe movement from one floor to another.

4.10.2 If the building consists of more than one floor; it must have at least one (1) elevator to be utilised as a passenger lift to transport at least eight (8) people or goods. This must be in line with the rules contained in SANS, as set out in the SA Standard Code of Practice for the Application of the National Building Regulations, as issued by the South African Bureau of Standards (SABS). The minimum clear entrance to the lift shall be of such dimension that it will be accessible for a wheelchair.

#### **4.11 MAINTENANCE AND LANDLORD RESPONSIBILITIES**

##### **Landlord Obligations:**

4.11.1 responsible for the cost of partitioning, renovations, and layout planning.

4.11.2 The proposed building must provide for the following, as prescribed by the National Building Regulations e.g.:

- a. Heating and Air-Conditioning.
- b. Natural Ventilation (open windows)
- c. Smoking area
- d. Ablution Facilities.
- e. Kitchen facilities
- f. Storage facilities
- g. Water Supply
- h. Electrical Supply
- i. Fire Risk Management
- j. Emergency evacuations/exit
- k. Elevator or a ramp where applicable
- l. Flooring (tiled/wooden flooring or related)
- m. Standby power: must supply the entire office functionality during power failure or make provision for the installation of a generator/UPS or any other back up power daily, including weekends and public holidays.

- n. Declaring the building gun free.
  - o. Accessible for people living with disabilities.
  - p. Accessible for delivery vehicles and trucks.
  - q. Rental, operating, fit-outs/installation and parking costs should be market-related.
- 4.11.3 Preventive and corrective maintenance for roofing, HVAC, plumbing, lightening protection, fire protection and detection, electrical supply up to DB board, and common area electrical reticulation.
- 4.11.4 Maintenance of common areas storm water and drainage, exterior cleaning (i.e. Windows & facades, grounds and gardens if any), and parking.
- 4.11.5 For any roof leakages, USAASA reserves the right to:
- Bill the service provider/landlord for all damages arising out of roof leakages; source roofing experts to assess the state of roof waterproofing, fix/repair identified leaks and bill the service provider/landlord for the costs incurred.
- 4.11.6 A certified copy of a fully paid, up-to-date utility bill for the preceding three months **must be submitted with the bid proposal**. The utility bill should clearly link to the proposed property (e.g., through the physical address and/or ERF number).
- 4.11.7 CAD1 drawings or the equivalent of the existing premises **must be submitted with the bid proposal**
- 4.11.8 Full compliance certifications must be supplied upon final works completion at the landlord's expense. **The bidder must indicate in the proposal that this will be done.**

#### 4.12 MAINTENANCE AND MANAGEMENT OF DOCUMENTS

- 4.12.1 The service provider shall not disclose confidential information to any person, firm, company or media except to the designated persons and will not use such information other than the purposes of its appointment, subject to any prior specific authorization in writing by each party.

4.12.2 The service provider should retain all information, records and/or documentation, whether written, verbal or electronic pertaining to reported disclosure for the duration of the contract. Thereafter all documents should be handed over to USAASA. This information must always be treated with the utmost confidentiality.

## 5 ADDITIONAL REQUIREMENTS

5.1. Building must comply with the Occupational Health and Safety Act, Act No. 85 of 1993.

5.2. The proposal must include a full description of the proposed property including the following:

|                         |
|-------------------------|
| Physical Address        |
| Erf number              |
| Portion number          |
| Floor number or numbers |

5.3. If the bidder is the owner of the property, they must submit a certified copy of the title deed (issued by Registrar of Deeds) and other relevant documentation required by law for office leasing.

5.4. In the case of a sub-lease the bidder must submit a valid certified copy of the lease agreement that covers the entire three-year period. They must also submit proof that they have authority to sub-lease.

5.5. Please note that failure to submit the above-mentioned documents on 5.3 and 5.4 will result in the disqualification of the bid.

5.6. Please include an explanatory note in your proposal that provides insight into the title deed, for example, whether the Bidder submits a Certificate of Consolidated title as proof of ownership, please explain the background of the said document.

5.7. Compulsory Site Inspection of the building will be conducted only for the bidders who qualified under mandatory requirements.

## **6. BID CONDITIONS**

- 6.1.** USAASA reserves the right not to appoint should the bid proposals be inadequate in terms of functionality.
- 6.2.** USAASA reserves the right to withdraw this bid or extend the validity period of this bid before the validity period expires.
- 6.3.** Failure to comply with any condition of this request for a proposal will invalidate respective tender proposal.
- 6.4.** USAASA reserves the right to contact the references.
- 6.5.** USAASA reserves the right to award part of a bid and not the whole bid.
- 6.6.** USAASA reserves the right to withdraw this bid or extend the validity period of this bid before the validity period expires.
- 6.7.** The validity period for this bid is 120 days, therefore all price proposals must be valid for 120 days before the award of the bid.
- 6.8.** USAASA reserves the right not to accept the lowest proposal.
- 6.9.** USAASA reserves the right to sign and conclude a formal contract with the successful bidder
- 6.10.** USAASA reserves the right to invite the selected service providers for a presentation at its offices.
- 6.11.** General conditions of contract issued by the National Treasury will apply to this bid at all times and must be interpreted as such.
- 6.12.** A contract will be signed with the appointed bidder to render the services as in and when required
- 6.13.** The USAASA shall be the owner of all the information, documents, programs, advice and reports collected and compiled by the successful bidder in the execution of this tender.
- 6.14.** All information, documents, programs and reports must be regarded as confidential and may not be made available to any unauthorized person or institution without the written consent of the USAASA.
- 6.15.** A purchase order will be issued prior to the appointed bidder being engaged to provide services.

## 7. EVALUATION PROCESS

The evaluation process will follow the stages detailed below:

- a. Administrative compliance (Stage 1)
- b. Functionality (Stage 2);
- c. Site Inspection (Stage 3) and
- d. Pricing and Specific Goals (Stage 4).

### 7.1. STAGE 1 – MANDATORY REQUIREMENTS

Bidders who fail to submit the required proof for all the mandatory requirements listed below will be disqualified and will not proceed to the functionality evaluation stage.

**Bidders are required to indicate (with a tick ) their compliance with the mandatory requirements and submit all listed documents.**

| MANDATORY REQUIREMENTS  | SUBMITTED                | COMMENTS |
|---|--------------------------|----------|
| Completed and signed SBD 1  | <input type="checkbox"/> |          |
| Completed and signed SBD 3.1  | <input type="checkbox"/> |          |
| Completed and signed SBD 4  | <input type="checkbox"/> |          |
| Completed and signed SBD 6.1  | <input type="checkbox"/> |          |
| Signed Terms of Reference document  | <input type="checkbox"/> |          |
| Initialled General Conditions of Contract   | <input type="checkbox"/> |          |
| Proof of registration on Central Supplier Database (not older than one month of date of bid submission) | <input type="checkbox"/> |          |
| Grading certificate (issued by SAPOA) not older than 12 months  | <input type="checkbox"/> |          |
| Certificate of Compliance (COC) (electrical, plumbing, etc.)  | <input type="checkbox"/> |          |
| Certificate of Occupancy (NHBRC)  | <input type="checkbox"/> |          |

|  |                          |  |
|--|--------------------------|--|
| Title deed (certified) or lease agreement (certified) with proof of authorisation to sub-lease | <input type="checkbox"/> |  |
| Certified fully paid utility bill (preceding 3 months)   | <input type="checkbox"/> |  |
| CAD1 drawings or equivalent  | <input type="checkbox"/> |  |
| Certified proof of building insurance  | <input type="checkbox"/> |  |
| Certified Zoning certificate   | <input type="checkbox"/> |  |
| Valid B-BBEE Certificate or Sworn Affidavit  | <input type="checkbox"/> |  |
| Company registration documents   | <input type="checkbox"/> |  |

**Note: All SBD forms must be submitted (signed) noting where it is not applicable. If any specific SBD form is not submitted, documentary proof clearly stating the reasons must be attached.**

#### **Declaration of Acceptance**

| <b>DECLARATION OR CONFIRMATION</b>                 | <b>AGREED <input checked="" type="checkbox"/> / NOT AGREED <input checked="" type="checkbox"/></b> | <b>COMMENTS</b> |
|--|--|-----------------|
| Confidentiality commitment                         | <input type="checkbox"/>   |                 |
| Compliance with Occupational Health and Safety Act | <input type="checkbox"/>   |                 |
| Proposal validity for 120 days                     | <input type="checkbox"/>   |                 |

**NB: Failure to adhere to the above conditions will invalidate the proposal.**

## 7.2. Stage 2 – Functional Evaluation Criterion

- The Bidders will be evaluated according to the below functional evaluation criteria.
- Bidders must indicate their ability to do the following and to substantiate as required with supporting documentation.

| No | Requirement   | Criteria  | Weight |
|----|---|---|--------|
| 1  | Minimum 5 Years of experience in the provision/ leasing of corporate office accommodation.    | <ul style="list-style-type: none"> <li>• above 10 years' experience = 25</li> <li>• 8-10 years' experience = 20</li> <li>• 5 – 7 years' experience = 15</li> <li>• Less than 5 years' experience = 0</li> </ul> | 25     |
| 2  | Office Building Grade A   | <ul style="list-style-type: none"> <li>• Meeting the details of the Grade A building in line with SAPOA = 20</li> <li>• Failing to meet the details of the Grade A building in line with SAPOA = 0</li> </ul>   | 20     |
| 3  | Office Building Grade B   | <ul style="list-style-type: none"> <li>• Meeting the details of the Grade A building in line with SAPOA = 15</li> <li>• Failing to meet the details of the Grade A building in line with SAPOA = 0</li> </ul>   | 15     |
| 4  | Public transport accessibility must be within 1km.  | Within 1km = 5<br>More than 1km = 0   | 5      |
| 5  | Distance: within 20km radius of the current USAASA physical address and from the major roads. | Beyond 20km = 0<br>Within 20km and 11km = 2<br>Within 10km and 6km = 3  | 5      |



|   |  |                   |     |
|---|--|-------------------|-----|
|   |  | Less than 5km = 5 |     |
| Minimum qualifying threshold score is 60 out of 70 points |  |                   | 70% |

**Note: The minimum qualifying score for the second stage of functional evaluation criteria is 60 points out of 70 points. The bidders who met minimum qualifying threshold score will proceed to the third stage for site inspection**

**7.3. Stage 3: Site Inspection: The minimum qualifying score for site inspection is 20 out of 30 points.**

•The Bidders will be evaluated according to the below site inspection evaluation criteria.

| No  | Description   | Points Allocation |
|---|---|-------------------|
| 1   | Access to public transport and for people living with disabilities            | 3                 |
| 2   | Parking bay as per requirements   | 3                 |
| 3   | Existing network infrastructure   | 3                 |
| 4   | No exposure to flooding due to heavy rains, hail and/or hazardous environment | 3                 |
| 5   | CCTV cameras and other security technology                                    | 3                 |
| 6   | Building grading (Grade A or Grade B)   | 3                 |
| 7   | Ablution facilities as per specifications                                     | 3                 |
| 8   | Heating and Ventilation equipment   | 3                 |
| 9   | Backup power supply   | 3                 |
| 10  | Access controlled entrance  | 3                 |
| Minimum qualifying threshold score is 20 out of 30 points |   | 30%               |

**Note: The minimum qualifying score combined (stage 2 & 3) for functionality is 80 points out of 100 points. All bidders that fail to achieve the minimum qualifying score on functionality shall not be considered for further evaluation.**

A point-scoring system would be utilised as follows:

| Score | Description   |
|-------|---|
| 1     | Does not meet requirements, or no information supplied. |
| 2     | Meet some of the requirements                           |
| 3     | Almost meet all requirements                            |
| 4     | Fully meet all requirements                             |
| 5     | Exceeds all requirements                                |

#### 8. Stage Four: Price Evaluation (80/20 Preferential Procurement Point)

- The following formula must be used to calculate the points out of 80 for price in respect of an invitation for a tender with a Rand value equal to or below R50 million, inclusive of all applicable taxes:

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

$P_s$  = Points scored for price of tender under consideration;

$P_t$  = Price of tender under consideration; and

$P_{\min}$  = Price of lowest acceptable tender.

- B-BBEE Score (20 points): Points awarded based on the specific goals in line with PPR Regulation 2022.

| Specific Goals  | Points |
|---|--------|
| <ul style="list-style-type: none"> <li>Locality 20 points if the bidder provides Office space accommodation within 20km radius from the current USAASA physical address.</li> </ul> | 20     |
| <ul style="list-style-type: none"> <li>10 points if the bidder does not provide Office space accommodation within 20km radius from the current USAASA physical address.</li> </ul>  | 10     |

8.1. Pricing must be inclusive of applicable rates and taxes.

- 8.2. All bid proposals must be submitted with the following information, bid proposals in response to the bid, pricing inclusive of vat, name of bidder, completed and signed standard bidding documentation (SBD forms), contact person, contact details, postal address, physical address, email address, telephone number, fax number.
- 8.3. Prices and rates in the proposal must be detailed and all inclusive, the submitted price must be firm for the period of the services.
- 8.4. Table format of detailed pricing schedule to be completed:

**8.4.1. Pricing Schedule for Bidders**

| <b>Item Description</b>  | <b>Unit Price (R)</b> | <b>Quantity</b> | <b>Total Price (R)</b> |
|--|-----------------------|-----------------|------------------------|
| Monthly Office Rental  |                       |                 |                        |
| Operating Costs (utilities, maintenance, etc.)   |                       |                 |                        |
| Parking Facilities (60 bays)   |                       |                 |                        |
| Tenant Installation Allowance (if applicable)  |                       |                 |                        |
| Backup Power (generator, UPS, maintenance)   |                       |                 |                        |
| Furniture Provision (Grade A/B)  |                       |                 |                        |
| Security Systems (CCTV, access control, etc.)  |                       |                 |                        |
| supply and installation of all sanitary equipment (toilet roll holders, soap dispensers, paper dispensers, hygiene and sanitation bins, and any other hygiene requirements). |                       |                 |                        |
| Other Costs (please specify):  |                       |                 |                        |
| <b>Subtotal</b>  |                       |                 |                        |
| <b>VAT (15%)</b>   |                       |                 |                        |
| <b>Total Bid Price</b>   |                       |                 |                        |

**8.4.2. Notes for Bidders:**

- a. All prices must be inclusive of VAT.
- b. The pricing schedule must be completed in full. Any omissions may lead to disqualification.

- c. Ensure that all costs associated with the lease are itemized and justified.

## **9. VALIDITY OF PROPOSAL**

- 9.1. The Service Provider is required to confirm that it will hold its proposal valid for 120 days from the closing date of the submission of proposals.
- 9.2. In exceptional circumstances, USAASA may solicit the bidder's consent to an extension of the period of the validity of the bid. The request and responses thereto shall be made in writing.

## **10. SUBMISSION REQUIREMENTS FOR PROPOSAL**

- 10.1. All compulsory documents as stated under section 7.1. above
- 10.2. The bid proposal as per section, section 5 and section 8 above.
- 10.3. In case of joint ventures, bidders must provide a clear agreement regarding joint venture/consortia.
- 10.4. A trust, consortium or joint venture must submit a consolidated B-BBEE status level verification certificate.
- 10.5 **Bidders must submit the bid documents in secure packaging as follows:**
  - 10.5.1 **1 x original complete bid document**
  - 10.5.2 **1 x hard copy of the original complete bid document**
  - 10.5.3 **1 x PDF copy of the complete bid document on a USB (in the same order as the hard copy)**
  - 10.5.4 No late bid will be considered. It is the bidder's responsibility to ensure that the bid is delivered to the correct physical address and that this is received by the USAASA SCM Office before the closing date and time in USAASA's dedicated tender box or physical address. The office hours are Monday to Friday expect public holidays from 08h00 to 16h00.

### **DELIVERY ADDRESS:**

**USAASA Office,**

**DELIVERY ADDRESS:**

**USAASA Office,  
Supply Chain Management,  
Thornhill Office Park, Building 1,  
Vorna Valley, Midrand,1685**

**Closing date for submission of proposals is 02 May 2025 @ 11:00**

**11. ENQUIRIES**

**11.1. ALL Enquiries must be directed to: [SCM@usaasa.org.za](mailto:SCM@usaasa.org.za)**

**12 .BIDDER DECLARATION**

The bidder hereby declares the following:

We confirm that

---

(Bidder's Name) will: –

- a. Act honestly, fairly, and with due skill, care and diligence, in the interests of USAASA
- b. Employ effectively the resources, procedures and appropriate technological systems for the proper performance of the services.
- c. Act with circumspection and treat USAASA fairly in a situation of conflicting interests.
- d. Comply with all applicable statutory or common law requirements applicable to the conduct of business.
- e. Make adequate disclosures of relevant material information including disclosures of actual or potential own interests, in relation to dealings with USAASA.
- f. Avoid fraudulent and misleading advertising, canvassing and marketing.
- g. Conduct business activities with transparency and consistently uphold the interests and needs of USAASA as a client before any other consideration and,

- h. Ensure that any information acquired by the bidder(s) from USAASA will not be used or disclosed unless the written consent of the client has been obtained to do so.

Signature \_\_\_\_\_

Date \_\_\_\_\_

Print Name of Signatory: \_\_\_\_\_

Designation: \_\_\_\_\_

FOR AND ON BEHALF OF: \_\_\_\_\_ (Bidding  
Company's Name)

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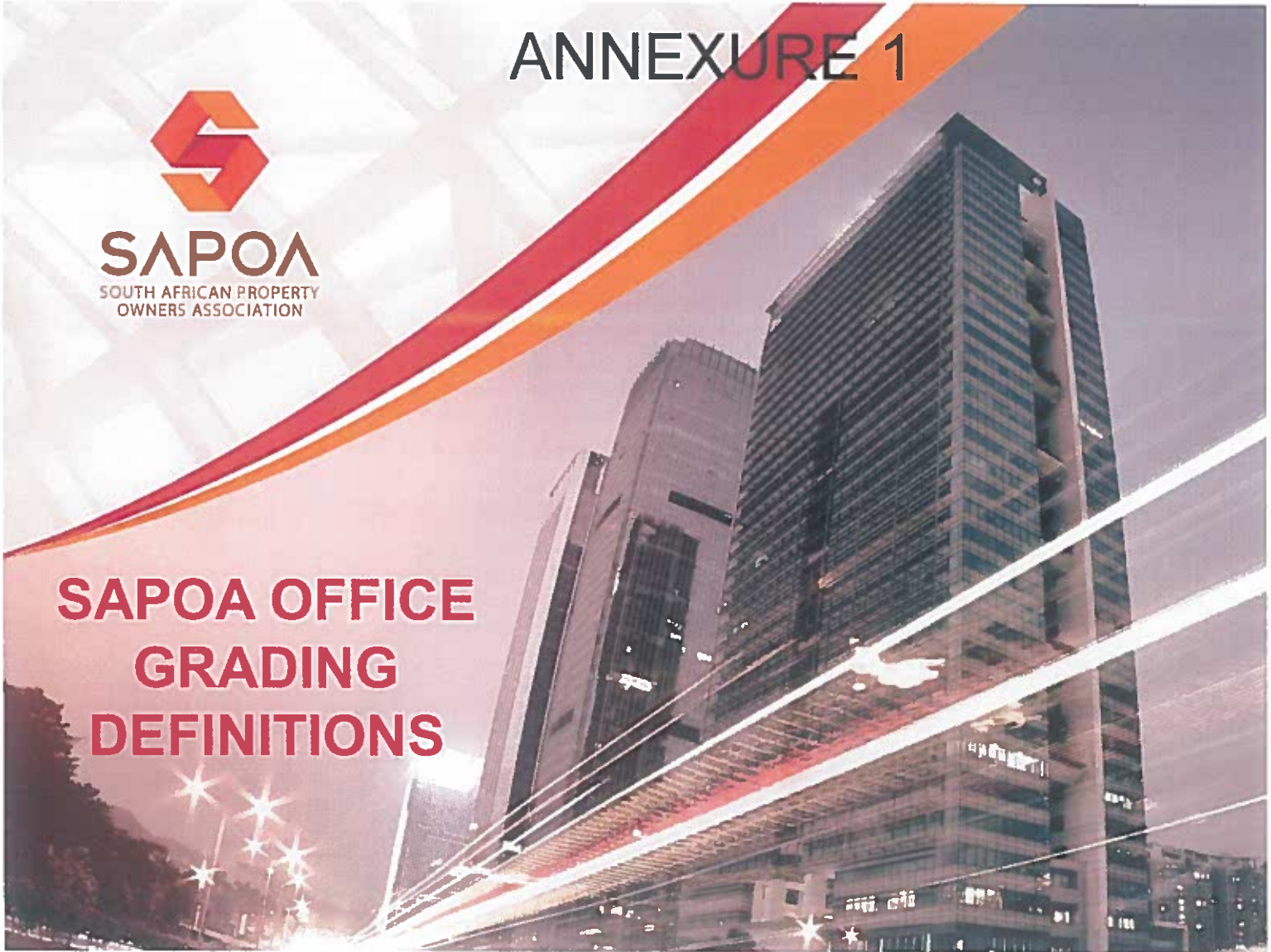
## **ANNEXURE 1: SAPOA GRADING DEFINITIONS**

# ANNEXURE 1



**SAPOA**  
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OWNERS ASSOCIATION

## **SAPOA OFFICE GRADING DEFINITIONS**





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## **Grade: P**

Top quality, modern space. Prime buildings are often considered iconic and a flagship in its market. Essential features include high security- both manned and electronic, the latest generation of building services, ample parking and a prestigious lobby finish. High ceiling heights, flexible floorplates and column spacing. To be considered Prime-grade, an Office should be 4-star Green Certified or in the absence of a formal rating include equivalent environmental initiatives which could include zoned lighting, energy-efficient building services and systems, water-efficient fixtures, rainwater harvesting, water-wise landscaping, and low VOC interior finishes.

## **Grade A**

High quality properties providing good access and are professionally managed with continued above average maintenance. High quality modern finishes, air conditioning, adequate on-site parking. Clearly articulated entrance, lobby with clear circulation. High ceiling heights, flexible floorplates likely.







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### **Grade: B**

Generally older buildings, but accommodation and finishes are close to modern standards because of refurbishments and renovation from time to time. Air conditioning and on-site parking or bays dedicated to the building is essential. Minimum ceiling height, less flexible floorplates. Modest landscaping with minimal exterior space.

### **Grade: C**

Buildings typically in fair condition but with older style finishes, services and building systems. Purely functional space with infrastructure generally limited. May or may not be air-conditioned or have on-site parking. Minimal or no lobby, landscaping or exterior space. Unarticulated entrance.



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## Notes:

1. It is assumed that buildings comply or meet certain key standards, such as:
  - Safety and Health standards are met, including access for persons with disabilities (preferably exceeded)
  - Insurance - ability to insure all normal aspects of structure
  - Subterranean - longevity of underlying geographical factors - no faults, instability, flood line encroachment etc. are evident
  - Town planning zoning and by-law provisions





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2. Care should be taken in the interpretation of subjective adjectives used - these include the use of words such as:

- 'adequate'
- 'poor'
- 'quality'
- 'reasonable'

3. As it is anticipated that the change-over will occur gradually, SAPOA should differentiate between 'new ' and 'old' grading definitions, i.e. brokers involved with the vacancy panels I schedules will be required to indicate whether or not buildings have been graded according to the new system.





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4. Particularly in the area of technology, rapid changes tend to occur, which may necessitate the employ of broader terms, or else updates to specifications/terms on a regular basis.
5. By owner/manager consent, examples of buildings under the various grades could included as a means of further illustration.
6. The above gradings and definitions are subject to on going review and comment from the industry and will be re-issued on an annual basis.
7. Due cognizance should be given that there are a number of office building typologies and formats that make the application of certain criteria more or less applicable (e.g. buildings in park settings compared to high rise urban environments)



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**Annexure** Guidelines for the evaluation of grade  
*80-90% of these criteria should be satisfied across each category*

## **GRADE:P**

Services - Security comprising high grade guards, patrol dogs, multiple positions, maintenance services of the highest calibre.

Amenities, Finishes & Quality - Base finishes of the highest spec and appearance; fast and luxurious and hi-tech elevators; wide stairwells with luxurious flooring & finishes permitting natural light; state of the art lobby & reception service, general floor plate permitting high degree of space planning flexibility; efficient natural light penetration, state of the art permitting a high degree of control & environmental flexibility, landscaping & greening in a functional & integrated design, many support amenities/services either available on site or as part of a functional complex, fully fitted kitchen/catering facilities for individual tenant use.



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**Parking - High ratio of basement parking**

**Age/Upgrading - New buildings, well maintained and upgraded at intervals of around five years, generally less than 10 years old.**

**Public Environment - Street/foyer interface with visible security, pristine environment; additional public management initiative with visible benefits; direct involvement in Improvement District/private services, with active implementation, best visibility/exposure area, vehicular access premised on clear, fast at all times, multiple ingress and egress points.**

**Technology & Communication - Full central control UPS with flexible points, vertical (high rise) and horizontal communication spaces sized for future generations, dedicated (or potential) individual patch rooms, a high capacity and flexible telephone network system, high spec and certified fibre optical backbone - fully 'intelligent' building, a CCTV system incorporating Digital camera/recording, sensors (heat/motion), event driven (chip technology) Access Control premised.**





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## **Annexure Guidelines for the evaluation of gr** *80-90% of these criteria should be satisfied across each cat*

### **GRADE: A**

Services - Security comprising graded guards at entry points, with patrols and a guard monitoring system, quality maintenance services

Amenities, Finishes & Quality - High material spec, functional design base finishes, fast elevators, high spec stairwells, lobby & reception of quality finishes/appearance & service, general floor plate permitting design flexibility, good balance between light and environmental control, Central Environmental Control premised on typical building management system & quality split system incorporated, attractive and functional landscaping & greening or attractive building exteriors: limited on site amenities but close at hand and/ in safe walking and driving proximity, Kitchen/ catering facilities available individually or on shared basis.



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**Parking - Adequate parking on site- mostly shaded or covered**

**Age/Upgrading - Generally 10-30 years old and major renovation or upgrade after 15 year**

**Public Environment - Safe, attractive and clean street/foyer interface, surrounding public environment comprising good infrastructure, Improvement District/Private services involve or plans; good exposure and visibility; vehicular access only occasionally hindered, locality good access to freeways.**

**Technology & Communication - Provision for individual UPS TI vertical (high rise) and horizontal communication spaces with spare capacity above the average requirement; Patch rooms available on every floor; telephone network compatible with high spec system, cabling & network infrastructure premised on Cat5e std plus, plug & play /internet ready, CCTV per large coverage with multiple recording, Online Access Control system with proximity reader unique tags.**







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**Parking** - Adequate parking available on & off-site - mostly open or shade cloth

**Age/Upgrading** - Any age- adequately upgraded/refurbished to modern standards

**Public Environment** - Safe and clean street/foyer interface, visible maintenance of infrastructure, Vehicular access generally unhindered except at peak times.

**Technology & Communication** - Clean power with back-up generators only to critical areas adequate communication spaces for current demand, patch rooms adequately sized with some capacity, basic 3X3 grid & sufficient cabling for telephone network flexibility, cabling network infrastructure based on lower technology/Certified cat 5,2 RJ45's/point, basic CCTV with a few coverage points and standard to low/or no recording capacity; Access Control on 3-6 levels





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**Annexure** Guidelines for the evaluation of gr  
*80-90% of these criteria should be satisfied across each cat*

## **GRADE: B**

Services - Security comprising graded guards at entry points, with patrols and a guard monitoring system, quality maintenance services

Amenities, Finishes & Quality - Base finishes of functional/pleasant design & compliant specifications, comfortable elevators in working order, stairwells permitting comfortable & : passage, pleasant & functional central lobby/reception, general floor plate allowing some flexibility, some/adequate natural lighting, Central Environmental Control based on electro pneumatic system with limited flexibility, well functioning a/c units and natural ventilation permitted; basic landscaping & greening.



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**Annexure Guidelines for the evaluation of grade B**  
*80-90% of these criteria should be satisfied across each category*

## **GRADE: B**

**Services - Security** comprising graded guards at entry points, with patrols and a guard monitoring system, quality maintenance services

**Amenities, Finishes & Quality** - Base finishes of functional/pleasant design & compliant specifications, comfortable elevators in working order, stairwells permitting comfortable & safe passage, pleasant & functional central lobby/reception, general floor plate allowing some flexibility, some/adequate natural lighting, Central Environmental Control based on electro pneumatic system with limited flexibility, well functioning a/c units and natural ventilation permitted; basic landscaping & greening.





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**Parking** - Adequate parking available on & off-site - mostly open or shade cloth

**Age/Upgrading** - Any age- adequately upgraded/refurbished to modern standards

**Public Environment** - Safe and clean street/foyer interface, visible maintenance of infrastructure, Vehicular access generally unhindered except at peak times.

**Technology & Communication** - Clean power with back-up generators only to critical areas adequate communication spaces for current demand, patch rooms adequately sized with some capacity, basic 3X3 grid & sufficient cabling for telephone network flexibility, cabling network infrastructure based on lower technology/Certified cat 5,2 RJ45's/point, basic CCTV with a few coverage points and standard to low/or no recording capacity; Access Control on 3-6 levels





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## **Annexure Guidelines for the evaluation of gr** *80-90% of these criteria should be satisfied across each cat*

### **GRADE: C**

Services - Security comprising unqualified/unregistered security personnel

Amenities, Finishes & Quality - General finishes are dated/unattractive/worn & of poorer s  
slow or old elevators; narrow/dark stairwells; poorer quality lobby and limited reception sei  
poor flexibility of general floor plate; low natural lighting; inflexible pneumatic/old tech  
environmental control, poor natural ventilation, limited and poorly maintained  
vegetation/greening, amenities not at hand.

Parking - Inadequate but safe parking, generally offsite

Age/Upgrading - Generally older buildings, visibly ageing and/or no sign of upgrading





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**Public Environment** - Poor street/foyer interface and surrounding public environment; relatively poor exposure & access; general delays and hindrances for vehicular access and/or one access point.

**Technology & Communication** - Back-up generator service may be poor; communication spaces may be adequate but inflexible for future demand; telephone network system offering low flexibility/capacity; cabling & network infrastructure of low flexibility; basic CCT permitting low coverage and no recording capacity, Access Control generally an offline system and only on entry Points.



**PRICING SCHEDULE – FIRM PRICES  
(PURCHASES)**

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

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

|                            |  |
|----------------------------|--|
| Name of bidder.....        | Bid number: <b>USAASA/01/OSA/2024/25</b> |
| Closing Time: <b>11:00</b> | Closing date: <b>02 May 2025</b>         |

OFFER TO BE VALID FOR ...**120**.....DAYS FROM THE CLOSING DATE OF BID.

| ITEM NO. | QUANTITY | DESCRIPTION | BID PRICE IN RSA CURRENCY<br>** (ALL APPLICABLE TAXES INCLUDED) |
|----------|----------|-------------|---|
|----------|----------|-------------|---|

- Required by: .....
- At: .....
- Brand and model .....
- Country of origin .....
- Does the offer comply with the specification(s)? \*YES/NO
- If not to specification, indicate deviation(s) .....
- Period required for delivery .....
- \*Delivery: Firm/not firm
- Delivery basis .....

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

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

\*Delete if not applicable

## BIDDER'S DISCLOSURE

### 1. PURPOSE OF THE FORM

Any person (natural or juristic) may make an offer or offers in terms of this invitation to bid. In line with the principles of transparency, accountability, impartiality, and ethics as enshrined in the Constitution of the Republic of South Africa and further expressed in various pieces of legislation, it is required for the bidder to make this declaration in respect of the details required hereunder.

Where a person/s are listed in the Register for Tender Defaulters and / or the List of Restricted Suppliers, that person will automatically be disqualified from the bid process.

### 2. Bidder's declaration

2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest<sup>1</sup> in the enterprise, employed by the state? **YES/NO**

2.1.1 If so, furnish particulars of the names, individual identity numbers, and, if applicable, state employee numbers of sole proprietor/ directors / trustees / shareholders / members/ partners or any person having a controlling interest in the enterprise, in table below.

| Full Name | Identity Number | Name of State institution |
|-----------|-----------------|---------------------------|
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |

2.2 Do you, or any person connected with the bidder, have a relationship

---

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



with any person who is employed by the procuring institution? YES/NO

2.2.1 If so, furnish particulars:

.....  
.....

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

2.3.1 If so, furnish particulars:

.....  
.....

**3 DECLARATION**

I, \_\_\_\_\_ the \_\_\_\_\_ undersigned, (name)..... in submitting the accompanying bid, do hereby make the following statements that I certify to be true and complete in every respect:

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium<sup>2</sup> will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring

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

institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.

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

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

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

|                  |                       |
|------------------|-----------------------|
| .....            | .....                 |
| <b>Signature</b> | <b>Date</b>           |
| .....            | .....                 |
| <b>Position</b>  | <b>Name of bidder</b> |

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

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

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

**1. GENERAL CONDITIONS**

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

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.2 **To be completed by the organ of state**

*(delete whichever is not applicable for this tender).*

- a) The applicable preference point system for this tender is the 90/10 preference point system.
- b) The applicable preference point system for this tender is the 80/20 preference point system.
- c) Either the 90/10 or 80/20 preference point system will be applicable in this tender. The lowest/ highest acceptable tender will be used to determine the accurate system once tenders are received.

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

- (a) Price; and
- (b) Specific Goals.

1.4 **To be completed by the organ of state:**

The maximum points for this tender are allocated as follows:

|  | POINTS |
|--|--------|
| <b>PRICE</b>                                     | 80     |
| <b>SPECIFIC GOALS</b>                            | 20     |
| <b>Total points for Price and SPECIFIC GOALS</b> | 100    |

- 1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.
- 1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

## 2. DEFINITIONS

- (a) “**tender**” means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- (b) “**price**” means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (c) “**rand value**” means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (d) “**tender for income-generating contracts**” means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
- (e) “**the Act**” means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

## 3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

### 3.1. POINTS AWARDED FOR PRICE

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

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

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

Where

- Ps = Points scored for price of tender under consideration  
 Pt = Price of tender under consideration  
 Pmin = Price of lowest acceptable tender

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

#### 3.2.1. POINTS AWARDED FOR PRICE

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

$$\begin{array}{ccc} 80/20 & \text{or} & 90/10 \\ P_s = 80 \left( 1 + \frac{P_t - P_{max}}{P_{max}} \right) & \text{or} & P_s = 90 \left( 1 + \frac{P_t - P_{max}}{P_{max}} \right) \end{array}$$

Where

- Ps = Points scored for price of tender under consideration
- Pt = Price of tender under consideration
- Pmax = Price of highest acceptable tender

#### 4. POINTS AWARDED FOR SPECIFIC GOALS

- 4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:
- 4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—
  - (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
  - (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,

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

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

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

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

| The specific goals allocated points in terms of this tender  | Number of points allocated (90/10 system) (To be completed by the organ of state) | Number of points allocated (80/20 system) (To be completed by the organ of state) | Number of points claimed (90/10 system) (To be completed by the tenderer) | Number of points claimed (80/20 system) (To be completed by the tenderer) |
|--|---|---|---|---|
| Locality: If the Bidder provides Office Space Accommodation within a 20 km radius from the current USAASA physical address       |   | 20  |   |   |
| Locality: If the Bidder does not provide Office Space Accommodation within 20 km radius from the current USAASA physical address |   | 10  |   |   |
|  |   |   |   |   |
|  |   |   |   |   |
|  |   |   |   |   |
|  |   |   |   |   |

**DECLARATION WITH REGARD TO COMPANY/FIRM**

4.3. Name of company/firm.....

4.4. Company registration number: .....

4.5. TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
- One-person business/sole propriety
- Close corporation
- Public Company

Personal Liability Company  
(Pty) Limited  
Non-Profit Company  
State Owned Company  
[TICK APPLICABLE BOX]

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

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
  - (a) disqualify the person from the tendering process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
  - (e) forward the matter for criminal prosecution, if deemed necessary.

|   |                                  |
|---|----------------------------------|
| .....<br><b>SIGNATURE(S) OF TENDERER(S)</b> |                                  |
| <b>SURNAME AND NAME:</b>                    | .....                            |
| <b>DATE:</b>                                | .....                            |
| <b>ADDRESS:</b>                             | .....<br>.....<br>.....<br>..... |

**GOVERNMENT PROCUREMENT  
GENERAL CONDITIONS OF CONTRACT**

**NOTES**

The purpose of this document is to:

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

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

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



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## General Conditions of Contract

### 1. Definitions

1. The following terms shall be interpreted as indicated:
  - 1.1 "Closing time" means the date and hour specified in the bidding documents for the receipt of bids.
  - 1.2 "Contract" means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
  - 1.3 "Contract price" means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
  - 1.4 "Corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.
  - 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
  - 1.6 "Country of origin" means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
  - 1.7 "Day" means calendar day.
  - 1.8 "Delivery" means delivery in compliance of the conditions of the contract or order.
  - 1.9 "Delivery ex stock" means immediate delivery directly from stock actually on hand.
  - 1.10 "Delivery into consignees store or to his site" means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
  - 1.11 "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.
  - 1.12 "Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable.

Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.

- 1.13 "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.
- 1.14 "GCC" means the General Conditions of Contract.
- 1.15 "Goods" means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.16 "Imported content" means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.
- 1.17 "Local content" means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- 1.18 "Manufacture" means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.19 "Order" means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20 "Project site," where applicable, means the place indicated in bidding documents.
- 1.21 "Purchaser" means the organization purchasing the goods.
- 1.22 "Republic" means the Republic of South Africa.
- 1.23 "SCC" means the Special Conditions of Contract.
- 1.24 "Services" means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.
- 1.25 "Written" or "in writing" means handwritten in ink or any form of electronic or mechanical writing.

- 2. Application**
- 2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
- 2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.
- 2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.
- 3. General**
- 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.
- 3.2 With certain exceptions, invitations to bid are only published in the Government 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](http://www.treasury.gov.za)
- 4. Standards**
- 4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.
- 5. Use of contract documents and information; inspection.**
- 5.1 The supplier shall not, without the purchaser's prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 5.2 The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.
- 5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.
- 6. Patent rights**
- 6.1 The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof by the purchaser.
- 7. Performance security**
- 7.1 Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.

- 7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.
- 7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:
- (a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or
  - (b) a cashier's or certified cheque
- 7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified in SCC.

**8. Inspections, tests and analyses**

- 8.1 All pre-bidding testing will be for the account of the bidder.
- 8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department.
- 8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
- 8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.
- 8.7 Any contract supplies may on or after delivery be inspected, tested or analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with

supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.

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

**9. Packing**

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

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

**10. Delivery and documents**

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

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

**11. Insurance**

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

**12. Transportation**

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

**13. Incidental services**

13.1 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.

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

#### 14. Spare parts

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

(a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and

(b) in the event of termination of production of the spare parts:

(i) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and

(ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

#### 15. Warranty

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

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

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

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

15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

- 16. Payment**
- 16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.
- 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.
- 16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.
- 16.4 Payment will be made in Rand unless otherwise stipulated in SCC.
- 17. Prices**
- 17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized in SCC or in the purchaser's request for bid validity extension, as the case may be.
- 18. Contract amendments**
- 18.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.
- 19. Assignment**
- 19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.
- 20. Subcontracts**
- 20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.
- 21. Delays in the supplier's performance**
- 21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.
- 21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.
- 21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.
- 21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.



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

21.6 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without 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.

## **22. Penalties**

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

## **23. Termination for default**

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

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

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

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

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

the intended penalty as not objected against and may impose it on the supplier.

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

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

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

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

23.7 If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.

**24. Anti-dumping and countervailing duties and rights**

24.1 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 or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference shall on demand be paid forthwith by the contractor to the State or the State may deduct such amounts from moneys (if any) which may otherwise be due to the contractor in regard to supplies or services which he delivered or rendered, or is to deliver or render in terms of the contract or any other contract or any other amount which may be due to him

**25. Force Majeure**

25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security,

damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.

25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

**26. Termination for insolvency**

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

**27. Settlement of Disputes**

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

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

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

27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.

27.5 Notwithstanding any reference to mediation and/or court proceedings herein,

- (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
- (b) the purchaser shall pay the supplier any monies due the supplier.

**28. Limitation of liability**

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

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

- (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.
- 29. Governing language** 29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.
- 30. Applicable law** 30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.
- 31. Notices** 31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice
- 31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.
- 32. Taxes and duties** 32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
- 32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- 32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.
- 33. National Industrial Participation Programme (NIP)** 33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.