



BID NUMBER: RFP014 /2022

**REQUEST FOR PROPOSALS TO ESTABLISH
APPOINTMENT OF A PANEL OF SUITABLY QUALIFIED CORPORATE ATTORNEYS
FOR A PERIOD OF THREE YEARS**

NO BRIEFING SESSION

**at Gauteng Partnership Fund, GPF Offices, 82 Grayston Drive, 1st Floor, Sandton, 2196
(Deposit in the tender box)**

ENQUIRIES: tenders@gpf.org.za

CLOSING DATE AND TIME:

14 October 2022 AT 11H00AM

ACRONYMS

GPF	Gauteng Partnership Fund
ICASA	Independent Communications Authority of South Africa
SLA	Service Level Agreement
GDHS	Gauteng Department of Human Settlements
PPE	Provincial Public Entity
GPG	Gauteng Provincial Government
PFMA	Public Finance Management Act
SLA	Service Level Agreement
BBBEE	Broad Black Based Economic Empowerment
SANAS	South African National Accreditation System
CIPC	Companies and Intellectual Properties Commission
EME	Exempted Micro Enterprise
QSE	Qualifying Small Enterprise

1 SECTION 1: GENERAL CONDITIONS OF BID

Proprietary Information

GPF considers this Request for Proposal (RFP) and all related information, either written or verbal, which is provided to the respondent, to be proprietary to GPF. It shall be kept confidential by the respondent and its officers, employees, agents and representatives. The respondent shall not disclose, publish, or advertise this RFP or related information to any third party without the prior written consent of GPF.

1. Enquiries

- 1.1 All communication and attempts to solicit information of any kind relative to this RFP should be channelled **in writing** to:

Name: Ms Florence Maluleke

Email address: tenders@gpf.org.za

- 1.2 **Closing date for enquiries** in relation to this RFP will be **20 September 2022**
- 1.3 The enquiries will be consolidated and GPF will issue one response and such response will be posted, within two days after the last day of enquiries, onto the GPF website (www.gpf.org.za) under tenders i.e. next to the same RFP document.
- 1.4 The GPF may respond to any enquiry in its absolute discretion and the bidder acknowledges that it will have no claim against the GPF on the basis that its bid was disadvantaged by lack of information, or inability to resolve ambiguities.

2. Bid Validity Period

Responses to this RFP received from bidders will be valid for a period of 180 days counted from the bid closing date.

3. Instructions on submission of Bids

- 3.1 Bids should be submitted in duplicate (2 hard copies) and one electronic copy (on CD/USB) in PDF format all bound in a sealed envelope endorsed. The sealed envelope must be placed in the bid box at the First-floor area of the GPF Offices, 82 Grayston Drive, 1st Floor, Sandton, 2196 by no later than **11:00 AM [Telkom time]**.

- 3.2 Bids must be submitted in the prescribed response format, herein reflected as **Response Format.**
- 3.3 The bid closing date, bidder name and the return address must also be endorsed on the envelope.
- 3.4 If a courier service company is being used for delivery of the bid response, the bid description must be endorsed on the delivery note/courier packaging and the courier must ensure that documents are placed / deposited into the bid box found on the GPF Offices, 82 Grayston Drive, 1st Floor, Sandton, 2196. **The GPF will not be held responsible for any delays where bid documents are handed to the GPF Receptionist/ officials.**
- 3.5 No bid response received by telegram, telex, email, facsimile or similar medium will be considered.
- 3.6 Where a bid response is not in the bid box at the time of the bid closing, such a bid document will be regarded as a late bid. **It is the GPF's policy not to consider late bids for tender evaluation.**

4. Preparation of Bid Response

- 4.1 All the documentation submitted in response to this RFP must be in English.
- 4.2 The bidder is responsible for all the costs that it shall incur related to the preparation and submission of the bid document.
- 4.3 Bids submitted by bidders which comprised of companies must be signed by a person or persons duly authorised thereto by a resolution of the applicable Board of Directors, a copy of which Resolution, duly certified, must be submitted with the bid.
- 4.4 The bidder should check the numbers of the pages of its bid to satisfy itself that none of their documents are missing or duplicated. No liability will be accepted by GPF in regard to anything arising from the fact that pages/documents of a bid are missing or duplicated.
- 4.5 A valid tax compliance status PIN must be included in the bid response to verify bidders' tax compliance status.
- 4.6 All bidders must be registered on the Central Supplier Database (CSD) prior to submitting bids and include in their bid a copy of their Master Registration Number

(Supplier Number) in order for GPF to verify the bidder's tax status on CSD and other Governing compliances.

5. **Supplier Performance Management**

Supplier Performance Management is viewed by the GPF as a critical component in ensuring value for money acquisition and good supplier / or service provider relations between the GPF and all its suppliers.

The successful bidder shall, upon receipt of written notification of an award, be required to conclude a Service Level Agreement (SLA) with the GPF, which will form an integral part of the supply agreement. The SLA will serve as a tool to measure, monitor and assess the supplier 's performance and ensure effective delivery of service, quality and value-add to GPF's business.

6. **Supplier Development**

The GPF promotes enterprise development. In this regard, successful bidders may be required to mentor SMMEs and/ or Youth-Owned businesses. The implications of such arrangement will be subject to negotiations between the GPF and the successful bidder.

7. **GPF's Rights**

7.1 The GPF is entitled to amend any bid conditions, bid validity period, RFP specifications, or extend the bid closing date, all before the bid closing date. All bidders, to whom the RFP documents have been issued and where the GPF has record of such bidders, may be advised in writing of such amendments in good time and any such changes will be posted on the GPF's website under the relevant tender information. All prospective bidders should therefore ensure that they visit the website regularly and before they submit their bid response to ensure that they are kept updated on any amendments in this regard.

7.2 The GPF reserves the right to award this bid as a whole or in part.

7.3 The GPF reserves the right to consider the guidelines and prescribed hourly remuneration rates for consultants as provided in the **National Treasury Instruction 03 of 2017/2018: Cost Containment Measures**, where relevant.

7.4 The GPF reserves the right to request all relevant information, agreements and other documents to verify information supplied in the bid response. The bidder hereby gives consent to the GPF to conduct background checks on the bidding entity and any of its directors / trustees / shareholders / members.

8. Undertakings by the Bidder

8.1 By submitting a bid in response to the RFP, the bidder will be taken to offer to render all or any of the services described in the bid response submitted by it to the GPF on the terms and conditions and in accordance with the specifications stipulated in this RFP document.

8.2 The bidder may be required to attend an interview should GPF require such and the bidder shall be notified thereof in good time before the actual presentation date. Such interview may include a practical demonstration of understanding products or services as called for in this RFP.

8.3 The successful bidder accepts full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on him/her under the supply agreement and SLA to be concluded with GPF, as the principal(s) liable for the due fulfilment of such contract.

8.4 The bidder accepts that all costs incurred in the preparation, presentation and demonstration of the solution offered by it shall be for the account of the bidder. All supporting documentation and manuals submitted with its bid will become GPF property unless otherwise stated by the bidder/s at the time of submission.

9. Reasons for disqualification

9.1 The GPF reserves the right to disqualify any bidder which does any one or more of the following, and such disqualification may take place without prior notice to the offending bidder, however the bidder will be notified in writing of such disqualification:

9.1.1 Bidders who submit incomplete information and documentation according to the requirements of this RFP document;

9.1.2 Bidders who submit information that is fraudulent, factually untrue or inaccurate;

9.1.3 Bidders who receive information not available to other potential bidders through fraudulent means;

9.1.4 Bidders who do not comply with **mandatory requirements** as stipulated in the RFP document; and/or

10. Response Format (Returnable Schedules)

Bidders shall submit their bid responses in accordance with the response format specified below (each schedule must be clearly marked):

10.1 **Cover Page:** (the cover page must clearly indicate the RFP reference number, bid description and the bidder's name)

10.2 Schedule 1:

10.2.1. Executive Summary

10.2.2. Company Registration Documents

10.2.3. Central Supplier Database Report

10.3 Schedule 2

10.3.1. Valid tax compliance status PIN must be included in the bid response to verify bidders' tax compliance status;

10.3.2. The following RFP document (duly completed and signed)

- Annexure 1: SBD 1 (duly completed and signed)
- Annexure 2: SBD 4 (duly completed and signed);

10.3.3. Annexure 3: Sworn Affidavits / BBBEE Certificate issues by accredited SANAS Verification Agency;

10.3.4. Annexure 4: GPF's Standard Condition of bid and General Condition of Contract (signed);

10.3.5. Annexure 5: General Conditions of Contract (signed)

10.3.6. Annexure 6: Protection of Personal Information Act 4 of 2013 (POPIA) completed and signed.

10.3.7. Copy of Joint Venture/ Consortium/ Subcontracting Agreement duly signed by all parties (if applicable).

Note: If a bidder is a Consortium, Joint Venture or Prime Contractor with Subcontractor(s), the documents listed above (10.3.1-10.3.6) must be submitted for each Consortium/ JV member or Prime Contractor and Subcontractor(s).

SECTION 2: FUNCTIONAL REQUIREMENTS SPECIFICATION

1. BACKGROUND

- 1.1. The Gauteng Partnership Fund (GPF) was founded in 2002 as a Benevolent Trust under the Trust Properties Control Act 57 (1988), by the Executive Authority of the GPF, Gauteng Department of Human Settlements. Gauteng Partnership Trust is trading as the Gauteng Partnership Fund (GPF):
- 1.2. 31 August 2005, GPF was listed as a Schedule 3C Provincial Public Entity (PPE), in terms of the Public Finance Management Act (Act 1 of 1999, as amended by Act 29 of 1999) (PFMA). The Gauteng Partnership Trust trading as Gauteng Partnership Fund (GPF) is a PFMA Schedule 3C provincial public entity under the Gauteng Department of Human Settlements (GDHS).
- 1.3. The mandate of the GPF is to serve as the Gauteng Department of Human Settlements (GDHS) capital raising and implementing agent of identified Mega Projects in the Gauteng Province. In 2002, the Gauteng Department of Housing (later configured as the Gauteng Department of Local Government and Housing, and since 2013 as the Gauteng Department of Human Settlements).
- 1.4. GPF reports to the Gauteng Department of Human Settlements (GDHS) as its Executive Authority, and from which it receives its annual budget allocation. It aims to support the National priorities and outcomes as detailed in the National Development Plan (NDP) and aligned Medium Term Strategic Framework (MTSF) and directs its efforts at contributing to the decisive spatial transformation and modernisation of human settlements pillars of the Gauteng Provincial Government's (GPG) Ten Pillars Programme of Transformation, Modernisation and Reindustrialisation (TMR).

2. SCOPE AND EXTENT OF WORK

AREA OF WORK	SCOPE OF WORK	SKILLS REQUIRED	PLEASE TICK (✓)
<p>1. Corporate, Commercial and Finance Law</p>	<ul style="list-style-type: none"> • Advise on projects/ transactions of a corporate law nature. • Advise on legal issues arising from fund raising and fund management by Government; asset, risk and debt management. • Draft, review and advice on a broad range of complex commercial contracts such as financing agreements, restructuring etc. • Provide legally sound opinions of a corporate law nature. • Company Law advisory work pertaining to 	<ul style="list-style-type: none"> • Experience in working in transactions of a corporate law nature. • Experience in restructuring exercises. • Experience in drafting of complex contracts of a financial law nature. • Excellent research and drafting skills, for purposes of preparing legal opinions of a corporate nature. • Ability to work and delivery of specific outputs on time. • Experience in providing advice in general commercial law. • Understanding international contracts and 	

AREA OF WORK	SCOPE OF WORK	SKILLS REQUIRED	PLEASE TICK (✓)
	state owned entities, including listings and the like.	loans. <ul style="list-style-type: none"> • Understanding fundamentals of capital markets and regulations. • Understanding public sector debt management. • Knowledge of legal and operational aspects of international financial institutions and relationships • Undertaking legal and regulatory framework governing Government entities • Knowledge of procurement law. • Knowledge of Corporate Government principles • Knowledge and understanding of applicable corporate law legislation, including King IV 	

AREA OF WORK	SCOPE OF WORK	SKILLS REQUIRED	PLEASE TICK (✓)
		<p>and its successors.</p> <ul style="list-style-type: none"> • Provision of legal support and expertise on off balance sheet transactions 	
2. Contract Law	<ul style="list-style-type: none"> • Providing services of interpretation of various contracts, evaluating risk factors within the contracts. • Drafting various complex agreements i.e. commercial, employment, MOU's, consultancy and etc. • Applying contractual terms to litigious proceedings • Giving written opinions on the validity, interpretation, application and enforcement of 	<ul style="list-style-type: none"> • Understanding and knowledge of Contractual law. • Experience in evaluating, negotiating and drafting agreements. • Understanding and proper application of the rules of interpretation. 	

AREA OF WORK	SCOPE OF WORK	SKILLS REQUIRED	PLEASE TICK (✓)
	contractual terms.		
3. Governance, Administrative & Constitutional Law	<ul style="list-style-type: none"> • Advise on all aspects of the Public Finance Management Act 1 of 1999 (as amended) and any other legislation affecting state owned entities • Provide legal opinions in respect of constitutional and administrative law matters. • Ensure technical quality adherence and compliance to best practices and consistency with legislation regulating public entities i.e. PFMA, PAJA, Treasury regulations, PAIA, constitution, King IV and its 	<ul style="list-style-type: none"> • A thorough understanding of and experience in interpretation and application of the Public Finance Management Act 1 of 1999 (as amended) • Experience in providing opinions in constitutional and administrative law matters. • Experience of constitutional and administrative jurisprudence. • Compliance monitoring skills • Advisory skills • Legal interpretation and writing skills 	

AREA OF WORK	SCOPE OF WORK	SKILLS REQUIRED	PLEASE TICK (✓)
	<p>successors.</p> <ul style="list-style-type: none"> • Knowledge of all administrative justice and information legislation and regulations. • Assist in developing internal policies in line with regulatory legislation. 		
4.Labour and Employment Law	<ul style="list-style-type: none"> • Provide legal opinions on labour related matters, employment benefits and employment law • Assist in disciplinary hearings, arbitrations and other dispute resolutions relating to employees, board members and contractors. • Assist in the conduct of investigations of complaints or 	<ul style="list-style-type: none"> • Experience in labour and employment law litigation. • Understand the regulatory framework governing public service employment. • An understanding of labour law and employment law jurisprudence for purposes of providing legal opinions. • Knowledge of bargaining council and other dispute 	

AREA OF WORK	SCOPE OF WORK	SKILLS REQUIRED	PLEASE TICK (✓)
	grievances <ul style="list-style-type: none"> • Draft charge sheets • Assist in defending labour related disputes • Assist in developing or amending GPF disciplinary code and related matters. 	resolution fora. <ul style="list-style-type: none"> • Excellent communication and drafting skills • Ability to draft and present compelling arguments. 	
5.Pension Law	<ul style="list-style-type: none"> • Provide legal advice and opinions on pension law 	<ul style="list-style-type: none"> • Understand pension fund legislation and administration of pension funds. 	
6. Property law	<ul style="list-style-type: none"> • Provide legal opinions and advise in respect of property law matters. 	<ul style="list-style-type: none"> • Experience in providing opinions in property law matters. • Extensive knowledge of property law. • Business support for perfecting security • Rights with respect to property, and servitude knowledge 	<ul style="list-style-type: none"> •

AREA OF WORK	SCOPE OF WORK	SKILLS REQUIRED	PLEASE TICK (✓)
		<ul style="list-style-type: none"> • Sectional title law • Monitoring pre-sales experience • Experience in the applicable law and procedure relating to the prevention of illegal evictions • Knowledge and experience of applicable law and procedure relating to the leasing of immovable property 	
7.Public Private Partnerships	<p>Advice on the structuring of PPP projects.</p> <ul style="list-style-type: none"> • Draft and / or review and / or analyse project documentation, including but not limited to PPP agreements, shareholder agreements, design, operation, maintenance and 	<ul style="list-style-type: none"> • Knowledge of South African PPP market, factors driving the demand of PPP's, PPP regulatory framework including but not limited to PPP manual, standardised provisions, tourism PPP toolkit, constitution, public finance management act, Labour Relations 	<ul style="list-style-type: none"> •

AREA OF WORK	SCOPE OF WORK	SKILLS REQUIRED	PLEASE TICK (✓)
	<p>construction subcontracts, finance and security documents, sponsor support agreements, legal opinions, feasibility studies, due diligence and expert reports.</p> <ul style="list-style-type: none"> • Provide oral and written legal advice throughout the PPP cycle. • Risk identification, allocation and mitigation in PPP agreements • Advice on legislative and regulatory matters relating to PPP's. • Assist with the negotiations with preferred bidders. • Negotiating project documents. • Advice on PPP policies and guidelines. 	<p>Act, Municipal Finance Management Act, Municipal Systems Act, Treasury Regulations and practice notes, municipal service delivery and PPP guidelines and code of good practice for black economic empowerment in PPP's.</p> <ul style="list-style-type: none"> • Understand key concepts e.g. value for money and public sector comparator. • Expertise in risk analysis, allocation and mitigation. • Expertise in drafting, analysis and review PPP documentation and structuring of BEE in PPP's. • Expertise in contract drafting and negotiation. • Project finance skills and experience 	

AREA OF WORK	SCOPE OF WORK	SKILLS REQUIRED	PLEASE TICK (✓)
		<ul style="list-style-type: none"> Legal technical advisory service on PPP regulations including inter alia ; compliance to (Treasury views and recommendations (TVRs), legal due diligence to pre-feasibility to financial close . 	
7. Litigation	<ul style="list-style-type: none"> Conduct litigation on behalf of the GPF. Provide litigious services in various action and application procedures within the Magistrates' Courts, Regional Courts, Labour Courts, High Courts, Appeal Courts, Constitutional Court and other dispute resolution fora. 	<ul style="list-style-type: none"> Knowledge of litigation processes and procedures in various forums including but not limited to the High Court, SCA, Constitutional Court, Labour Court Equality and Magistrate Court. In depth understanding and experience of applying all Court Rules and legislation regulating the conduct and procedure of 	

AREA OF WORK	SCOPE OF WORK	SKILLS REQUIRED	PLEASE TICK (✓)
	<ul style="list-style-type: none"> • Collect litigation costs. • Develop and review appropriate litigation strategy in each matter. • Ensure effective and efficient litigation process. • Provide custody of all pleadings and documents in litigation matters. • Provide oral and written legal advice throughout the litigation process. • Avoid prescriptions, barring and default judgments. • Court appearances with and / or without the assistance of 	<p>litigious proceedings within the mentioned courts, as well as the legal issue at hand.</p> <ul style="list-style-type: none"> • Litigation skills, including preparation and presentation of arguments in court and outside court • Negotiation skills. 	

AREA OF WORK	SCOPE OF WORK	SKILLS REQUIRED	PLEASE TICK (✓)
	Counsel <ul style="list-style-type: none"> • Settlement negotiations 		
8. Legislative Drafting	<ul style="list-style-type: none"> • Draft and review of original and subordinate legislation. • Ensure the technical quality, adherence to best practice and consistency with Constitution and other legislation. • Advice during the drafting process. • Research and advice on international best practice approach to drafting. 	<ul style="list-style-type: none"> • Advanced legislative drafting skills and experience through drafting and scrutiny of draft legislation, advising during drafting process Knowledge of modern drafting techniques and drafting rules and style. • Good command of various languages. 	
9. Tax	<ul style="list-style-type: none"> • Advice on tax related issues that may affect funding proposals by and in favour of the GPF policy proposals. 	<ul style="list-style-type: none"> • Knowledge and understanding of South African tax regime, including but not limited to principles of taxation, forms of taxation and tax reforms. 	

AREA OF WORK	SCOPE OF WORK	SKILLS REQUIRED	PLEASE TICK (✓)
		<ul style="list-style-type: none"> • In some cases, understanding specialised areas of tax legislation, such as insurance taxation, environmental taxation, financial products and trusts. • Knowledge of tax specific legislation 	
10. Criminal Law	<ul style="list-style-type: none"> • Provide legal advice and litigious strategy on criminal law matters. • Provide oral and written updates on criminal law matters. • Drafting of all legal documents. • Appearing in court on criminal law matters, including commercial crimes court. 	<ul style="list-style-type: none"> • Knowledge and understanding of criminal law procedure, laws, rules and processes. • Experience in undertaking criminal law matters in various courts, including, but not limited to, Magistrates' Courts, Regional Courts, commercial crimes courts, High Courts and Appeal Courts. • Exceptional preparation and presentation skills <ul style="list-style-type: none"> • Exceptional negotiation skills 	
11. Insolvency Law	<ul style="list-style-type: none"> • Provide legal opinions and sound legal 	<ul style="list-style-type: none"> • Knowledge and experience in insolvency law. 	

AREA OF WORK	SCOPE OF WORK	SKILLS REQUIRED	PLEASE TICK (✓)
	<p>advice on all insolvency law matters.</p> <ul style="list-style-type: none"> • Assist and conduct litigious proceedings, advice on strategy and continuous oral and written. • Reporting on insolvency law matters 	<ul style="list-style-type: none"> • Excellent interpretation and writing skills. 	
12. Intellectual Property	<ul style="list-style-type: none"> • Advice, oral or written, on intellectual property disputes, legislation, compliance requirements and developments of Intellectual Property (IP) monitoring strategy and portfolio. 	<ul style="list-style-type: none"> • Knowledge and experience in intellectual property (IP) law and related regulations, and procedures. • Monitoring of IP portfolio. 	
13. Information Technology	<ul style="list-style-type: none"> • Advice on all aspects of IT law, such as service level agreements pertaining to 	<ul style="list-style-type: none"> • Experience and understanding of Information Technology and cyber laws. • Exceptional 	

AREA OF WORK	SCOPE OF WORK	SKILLS REQUIRED	PLEASE TICK (✓)
	<p>system integration, software and website development.</p> <ul style="list-style-type: none"> • Advice on IT compliance and infringements • Assist in development of internal IT policies in line with legal prescripts 	<p>interpretation and writing skills.</p>	
<p>14. Debt collections, investigations and General legal advisory services</p>	<ul style="list-style-type: none"> • Provide debt collection services, including drafting letter of demands, follow up, summons, attachments, executions, etc. • Provide legal advice and expertise in matters of a general nature including policies • Conduct due diligence exercises. • Conduct fraud 	<ul style="list-style-type: none"> • Expertise in debt collection • Understanding of enforcement processes and rules. • Investigation, interview, document evaluation, evidence interpretation, application of the law and report drafting skills. 	

AREA OF WORK	SCOPE OF WORK	SKILLS REQUIRED	PLEASE TICK (✓)
	and other forms of investigations.		

3. Project Deliverable

3.1 Provision of legal services as detailed hereinabove immediately and in the most efficient, professional, and cost-effective manner.

3.2 Provide weekly and/ or monthly progress report on matters handled in line with the Service Level Agreement or agreed deadlines and deliverables.

4. Project Timeline

The appointed service provider(s) will be required to start immediately after signing the contract and provide the services for a period of three (3) years, on an “as and when required basis”.

5. Supplier Performance Management

5.1 The successful bidders shall upon receipt of written notification of an award to form part of corporate attorneys, be required to conclude a Service Level Agreement (SLA) with GPF.

5.2 The SLA will contain the key deliverables to measure, monitor, and assess the Supplier performance and ensure effective delivery of service, quality and value-add to GPFs business

5.3 Appointment terms

6. GPF does not guarantee that successful bidders will receive work during their appointment term. Subject to a competitive process for a Service Request, successful bidders will be utilised on an ad hoc basis, as and when required by GPF.

10. The GPF would also like to promote transformation and development of small firms in this industry and as such the bidder must indicate, in the table below, with a tick (✓) the relevant category:

Firm Categories	Definition	PLEASE TICK (✓)	Reference page number in the proposal
Category 1: Small Firms	Firm with an annual turnover of not more than R10 million		
Category 2: Medium Firms	Firm with an annual turnover greater than R10 million but below R50 million		
Category 3: Large Firms	Firm with an annual turnover greater than R50 million		

11. THE BID WILL BE EVALUATED BASED ON THE FOLLOWING STAGES.

- 11.1. Administration compliance
- 11.2. Pre-Qualifications
- 11.3. Mandatory
- 11.4. Functionality Criteria

EVALUATION CRITERIA

11.1. Administrative Compliance (Stage One)

- A tax compliance status PIN must be included in the bid response to verify bidders' tax compliance status;
- SBD 1 (duly completed and signed)
- SBD 4 (duly completed and signed);
- Annexure 9: GPF's Standard Condition of bid and General Condition of Contract (signed)
- Annexure 10: General Conditions of Contract (signed)
- Annexure 11: Protection of Personal Information Act 4 of 2013 (POPIA) completed and signed.
- Financial Statements for the latest financial year signed by an independent registered Accountant.

- Copy of Joint Venture/ Consortium/ Subcontracting Agreement duly signed by all parties (if applicable).
- Two copies and a USB must be submitted

11.2. Pre-Qualification (Stage Two)

The GPF has decided to apply the prequalification criteria in line with the preferential procurement regulations 4(1)(a) of 2017, therefore, only bidders meeting the following must submit proposals:

- A tenderer must have a B-BBEE status contributor level 1 - 4
- Bidders are also required to, together with their bids to submit:
 - A valid Broad-based black economic empowerment (B-BBEE) Certificate issued by agencies accredited by South African national accreditation system (SANAS) will be accepted.
 - Tenderers who qualify as Exempted Micro Enterprises (EME) must submit a valid Sworn Affidavit signed by the EME representative and attested by a Commissioner of Oaths in line with the justices of the Peace and Commissioners of Oaths Act, 1963. Alternatively, the bidder must submit a Broad-based black economic empowerment (B-BBEE) Certificate for Exempted Micro Enterprises issued by the Companies & Intellectual Property Commission (CIPC) on behalf of the Department of Trade and Industry (This certificate serves as an sworn affidavit in terms of Code Series 000, Section 4.5 of the Amended codes 2013.)
 - In the case of Qualifying Small Enterprises (QSE), if the bidding entity is more than 51% black owned, then no Broad-based black economic empowerment (B-BBEE) Certificate is required as a valid original Sworn Affidavit signed by the QSE representative and attested by a Commissioner of Oaths in line with the justices of the Peace and Commissioners of Oaths Act, 1963 will suffice. If the QSE is less than 51% black owned, then the bidding entity will be required to provide a valid and Broad-based black economic empowerment (B-BBEE) Certificate (issued by an agency accredited by South African national accreditation system (SANAS)
 - In case of a trust, consortium or joint venture, such bidders must submit a consolidated Broad-based black economic empowerment (B-BBEE) Status Level Verification Certificate issued by an agency accredited by South African national accreditation system (SANAS).

Note that a sworn affidavit as explained above is to be signed by a commissioner of oath at the same date as deponent.

NB! Failure to submit (A B-BBEE Certificate , sworn affidavit as explained above bidders will lead to disqualification.

11.3. Mandatory compliance requirements (Stage Three)

The prospective bidders must complete the table below with Comply/Non-Compliance:

- a. If any 'NON-COMPLIANCE' is indicated to the mandatory requirements, the bid will automatically be eliminated.

11.3.1 Registration with the Legal Practice Council	Comply	Non-Compliance	Reference page number in the proposal
The individual Partners/Directors of the firm must be registered and be in good standing with the Legal Practice Council. Valid proof of individual Partners/Directors certificate of good standing from the relevant Legal Practice Council must be provided. (Attach proof of certified certificate)			

11.3.2 Fidelity Fund Insurance	Comply	Non-Compliance	Reference page number in the proposal
The Firm of Attorneys must provide proof of the Fidelity Fund Insurance Cover. Valid proof of a Fidelity Fund Certificate to be provided. (Attach proof of certified certificate)			
11.3.3 Right of appearance			
The bidder must provide proof of Right of appearance in the High Court of South Africa (Attach proof of certified certificate)			

NB: Documents in respect of 11.3.1,11.3.2 and 11.3.3 which are not certified will not be accepted. Furthermore, copies of previously certified documents will also not be accepted.

The date of certification must not be older than six (6) months.

11.4. TECHNICAL REQUIREMENTS

STAGE 4: EVALUATION CRITERIA

ELEMENT	Scoring points
Company profile, systems of quality and level of exposure	Maximum of 20 points based on information / evidence provided in the company profile.

COMPANY PROFILE, SYSTEMS OF QUALITY AND LEVEL OF EXPOSURE	Reference page number in proposal
All bidders must provide a document titled” <i>Company profile, systems of quality and level of exposure</i> ” which deals with the following:	
Exposition of the establishment, history and constitution of the firm.	= 5 points
Specifics regarding affiliation of firm with either local or international firms and / or associations. Attach certified letter/certificate issued by the affiliation/association/regulatory body (No letter/certificate no points)	= 3 points
System of identifying and managing conflicts of interests that may arise.	= 5 points
Systems in place for performance monitoring and management of all staff.	= 5points

The bidders may show notable awards and achievements received by accredited / recognised institutions / organisations. Attach Proof (No proof no points)	=2 points	
---	-----------	--

ELEMENT		Scoring points
Relevant Qualifications and legal experience of the Bidder's Team (A team should consist of a director, associate and candidate attorney)		Maximum of 55
Qualification	LLB or equivalent – 15 points NB: Qualification for members of the proposed bidder's legal team should be attached. Director-7 points Associate- 5 points Candidate attorney- 3 points	15
Provide evidence in a form of a schedule in service categories selected as per the scope of work outlined in paragraph 5. Projects/matters worked, and clients serviced	Work done will be evaluated on the following but not limited to: a) Nature of the matter ➤ Detailed description of legal issue e.g., unfair labour practice = 4 points ➤ area of law e.g., labour law = 4 points b) Technicalities ➤ Resources utilised: services utilised (e.g., Counsel/ experts) = 4 points	20

	<p>➤ Sources consulted in relation to the legal matters attended to (e.g., legislations and case law) = 4 points</p> <p>c) (Any) Public interest/ Landmark judgements = 4 points</p>			
Years of experience of the bidder's team	4 to less than 7 years = 8 points	7 to less than 15 years = 12 points	15 to less than 20 years = 15 points	20 years+ = 20 points
	<p><i>Note: the evaluation of legal experience of the bidder's team will be done collectively, and not per team member. The experience will be evaluated per each category</i></p>			

ELEMENT	Scoring points
<p>Reference Letters</p> <p>Bidders must provide written contactable signed references not older than three years from previous and /or current clients where similar services were rendered. Attach reference letters.</p> <p>The reference letters from the clients must include:</p> <ul style="list-style-type: none"> • company name • company letter head • contact person • contactable telephone numbers <p>NB: Failure to provide the reference letters with all the above-mentioned requirements will result in the bidder scoring a zero (0).</p>	<p>Maximum 25</p>

5 or more reference letters from a clients with traceable References per each category = 25	
4 reference letters from a clients with traceable References per each category = 15	
3 reference letters from a clients with traceable References per each category = 10	
2 reference letters from a clients with traceable References per each category = 5	
1 reference letters from a clients with traceable References per each category = 1	
0 company/organisation with traceable Reference Letter = 0	

Technical / Functional Criteria	Weightings
Total technical/functional	100
Minimum threshold	70

Bidders who score a minimum threshold of **70 out of 100 points** on the evaluation criteria will be recommended on the panel

Fronting is not permitted: (Fronting is the circumvention or attempted circumvention of the B-BBEE Act and the codes. Fronting commonly involves reliance on data or claims of compliance based on misrepresentations of facts, whether made by the party claiming compliance or by any other person)

1. IN EVALUATING THE TECHNICAL INFORMATION CONTAINED IN THE BID, THE EVALUATION COMMITTEE WILL BE GUIDED BY THE FOLLOWING:

14.1 Bidder understanding of the brief - The bid provides a clear indication that the bidder fully understands the purpose and scope of the work and the bidders' own roles and functions in this regard.

14.2 Capability and experience - The bid provides a clear indication that the bidder's team

comprises people with the necessary experience, skills, qualifications, knowledge, and the proposed methodology to ensure the efficient and effective generation of the required deliverables to the standards of quality.

15. JOINT VENTURES AND CONSORTIUMS

14.1 Note for consortium and joint ventures

- The items above are to be addressed and completed by **EACH** member of the consortium or joint venture.
- A signed agreement between all parties of the consortium or joint venture is to accompany the tender submission.
- A lead consultant is to be appointed and noted in the submission.

NAME OF BIDDER: _____

VALIDITY: 180 DAYS

PART A
INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE GPF					
BID NUMBER:	RFP014/2022	CLOSING DATE:	3 OCTOBER 2022	CLOSING TIME:	11:00AM
DESCRIPTION	APPOINTMENT OF A PANEL OF SUITABLY QUALIFIED CORPORATE ATTORNEYS FOR A PERIOD OF THREE YEARS				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
Gauteng Partnership Fund Offices					
1st Floor					
82 Grayston Drive					
Johannesburg, 2196					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	Nokuthula Mqwashi		CONTACT PERSON	Thandiwe Kuzwayo	
TELEPHONE NUMBER	011 685 6627		TELEPHONE NUMBER	011 685 6610	
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS	tenders@gpf.org.za		E-MAIL ADDRESS	tenders@gpf.org.za	
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT					

REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	[TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No	

[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]

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

QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?

YES NO

DOES THE ENTITY HAVE A BRANCH IN THE RSA?

YES NO

DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?

YES NO

DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?

YES NO

IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?

YES NO

IF THE ANSWER IS “NO” TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.

PART B
TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:

- 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).**

2. TAX COMPLIANCE REQUIREMENTS

- 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:

.....

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 interest¹ 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 with any person who is employed by the procuring institution? **YES/NO**

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

2.2.1 If so, furnish particulars:

.....
.....

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

2.3.1 If so, furnish particulars:

.....
.....

3 DECLARATION

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

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium² will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in 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.

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

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

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

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

.....
Signature Date

.....
Position Name of bidder

ANNEXURE 3

SWORN AFFIDAVIT – B-BBEE EXEMPTED MICRO ENTERPRISE

I, the undersigned,

Full name & Surname	
Identity number	

Hereby declare under oath as follows:

1. The contents of this statement are to the best of my knowledge a true reflection of the facts.
2. I am a member / director / owner of the following enterprise and am duly authorised to act on its behalf:

Enterprise Name	
Trading Name	
Registration Number	
Enterprise Address	

3. I hereby declare under oath that:
 - The enterprise is _____% black owned;
 - The enterprise is _____% black woman owned;
 - Based on the management accounts and other information available on the _____ financial year, the income did not exceed R10,000,000.00 (ten million rands);
 - Please confirm on the table below the B-BBEE level contributor, **by ticking the applicable box.**

100% black owned	Level One (135% B-BBEE procurement recognition)	
More than 51% black owned	Level Two (125% B-BBEE procurement recognition)	
Less than 51% black owned	Level Four (100% B-BBEE procurement recognition)	

4. The entity is an empowering supplier in terms of **the dti** Codes of Good Practice.

5. I know and understand the contents of this affidavit and I have no objection to take the prescribed oath and consider the oath binding on my conscience and on the owners of the enterprise which I represent in this matter.

6. The sworn affidavit will be valid for a period of 12 months from the date signed by commissioner.

Deponent Signature: _____

Date: _____

Commissioner of Oaths
Signature & stamp

SWORN AFFIDAVIT – B-BBEE QUALIFYING SMALL ENTERPRISE - GENERAL

I, the undersigned,

Full name & Surname	
Identity number	

Hereby declare under oath as follows:

1. The contents of this statement are to the best of my knowledge a true reflection of the facts.
2. I am a Member / Director / Owner of the following enterprise and am duly authorised to act on its behalf:

Enterprise Name:	
Trading Name (If Applicable):	
Registration Number:	
Enterprise Physical Address:	
Type of Entity (CC, (Pty) Ltd, Sole Prop etc.):	
Nature of Business:	
Definition of “Black People”	<p>As per the Broad-Based Black Economic Empowerment Act 53 of 2003 as Amended by Act No 46 of 2013 “Black People” is a generic term which means Africans, Coloureds and Indians –</p> <ul style="list-style-type: none"> (a) who are citizens of the Republic of South Africa by birth or descent; or (b) who became citizens of the Republic of South Africa by naturalisation- <ul style="list-style-type: none"> i. before 27 April 1994; or ii. on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalization prior to that date;”

Definition of “Black Designated Groups”	<p>“Black Designated Groups means:</p> <ul style="list-style-type: none"> (a) unemployed black people not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution; (b) Black people who are youth as defined in the National Youth Commission Act of 1996; (c) Black people who are persons with disabilities as defined in the Code of Good Practice on employment of people with disabilities issued under the Employment Equity Act; (d) Black people living in rural and under developed areas; (e) Black military veterans who qualifies to be called a military veteran in terms of the Military Veterans Act 18 of 2011;”
--	---

3. I hereby declare under Oath that:

- The Enterprise is _____% Black Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- The Enterprise is _____% Black Female Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- The Enterprise is _____% Black Designated Group Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- Black Designated Group Owned % Breakdown as per the definition stated above:
 - Black Youth % = _____%
 - Black Disabled % = _____%
 - Black Unemployed % = _____%
 - Black People living in Rural areas % = _____%
 - Black Military Veterans % = _____%
- Based on the Financial Statements/Management Accounts and other information available on the latest financial year-end of _____, the annual Total Revenue was between R10,000,000.00 (Ten Million Rands) and R50,000,000.00 (Fifty Million Rands),
- Please confirm on the table below the B-BBEE level contributor, **by ticking the applicable box.**

100% Black Owned	Level One (135% B-BBEE procurement recognition level)	
At Least 51% black owned	Level Two (125% B-BBEE procurement recognition level)	

4. I know and understand the contents of this affidavit and I have no objection to take the prescribed oath and consider the oath binding on my conscience and on the owners of the enterprise which I represent in this matter.

5. The sworn affidavit will be valid for a period of 12 months from the date signed by commissioner.

Deponent Signature: _____

Date: _____

Commissioner of Oaths
Signature & stamp

ANNEXURE 4

GPF'S

STANDARD

CONDITIONS OF BID

6. 1 GENERAL

- Actions** 1 GPF's *Representative* and each *bidder* submitting a bid shall act timeously as stated in these Conditions of Bid and in a manner which is fair, equitable, transparent, competitive and cost-effective.
- Interpretation** 2 Terms shown in *italics* vary for each bid. The details of each term for this bid are identified in the Bid Data. Terms shown in capital initials are defined terms in the appropriate conditions of contract.
- 3 Any additional or amended requirements in the Bid Data, and additional requirements given in the Schedules in the *bid returnables* are deemed to be part of these Conditions of Bid.
- 4 The Conditions of Bid and the Bid Data shall not form part of any contract arising from this invitation to bid.
- Communication** 5 Each communication between the GPF and a *bidder* shall be to or from GPF's *Representative* only, and in a form that can be read, copied and recorded. Communication shall be in the English language. GPF takes no responsibility for non-receipt of communications from or by a *bidder*.
- GPF's rights to accept or reject any bid** 6 GPF may accept or reject any variation, deviation, bid, or alternative bid, and may cancel the bid process and reject all bids at any time prior to the formation of a contract. GPF's *Representative* will not accept or incur any liability to a *bidder* for such cancellation and rejection, but will give written reasons for the action upon written

request to do so. GPF reserves the right to accept the whole of any part of any bid.

After the cancellation of the bid process or the rejection of all bids GPF may abandon the proposed work and services, have it performed in any other manner, or re-issue a similar invitation to bid at any time.

7. 2 BIDDER'S OBLIGATIONS

The *bidder* shall comply with the following obligations when submitting a bid and shall:

- | | | |
|---|---|---|
| Eligibility | 1 | Submit a bid only if the <i>bidder</i> complies with the <i>criteria</i> stated in the Bid Data and the <i>bidder</i> , or any of his principals, is not under any restriction to do business with the GPF. |
| Cost of bidding | 2 | Accept that the GPF will not compensate the <i>bidder</i> for any costs incurred in the preparation and submission of a bid, including the costs of any testing necessary to demonstrate that aspects of the bid satisfy the evaluation criteria. |
| Check documents | 3 | Check the <i>bid documents</i> on receipt, including pages within them, and notify GPF's <i>Representative</i> of any discrepancy or omissions. |
| Confidentiality and copyright of documents | 4 | Treat as confidential all matters arising in connection with the bid. Use and copy the documents provided by the GPF only for the purpose of preparing and submitting a bid in response to this invitation. |
| Standardised specification | 5 | Obtain, as necessary for submitting a bid, copies of the latest revision of standardised specifications and other publications, which are not |

**s and other
publications**

attached but which are incorporated into the *bid documents* by reference.

- 7 Acknowledge receipt of Addenda to the *bid documents*, which GPF's *Representative* may issue, and if necessary apply for an extension to the *deadline for bid submission*, in order to take the Addenda into account.

**Site visit and
/ or
clarification
meeting**

- 8 Attend a site visit and/or clarification meeting at which *bidders* may familiarise themselves with the proposed work, services or supply, location, etc. and raise questions.. Details of the meeting(s) are stated in the Bid Data.

**Seek
clarification**

- 9 Request clarification of the *bid documents*, if necessary, by notifying GPF's *Representative* earlier than the *closing time for clarification of queries*.

Insurance

- 10 Be informed that the extent (if any) of insurance provided by the GPF may not be for the full cover required in terms of the relevant category listed in Section 8 of the *conditions of contract*, the *bidder* is advised to seek qualified advice regarding insurance.

**Pricing the
bid**

- 11 Include in the rates, prices, and the bidded total of the prices (if any) all duties, taxes (except VAT), and other levies payable by the successful *bidder*. Such duties, taxes and levies are those applicable 14 days prior to the *deadline for bid submission*.
- 12 Show Value Added Tax (VAT) payable by the GPF separately as an addition to the bidded total of the prices.

- 13 Provide rates and prices that are fixed for the duration of the contract and not subject to adjustment except as provided for in the *conditions of contract*.
- 14 State the rates and Prices in South African Rand unless instructed otherwise as an additional condition in the Bid Data.
- Alterations to documents** 15 Not make any alterations or additions to the *bid documents*, except to comply with instructions issued by GPF's *Representative* or if necessary to correct errors made by the *bidder*. All such alterations shall be initialled by all signatories to the bid. Corrections may not be made using correction fluid, correction tape or the like.
- Alternative bids** 16 Submit alternative bids only if a main bid, strictly in accordance with all the requirements of the *bid documents* is also submitted. The alternative bid is submitted with the main bid together with a schedule that compares the requirements of the *bid documents* with the alternative requirements the *bidder* proposes.
- 17 Accept that an alternative bid may be based only on the criteria stated in the Bid Data and as acceptable to the GPF.
- Submitting a bid** 18 The GPF require one original bidding document, indexed according to the page numbers and content as well as one CD of the same.
- Submit a bid for providing the whole of the works, services or supply identified in the Contract Data unless stated otherwise as an additional condition in the Bid Data.
- 19 Return the *bid returnables* to the GPF, completing without exception all the forms, data and schedules included therein.
- 20 Submit the bid as an original plus the number of copies stated in the

Bid Data and provide an English translation for documentation submitted in a language other than English. Bids may not be written in pencil but must be completed in ink.

- 21 Sign the original and all copies of the bid where indicated. The GPF will hold the signatory duly authorised and liable on behalf of the *bidder*.
- 22 Seal the original and each copy of the bid as separate packages marking the packages as "ORIGINAL" and "COPY". Each package shall state on the outside the GPF's national office address and invitation to bid number stated in the Bid Data, as well as the *bidder's* name and contact address.
- 23 Seal original and copies together in an outer package that states on the outside only the GPF's national office address and invitation to bid number as stated in the Bid Data. The outer package must be marked "CONFIDENTIAL"
- 24 Where a two-envelope system is required in terms of the bid data, place and seal the returnable documents listed in the bid data in an envelope marked "financial proposal" and place the remaining returnable documents in an envelope marked "technical proposal". Each envelope shall state on the outside the GPF's national office address and identification details stated in the bid data, as well as the bidder's name and contact details. Make sure both parts of the bid are delivered as a single package.
- 25 Accept that the GPF will not assume any responsibility for the misplacement or premature opening of the bid if the outer package is not sealed and marked as stated

Note:

The GPF prefers not to receive bids by post, and takes no responsibility for delays in the postal system or in transit within or between GPF offices.

Where bids are sent per fax, the GPF takes no responsibility for difficulties in transmission caused by line or equipment faults.

Where bids are sent via courier, the GPF takes no responsibility for bids delivered to any other site than the bid office.

GPF employees are not permitted to deposit a bid into the GPF's bid box on behalf of a bidder, except those lodged by post or courier.

- Closing time** 26 Ensure that the GPF has received the bid at the address and in the bid box no later than the *deadline for bid submission*. Proof of posting will not be taken by the GPF as proof of delivery. The GPF will not accept a bid submitted telephonically, e-mail or by telegraph unless stated otherwise in the Bid Data.
- 27 Accept that, if the GPF extends the *deadline for bid submission* for any reason, the requirements of these Conditions of Bid apply equally to the extended deadline.
- Bid validity** 28 Hold the bid(s) valid for acceptance by the GPF at any time within the *validity period* after the *deadline for bid submission*.
- 29 Extend the *validity period* for a specified additional period if the GPF requests the *bidder* to extend it. A *bidder* agreeing to the request will not be required or permitted to modify a bid, except to the extent the GPF may allow for the effects of inflation over the additional period.
- Clarification of bid after submission** 30 Provide, on request from the GPF's *Representative* during the evaluation of bids, any other material that has a bearing on the bid, the bidder's commercial position (including notarised joint venture agreements), preferencing arrangements or samples of materials, considered necessary by the GPF for the purpose of a full and fair risk assessment. This may include providing a breakdown of rates or Prices. No change in the total of the Prices or substance of the bid is sought, offered, or permitted except as required by the GPF's

Representative to confirm the correction of arithmetical errors discovered in the evaluation of bids. The total of the Prices stated by the *bidder* as corrected by the GPF's *Representative* with the concurrence of the *bidder*, shall be binding upon the *bidder*

- Submit bonds, policies etc.** 31 If instructed by the GPF's *Representative* (before the formation of a contract), submit for the GPF's acceptance, the bonds, guarantees, policies and certificates of insurance required to be provided by the successful *bidder* in terms of the *conditions of contract*.
- 32 Undertake to check the final draft of the contract provided by GPF's *Representative*, and sign the Form of Agreement all within the time required by these Conditions of Bid.
- 33 Where an agent on behalf of a principal submits a bid, an authenticated copy of the authority to act as an agent must be submitted with the bid.
- Fulfil BEE requirements** 34 Comply with GPF's requirements regarding BBBEE.

8. 3 THE GPF'S UNDERTAKINGS

GPF's *Representative*, shall:

- Respond to clarification** 1 Respond to a request for clarification received earlier than the *closing time for clarification of queries*. The response is notified to all *bidders*.
- Issue Addenda** 2 If necessary, issue Addenda that may amend, amplify, or add to the *bid documents*, to each *bidder*. If a *bidders* applies for an extension to the *deadline for bid submission*, in order to take Addenda into account

in preparing a bid, the GPF may grant such an extension and GPF's *Representative* shall notify the extension to all *bidders*.

- | | | |
|----------------------------|---|--|
| Return late bids | 3 | Return bids received after the <i>deadline for bid submission</i> unopened to the <i>bidder</i> submitting a late bid. Bids will be deemed late if they are not on the designated fax or in the designated bid box at the date and time stipulated as the deadline for bid submission. |
| Bid opening | 4 | Open the bids in the presence of the <i>bidders'</i> representatives who choose to attend at the time and place stated in the Bid Data. Bids for which an acceptable notice of withdrawal has been submitted will not be opened. |
| | 5 | Announce at the opening the name of each <i>bidder</i> only. Die unsuccessful bidder may request a debriefing meeting with the Supply Chain Manager on request. |
| Two-envelope system | 6 | Where stated in the bid data that a two-envelope system is to be followed, open only the technical proposals in the presence of bidder's representatives and announce the name of each bid. |
| | 7 | Evaluate the quality of the technical proposals, then advise bidders who remain in contention for the award of the contract. Return unopened financial proposals to bidders whose technical proposals failed to achieve the minimum criteria. |
| Non-disclosure | 8 | Not disclose to <i>bidders</i> , or to any other person not officially concerned with such processes, information relating to the evaluation and comparison of bids and recommendations for the award of a contract, until after the award of the contract to the successful bidder. |

Grounds for rejection	9	Consider rejecting a bid if there is any effort by a <i>bidder</i> to influence the processing of bids or contract award.
Disqualification	10	Instantly disqualify a <i>bidder</i> (and his bid) if it is established that the <i>bidder</i> offered an inducement to any person with a view to influencing the placing of a contract arising from this invitation to bid.
Test for responsiveness	11	Determine before detailed evaluation, whether each bid properly received <ul style="list-style-type: none"> • meets the requirements of these Conditions of Bid, • has been properly signed, and • is responsive to the requirements of the <i>bid documents</i>.
	12	Judge a <i>responsive bid</i> as one which conforms to all the terms, conditions, and specifications of the <i>bid documents</i> without material deviation or qualification. A material deviation or qualification is one which, in the GPF's opinion would <ul style="list-style-type: none"> • detrimentally affect the scope, quality, or performance of the works, services or supply identified in the Contract Data, • change the GPF's or the <i>bidder's</i> risks and responsibilities under the contract, or • affect the competitive position of other <i>bidders</i> presenting responsive bids, if it were to be rectified.
Non-responsive bids	13	Reject a non-responsive bid, and not allow it to be subsequently made responsive by correction or withdrawal of the non-conforming deviation or reservation.
Arithmetical errors	14	Check responsive bids for arithmetical errors, correcting them as follows: <ul style="list-style-type: none"> • Where there is a discrepancy between the amounts in figures and in words, the amount in words shall govern. • If a bill of quantities applies and there is a discrepancy between

the rate and the line item total, resulting from multiplying the rate by the quantity, the rate as quoted shall govern. Where there is an obviously gross misplacement of the decimal point in the rate, the line item total as quoted shall govern, and the rate will be corrected.

- Where there is an error in the total of the Prices, either as a result of other corrections required by this checking process or in the *bidder's* addition of prices, the total of the Prices, if any, will be corrected.
- The corrected price will be communicated to the bidder. The bidder may withdraw the bid, but may not change the bid price.

15 Reject a bid if the *bidder* does not accept the corrected total of the Prices (if any).

**Evaluating
the bid**

16 Evaluate responsive bids in accordance with the *procedure and criteria* stated in the Bid Data. The evaluated bid price will be disclosed only to the relevant GPF bid committee and will not be disclosed to *bidders* or any other person.

**Clarification
of a bid**

17 Obtain from a *bidder* clarification of any matter in the bid which may not be clear or could give rise to ambiguity in a contract arising from this bid if the matter were not to be clarified.

**Acceptance
of bid**

18 Notify GPF's acceptance to the successful *bidder* before the expiry of the *validity period*, or agreed additional period. Providing the notice of acceptance does not contain any qualifying statements, it will constitute the formation of a contract between the GPF and the successful *bidder*.

**Notice to
unsuccessful
bidders**

19 After the successful *bidder* has acknowledged the GPF's notice of acceptance, notify other *bidders* that their bids have not been accepted, following the GPF's current procedures.

Prepare contract documents	20	<p>Revise the contract documents issued by the GPF as part of the <i>bid documents</i> to take account of</p> <ul style="list-style-type: none"> • Addenda issued during the bid period, • inclusion of some of the <i>bid returnables</i>, and • other revisions agreed between the GPF and the successful <i>bidder</i>, before the issue of the GPF's notice of acceptance (of the bid). • The schedule of deviations attached to the form of offer and acceptance, if any.
Issue final contract	21	<p>Issue the final contract documents to the successful <i>bidder</i> for acceptance within one week of the date of the GPF's notice of acceptance.</p>
Sign Form of Agreement	22	<p>Arrange for authorised signatories of both parties to complete and sign the original and one copy of the Form of Agreement within two weeks of the date of the GPF's notice of acceptance of the bid. If either party requires the signatories to initial every page of the contract documents, the signatories for the other party comply with the request.</p>
Complete Adjudicator's Contract	23	<p>Unless alternative arrangements have been agreed, arrange for both parties to complete and sign the Form of Agreement and Contract Data with the selected adjudicator.</p>
Provide copies of the contracts	24	<p>Provide to the successful <i>bidder</i> the number of copies stated in the Bid Data of the signed copy of the contracts within three weeks of the date of the GPF's acceptance of the bid.</p>

ANNEXURE 5



**GOVERNMENT PROCUREMENT
GENERAL CONDITIONS OF CONTRACT**

TABLE OF CLAUSES

1. Definitions
2. Application
3. General
4. Standards
5. Use of contract documents and information; inspection
6. Patent rights
7. Performance security
8. Inspections, tests and analysis
9. Packing
10. Delivery and documents
11. Insurance
12. Transportation
13. Incidental services
14. Spare parts
15. Warranty
16. Payment
17. Prices
18. Contract amendments
19. Assignment
20. Subcontracts
21. Delays in the supplier's performance
22. Penalties
23. Termination for default
24. Dumping and countervailing duties
25. Force Majeure
26. Termination for insolvency
27. Settlement of disputes

28. Limitation of liability
29. Governing language
30. Applicable law
31. Notices
32. Taxes and duties
33. National Industrial Participation Programme (NIPP)
34. Prohibition of restrictive practices

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

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 analysed 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 fulfilment of other obligations stipulated in the contract.

16.3. Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.

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

17. Prices

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

18. Contract amendments

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

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

22. Penalties

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

33.1. The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.

34. Prohibition of Restrictive practices

34.1. In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted

practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).

34.2. If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.

34.3. If a bidder(s) or contractor(s), has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.

ANNEXURE 6



**GAUTENG
PARTNERSHIP
FUND**

TO THE GPF

PROTECTION OF PERSONAL INFORMATION ACT, 4 OF 2013

By signing this referral form;

- a) I/we hereby grant my/our voluntary consent that my/our personal information may be processed, collected, used and disclosed in compliance with the Protection of Personal Information Act, 4 of 2013.
- b) I/we furthermore agree that my/our personal information may be used for the lawful and reasonable purposes in as far as the GPF (responsible party) must use my/our information in the performance of its public legal duty.
- c) I/we understand that my/our personal information may be disclosed to a third party in as far as the GPF must fulfil its public legal duty.
- d) I/we furthermore understand that there are instances in terms of abovementioned Act where my express consent is not necessary to permit the processing of personal information, which may be related to litigation or when the information is publicly available. Further details are available on the GPF website.

SIGNED AT _____ ON THIS _____ DAY OF _____ 2022

COMPANY NAME: _____

INITIAL AND SURNAME OF REPRESENTATIVE OF THE COMPANY: _____

SIGNATURE OF REPRESENTATIVE OF THE COMPANY: _____

COMMITMENT /UNDERTAKING

Bidders undertakes or commit to comply with the following below;

This information must be submitted prior to the signing of the Service Level Agreement (SLA)

No	Description
1.	The service provider undertakes to familiarise itself and comply with the Protection of Personal Information Act (POPIA), 2013

Bidder's signature :.....