Reg Name: Postbank (SOC) Ltd
Registration number: 2017/177755/30
NPC Building, Jeff Masemola Street, Pretoria, 0002: PO Box 10 000, Pretoria, 0001

REQUEST FOR BIDS/PROPOSALS

RFB/P REF. NO:	**04/09/26-27**
DESCRIPTION	**Provision of a Postbank Cloud-Ready Contact Centre Solution and Managed Services for a period of Five (5)-Years.**
RFB/P ISSUING DATE	24 November 2026
RFB/P CLOSING DETAILS	Date: 15 January 2027 Time: 11:00
RFB/P SUBMISSION ADDRESS	RFP@PostBank.co.za
RFB/P VALIDITY PERIOD	**180 Days** from the Closing Date
ENQUIRIES CLOSING DATE	Lihle Cindi: Lihle.Cindi@postbank.co.za RFP@postbank.co.za 04 December 2026 @ 11:00

PART A
INVITATION TO BID
SBD1

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (*NAME OF DEPARTMENT/ PUBLIC ENTITY*)					
BID NUMBER:	**04/09/26-27**	CLOSING DATE:	15 JANUARY 2027	CLOSING TIME:	11H00am
DESCRIPTION	**Provision of a Postbank Cloud-Ready Contact Centre Solution and Managed Services for a period of Five (5)-Years**				

SUBMISSION OF BIDS					
SUBMISSION TO BE MADETO THE EMAIL ADDRESSES STIPULATED ON THE COVER PAGE					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:					
CONTACT PERSON	**LIHLE CINDI**				
E-MAIL ADDRESS	LIHLE.CINDI@POSTBANK.CO.ZA / RFP@POSTBANK.CO.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
1ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES OFFERED?	☐Yes ☐No [IF YES ENCLOSE PROOF]		**2**ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES OFFERED?	☐Yes ☐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, 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:

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SECTION 1

BIDDER'S DETAILS

1. Bidding structure

Indicate the type of bidding structure by marking with an 'X':	
Individual bidder	
Joint Venture	
Consortium	
Subcontractors	
If the bid is submitted as a Consortium or Joint Venture or Sub Contracting, list the members of such Consortium or Joint Venture and Sub Contractors below:	
1.	
2.	
3.	
4.	

1.2 Entity Directorship

No.	Director name	Identity number
1.		
2.		
3.		
4.		

1.3 Entity Ownership

Ownership Category	% of Ownership
Black or Historically Disadvantage Individual Owned	

I certify that the information furnished on this form is true and correct.
I further accept that, in addition to cancellation of a contract, action may be taken against me should this declaration prove to be false.

_____

Name of bidder (duly authorised)

_____

Signature of bidder

_____

Date

_____

Capacity under which this bid is signed

SECTION 2

BID TERMS OF REFERENCE

2. General rules and instructions

2.1 Precedence of documents

2.1.1 This RFB/P consists of a number of sections (see list). Where there is a contradiction in terms between the clauses, phrases, words, stipulations or terms and herein referred to generally as stipulations in this RFB/P and the stipulations in any other document attached hereto, or the RFB/P submitted hereto, the relevant stipulations in this RFB/P shall take precedence.

2.1.2 Where this RFB/P is silent on any matter, the relevant stipulations addressing such matter and which appear in the PPPFA shall take precedence. Bidders shall refrain from incorporating any additional stipulations in its proposal submitted in terms hereof other than in the form of a clearly marked recommendation that POSTBANK may in its sole discretion elect to import or to ignore. Any such inclusion shall not be used for any purpose of interpretation unless it has been so imported or acknowledged by POSTBANK.

2.1.3 It is acknowledged that all stipulations in the PPPFA are not equally applicable to all matters addressed in this RFB/P. It, however, remains the exclusive domain and election of POSTBANK as to which of these stipulations are applicable and to what extent. Bidders are hereby acknowledging that the decision of POSTBANK in this regard is final and binding. The onus to enquire and obtain clarity in this regard rests with the Bidder(s). The Bidder(s) shall take care to restrict its enquiries in this regard to the most reasonable interpretations required to ensure the necessary consensus.

2.2 Preferential procurement reform

2.2.1 POSTBANK supports B-BBEE as an essential ingredient of its business. In accordance with government policy, POSTBANK insists that the private sector demonstrates its commitment and track record to B-BBEE in the areas of ownership (shareholding), skills transfer, employment equity and procurement practices (SMME Development) etc.

2.2.2 POSTBANK shall apply the principles of the Preferential Procurement Policy Framework Act, (Act No. 5 of 2000) to this proposal read together with the Preferential Regulations, 2022.

2.3 Objection to brand specific requirements

2.3.1 Any bidder who has reasons to believe that the RFB/P specification is based on a specific brand must inform POSTBANK within seven (7) days after the publication of the RFB/P.

2.4 Instructions for submitting bids

2.4.1 Bid responses must be submitted to the email address as stipulated on the cover page

SECTION 3

3. Special Conditions of the Bid

3.1 POSTBANK shall not make upfront payment.

3.2 The preparation of response shall be made without obligation to acquire any of the items included in any bidder's proposal or to select any proposal.

3.3 POSTBANK may request written clarification regarding any aspect of this proposal. The bidders must supply the requested information in writing within the specified time frames after the request has been made, otherwise the proposal shall be disqualified.

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

3.5 By submitting a proposal in response to this RFB/P, the bidders accept the evaluation criteria as it stands.

3.6 Where applicable, POSTBANK reserves the right to conduct benchmarks on product/services offered during and after the evaluation.

3.7 Failure or neglect by either party to (at any time) enforce any of the provisions of this proposal shall not, in any manner, be construed to be a waiver of any of that party's right in that regard and in terms of this proposal. Such failure or neglect shall not, in any manner, affect the continued, unaltered validity of this proposal, or prejudice the right of that party to institute subsequent action.

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

3.9 This RFB/P is subject to Government Procurement: General Contract Conditions – July 2011, Special Contract Conditions and any other contract conditions to be finalised during contracting.

3.10 Late bids shall not be accepted.

SECTION 4

SPECIFICATION

1. Purpose

Postbank requires a modern contact centre solution that can improve customer service, reduce operational friction, support remote and hybrid operating models, and provide clear visibility of service quality. The solution must support voice and digital channels, intelligent routing, self-service, agent productivity, reporting, recording, security, compliance, and integration with Postbank systems. A cloud-native or cloud-hosted solution is preferred, and bidders may propose hosting on Postbank's existing AWS environment where this is technically suitable, cost-effective, secure and compliant.

2. Background and business need

Postbank's customers increasingly expect faster support, shorter waiting times, consistent service across channels, and better follow-through on queries. The current operating model must therefore be strengthened through a contact centre platform that can scale, record and analyse interactions, support agents with clear customer context, and provide management with reliable performance information.

The solution must help Postbank move from a mainly voice-led support model to a managed omnichannel service model. It must also allow Postbank to introduce improved self-service, better reporting, clearer accountability, and stronger control over customer information.

The solution must provide a single customer view and a unified customer interaction history across voice, email, SMS, WhatsApp, web chat, mobile-application chat and social-media channels. It must also provide workforce management, quality assurance, customer-feedback management and secure integration with Postbank banking and support systems.

3. Contract term and pricing requirement

Bidders must provide a complete five-year commercial proposal. Pricing must be clear enough for Postbank to understand the once-off implementation cost, recurring monthly costs, usage-based costs, support costs, training costs, number porting costs, professional services costs, cloud hosting costs, and any third-party licence or carrier charges.

Cost item	Bidder must provide
Implementation and migration	Fixed price for design, build, configuration, testing, migration and go-live support

Recurring platform/ service charges	Monthly and annual costs for the full five-year period
Usage-based costs	Inbound, outbound, toll-free, SMS, chat, email, WhatsApp/ social messaging, AI, analytics, recording storage and transcription usage charges
Telephony and number costs	Number rental, porting, Direct Inward Dialing (DID)/ toll-free charges, carrier charges and failover routing costs
Support and managed services	24x7 support options, incident response, service reviews, optimisation and health checks
Training and knowledge transfer	Administrator, supervisor, quality assurance and agent training costs
Five-year price hold	Bidders must state which prices are fixed for five years and which are variable. Any variable costs must be linked to a transparent index or published rate card

4. Hosting and cloud preference

The solution must be cloud-ready and suitable for a regulated banking environment. Postbank prefers a solution that can be hosted on, integrated with, or delivered through Postbank's existing AWS-aligned cloud strategy, provided this does not create unnecessary lock-in, security exposure, or non-compliance. Bidders may propose equivalent secure cloud, SaaS or hybrid hosting options, but must explain the reasons, risks, cost impact and integration approach.

The bidder must state the hosting location, data residency position, cloud region, support model and subcontractor arrangements.

Customer data, call recordings, transcripts and analytics data must be stored and processed in a manner that complies with POPIA, banking regulatory expectations and Postbank security policies.

The solution must support encryption in transit and at rest, role-based access control, multi-factor authentication, audit logging and secure integration with Postbank systems.

The bidder must provide a clear exit and data return plan to avoid vendor lock-in at the end of the contract.

The bidder must state and support the required client and administrative operating environments, including Windows 11, Windows Server, macOS, Linux, Android and iOS where applicable to the proposed solution.

5. Scope of services

The appointed service provider must provide the following services for the full five-year term:

Service area	Minimum requirement
Solution design	Assess Postbank's current contact centre environment, numbers, channels, call flows, agents, reporting needs and integration points
Build and configuration	Configure queues, routing rules, IVR menus, agent profiles, supervisor functions, quality processes, operating hours and escalation paths
Telephony services	Provide or integrate inbound and outbound voice, toll-free, Direct Inward Dialling, call transfer, call recording, failover routing and number porting
Digital channels	Support chat, email, SMS and WhatsApp and social messaging, with routing through the same service management layer
Self-service	Provide Interactive Voice Response, chatbot or voicebot capability for common customer journeys and reduce unnecessary agent hand-offs
Agent workspace	Provide a simple agent interface with customer context, call controls, scripts, knowledge support and follow-up tasks
Analytics and reporting	Provide real-time and historical dashboards for service levels, volumes, abandoned calls, answer times, agent performance, sentiment, quality and customer trends
Security and compliance	Implement controls for POPIA, customer confidentiality, audit logs, privileged access, data retention, call recording controls and secure system integration

Implementation support	Manage implementation, testing, migration, go-live, hypercare and knowledge transfer
Managed service	Provide ongoing support, service reviews, incident management, optimisation and reporting for the five-year term
Migration	Migrate, validate and reconcile historical call recordings, customer interaction history, user profiles and configuration data. The bidder must provide a migration strategy, source-to-target mapping, data-quality controls, test evidence, reconciliation results, rollback arrangements and formal Postbank sign-off.
Workforce management	Provide workforce forecasting, capacity planning, shift scheduling, adherence monitoring and agent-productivity reporting for multi-site, remote and hybrid operations.
Quality and customer feedback	Provide voice and screen recording, configurable evaluation forms, agent scorecards, coaching and feedback workflows, and Customer Satisfaction score (CSAT), NPS and Customer Effort Score (CES) surveys through SMS, email and WhatsApp.

6. Compliance & Standards

Requirement	Description
Omnichannel contact handling	The solution must allow customers to contact Postbank through voice and selected digital channels, with routing and reporting handled in a unified manner
Inbound and outbound voice	The solution must support inbound calls, outbound calls, campaign calls, call transfer, hold, consult, recording, callback and queue management
IVR and self-service	The solution must support configurable IVR menus, self-service journeys, speech or keypad input, multilingual prompts where required, and easy changes to call flows

Routing	The solution must support skills-based routing, priority routing, service-hour routing, overflow routing, escalation routing and routing based on customer or channel attributes
Agent productivity	Agents must have a single workspace or integrated desktop showing relevant customer context, scripts, guidance, interaction history and follow-up tasks
Quality management	Supervisors must be able to monitor calls, review recordings, score interactions, coach agents, and track quality trends
Recording and transcription	The solution must support call recording and, where proposed, transcription and post-contact summaries, with proper consent, redaction and retention controls
Reporting	The solution must provide real-time and historical reporting for operational, service, quality, compliance and executive reporting needs
Knowledge support	The solution should support agent guides, knowledge articles, scripted responses and controlled changes to approved service content
Customer feedback	The solution should support Customer Satisfaction Score CSAT/ Net Promoter Score (NPS) or equivalent customer feedback capability after interactions
Queue and callback management	Provide estimated wait times, customer callback, overflow management and multi-site queue controls
Customer authentication	Support secure customer authentication through IVR and assisted channels, including configurable step-up authentication and auditable authentication outcomes
Digital channels	Support WhatsApp, SMS, email, web chat, mobile-application chat and social-media integration, with a unified customer interaction History

Agent desktop	Provide softphone functionality, customer-profile screen-pop, case-management capability, knowledge-base access and configurable agent scripting
Workforce management	Provide workforce forecasting, capacity planning, shift scheduling, adherence monitoring and agent-productivity reporting
Quality management controls	Provide voice recording, screen recording, call-evaluation forms, agent scorecards and controlled coaching and feedback workflows
AI and automation	Provide AI chatbot and voicebot capability, sentiment analysis, speech analytics and automatic interaction summaries, subject to Postbank-approved security, privacy and human-oversight controls
Customer satisfaction	Support CSAT, NPS and CES surveys through SMS, email and WhatsApp
Operational and executive metrics	Provide wallboards and reporting for First Call Resolution (FCR), Average Handling Time (AHT), service levels, abandoned calls, queue times, agent performance and customer trends

7. Integration requirements

- The bidder must provide an integration design showing how the contact centre will connect securely to Postbank systems. The solution must avoid unnecessary direct production access and must use approved integration patterns.
- Integration with Postbank identity and access management for users, administrators and privileged roles.
- Integration with customer information sources, CRM or case management tools where available.
- Secure APIs for customer lookup, authentication support, case creation, ticket updates, interaction history and reporting feeds.
- Integration with reporting, data lake, audit logging or security monitoring platforms where required.
- Secure approach for sandbox, UAT and production environments.

- Clear data-flow diagrams showing customer data, recordings, transcripts, analytics data and system logs.

- All APIs, webhooks, event streams or connectors must be documented and supported for the term of the contract.

- The solution must integrate, through approved and documented interfaces, with the core banking system, CRM or case-management platforms, service-desk or incident-management solutions, identity-management services, Active Directory, email platforms, SMS gateways, WhatsApp Business, digital-banking platforms, the mobile-banking application, USSD and customer-feedback platforms.

- The bidder must demonstrate that integration failures are monitored, alerted, retried where appropriate and reconciled, and that failed or partial transactions cannot result in silent loss of customer requests or service records.

8. Current telephone lines and number ownership

Postbank will not allow customer-facing numbers to become controlled by the service provider. The preferred position is that Postbank must own, control or have clear contractual rights over all customer-facing numbers used for the contact centre, including toll-free, DID and campaign numbers.

The bidder who makes it to the final stage of the process will be required to assess the current call centre lines during discovery and propose either a controlled migration, number porting, parallel run or integration approach. Postbank should not be forced to change numbers unless there is a clear business reason, approved migration plan and customer communication plan.

Number requirement	Minimum response required from bidder
Inventory	Confirm how existing Postbank numbers, toll-free numbers, DID ranges and outbound caller IDs will be discovered and documented
Ownership	Confirm that Postbank will retain ownership, control or enforceable right of use over all customer-facing numbers
Porting	Provide number porting plan, timelines, dependencies, risks, downtime controls and costs
Continuity	Provide parallel-run and rollback plan to avoid service disruption during migration

New numbers	Any new numbers must be registered, managed and transferable in a way that protects Postbank at contract exit
Exit	Confirm that all numbers can be transferred, ported or released to Postbank or Postbank's replacement provider at no unreasonable cost

9. Security, privacy and compliance

- Comply with POPIA, Postbank information security policies, banking confidentiality requirements and all applicable South African laws.
- Encrypt all customer information, recordings, transcripts, logs and configuration data in transit and at rest.
- Apply least-privilege access, role-based access control, privileged access monitoring and multi-factor authentication.
- Provide auditable logs for administrative actions, agent activity, configuration changes, access to recordings and access to reports.
- Support data redaction or masking for sensitive information in recordings, transcripts and reports where technically feasible.
- Define retention periods, archiving rules, deletion procedures and legal-hold procedures for recordings and transcripts.
- Declare all subcontractors, cloud providers, carrier providers and support locations.
- Provide security certifications, compliance reports, penetration test summaries or equivalent assurance evidence relevant to the proposed solution.
- Provide incident and breach notification procedures, including timeframes, escalation paths and evidence preservation.
- Support Single Sign-On (SSO) through Postbank-approved identity services and enforce segregation of duties for administrative, supervisory, quality-assurance and agent roles.
- Comply with PCI DSS requirements where cardholder data or authentication data may be handled, displayed, recorded or transmitted. The solution must support pause-and-resume recording, masking or equivalent controls to prevent sensitive card data from being retained in call recordings, screen recordings, transcripts or logs.
- Administrative and privileged activity must be individually attributable, logged, monitored and retained in accordance with Postbank requirements. Direct vendor

access to production must be time-bound, approved, monitored and auditable.

10. Availability, resilience and disaster recovery

- The solution must be designed for high availability and must avoid a single point of failure for customer-facing services.
- The bidder must provide target availability, recovery time objective, recovery point objective and failover arrangements.
- The solution must support business continuity during carrier failure, cloud service failure, site failure, network disruption or agent location disruption.
- The bidder must provide annual DR testing support and evidence of resilience testing.
- The bidder must provide monitoring, alerting and incident management reports.
- The solution must support at least 500 concurrent agents and 2,000 concurrent calls, with a documented approach to horizontal scaling, capacity monitoring, threshold alerting and demand-driven expansion.
- The minimum target availability is 99.95% per month for the production service, excluding only Postbank-approved planned maintenance.
- The proposed disaster-recovery capability must achieve an RTO of less than four (4) hours and an RPO of less than fifteen (15) minutes, and must be validated through annual failover and recovery testing.
- The bidder must demonstrate automated failover, backup and restore capability and the ability to maintain service during carrier, cloud, site, network or agent-location disruption.

11. Service levels and performance management

The final SLA must include measurable service targets. Bidders must propose minimum service levels for the following:

SLA area	Expected bidder response
Platform availability	Monthly availability target and exclusions
Incident response	Priority definitions, response time, resolution targets and escalation paths
Voice quality	Quality monitoring, packet loss/jitter approach and service credits where applicable.

Reporting	Timeframes for daily, weekly, monthly and executive reporting
Change management	Lead times and approval process for call flow, routing, queue and prompt changes
Support	Support hours, channels, account management, health checks and service reviews
Penalty/ service credit	Proposed service credits or remedies for repeated failure
Priority 1 – Critical	Initial response within 15 minutes. The bidder must propose a restoration or workaround target not exceeding 30 minutes and provide continuous updates until service restoration
Priority 2 – High	Initial response within 30 minutes and restoration or workaround within one (1) hour
Priority 3 – Medium	Initial response and resolution targets must be stated and must not exceed four (4) hours for restoration or workaround unless Postbank approves otherwise
Priority 4 – Low	Initial response within 24 hours and resolution within one (1) business day, unless an agreed service-request fulfilment target applies
Call setup performance	Target call setup time below two (2) seconds under agreed normal operating conditions, with measurement methodology and exclusions defined

12. Implementation approach

Bidders must provide a practical implementation plan covering:

- Discovery and current-state assessment.
- Target architecture and design sign-off.
- Number inventory, number porting and carrier readiness.
- Contact flow, queue, IVR and channel configuration.
- Integration build and testing.
- Security review, access model and compliance readiness.

- User acceptance testing and operational readiness.
- Data migration, reporting setup and dashboard configuration.
- Migration of historical recordings, customer interaction history, user profiles and configuration data, including reconciliation and formal acceptance.
- Performance, load, volume and concurrency testing against the minimum scale requirements before production go-live.
- A parallel-run, rollback and business-continuity plan covering telephony, numbers, channels, integrations, recordings and reporting.
- Training for agents, supervisors, administrators and support teams.
- Go-live, hypercare, stabilisation and handover

13. Deliverables

Deliverable	Description
Project initiation pack	Project plan, governance structure, RAID log, resource plan and communication plan
Solution design document	Architecture, data flows, integrations, security model, environments and hosting design
Number migration plan	Existing number inventory, porting plan, routing plan, fallback plan and costs
Configured contact centre	Queues, routing, IVR, channels, agent profiles, supervisor functions and reports configured
Security and compliance pack	Security controls, access matrix, audit logs, POPIA controls, retention controls and assurance evidence
Testing evidence	SIT, UAT, failover, security and performance test results
Training material	Role-based training guides and completed training register

Operational handover pack	Runbooks, support model, escalation matrix, monitoring, SLAs and maintenance plan
Five-year cost model	Detailed cost schedule by year, including all recurring, once-off, usage and optional charges
Migration and reconciliation pack	Approved migration strategy, source-to-target mapping, migrated historical recordings and interaction data, user-profile and configuration migration, reconciliation results, exceptions, rollback evidence and Postbank sign-off
Capacity and performance evidence	Load, stress, concurrency and call-setup test results demonstrating support for at least 500 concurrent agents, 2,000 concurrent calls and agreed performance thresholds
Workforce and quality configuration pack	Forecasting, capacity-planning, scheduling, adherence, quality-evaluation, scorecard, coaching and customer-feedback configurations and operating procedures
Knowledge-transferand capability plan	Administrator, supervisor, quality-assurance, agent and technical-support training; train-the-trainer sessions; electronic user guides; reporting, log-analysis, incident-analysis and configuration-management training

14. Bidder response format

Bidders are required to submit the information listed below as part of their proposal, either as attachments or incorporated within the proposal document. All documents and sections must be clearly labelled, appropriately titled, and organised in the order specified to facilitate the evaluation process.

Each bidder must submit must tick below if the document is attached in their response:

No	**Document Required**	**Bidders to tick (√) if document is included in proposal submitted.**

	Executive summary of the proposed solution.	
	Detailed compliance matrix against this specification.	
	Architecture and hosting model, including whether AWS hosting or AWS integration is proposed.	
	Implementation plan and timelines.	
	Security, privacy and compliance response.	
	Service level and managed support proposal.	
	Number migration and ownership proposal.	
	Five-year pricing schedule.	
	Key personnel profiles and role allocation.	
	Relevant banking, public sector or regulated-industry references.	
	Subcontractor and third-party dependency declaration.	
	Exit and transition plan.	
	Completed mandatory compliance matrix, with a clear Yes/No response and supporting evidence reference for each mandatory requirement.	
	Proof that the bidder is the solution OEM or an accredited/certified implementation and support partner. Where the bidder is not the OEM, an OEM accreditation letter on the OEM's letterhead must be provided.	
	A minimum of three (3) signed client reference letters, on client letterhead, for comparable cloud-based contact centre solutions implemented and supported during the preceding three (3) years.	
	Detailed training and knowledge-transfer plan covering administrators, supervisors, quality-assurance personnel, agents and technical-support staff, including train-the-trainer sessions and electronic user guides.	

15. Bid Evaluation and scoring methodology

This bid will use a four-phase evaluation: first, a mandatory compliance gate against all non-negotiable requirements; second, a weighted functionality assessment scored on a common 0 – 100 points evidence scale. Only bids that pass the mandatory gate and achieve the minimum functionality threshold should proceed to the third phase of demonstrations/ due diligence for

validations and those that pass the validation stage will then proceed to the price and specific-goals evaluation.

The purpose of this section is to ensure that all responsive bids are evaluated consistently, transparently and against the same requirements.

Bidders must complete the tables below and provide exact evidence references. Postbank will evaluate only the submitted bid and any permissible clarification that does not alter the bid.

15.1. Evaluation phases

Phases	Evaluation	Method	Rule
1	Mandatory compliance	Pass / Fail	All mandatory requirements must be met.
2	Technical functionality and solution fitness	100 points	Bidder(s) are required to achieve a minimum of 70 points out of 100 points to proceed to **Phase 3** (Due Diligence)
3	Due Diligence	Validation Of bidder's proposed solution	Bidder(s) who have a minimum of 85 points out of 100 points will be evaluated further on **Phase 4** (Commercial)
4	Price and specific goals	**80/20**	**Phase 4 Commercial**

15.2 Phase 1: **Mandatory Requirements**

Bidders shall indicate compliance with each mandatory requirement by selecting Yes or No and provide supporting evidence or referencing the relevant section of their proposal. Failure to comply with any mandatory requirement may result in the bid being declared non-responsive.

Ref	Mandatory Requirement	Bidder Response (Yes/No)	Evidence Required	Bidder Reference Document/Page
M1	Executive summary of the proposed solution submitted		Executive summary document	
M2	Detailed compliance matrix submitted against all requirements contained in this specification.		Completed compliance matrix with cross-references.	
M3	Architecture and hosting model provided, including confirmation whether AWS hosting and/or AWS integration is proposed.		Architecture diagrams and hosting model.	
M4	Detailed implementation methodology, project plan and timelines submitted.		Project implementation plan with milestones.	
M5	Service Level Agreement (SLA) and managed support proposal submitted.		SLA and support model documentation.	
M6	Omnichannel capability		Omnichannel Capability functionality: Voice, WhatsApp, SMS, email, web/ mobile chat and social channels	
M7	Number migration and Ownership proposal submitted.		Number migration approach and ownership model.	

M8	Five (5)-year pricing schedule submitted, including all licensing, implementation, support and maintenance costs.		Detailed pricing schedule.	
M9	Key personnel profiles submitted, including proposed roles and responsibilities.		CVs and resource allocation matrix.	
M10	Relevant experience in banking, public sector or other regulated industries demonstrated.		The bidder has provided at least three (3) signed contactable client references where similar solution has been implemented.	
M11	Declaration of all subcontractors and third-party dependencies submitted.		Signed declaration.	
M12	Exit and transition plan submitted to ensure continuity and portability of the solution.		Exit and transition strategy document.	
M13	Mandatory compliance matrix completed with a clear Yes/No Response and supporting evidence reference for every mandatory requirement.		Completed mandatory compliance matrix.	

M14	Proof submitted that the bidder is the Original Equipment Manufacturer (OEM) oran accredited/certified implementation and support partner.		OEM certificate or signed accreditation/authorisation letter on the OEM company letterhead.	
M15	Detailed training and knowledge transfer plan submitted, covering administrators, supervisors, quality assurance personnel, agents, technical support staff, train-the-trainer sessions and electronic user guides		Training and knowledge transfer plan.	
M16	Bidder must clearly identify the proposed PCI DSS scope and demonstrate how the solution will support the organisation's PCI DSS compliance requirements, including appropriate controls for cardholder data, call recordings, agent desktops, integrations and data storage.		PCI DSS scope statement, data-flow diagrams, control mapping and supporting evidence.	
M17	Integration Capability		Integration architecture, interface/API documentation, integration examples and details of applicable dependencies and security controls.	

15.3 Phase 2: Functionality Requirements Criteria.

The bidders must demonstrate the required functionality, technical capability, security, resilience, implementation capability, managed service capability, cloud alignment and relevant experience as outlined in the Scope of Work.

The BEC will evaluate each criterion against the requirements and award the score corresponding to the level of compliance demonstrated.

A. Functional and Omnichannel Fit – 25 Points

Functional Criterion	Requirements	Assessment Focus	Score
Functional and omnichannel fit	The bidder must demonstrate capability across Voice / ACD / routing; IVR / self-service; digital channels; agent desktop; WFM / QA; reporting and analytics.		
		The bidder does not address the required functional and omnichannel capabilities, or the response is omitted, rejected or materially non-compliant.	0
		The bidder addresses some of the required capabilities, but there are major gaps and significant functionality, integration or operational dependencies remain.	5
		The bidder addresses a number of the required capabilities, but material gaps remain across the required omnichannel functionality.	10
		The bidder fully meets the requirements and demonstrates relevant additional value, improved capability or reduced risk, supported by evidence.	25
Maximum Score			**25**

B. Integration and Solution Architecture – 15 Points

Functional Criterion	Requirements	Assessment Focus	Score
Integration and Solution Architecture	The bidder must demonstrate capability in architecture, APIs, interoperability, monitoring, retry / Reconciliation, environment separation and extensibility.		
		The bidder does not provide an adequate architecture or integration response, or the response is materially non-compliant.	0
		The bidder addresses the required architecture and integration elements, but material gaps or dependencies remain.	6
		The bidder fully addresses the required architecture and integration requirements with a credible and adequately evidenced approach.	9
		The bidder exceeds the requirements by demonstrating additional integration capability, reduced technical risk or additional value, supported by evidence.	15
Maximum Score			**15**

C. Security, Privacy and Compliance – 15 Points

Functional Criterion	Requirements	Assessment Focus	Score
Security, Privacy and Compliance	The bidder must demonstrate capability covering POPIA, encryption, access controls, PCI DSS, auditability, incident handling and subcontractor transparency.		
		The bidder does not adequately address the required security, privacy or compliance requirements, or the response is materially non-compliant.	0
		The bidder addresses some requirements, but material security, privacy or compliance gaps remain.	6
		The bidder fully addresses the required security, privacy and compliance requirements with a credible approach and adequate evidence.	12
		The bidder exceeds the requirements by demonstrating additional integration capability, reduced technical risk or additional value, supported by evidence.	15
Maximum Score			**15**

D. Availability, Capacity and Resilience – 10 Points

Functional Criterion	Requirements	Assessment Focus	Score
Availability, Capacity and Resilience	The bidder must demonstrate capability covering capacity, scaling, 99.95% availability, HA, DR, RTO / RPO, monitoring and resilience.		
		The bidder does not adequately address availability, capacity or resilience requirements.	0
		Major gaps exist in availability, capacity, HA or DR capabilities, requiring material redesign or risk acceptance.	4
		The bidder fully addresses the required availability, capacity and resilience requirements with credible supporting evidence.	6
		The bidder exceeds the requirements through demonstrated additional resilience, scalability or reduced operational risk.	10
Maximum Score			**10**

E. Implementation, Migration and Testing – 12 Points

Functional Criterion	Requirements	Assessment Focus	Score

Implementation, Migration and Testing	The bidder must demonstrate capability covering discovery / design, porting, migration / reconciliation, SIT / UAT / security / load / failover		
	testing, go-live and hypercare.		
		The bidder does not provide an adequate implementation, migration or testing approach.	0
		The bidder addresses some implementation, migration and testingrequirements,but material gaps or dependencies remain.	4
		The bidder fully addresses the required implementation, migration and testing requirements with a credible approach and adequate evidence.	10
		The bidder exceeds the requirements through additional migration controls, testing capability, reduced implementation risk or additional value.	12
Maximum Score			**12**

F. Managed Service, SLAs and Continuous Improvement – 10 Points

Functional Criterion	Requirements	Assessment Focus	Score

Managed Service, SLAs and Continuous Improvement	The bidder must demonstrate capability covering 24x7 support, incident / restoration commitments, monitoring, service reviews, problem / change / capacity management and remedies.		
		The bidder does not adequately address the required managed service and SLA requirements.	0
		The bidder addresses some managed service requirements,but material gaps or dependencies remain.	5
		The bidder fully addresses the required managed service, SLA and continuous improvement requirements with a credible approach and adequate evidence.	10
Maximum Score			**10**

G. Cloud and Hosting Alignment – 5 Points

Functional Criterion	Requirements	Assessment Focus	Score
Cloud and Hosting Alignment	The bidder must demonstrate capability covering AWS alignment or justified equivalent, data residency, hosting / support model, portability and exit.		
		The bidder does not adequately address the required cloud and hosting requirements.	0

		The bidder partially addresses the cloud and hosting requirements, but material gaps or dependencies remain.	3
		The bidder exceeds the requirements through additional cloud capability, portability, reduced hosting risk or additional value	5
Maximum Score			**5**

H. Experience, Team and Knowledge Transfer – 8 Points

Functional Criterion	**Requirements**	**Assessment Focus**	**Score**
Experience, Team and Knowledge Transfer	The bidder must demonstrate relevant regulated-sector experience, references, key personnel / certifications, local delivery capability and training / knowledge transfer.		
		The bidder does not provide adequate evidence of relevant experience, team capability or knowledge transfer.	0
		The bidder provides some relevant experience and team capability, but material gaps or dependencies remain.	4
		The bidder fully meets the required experience, team and knowledge transfer requirements with credible supporting evidence.	8
Maximum Score			**8**

15.3.1 **Technical Evaluation Summary**

Ref	Technical Evaluation Criterion	Maximum Score
A	Functional and Omnichannel Fit	25
B	Integration and Solution Architecture	15
C	Security, Privacy and Compliance	15
D	Availability, Capacity and Resilience	10
E	Implementation, Migration and Testing	12
F	Managed Service, SLAs and Continuous Improvement	10
G	Cloud and Hosting Alignment	5
H	Experience, Team and Knowledge Transfer	8
TOTAL		**100 points**

15.4 Technical threshold and validation rules

- Minimum technical/functional score: 70/100.
- Failure of the mandatory gate, technical/functional means the bid does not proceed to due diligence, price and specific goals.
- Clarification may explain an existing response but may not improve or replace the bid after closing.

15.5 Phase 3 Due diligence

Due diligence will be conducted on bidders that meet the mandatory compliance and minimum technical/functional threshold. The purpose is to validate the information submitted in the technical proposal and confirm the bidder's ability to deliver the required solution and services.

Due Diligence Criterion	Requirement / Assessment Focus	Scoring	Maximum Points
Project Team and Key Personnel	Bidder must provide the proposed project team and demonstrate that the team has the required skills and experience.	**0 points:** Team not provided. **5 points:** Less than 50% of the required skills/experience demonstrated. **10 points**: 50%–74% of the required skills/experience demonstrated. **15 points:** 75%–99% of the required skills/experience demonstrated. **20 points**: 100% of the required skills/experience demonstrated,with relevant experience and qualifications.	**20**
Solution Demonstration	Biddermust demonstratethe proposed solution using the same demonstration script.	**0 points**: Solution not demonstrated. **5 points:** Less than 50% of the required functionality demonstrated. **10 points:** 50%–74% demonstrated. **15 points:** 75%–99% demonstrated. **20 points**: 100% of the Required functionality demonstrated.	**20**

Customer References	Bidder must provide references for similar implementations. References will be contacted to confirm deliveryand performance.	**0 points**:No valid references provided. **5 points:**1 valid reference confirmed. **10 points**:2 valid references confirmed. **15 points**:3 valid references confirmed. **20 points:** 4 or more valid references confirmed.	**20**
Technical Architecture Validation	Bidder must demonstrate and explain the proposed architecture, integrations, security, resilience,scalability and monitoring.	**0 points**: Architecture notdemonstrated. **5 points**: Less than 50% of the required technicalareas demonstrated. **10 points:** 50%–74% demonstrated. **15 points:** 75%–99% demonstrated. **20 points:** 100% of the required technical areas demonstrated.	**20**
Implementation and Support Readiness	Bidder must demonstrate its ability to implement, migrate, test,goliveand provideongoing support.	**0 points**: No implementation/support approach provided. **5 points**: Less than 50% of the required areas demonstrated. **10 points**: 50%–74% demonstrated. **15 points**: 75%–99% demonstrated. **20 points**: 100% of the Required areas demonstrated.	

15.6 Phase 4: Commercial (Price and Specific Goals Evaluation)

The evaluation for Price and Specific Goals shall be based on the 80/20 PPPFA principle and the points for evaluation criteria are as follows:

EVALUATION CRITERIA		POINTS
15.6.1	**PRICE**	**80**
15.6.2	**SPECIFIC GOALS**	**20**
	Specific Goals points allocation:	
	• Historically Disadvantaged Individuals/Company (51% and above)	8
	• Women (above 51% and above)	7
	• Disability (above 51% and above)	5

SECTION 5

PRICING SCHEDULE/COSTING MODEL

- The service provider/supplier is required to provide a full cost breakdown for each line item on an official company letterhead.
- The service provider/supplier is required to list all costs associated with the services listed above.
- All prices must be VAT inclusive (if VAT registered) and must be quoted in South African Rand (ZAR);
- No price changes will be accepted after official Purchase Order (PO) is issued.

No	Cost Item	Quantity	Year 1	Year 2	Year 3	Year 4	Year 5
1	Software / Contact Centre Licences						
2	Implementation & Configuration						
3	Integration Services						
4	Infrastructure / Cloud Hosting						
5	Telephony / SIP / Communication Costs						
6	Call Recording & Storage						
7	Training & Knowledge Transfer						
8	Support & Maintenance						
9	Hardware / Headsets / Wallboards						
10	Other Costs – Specify (in detail)						
	TOTAL COST EXCL. VAT						
	VAT @ 15%						
	TOTAL COST INCL. VAT						

The service provider warrants that the pricing quoted above is in line with the Specification and is free of any errors and omissions and that he/she is able to deliver the service on the quoted price

NAME OF DELEGATED SIGNATORY: .....……..

(PRINT) in his capacity of

DESIGNATION OF SIGNATORY: .....

(PRINT) who warrants his authority to sign on behalf of

SIGNATURE:.....

NAME OF BIDDER (COMPANY) : .....

DATE: .....…….

DECLARATION

I, _____, hereby declare that the information provided above is correct and that there is no mis

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**

2.2.1 If so, furnish particulars:

……

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

……

2.3 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.

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

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[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.

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

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

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

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

1. GENERAL CONDITIONS

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

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

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

a) The applicable preference point system for this tender is the 80/20 or 90/10 preference point system.

1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:
(a) Price; and
(b) Specific Goals.

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

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	80
SPECIFIC GOALS	20
Total points for Price and SPECIFIC GOALS	**100**

1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.

1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

2. DEFINITIONS

(a) **"tender"** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;

(b) **"price"** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;

(c) **"rand value"** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

(d) **"tender for income-generating contracts"** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and

(e) **"the Act"** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

3. FORMULA FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

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

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

80/20or90/10

$$\boldsymbol{Ps = 80\left(1 - \frac{Pt - P\,min}{P\,min}\right)} \text{ or } \boldsymbol{Ps = 90\left(1 - \frac{Pt - P\,min}{P\,min}\right)}$$

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

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

3.2.1. POINTS AWARDED FOR PRICE

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

80/20 or 90/10

$$\boldsymbol{Ps = 80\left(1 + \frac{Pt - P\,max}{P\,max}\right)} \text{ or } \boldsymbol{Ps = 90\left(1 + \frac{Pt - P\,max}{Pmax}\right)}$$

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

4. POINTS AWARDED FOR SPECIFIC GOALS

4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:

4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point

system applies, an organ of state must, in the tender documents, stipulate in the case of—

(a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or

(b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,

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

Table 1: Specific goals for the tender and points claimed are indicated per the table below.
(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.
***Note to tenderers: The tenderer must indicate how they claim points for each preference point system.*)**

The specific goals allocated points in terms of this tender	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (To be completed by the tenderer)
Historically Disadvantaged individuals (51% and above)	8	
Women (51% and above)	7	
Disabled (51% and above)	5	

DECLARATION WITH REGARD TO COMPANY/FIRM

4.3. Name of company/firm: ……
4.4. Company registration number: …….
4.5. TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
- One-person business/sole propriety
- Close corporation
- Public Company
- Personal Liability Company
- (Pty) Limited
- Non-Profit Company
- State Owned Company

[Tick applicable box]

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

i) The information furnished is true and correct;
ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;

iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –

(a) disqualify the person from the tendering process;
(b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
(c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
(d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
(e) forward the matter for criminal prosecution, if deemed necessary.

……..
SIGNATURE(S) OF TENDERER(S)

SURNAME AND NAME: ……
DATE:……

ADDRESS:……

……

……
……

SECTION 7

GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT – JULY 2011

NOTES

The purpose of this document is to:

(i) Draw special attention to certain general conditions applicable to government Bids, contracts and orders; and

(ii) To ensure that clients be familiar with regard to the rights and obligations of all parties involved in doing business with government.

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

 The GCC will form part of all bid documents and may not be amended.

 Special Conditions of Contract (SCC) relevant to a specific bid, should be compiled separately for every bid (if (applicable) and will supplement the GCC. Whenever there is a conflict, the provisions in the SCC shall prevail.

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 anything of value to influence the action of a public official in the procurement process or in contract execution.

1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.

1.6 "Country of origin" means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing,

processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.

1.7 “Day” means calendar day.

1.8 “Delivery” means delivery in compliance of the conditions of the contract or order.

1.9 “Delivery ex stock” means immediate delivery directly from stock actually on hand.

1.10 “Delivery into consignees store or to his site” means delivered and unloaded in the specified store or depot or on the specified site in compliance with the 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 organisation purchasing the goods.

1.22 "Republic" means the RSA.

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, SCC are also laid down to cover specific supplies, services or works.

2.3 Where such SCC 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.

1 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:

7.3.1 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

7.3.2 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 organisation acting on behalf of the Department.

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

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

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

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

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

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

9 Packing

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

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

10 Delivery and documents

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

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

11 Insurance

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

12 Transportation

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

13 Incidental services

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

13.1.1 performance or supervision of on-site assembly and/or commissioning of the supplied goods;

13.1.2 furnishing of tools required for assembly and/or maintenance of the supplied goods;

13.1.3 furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;

13.1.4 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

13.1.5 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:

14.1.1 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

14.1.2 in the event of termination of production of the spare parts:

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

14.1.2.2 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 authorised 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 contract if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.

21 **Delays in the supplier's performance**

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

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

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

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

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

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

22 Penalties

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

23.1.1 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;

23.1.2 if the Supplier fails to perform any other obligation(s) under the contract; or

23.1.3 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:

23.6.1 the name and address of the supplier and / or person restricted by the purchaser;

23.6.2 the date of commencement of the restriction

23.6.3 the period of restriction; and

23.6.4 the reasons for the restriction.

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

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

24 Anti-dumping and countervailing duties and rights

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

25 *Force majeure*

25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.

25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means

for performance not prevented by the force majeure event.

26 Termination for insolvency

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

27 Settlement of disputes

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

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

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

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

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

27.5.1 the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and

27.5.2 the purchaser shall pay the supplier any monies due the supplier.

28 Limitation of liability

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

28.1.1 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

28.1.2 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 SARSs.

33 National Industrial Participation (NIP) Programme

33.1 The NIP Programme administered by the DTI 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

The above General Conditions of Contract (GCC) are accepted by:

Name:	
Designation:	
Bidder:	
Signature:	
Date:	

Section 8
Postbank Master Service Agreement (MSA)

Respondents are required to also review the attached draft master service agreement (MSA) prior to submitting a proposal. As part of your RFP response, you must either:

1. Confirm unconditional acceptance of the draft MSA as written or,
2. Submit a complete MSA exceptions table detailing any proposed modifications, additions, or deletions along with your commercial/ legal rational and proposed alternative wording

The above Master Service Agreement (MSA) are accepted/ not accepted by:

Name:	
Designation:	
Bidder:	
Signature:	
Date:	

SOUTH AFRICAN POSTBANK SOC LIMITED
(Registration number: 2017/177755/30)

(A State-Owned Company duly incorporated in accordance with the **Postbank** Limited Act, 2010 (Act 9 of 2010) as read with the Companies Act, 71 of 2008, herein represented by _____in her capacity as Chief Executive Officer, who warrants that she is duly authorised).

(hereinafter referred to as "**Postbank**")

and

[■] (PTY) LTD
(Registration Number: 0000/**000000/07**)

(A Company incorporated in terms of the laws of South Africa, as amended, duly represented by _____in his/her capacity as **Director**, who warrants that he/she is duly authorised)

(hereinafter referred to as the **"Service Provider"**)

Initials: _____

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PREAMBLE

WHEREAS:

A. **Postbank** wishes to appoint the **Service Provider**, who wishes to accept such appointment, to provide the Services outlined with effect from the Commencement Date in terms of this Agreement.

B. The Parties record that this Agreement is intended to operate with any award letter issued by Postbank, the applicable RFx or request documents, the Service Provider's proposal, the approved pricing, any applicable Special Conditions of Contract and the National Treasury General Conditions of Contract as the contract pack governing the awarded Services.

C. The Parties further record that the purpose of this Agreement is to put the binding contractual framework in place at award stage, while allowing any later SLA, Service Schedule or interim commencement schedule to regulate operational performance, support and service-management matters without changing the approved award, scope or pricing unless expressly agreed in writing and approved in accordance with Postbank's procurement governance requirements.

D. The Parties to this Agreement are –

i. **Postbank:** The South African **Postbank** SOC Limited, a State-Owned Company duly incorporated in accordance with the **Postbank** Limited Act **9** of 2010 as read with the Companies Act **71** of 2008, with the registration number 2017/177755/30; and

ii. **Service Provider:** [■] (Pty) Ltd, a private company duly incorporated in accordance with the laws of the Republic of South Africa, with the registration number [■]

Initials: _____

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS

1.1 In this Agreement, unless otherwise stated or the context otherwise indicates, the abovementioned and under-mentioned words and expressions shall, when used in this Agreement, bear the following meanings:

1.1.1 **"Additional Term"** has the meaning given to it in clause 4.5~~4.2~~;

1.1.2 **"Agreement"** means this agreement, including all schedules and annexures (if any) hereto;

1.1.3 "Award Letter" means the written award or appointment letter issued by Postbank to the Service Provider in respect of the Services, including any written acceptance of that award by the Service Provider.

1.1.4 "Contract Pack" means this Agreement, the Award Letter, the applicable RFx or request documents, the Service Provider's proposal, the approved pricing, any applicable Special Conditions of Contract, the National Treasury General Conditions of Contract, and any Service Schedule, SLA or interim commencement schedule signed by the Parties.

1.1.5 **"Applicable Laws"** means any national (or provincial) legislation, statutes, ordinances and other laws and regulations and any by-laws of any legally constituted public authority, including but not limited to: (i) any applicable statute or proclamation or any delegated or subordinate legislation; (ii) any common law and any applicable judgment of a relevant court of law that is a binding precedent; and (iii) any regulation, rule, condition, direction, decision, notice, notification, guideline, code of practice, decree, circular, decision or other requirement, directive or order made by any regulatory authority or regulatory body or other legally constituted public authority (including any enforcement action, direction or fine made or levied) whether or not

Initials: _____

expressed to be legally binding; in each case in force at any time in any relevant jurisdiction;

1.1.6 **"Assigned Rights"** has the meaning given to it in clause 23.5~~23.5~~;

1.1.7 [**"B-BBEE"** means broad-based black economic empowerment with the meaning given to this term in the B-BBEE Act;

1.1.8 **"B-BBEE Act"** means the Broad-Based Black Economic Empowerment Act 53 of 2008 as amended from time to time;]

1.1.9 **"Business Day"** means any day from Monday to Friday excluding South African public holidays as defined in the Public Holidays Act No. 36 of 1994 (as amended);

1.1.10 **"Commencement Date"** means the date of signature of the last Party signing this Agreement;

1.1.11 **"Companies Act"** means the Companies Act 71 of 2008 including the regulations thereto, as amended from time to time;

1.1.12 **"Competition Act"** means the Competition Act No. 89 of 1998 including the regulations thereto, as amended from time to time;

1.1.13 **"Confidential Information"** means any and all information of a commercial and/or confidential nature (however recorded or preserved) (including Personal Information) disclosed by a Party to the other Party, whether before or after the Commencement Date, including but not limited to: (i) the existence and terms of this Agreement; (ii) any information that would be regarded as confidential by a reasonable business person including but not limited to any information relating to: (a) the business, affairs, customers, clients, suppliers, plans, intentions, or market opportunities of the disclosing Party (or of any member of the group of companies to which the disclosing Party belongs); and (b) the operations, processes, product information, know-how, designs, trade secrets of the disclosing Party (or of any member of the group of companies to which the disclosing Party belongs); (iii) any information developed by

Initials: _____

the Parties in the course of carrying out this Agreement; and (iv) any other information that would be regarded as confidential by a reasonable business person;

1.1.14 **"Contact Person"** means [Mr/Ms [•]] (email address:) for **Postbank** and [Mr/Ms [•]] (email address:) for the **Service Provider;**

1.1.15 **"Contract Period"** means a period of (_____) Months from the Commencement Date and any further periods during which this Agreement may be extended in writing by the Parties from time to time;

1.1.16 **"Data Protection Laws"** means all Applicable Laws relating to privacy and data protection, including the Protection of Personal Information Act 4 of 2014, as amended, together with any regulations, codes of conduct or directions issued thereunder from time to time;

1.1.17 "Interim Commencement Schedule" means a short-written schedule signed by the Parties after award, but before full operational commencement, setting out the minimum operational, security, POPIA, confidentiality, performance, reporting, support, access and data-protection controls required for limited commencement of agreed activities pending finalisation of the full SLA or Service Schedule.

1.1.18 **"Eco-X"** means the platform-as-a-service (PaaS) instance used by the **Service Provider** for data integration, reconciliation and reporting purposes in connection with the Services];

1.1.19 **"Financial Year"** means a period of twelve (12) consecutive Months determined by an entity for accounting, financial reporting, and tax purposes, which may or may not coincide with the calendar year, and in the case of **Postbank** currently commences on 1 April of each year and ends on 31 March of the following year, or such other period as may be adopted by **Postbank** from time to time in accordance with Applicable Law;

1.1.20 **"Fraudulent Practices"** means: (i) any conduct that constitutes a transgression of the Public Procurement Framework or Postbank's policies relating to integrity,

transparency, accountability, and fairness in procurement of goods and services; (ii) any conduct that constitutes a transgression of PRECCA, including gratification in the procurement process or in the execution of the Agreement; or (iii) any conduct that constitutes a transgression of the Competition Act in the procurement process or in the execution of the Agreement;

1.1.21 **"Incidental Services"** has the meaning given to it in clause 12~~12~~;

1.1.22 **"Indemnified Parties"** has the meaning given to it in clause 10.1~~10.1~~;

1.1.23 **"Initial Term"** has the meaning given to it in clause 4.1~~4.1~~;

1.1.24 **"Intellectual Property"** means all and any intellectual property of any kind including, without limitation, all and any creations of the mind that are recognised and/or capable of being protected by law from use by any other person, and all rights resulting from or attributable to such intellectual activity, whether acquired or protected by statute or common law and whether in terms of Applicable Laws in South Africa and/or any other jurisdiction, and including (without limitation): trademarks, service marks, trade and business names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, copyright (including, without limitation, copyright in computer software, computer programs and data bases) and related rights, domain names, designs (including registered designs), patents, petty patents, utility models, topography rights and like rights (including applications for the grant of any of the aforementioned) inventions, know-how, show-how, confidential information, trade secrets, data base rights, and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all rights or forms of protection having similar or equivalent or similar effect to any of the aforementioned, which may subsist in any country in the world;

1.1.25 **"Month"** means a calendar month;

1.1.26 **"Moral Rights"** has the meaning given to it in clause 23.6~~23.6~~;

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1.1.27 **"Parties"** means the **Postbank** and the **Service Provider** and **"Party"** means either of them as the context requires;

1.1.28 **"Personal Information"** means any information relating to an identifiable, living, natural person, and where it is applicable, an existing, juristic person, and has the meaning given in Data Protection Laws;

1.1.29 "**Operational Commencement Date**" means the date on which Postbank confirms in writing that the Service Provider may commence live or production service delivery after the Parties have signed the applicable SLA, Service Schedule or Interim Commencement Schedule.

1.1.30 "**Project Initiation Activities**" means non-production planning and mobilisation activities after acceptance of the Award Letter, including technical workshops, exchange of non-production API specifications, integration design, project planning, sandbox planning, resource planning, preparation of implementation documents and related readiness work. Project Initiation Activities exclude production system access, live integrations, processing of Postbank customer or biometric information, production configuration changes and operational service delivery.

1.1.31 **"PFMA"** means the Public Finance Management Act 1 of 1999, including the regulations thereto as amended from time to time;

1.1.32 **"Postbank IP"** has the meaning given to it in clause 23.12~~23.12~~;

1.1.33 **"Postbank"** has the meaning given to it on the cover page of this Agreement;

1.1.34 **"PRECCA"** means the Prevention and Combating of Corrupt Activities Act 12 of 2004, as amended from time to time;

1.1.35 **"Public Procurement Framework"** means any and every directive, guideline, framework or policy, from time to time in force and applies to Postbank and relates to: (a) improving compliance, accountability and transparency in providing or supplying goods or service to Postbank; (b) reduction in the abuse of the supply chain

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management system; and (c) ensuring that goods or services are supplied to Postbank in a manner that ensures value for money, including but not limited to the PFMA;

1.1.36 **"SAP"** means systems applications and products;

1.1.37 **"SASSA"** means the South African Social Security Agency;

1.1.38 **"Service Fee"** means the full and fixed amount payable to the **Service Provider** upon completion of all the **Service Provider's** obligations to provide the Services in accordance with this Agreement, being the amount set out in clause 7.1~~7.1~~;

1.1.39 **"Service Provider"** has the meaning given to it on the cover page of this Agreement;

1.1.40 **"Service Schedule"** means those Schedules as agreed to between **Postbank** and the **Service Provider** in respect of the Services to be rendered to **Postbank** which are from time to time incorporated into this Agreement and which Schedules will contain the details referred to in clause 5~~5~~;

1.1.41 "Service Level Agreement" or "SLA" means a written schedule or service-level document signed by the Parties that regulates operational performance, service levels, availability, support, reporting, escalation, incident management, security controls, remedies and service credits. An SLA may not vary the approved award, pricing or scope unless the variation is expressly agreed in writing by both Parties and approved by Postbank in accordance with the Public Procurement Framework.

1.1.42 **"Service Provider IP"** has the meaning given to it in clause 23.11~~23.11~~;

1.1.43 **"Services"** means the services to be provided by the **Service Provider** to **Postbank** namely,

_____the details of which are set out in Schedule 1 and in any Service Schedules incorporated into this Agreement from time to time, including any Incidental Services;

1.1.44 **"Systems"** means

1.1.45 **"Third Party Creators"** has the meaning given to it in clause 23.7~~23.7~~;

1.1.46 **"UBS"** means Oracle Universal Banking System;

1.1.47 **"VAT Act"** means the Value Added Tax Act 89 of 1991, including the regulations thereto, as amended from time to time;

1.1.48 **"VAT"** means value added tax in terms of the VAT Act, at the rate set out in that Act, or as it may be from time to time; and

1.1.49 **"Works"** means any and all outputs and deliverables created or developed by the **Service Provider** in the course of the provision of the Services to **Postbank**, including without limitation reports, work, inventions, improvements and developments.

1.2 Headings and sub-headings are inserted for information purposes only and shall not be used in the interpretation of this Agreement.

1.3 Unless the context clearly indicates a contrary intention, any word connoting:

1.3.1 the singular shall be deemed to include a reference to the plural and vice versa and a cognate word or expression will have a corresponding meaning;

1.3.2 any gender shall be deemed to include a reference to the other gender; and

1.3.3 a natural person shall be deemed to include a reference to a legal or juristic person.

1.4 The rule of interpretation that a written agreement shall be interpreted against the party responsible for the drafting or preparation of that agreement, shall not apply.

1.5 Where figures are referred to in numerals and in words and there is any conflict between the two, the words shall prevail.

1.6 Unless otherwise provided, any number of days prescribed will be determined by excluding the first and including the last day or, where the last day falls on a day that is

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not a Business Day, the next succeeding Business Day.

1.7 References to a statutory provision include any subordinate legislation made from time to time under that provision and references to a statutory provision include that provision as from time to time modified or re-enacted as far as such modification or re-enactment applies, or is capable of applying, to this Agreement or any transaction entered into in accordance with this Agreement.

1.8 If any provision in a definition is a substantive provision conferring any rights or imposing any obligations on any Party, then notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in this Agreement.

1.9 Expressions defined in this Agreement will bear the same meanings in the Schedules to this Agreement which do not themselves contain their own conflicting definitions.

1.10 The *eiusdem generis* rule shall not apply and accordingly, whenever a provision is followed by the word “including’ and specific examples, such examples shall not be construed so as to limit the ambit of the provision concerned.

2. STRUCTURE OF AGREEMENT

2.1 Agreement, schedules and annexures

2.1.1 This Agreement provides the terms applicable to the Services that the **Service Provider** will provide to **Postbank** under this Agreement.

2.1.2 The Agreement may be amended by way of the incorporation of schedules and annexures from time to time during the Contract Period.

2.1.3 The Parties agree that, where this Agreement is issued together with or following an Award Letter, the Award Letter and this Agreement create the binding appointment and contracting framework once accepted by the Service Provider, subject to the commencement restrictions set out in this Agreement.

2.1.4 A later SLA, Service Schedule or Interim Commencement Schedule shall regulate

operational performance and service management only. It shall not be used to change the approved scope, approved pricing, award conditions, risk allocation or procurement outcome unless the change is approved in writing by Postbank in accordance with the Public Procurement Framework.

2.1.5 Each appendix issued under a schedule or annexure shall specifically reference the schedule or annexure to which that appendix relates.

2.1.6 The **Service Provider** will provide the Services to **Postbank** subject to the terms and conditions of this Agreement generally and in particular subject to the terms and conditions set forth in the relevant Service Schedules.

2.2 In the event of any conflict or inconsistency between the documents forming part of this Agreement, the following order of precedence shall apply:

2.2.1 the body of this Agreement;

2.2.2 any Service Schedule, but only to the extent that such Service Schedule expressly overrides a named provision of the body of this Agreement and is countersigned by an authorised representative of **Postbank**; and

2.2.3 any other agreement between the Parties.

2.2.4 For purposes of operationalising an awarded service, the order of precedence shall be: first, the body of this Agreement; second, the Award Letter; third, the applicable Special Conditions of Contract and the National Treasury General Conditions of Contract; fourth, the RFx or request documents; fifth, the approved pricing; sixth, the Service Provider’s proposal to the extent accepted by Postbank; and seventh, any SLA, Service Schedule or Interim Commencement Schedule, except where such SLA, Service Schedule or Interim Commencement Schedule expressly overrides a named provision and is approved and signed by authorised representatives of both Parties.

2.2.5 No proposal wording, assumption, exclusion or later operational document shall

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reduce Postbank's rights, increase Postbank's cost, expand the scope, permit production access or permit processing of customer or biometric information unless expressly accepted in writing by Postbank.

2.3 The **Service Provider** undertakes to implement the relevant control mechanisms after the Commencement Date to ensure that all future agreements entered into between the Parties are concluded under and in terms of this Agreement and that they are not concluded as stand-alone agreements, unless specifically and expressly agreed as such by the Parties.

3. APPOINTMENT STATUS OF THE SERVICE PROVIDER

With effect from the Commencement Date, **Postbank** hereby appoints the **Service Provider**, who accepts such appointment, to provide the Services _____.

Upon written acceptance of the Award Letter and signature or acceptance of this Agreement, the Service Provider is contractually appointed for the awarded Services. The Service Provider may commence Project Initiation Activities from that point, provided that those activities do not involve operational service delivery, production access, live integration, processing of Postbank customer or biometric information, or production configuration changes.

The Service Provider may only commence operational service delivery, access Postbank production systems, process Postbank customer or biometric information, perform live integrations, make production configuration changes, or provide any live service from the Operational Commencement Date.

Nothing contained in this Agreement constitutes or is deemed to constitute a partnership or joint venture between the Parties. The **Service Provider** acknowledges and agrees

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that its status under this Agreement is that of an independent **Service Provider** and its status shall in no way be deemed to be that of an agent or employee for **Postbank**, for any purpose whatsoever, and the **Service Provider** shall have no authority or power to bind **Postbank** to contract in the name of Postbank, or create a liability against **Postbank** in any way or for whatsoever reason.

4. COMMENCEMENT AND DURATION

4.1 This Agreement shall commence on the Commencement Date and remain in force for a period of _____ Months.

4.2 (the **Initial Term**) unless terminated earlier in accordance with the relevant provisions of this Agreement.

4.3 For avoidance of doubt, the Commencement Date of this Agreement is not the same as the Operational Commencement Date. The Agreement may be binding, and the project may be mobilised while the SLA, Service Schedule or Interim Commencement Schedule is being finalised, but live or production activities may not start until the applicable operational safeguards have been signed.

4.4 During the period between the Commencement Date and the Operational Commencement Date, the Service Provider may only perform Project Initiation Activities and any other limited activities expressly approved in writing by Postbank.

4.5 Prior to the termination of the Initial Term or any Additional Term (as defined below), the Parties may agree in writing to extend the term of this Agreement for a period that does not exceed 12 (twelve) Months (**"Additional Term**").

4.6 For avoidance of doubt, Additional Term does not cover expansion or variation in the scope of work which may not be extended without written approval of Postbank and compliance with the Public Procurement Framework for expansion or variation of contracts.

4.7 In the event that this Agreement is terminated or expires, the **Service Provider** shall

ensure the proper handover of all data and processes to **Postbank** without disruption to Service continuity during the period from the date of the termination or expiry notice until the effective date of termination or expiry.

5. SCOPE OF SERVICES

5.1 The **Service Provider** is required to provide **Postbank** with the Services set out in **Schedule 1.**

5.2 The Service Provider is required to provide the Services at the service levels set out in this clause 55.

5.3 **Service Levels**

The **Service Provider** shall render the Services:

5.3.1 in accordance with the technical specifications and the engagement methodology specified by **Postbank** in the RFQ as well as any instructions that **Postbank** may issue to the **Service Provider** from time to time during the Contract Period;

5.3.2 to a standard of optimum quality with a short/reasonable turnaround time and high accuracy rate and in any event no later than such time period communicated to the **Service Provider** in writing by **Postbank** from time to time; and

5.3.3 in good faith, with promptness, diligence, in a skilful manner and in accordance with the practices and professional standards of operations performing services similar to the Services.

Service Provider Undertakings

The **Service Provider** undertakes at all times during the Contract Period that:

5.3.4 it shall maintain the necessary financial and technical capacity to provide the Services;

5.3.5 all hosting infrastructure used in connection with the Services shall:

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5.3.5.1 be hosted within the Republic of South Africa, unless otherwise stated in writing;

5.3.5.2 comply with reasonable industry standards;

5.3.5.3 implement appropriate technical and organisation security measures consistent with Data Protection Laws;

5.3.5.4 maintain business continuity and disaster recovery capabilities proportionate to the Services;

5.3.6 it shall have all the rights in relation to the Services, Works, and **Service Provider** IP that are necessary to grant all the rights it purports to grant and perform all the obligations it agrees to perform under, and in accordance with, the terms of this Agreement;

5.3.7 it shall not (without the prior written consent of **Postbank**) incorporate any **Service Provider** IP into any Work;

5.3.8 unless otherwise agreed in a written, signed agreement by the Parties on a case-by-case basis, it shall ensure that all **Service Provider** IP incorporated into any Work will be subject to the licence under clause 23.1123.11 and that **Postbank** will not be required to enter into a separate licence with the **Service Provider** or any third party in relation thereto; and

5.3.9 it shall obtain and maintain assignments of the Works and Assigned Rights and Moral Rights waivers from all Third-Party Creators, which are aligned with those in clause 2323.

6. B-BBEE UNDERTAKINGS PREFERENTIAL PROCUREMENT POLICY

The Service Provider will comply with all B-BBEE undertakings or specific goals that are stipulated in the RFP/RFQ documents. Such requirements as stipulated in the RFP/RFQ documents shall be read as if specifically incorporated into this Agreement.

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7. PRICES AND PAYMENT

7.1 The full and fixed contract price under this Agreement shall be:

Description	**Amount in South African Rand (VAT exclusive)**
[Services] (___ Months costs)	[•]
Total cost (**Service Fee**):	[•]

7.2 The Service Fee shall be fixed for the Contract Period. No amount shall be payable for work outside the approved award, approved pricing or signed written instruction issued by Postbank. Any variation, expansion, additional service, consumption-based charge, rate-card change or recurring charge must be approved in writing by Postbank in accordance with the Public Procurement Framework before the Service Provider incurs or invoices such cost. The **Service Provider** will submit an invoice to **Postbank** on completion of specific Services. The invoice will contain the narration of the completed engagement tasks in terms of this Agreement. **Postbank**'s relevant business unit will inspect the tax invoice against the reports of the work claimed to be completed.

7.5 Should **Postbank**'s business unit be satisfied that the invoice is correct and complies with the necessary requirements as set out in the VAT Act and as required by the South African Revenue Service, the invoice will be submitted for payment within 30 (thirty) calendar days from receipt of the invoice.

7.6 The **Service Provider** shall ensure that it always supplies **Postbank** with a valid tax invoice setting out the engagement tasks completed and that all invoices submitted to **Postbank** reflect

Service Provider's banking details and

VAT number.

7.7 All payments of undisputed invoices will be made by **Postbank** into the **Service**

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Provider's nominated bank account, the details of which appear below. In the event that the **Service Provider**'s banking details change for any reason whatsoever, the **Service Provider** must immediately notify **Postbank** in writing of its new banking details.

Name of Bank:	
Name of Branch:	
Branch Code:	
Account Holder:	
Account Number:	
Type of Account:	

7.8 Any failure by the **Service Provider** to comply with the requirements in this clause 7~~7~~ may result in late payment of the total invoice amount. **Postbank** will not be held liable for any costs or losses incurred by the **Service Provider** as a result of such late payments or the provision of incorrect banking details or invoice amounts.

8. PENALTIES

8.1 If the **Service Provider** fails to deliver the Service in accordance with the service levels defined in the Agreement (including any applicable Service Schedule) **Postbank** shall be entitled to levy a penalty at any time during the Contract Period equal to 5 % of the total fees payable in respect of such Services in respect of which such default occurred (or such other percentage **Postbank** may impose, considering the circumstances surrounding the default) (**Penalty**).

8.2 The Penalty shall be paid by the **Services Provider** to the Purchaser in irrevocable and immediately available funds to Postbank's nominated account within ten (10) Business Days of the date of **Postbank** levying the Penalty.

8.3 The Parties acknowledge and agree that the Penalty constitutes a reasonable and appropriate sum to be levied by **Postbank** in the relevant circumstances, and that such

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amount would be fair and proportionate to any loss, damage or expense which may be suffered or otherwise incurred by Postbank as a result of the **Service Provider's** failure to deliver the Service in accordance with the service levels defined in the Agreement.

9. WARRANTIES

9.1 Each Party warrants to the other that:

9.1.1 it is duly incorporated or constituted, as the case may be, and validly existing under Applicable Law;

9.1.2 it has the power, authority and legal right to sign and perform all of its obligations under and in terms of this Agreement and that, where applicable, this Agreement has been duly authorised by all necessary actions and that it has taken all necessary corporate actions required to empower and authorise such Party to enter into this Agreement;

9.1.3 the entering into of this Agreement and the performance of its obligations hereunder do not and will not result in the violation of any of the terms and provisions of any constitutional document or agreement (written or oral) to which it is a party; and

9.1.4 the Agreement constitutes a legal and binding obligation on the Party enforceable in accordance with its terms.

9.2 The **Service Provider** warrants at all times during the Contract Period that:

9.2.1 it has the necessary financial and technical capacity to provide the Services;

9.2.2 it has all the rights in relation to the Services, Works, and **Service Provider** IP that are necessary to grant all the rights it purports to grant and perform all the obligations it agrees to perform under, and in accordance with, the terms of this Agreement;

9.2.3 it has not (without the prior written consent of **Postbank**) incorporated any **Service Provider** IP into any Work;

9.2.4 unless otherwise agreed in a written, signed agreement by the Parties on a case-by-

case basis, all **Service Provider** IP incorporated into any Work is subject to the licence under clause 23.1123.11 and the **Postbank** will not be required to enter into a separate licence with the **Service Provider** or any third party in relation thereto; and

9.2.5 the Service Provider has obtained and maintains assignments of the Works and Assigned Rights and Moral Rights waivers from all Third-Party Creators, which are aligned with those in clause 2323.

9.2.6 The **Service Provider** warrants that as at the Signature Date no litigation, arbitration, investigation or administrative proceeding is in progress or, to the best of the knowledge of the **Service Provider** having made all reasonable enquiries, threatened against it or to the best of its knowledge any of its sub-contractors, which is likely to have a material adverse effect on the ability of the **Service Provider** to render the Services. The **Service Provider** further warrants that it shall notify **Postbank** within 2 (two) Business Days if any litigation, arbitration, investigation or administrative proceeding is initiated or threatened against it or to the best of its knowledge any of its subcontractors, which is likely to have a material adverse effect on the ability of the **Service Provider** to render the Services.

10. INDEMNITIES

10.1 The **Service Provider** shall indemnify and hold harmless **Postbank**, its affiliates and each of their respective members, directors, officers, shareholders, employees, representatives and agents (collectively referred to as the "**Indemnified Parties**") against any and all liabilities, costs, expenses, damages and losses (including any and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by any Indemnified Party arising out of or in connection with any actual or alleged infringement of any third party's Intellectual Property rights arising out of or in connection with the receipt, possession, use and/or onward supply of any of the Services, Works, or **Service Provider** IP.

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10.2 Without prejudice to any of **Postbank**'s other rights or remedies, if any of the Services, Works, or **Service Provider** IP (in each case in whole or in part), or the receipt, possession, use and/or onward supply of any of these becomes or, in the opinion of qualified legal counsel, is likely to become, the subject of any claim contemplated in clause 10.1~~10.1~~, the **Service Provider** may (in each case without any additional charge to **Postbank**):

10.2.1 procure for **Postbank** the right to continue using all or part of the Services, Works, or **Service Provider** IP (as applicable) in accordance with the terms of this Agreement (including without limitation pricing and payment terms);

10.2.2 replace all or part of the Services, Works, or **Service Provider** IP (as applicable) with any functional equivalent; or

10.2.3 modify all or part of the Services, Works, or **Service Provider** IP (as applicable) as necessary to avoid such claim, provided that the same (as modified) functions in substantially the same way as it did before modification,

provided that if the **Service Provider** modifies or replaces all or part of the Services, Works, or **Service Provider** IP (as applicable), the modification or replacement must comply with the warranties relating to the Services, Works, or **Service Provider** IP (as applicable) contained in this Agreement *mutatis mutandis*.

10.3 This clause 910~~10~~ shall continue in force after termination or expiry of this Agreement and shall remain in full force and effect.

11. AUDIT OF SERVICE PROVIDER COMPLIANCE

The **Service Provider** shall be responsible for compliance with legal, regulatory and other requirements that are applicable to it. **Postbank** shall be entitled to conduct an audit of the **Service Provider**'s compliance with Applicable Law, **Postbank**'s policies pursuant to clause 14.2~~14.2~~ and other requirements applicable to **the Service Provider.** Any such audit shall be conducted during normal business hours of the **Service Provider** on

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reasonable notice.

12. INCIDENTAL SERVICES

In the event that **Postbank** requires the **Service Provider** to render additional services incidental to those referred to in this Agreement (**Incidental Services**), the Parties shall negotiate the terms and conditions of rendering such Incidental Services and amend this Agreement by incorporating the relevant Service Schedule setting out the details of the Incidental Services, the commencement date and termination date applicable to the rendering of such Incidental Services, and the associated fees payable by **Postbank**.

13. CONTACT PERSON

13.1 The work to be performed and the Services to be rendered by the **Service Provider** in terms of this Agreement will be supervised by the respective Parties' Contact Person identified in this Agreement.

13.2 The Contact Persons shall liaise and update each other on the progress of the Services and shall endeavour to resolve and remedy disputes that may arise in relation to the Services failing which such disputes pertaining to the Services shall be referred in accordance with clause 2222.

14. ACCESS

Postbank shall allow the **Service Provider** access to its premises, including access to IT systems, should the **Service Provider** require such access for the due performance of obligations in terms of this Agreement, provided that:

Before the Operational Commencement Date, any access granted to the Service Provider shall be limited to what is reasonably required for approved Project Initiation Activities and shall not include production system access, privileged access, live integration access, customer data access, biometric data access or configuration change authority unless expressly authorised under a signed SLA, Service Schedule or Interim Commencement

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Schedule.

Any production, privileged, customer-data or biometric-data access must be approved in writing by Postbank, recorded, time-bound, role-based, monitored and capable of audit.

14.1 such access is related to the **Service Provider's** obligations in terms of this Agreement; and

14.2 the **Service Provider** complies with all rules, laws, regulations and policies of **Postbank**.

15. CONFIDENTIALITY

15.1 The Parties acknowledge that during meetings with each other or exchanging documents or other information for the purposes of concluding and/or carrying out their obligations in terms of this Agreement, either Party may gain access to Confidential Information.

15.2 With the aforesaid in mind, the Parties hereby agree to:

15.2.1 hold and retain such Confidential Information in the strictest confidence and not to disclose such Confidential Information to any person whomsoever other than as may be required by law;

15.2.2 prevent any copying thereof by whatever method;

15.2.3 not to make use thereof other than for a purpose pertaining to this Agreement; and

15.2.4 release it only to properly authorised directors, employees or third parties requiring such Confidential Information for purposes pertaining to this Agreement.

15.3 The obligations under clause 15.2~~15.2~~ do not apply to information which:

15.3.1 is or becomes public other than through breach;

15.3.2 is lawfully received from a third party;

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15.3.3 is independently developed; or

15.3.4 is required to be disclosed by Applicable Law,

provided however that the provisions of this clause 1515 will at all times apply to any Intellectual Property provided or otherwise made available by or on behalf of **Postbank** and comprising Confidential Information, notwithstanding the circumstances or any disclosure permitted in relation to clause 15.3.115.3.1 to clause 15.3.415.3.4 (both inclusive), save that any disclosure required by Applicable Law itself will not constitute a breach of this Agreement if and to the extent made in accordance with Applicable Law.

15.4 In relation to the Intellectual Property comprising Confidential Information, the Parties agree that the provisions of this clause 1515 shall be subject to the provisions of clause 2323 and, in the event of any conflict, inconsistency or ambiguity, the provisions of clause 2323 will prevail.

16. DATA PROTECTION AND LEGAL COMPLIANCE

16.1 The Service Provider shall in carrying out its obligations under the Agreement comply with all relevant Applicable Laws including PRECCA and Public Procurement Framework.

16.2 In order to perform the obligations in terms of this Agreement, a Party may provide the other Party with, or give access to, Personal Information. In processing the Personal Information, the Parties acknowledge their respective obligations, and agree to fully comply with, applicable Data Protection Laws.

16.3 The Service Provider shall not process Postbank customer information, biometric information or any other Personal Information in a live or production context until the Parties have signed the applicable SLA, Service Schedule, data-processing terms or Interim Commencement Schedule that sets out the minimum safeguards required by Postbank and Data Protection Laws.

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16.4 The minimum safeguards must include, where applicable, processing instructions, purpose limitation, confidentiality, access control, security controls, breach notification, audit rights, sub-processor controls, retention, return and secure destruction requirements.

16.5 Where the **Service Provider** processes Personal Information on behalf of **Postbank** in the capacity of an operator, the **Service Provider** undertakes and agrees to:

16.5.1 follow and adhere to **Postbank**'s instructions and only process the Personal Information provided to it with the knowledge or authorisation of **Postbank** and only for the purpose for which the Personal Information was provided;

16.5.2 treat the Personal Information as Confidential Information and to not disclose it to any third party without the prior consent of **Postbank**, unless required by law;

16.5.3 restrict access to the Personal Information to employees or agents who are properly authorised to process the Personal Information in order to perform the Services and who are subject to appropriate confidentiality obligations;

16.5.4 ensure that all employees, agents and any third parties that process personal information on behalf of the **Service Provider** receive appropriate training on the Data Protection Laws and information security;

16.5.5 implement and maintain reasonable, appropriate technical and organisational measures to safeguard the security, integrity and confidentiality of the Personal Information provided and to prevent any loss of damage to, or unauthorised destruction of the Personal Information as well as unlawful access to the Personal Information;

16.5.6 conduct regular assessments to identify all reasonably foreseeable internal and external risks to the Personal Information and update and align the security measures with the risks identified;

16.5.7 not transfer, process or store Personal Information outside of South Africa unless the

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prior written consent of **Postbank** is obtained and the **Service Provider** ensures compliance with the cross-border transfer provisions under applicable Data Protection Laws and, where applicable, the necessary regulatory approval has been granted;

16.5.8 not subcontract any of its processing functions performed on behalf of **Postbank** in terms of this Agreement without the prior written consent of the **Postbank**. Where the **Service Provider** subcontracts its obligations in terms of this Agreement, with the consent of the **Postbank**, it shall:

16.5.8.1 carry out a subcontractor assessment and due diligence to ensure that the subcontractor complies with Data Protection Laws prior to the subcontractor's appointment;

16.5.8.2 enter into a written agreement with the subcontractor which imposes the same obligations on the subcontractor as are imposed on the **Service Provider** in terms of this clause; and

16.5.8.3 remain fully liable and accountable for any processing of Personal Information under this Agreement by any subcontractor;

16.5.8.4 immediately, but by no later than 48 (forty-eight) hours, notify **Postbank** in writing if it has reasonable grounds to believe that the Personal Information provided to it has been accessed or acquired by an unauthorised person and shall provide **Postbank** with all reasonable assistance, at no additional charge, in order to mitigate the effects of such security compromise;

16.5.8.5 provide **Postbank** with reasonable assistance, at no additional charge, in responding to any complaint notice, communication or data subject request in the context of the Personal Information that is processed to comply with the **Service Provider**'s obligations under this Agreement; and

16.5.8.6 only retain the Personal Information in accordance with the terms of this Agreement or with any written instructions from **Postbank** from time to time, and shall securely return, delete or destroy the Personal Information in a

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manner that prevents its reconstruction in any intelligible form upon the expiry or termination of this Agreement, or within 10 (ten) Business Days of a written request to do so from **Postbank**.

16.6 In performing the obligations as set out in this Agreement, the **Service Provider** shall at all times:

16.6.1 ensure that it does not sell, offer for sale, or dispose of or attempt to dispose of, or create or allow the encumbrance over any data, including Personal Information; and

16.6.2 ensure that it is able to identify all data, including Personal Information, relating to this Agreement separately from other data under its control.

16.7 The Parties record that **Postbank** shall at all times retain ownership of the data, information and files generated in fulfilment of the **Service Provider's** obligations in terms of this Agreement.

17. FORCE MAJEURE

17.1 For purposes of this Agreement, "force *majeure"* means a pandemic, civil strife, riots, insurrection, national emergency, acts of war of public enemy, rationing of supplies, flood, storm, fire or any other like forces of nature beyond the reasonable control of any person including widespread cyber incidents, failure of telecommunications infrastructure, or failure of third party systems not under the reasonable control of the affected Party (**Force *Majeure***).

17.2 If a Force *Majeure* causes delays in or failure or partial failure of performance by a Party of all or any of its contractual obligations under this Agreement, this Agreement shall be suspended for a period equal to the time that its performance is so prevented.

17.3 In the event of circumstances arising which a Party believes, constitutes a *Force Majeure* (the **Affected Party**), then such Affected Party shall send, within 5 (five) Business Days from the interrupting circumstances, a written notice specifying the nature and date of commencement of the interrupting event to the other Party. The

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Parties shall agree, in writing, to suspend the implementation of this Agreement for a period of 30 calendar days (or such other period as may be agreed by the Parties in writing).

17.4 In the event that both Parties reasonably believe that the Affected Party shall be unable to continue to perform its obligations in the reasonably foreseeable future, then the Parties shall be entitled to terminate this Agreement by written agreement.

18. CHANGE OF SHAREHOLDING

For the duration of the Contract Period, the Services Provider undertakes to notify **Postbank**, in writing, of any change in their shareholding in the Service Provider. **Postbank** may terminate this Agreement immediately without any prior notice upon any change in the Service Provider's shareholding, without Postbank's prior written consent.

19. SUBCONTRACTING AND ASSIGNMENT

19.1 The Service Provider shall not assign, in whole or in part, its obligations to perform under the Agreement, except with Postbank's prior written consent.

19.2 The Service Provider shall notify Postbank in writing of all subcontracts awarded under this Agreement if not already specified in the procurement process. The notification of subcontracts, in terms of this clause, shall not relieve the Service Provider from any liability or obligation under the Agreement.

20. BREACH

If either Party is in material breach of any term, condition or performance due in terms of this Agreement (the **Defaulting Party**), and fails to correct such material breach for 10 (ten) Business Days after written notice to such Defaulting Party requiring the Defaulting Party to rectify that breach, the other Party (the **Aggrieved Party**) shall be entitled (without prejudice to its other rights in law to) at the Aggrieved Party's option:

Initials: _____

20.1 to claim specific performance of any or all of the Defaulting Party's obligations in default under this Agreement; and/or

20.2 cancel this Agreement if the breach is incapable of remedy or remains unremedied after the expiry of the notice period; and/or

20.3 recover any damages which the Aggrieved Party may have suffered arising out of a breach by the Defaulting Party of any of the provisions of this Agreement.

21. TERMINATION

21.1 Without prejudice to any other right or remedy available to **Postbank**, **Postbank** may terminate this Agreement or any services rendered or to be rendered under this Agreement (including any Service Schedules) at any time and for any reason by giving [30] calendar days' written notice to the **Service Provider**. Upon receipt of such notice, the **Service Provider** shall: (i) where such termination is as a result of Fraudulent Practices, immediately cease all work (except as directed by **Postbank**); or (ii) in all other cases, cease all work (except as directed by **Postbank**) within 10 (ten) Business Days of receipt of such notice, and in each case shall take all steps necessary to minimise further costs.

21.2 **Postbank**'s liability on termination pursuant to this clause 2121 shall be limited to payment for Services properly performed up to the relevant termination date. **Postbank** shall not be liable for any other costs, fees, expenses, damages or losses, including any loss of anticipated profit, loss of business, loss of revenue, or any other termination-related cost or damage of any nature whatsoever.

21.3 Termination or expiry of any SLA, Service Schedule or Interim Commencement Schedule shall not affect accrued rights, confidentiality, data-protection obligations, audit obligations, handover obligations, intellectual-property rights or any other provision intended to survive termination.

21.4 If as a result of the termination, Postbank intends imposing a restriction on a Service

Provider or any person associated with the Service Provider, the Service Provider 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 Service Provider fail to respond within the stipulated fourteen (14) days Postbank may regard the intended penalty as not objected against and may impose it on the Service Provider, whereupon Postbank will take the necessary administrative step.

21.5 **Postbank** may terminate this Agreement immediately on written notice to the **Service Provider** if **Postbank** determines, within the 6-Month period prior to the expiry of the Contract Period, that it no longer requires the Services to be performed by an external **Service Provider**.

22. DISPUTES

22.1 Should a dispute arise as a result of either Party's conduct in respect of this Agreement, the aggrieved Party shall bring to the attention of the defaulting Party, the grievance, within 10 (ten) Business Days of the dispute arising.

22.2 Should such a dispute remain unresolved for more than 10 (ten) Business Days, such dispute shall be escalated to the Directors or the Heads of the Business units concerned of both Parties for negotiation.

22.3 In the event that the dispute referred to in clause 22.1~~22.1~~ and clause 22.2~~22.2~~ above remain unresolved for more than 15 (fifteen) Business Days, such a dispute shall be referred to the chief executive officers or managing directors of both Parties for negotiation.

22.4 If a dispute remains unresolved following escalation to the chief executive officers or managing directors of both Parties, either Party may refer the dispute to mediation by delivering a written notice to the other Party. The Parties shall, within 10 Business Days of such notice, jointly appoint a mediator from the panel of Tokiso Dispute Settlement (Pty) Ltd, or, failing agreement, request Tokiso to appoint a mediator. The mediation shall be conducted in Pretoria, in accordance with such procedure as the mediator may

Initials: _____

direct and shall be completed within 30 calendar days of appointment (unless extended by written agreement). The fact of and any communications in mediation shall be without prejudice and confidential. If the dispute is not resolved within that period, either party may refer the dispute to arbitration.

22.5 The arbitration shall be conducted under the auspices of the Arbitration Foundation of Southern Africa (**AFSA**) to be held in Pretoria.

22.6 The Arbitrator shall be a practicing Senior Advocate of no less than fifteen (15) years standing and shall be selected and agreed to by both Parties from a list of 3 (three) practicing Senior Advocates to be provided by AFSA.

22.7 The Parties will pay equal shares of the administration costs for referring the dispute for arbitration, which costs shall include the costs of the AFSA fees and Arbitrator fees (**Admin Costs**).

22.8 [The losing Party will bear all the legal costs incurred by the Parties in relation to the dispute at the end of the arbitration process. In such case the costs that the losing Party may have to pay to the other Party include legal costs as between attorney and own client, and VAT thereon. For avoidance of doubt, in this clause the meaning of legal costs will exclude the Admin Costs (which the Parties will pay in equal shares in terms of Clause 22.7~~22.7~~).

22.9 The Arbitration award shall be final and binding on the Parties.

23. PROPRIETARY RIGHTS

23.1 All Works and all right, title and interest therein (including Intellectual Property rights), and all documentation for this Agreement, shall be exclusively owned by **Postbank**. Upon termination of this Agreement, the Works (whether complete or otherwise), including copies thereof, shall be left with **Postbank** or, in so far as they are in possession of the **Service Provider**, shall be handed over to **Postbank** or shall be destroyed at **Postbank** written request.

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23.2 Without limiting the foregoing, the Works include without limitation, all secret knowledge, information (including, without limitation, any and all financial and market information), data concerning business relationships, samples, devices, demonstrations, know-how, business and financial plans, market assessments, market roll out schedules, strategies, records, compilations, studies, designs, plans, proposals, computer disks, tapes, notes, summaries, reports, configurations and other information, documentation or materials of whatever description, created by the **Service Provider** for or on behalf of **Postbank**.

23.3 **Service Provider** agrees to treat the Works and the **Postbank** IP as Confidential Information, as set out in this Agreement, of **Postbank** for the Contract Period and post termination of this Agreement.

23.4 Save to the extent expressly provided for in this clause 2323, neither Party shall acquire any rights, title or interest of any kind in any Intellectual Property owned by the other Party (or any of its licensors).

23.5 To the extent that **Postbank** does not already own any of the Works or right, title or interest therein by operation of law, the **Service Provider** hereby cedes, assigns, transfers and makes over absolutely to **Postbank**: (i) all existing and future right, title and interest (including Intellectual Property rights) in and to the Works; and (ii) any and all claims and potential claims (including any accrued rights and claims) in relation thereto; (collectively, the "**Assigned Rights"**), which cession, assignment, transfer and making over **Postbank** hereby accepts. This assignment shall apply with effect from: (i) the Commencement Date in the case of the Works and Assigned Rights in existence on the Commencement Date; and (ii) the date of first creation, in the case of any Works and Assigned Rights created after the Commencement Date. Such cession, assignment, transfer and making over includes, without limitation: (i) the right to claim priority title and interest in and to the Works or Assigned Rights; (ii) the right to bring, make, oppose, defend, appeal proceedings, claims or actions and obtain relief (and to retain any damages recovered) in respect of any infringement, or any other cause of action (including passing off) arising from ownership, of any of the Works, or Assigned

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Rights, or any other cause of action arising from ownership, of any of the Works or Assigned Rights; and (iii) the right to apply for, prosecute and obtain registration and/or similar protection in respect of any of the Works or Assigned Rights, so that the grant of any resulting registration or similar protection shall be in the name of (and vest in) **Postbank**. The **Service Provider** hereby transfers ownership of the Works and every other right, title and interest in and to the Works, to **Postbank**, which transfer **Postbank** hereby accepts.

23.6 To the extent permitted by Applicable Law, the **Service Provider** hereby unconditionally and irrevocably waives, in favour of **Postbank** and any and all of its successors in title, nominees, licensees and sublicensees, all moral rights (and broadly equivalent rights anywhere in the world) (the "**Moral Rights**") in and to the Works, to which the **Service Provider** may be entitled under Applicable Law, including without limitation all moral rights arising pursuant to the Copyright Act 98 of 1978. In this regard, the **Service Provider** hereby, unconditionally and irrevocably: (i) agrees not to enforce any of its moral rights in and to the Works; (ii) agrees not to claim authorship or ownership of the Works or any Assigned Rights; and (iii) consents to and agrees not to object to any acts and omissions of **Service Provider** or any of its successors in title, nominees, licensees and sublicensees in relation to the Works, including any distortion, mutilation or other modification thereof.

23.7 During Contract Period and thereafter, the **Service Provider** shall, at its own cost, do and execute, and procure the doing and executing of, each act, document and thing that **Postbank** determines may be necessary to perfect the right, title and interest of **Postbank** in and to the Works and Assigned Rights; including but not limited to procuring written assignments, waivers of Moral Rights and undertakings which are aligned with those in this clause 2323 from each person who engages in performing the Services or otherwise in any way authoring, creating, modifying or further developing any of the Works for or on behalf of the **Service Provider** (the "**Third Party Creators**"). In the event that any future rights (including Intellectual Property rights) in and to any Works may not be assigned to **Postbank** in advance in accordance with clause 23.523.5, the **Service Provider** hereby undertakes to cede, assign, transfer, and make

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over to **Postbank** such Intellectual Property rights upon their creation.

23.8 **Service Provider** shall, at no charge to **Postbank**, during the Contract Period and thereafter, give all reasonable assistance as **Postbank** may require in prosecuting, enforcing and defending any Intellectual Property rights of **Postbank** in respect of which the **Service Provider** is/was involved or in respect of which the **Service Provider** has knowledge material to the prosecution, enforcement or defence of the Intellectual Property rights in issue.

23.9 The **Service Provider** shall use its best endeavours to impart skills to **Postbank's** employees with whom the **Service Provider** has contact in the performance of the Services, with a view to increasing and consolidating the skills base within **Postbank**.

23.10 While **Postbank** shall be the owner of all Works (including the Intellectual Property rights therein) developed under this Agreement, the **Service Provider** (or its licensors, as applicable) shall retain rights to any proprietary pre-existing software, frameworks, reconciliation logic models, methodologies, algorithms, or tools used in Service delivery. Where third-party software is utilized by the **Service Provider** in the provision of the Services, the **Service Provider** shall ensure proper licensing and indemnify and hold harmless **Postbank** and each other Indemnified Party against any and all related liabilities, costs, expenses, damages and losses (including any and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by any Indemnified Party.

23.11 Subject to clause 23.5~~23.5~~, unless otherwise agreed in a written, signed agreement by the Parties on a case by case basis, to the extent that any Work incorporates any Intellectual Property belonging to the **Service Provider** or any third party (in each case the **Service Provider IP**), the **Service Provider** hereby grants **Postbank** a perpetual and irrevocable (notwithstanding termination or expiry of this Agreement or the applicable Service Schedule), non-exclusive, worldwide, fully paid up, royalty-free, sublicensable (through multiple tiers), transferable and assignable licence (or as applicable sublicence) to use, reproduce and modify that **Service Provider** IP for the purpose of making full use of the Work.

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23.12 **Postbank** will retain ownership of all Intellectual Property provided or otherwise made available by or on behalf of **Postbank** in connection with the Services (the **Postbank IP**), which for the avoidance of doubt includes any and all data and databases provided or otherwise made available by or on behalf of **Postbank** in connection with the provision or receipt of the Services and any and all data generated by, or derived from the provision or receipt of the Services (for the avoidance of doubt, this excludes personal information which belongs to the relevant data subjects).

23.13 **Postbank** hereby grants the **Service Provider** a fully paid-up, non-exclusive, royalty-free, non-transferable, non-assignable, non-sublicensable (save to approved subcontractors in accordance with clause 16.5.8~~16.3.8~~) licence to use, reproduce and modify the **Postbank** IP, for the Contract Period, for the sole purpose of, and only to the extent required for, providing the relevant Services to **Postbank**. All improvements and modifications to the **Postbank** IP belong to **Postbank** and, to the extent not already owned by **Postbank** are assigned to **Postbank** under clause 23.5~~23.5~~ as part of the Works.

23.14 This clause 23~~23~~ shall continue in force after termination or expiry of this Agreement and shall remain in full force and effect.

24. DOMICILIA AND NOTICES

24.1 The Parties hereby choose as their *domicilium citandi et executandi* for all purposes arising from or pursuant to this Agreement as follows:

24.1.1 **Service Provider's** address:

For Legal Notices and Summons	
Contact Person Details:	
Email Addresses	

Initials: _____

For Business and Operations	
Contact Persons Details:	
Telephone Number	
Email Address	

24.1.2 **Postbank's** address:

For Legal Notices and Summons	**South African Postbank SOC Limited** 497 Sophie De Bruyn Street National Post Centre (NPC) Pretoria 0001
Contact Persons Details:	**Head:** Legal Services
Email Addresses	Benedict.Khumalo@**Postbank**.co.za
For Business and Operations	**South African Postbank SOC Limited** 497 Sophie De Bruyn Street National Post Centre (NPC) Pretoria 0001
Contact Persons Details:	
Telephone Number	
Email Address	

24.2 Either Party may by written notice to the other Party change its domicilium *citandi et executandi* stipulated in clause 24.1~~24.1~~ to any other address within the Republic of South Africa, which is not a post office box or poste restante.

24.3 Any notice given by either Party to the other Party in terms of this Agreement will be

given in English and will be delivered by hand or sent by e-mail, and:

24.3.1 if delivered by hand between 08h00 to 17h00 on a Business Day at the addressee's *domicilium citandi et executandi* shall be deemed to have been received on the day of delivery or, if delivered outside such hours, be deemed to have been received on the first Business Day in the place of receipt after that; and

24.3.2 if sent by e-mail to its chosen e-mail address stipulated in clause 24.1~~24.1~~ between 08h00 to 17h00 on a Business Day, be deemed to have been received on the date of dispatch (unless the contrary is proved) or, if delivered outside such hours, be deemed to have been received on the first Business Day in the place of receipt after that.

25. REMEDIES

Notwithstanding anything to the contrary in this Agreement, no remedy conferred by this Agreement is intended to be exclusive of any other remedy which is otherwise available under or pursuant to this Agreement or in law. Each right and remedy shall be cumulative and in addition to every other right and remedy given in this Agreement or now or hereafter existing under or pursuant to this Agreement or in law. The election of any one or more right or remedy by either of the Parties shall not constitute a waiver by such Party of the right to pursue any other right or remedy.

26. NO WAIVER

No indulgence granted by a Party to the other Party, no failure by a Party to enforce any provision of this Agreement, shall constitute a waiver of such provision or affect in any way a Party's right to require performance of any such provision at any time in the future, nor shall the waiver of any subsequent breach nullify the effectiveness of the provision itself.

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27. ASSIGNMENT

27.1 Save as permitted by the provisions of this Agreement or as otherwise agreed in writing by the Parties, neither Party may cede all or any of its rights, and/or delegate all or any of its obligations, under this Agreement.

27.2 **Postbank** shall be entitled to cede or assign its rights or obligations in terms of this Agreement without the prior written consent of the **Service Provider**.

28. STIPULATIO ALTERI

The stipulations for the benefit of Indemnified Parties (save for the **Postbank**) shall, by way of *stipulatio alteri*, constitute a contract for the benefit of such persons which shall be capable of acceptance at any time by any of them by written notice to that effect to the **Service Provider**. Prior to acceptance, the benefit of each such stipulation may not be withdrawn by the **Service Provider**.

29. ENTIRE AGREEMENT

29.1 For avoidance of doubt, the Contract Pack shall constitute the agreement between the Parties for the awarded Services. Any later SLA, Service Schedule or Interim Commencement Schedule is intended to regulate operational performance and implementation controls and shall not vary the approved award, approved pricing or approved scope unless expressly agreed in writing by both Parties and approved in accordance with the Public Procurement Framework.

29.2 This Agreement (including its schedules and annexures) contains all the express provisions agreed on by the Parties with regard to the subject matter of this Agreement.

29.3 Neither of the Parties shall have any claim or right of action arising from any undertaking, representation or warranty, whether express, tacit or implied, not included in this Agreement, including any which allegedly induced the other to enter into this Agreement.

Initials: _____

30. VARIATION AND CANCELLATION

No varying, modification, addition to, deleting from (and save as permitted by the provisions of this Agreement, cancellation) of this Agreement, this clause 3030, or any Schedules attached to this Agreement, will be effective unless reduced to writing and signed by or on behalf of the Parties to this Agreement.

31. GOVERNING LAW AND JURISDICTION

This Agreement shall be interpreted and implemented in accordance with the laws of the Republic of South Africa.

For the purpose of any proceedings under this Agreement, the Parties consent to the jurisdiction of the High Court of South Africa, Gauteng Division.

This clause shall continue to be binding on the Parties notwithstanding any termination or cancellation of this Agreement or any part thereof.

32. COUNTERPARTS

This Agreement may be executed in any number of counterparts by the Parties to this Agreement and once each Party to this Agreement has signed a counterpart, each such counterpart shall be considered an original and all such counterparts shall constitute one and the same instrument. Any such counterpart may be transmitted by email.

33. INVALIDITY AND SEVERABILITY

If any of the provisions of this Agreement becomes invalid, illegal or unenforceable for any reason, the validity, legality and enforceability of the remaining provisions of this Agreement shall not be impaired or affected in any way by such invalidity, illegality or unenforceability.

34. SIGNATURE

Initials: _____

Signed at _____ on this the _____ day of_____ 20_.

_____
THE SOUTH AFRICAN POSTBANK SOC LIMITED

_____
Chief Executive Officer
Who warrants that she has the necessary authority to execute this Agreement

WITNESSES

NAME & SIGNATURE _____

Service Provider to sign with wet-ink signature or advanced electronic signature (as defined in the Electronic Communications and Transactions Act 25 of 2002). Normal electronic signatures e.g. using DocuSign or Adobe are insufficient.

Signed at _____ on this the _____ day of_____ 20_.

_____
[INSERT DETAILS OF SERVICE PROVIDER]

_____
Director
Who warrants that he/she has the necessary authority to execute this Agreement

WITNESSES

NAME & SIGNATURE _____

Initials: _____

Schedule 1: Services

Initials: _____