



NAME OF BID	PROJECT MANAGEMENT OF TAKING FSCA TO THE PEOPLE PROJECT
BID NO.	FSCA2019/20-DF003
CLOSING DATE	2 JULY 2019
CLOSING TIME	11h00 (South African Standard Time, obtained from Telkom SA SOC Limited by dialling 1026)
CONTRACT NO.	FSCA1920-SLA05

BIDDER NAME	
ID/REGISTRATION NUMBER	
CSD NUMBER	
B-BBEE LEVEL	
CONTACT PERSON	
EMAIL ADDRESS	
TELEPHONE NUMBER	



Riverwalk Office Park, Block B; 41 Matroosberg Road
(Corner Garsfontein and Matroosberg Roads)
Ashlea Gardens, Extension 6
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Transitional Management Committee:

AM Sithole (Commissioner) DP Tshidi CD da Silva JA Boyd MM du Toit LP Kekana K Gibson OB Makhubela P Mogase

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A. INTRODUCTION TO TENDER

1. Introduction

- 1.1 The Financial Sector Conduct Authority (FSCA) was established in terms of the Financial Sector Regulation Act No. 9 of 2017. It is responsible for market conduct regulation and supervision of the financial services industry. The objectives of the FSCA are to enhance and support the efficiency and integrity of financial markets, to protect financial customers by promoting their fair treatment by financial institutions, as well as providing financial customers with financial education. The FSCA is a Schedule 3A Public Entity and is subject to the Public Finance Management Act (PFMA).
- 1.2 The vision of the FSCA is to ensure an efficient financial sector where customers are informed and treated fairly and its mission is to ensure a fair and stable financial market, where consumers are informed and protected, and where those that jeopardize the financial well-being of consumers are held accountable. Visit the FSCA website, www.fsc.co.za for further information about the FSCA.
- 1.3 The FSCA operates from offices in Pretoria at Riverwalk Office Park; 41 Matroosberg Road; Ashlea Gardens Extension 6; Menlo Park; Pretoria.
- 1.4 Tenders are hereby invited for appointment of a contractor for the project management of taking FSCA to the people project. The contract will commence on 1 October 2019 or earlier, but not earlier than 1 September 2019.
- 1.5 This tender is subject to the Preferential Procurement Policy Framework Act No. 5 of 2000 and the Preferential Procurement Regulations, 2017, the General Conditions of Contract (GCC) and, if applicable, any other special conditions of contract. Where, however, the special conditions of contract conflict with the general conditions of contract, the special conditions of contract prevail.


2. Briefing session

- 2.1 A non-compulsory briefing session will be held on 20 June 2019 at 14H00 for a maximum of 1 hour at the following address:

Financial Sector Conduct Authority
 Riverwalk Office Park, Block B
 41 Matroosberg Road (Corner Garsfontein and Matroosberg Roads)
 Ashlea Gardens, Extension 6
 Menlo Park, Pretoria, South Africa, 0081

GPS Coordinates

Latitude	-25.7843344
Longitude	28.268365

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- 2.2 **THE FSCA WILL NOT BE COMPELLED TO REPEAT ANY ISSUES ALREADY COVERED TO LATECOMERS, NOR OPEN THE BRIEFING SESSION REGISTER ONCE THE SESSION IS CONCLUDED AND THE REGISTER CLOSED.**

3. Tender enquiries and questions

- 3.1 Enquiries relating to minor administrative issues with reference to the tender may be directed to:

Georgina Serumula
 Supply Chain Management Unit
 Tel no.: (012) 422 2855
 E-mail: tenders@fsc.co.za


- 3.2 All questions relating to the contents of the tender (conditions, rules, terms of reference etc.) must be forwarded in writing via email to tenders@fsc.co.za by not later than 21 June 2019. Questions received after this date will not be entertained.
- 3.3 All questions must reference specific paragraph numbers, where applicable.
- 3.4 All enquiries (received on or before the closing date for enquiries) will be consolidated and the FSCA will publish one response document on the FSCA website (www.fsc.co.za) within two (2) working days after the date in indicated in paragraph 3.2.
- 3.5 No requests for information shall be made to any other person or place and in particular not to the existing provider of this service.

4. Tender submission

- 4.1 Bid documents may either be posted (preferably by registered mail) or placed in the tender box or couriered to the physical address. Bids submitted by means of e-mail, telegram, telex facsimile, electronic or similar means shall not be considered.
- 4.2 Complete documents with supporting annexures shall be packaged, sealed, clearly marked and submitted strictly as follows:

Bid No	FSCA2019/20-DF003
Bid Name	Project management of taking FSCA to the people project.

- 4.3 The FSCA requires two printed copies, one original and one copy and one electronic copy (in electronic storage media, preferably a CD or flash drive/memory stick) in PDF format all bound in a sealed envelope marked as stated in paragraph 4.2.

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- 4.4 Bids must be properly packaged and deposited on or before the closing date and before the closing time in the tender box situated at the reception area of the FSCA. The physical address of the FSCA is as follows:

Financial Sector Conduct Authority
 Riverwalk Office Park, Block B
 41 Matroosberg Road (Corner Garsfontein and Matroosberg Roads)
 Ashlea Gardens, Extension 6
 Menlo Park
 Pretoria, 0081

GPS Coordinates	
Latitude	-25.7843344
Longitude	28.268365

- 4.5 Bid documents may also be posted (preferably by registered mail) to:

PO Box 35655
 Menlo Park
 Pretoria
 0102


- 4.6 Bid documents will only be considered if received by the FSCA on or before the closing date and time, regardless of the method used to send or deliver such documents to the FSCA.

- 4.7 **Late submissions will not be accepted.**

- 4.8 Bidders must initial each page of the tender document on the bottom right hand corner.

5. Pricing schedule

- 5.1 Only fixed prices will be accepted.
- 5.2 The pricing schedule must be submitted adjacent to the SBD3.3 form in the tender proposal.

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B. DEFINITIONS

6. Definitions

- 6.1 Unless inconsistent with or expressly indicated otherwise by the context.
- 6.1.1 **FSCA** shall mean the Financial Sector Conduct Authority or any successor in title.
- 6.1.2 **Contractor** shall mean the tenderer whose tender has been accepted by the FSCA and shall include the tenderer’s personal representatives, also referred to as the successful bidder.
- 6.1.3 **Contract** shall include the General Conditions of Contract and Special Conditions of Contract, the specifications including any schedules attached to the specifications, and any agreement entered into in terms of these Special Conditions of Contract.
- 6.1.4 **Service** shall mean project management of taking FSCA to the people project.
- 6.1.5 **Person** includes any company incorporated or registered as such under any law, any body of persons corporate or unincorporated, any trust. Person, firm or company shall include an authorised employee or agent of such person.
- 6.2 Except where the context indicates otherwise, in this document the singular includes the plural, and with reference to gender, the one includes the other.

C. TENDER RULES

7. Capabilities and experience of tenderers

7.1 Tenderers are required to provide all information as necessary to demonstrate their capabilities and experience with regard to the requested services.

8. Form of tender

8.1 The tender shall be signed and witnessed on the form of tender incorporated herein. The schedule of services shall be fully priced in South African Rand to show the total amount of the tender, and shall be signed. The certificates, schedules and forms contained in this document shall be completed and signed by the tenderer in blue or black ink.

8.2 Where the space provided in the bound document is insufficient, separate schedules may be drawn up in accordance with the prescribed formats. These schedules shall be bound with a suitable contents page and submitted with the tender documents.

9. Signing of tender

9.1 The tender must be signed by a person who is duly authorised to do so.

10. Tender all inclusive

10.1 The tenderer must provide an all-inclusive fee statement in the tender.

11. Alterations to tender documents


11.1 No unauthorised alteration or addition shall be made to the form of tender, to the schedule of quantities of services to be rendered or to any other part of the tender documents. If any such alteration or addition is made or if the schedule of quantities of services to be rendered, or other schedules or certificates are not properly completed, such submission may be disqualified.

12. Qualifications on tender

12.1 Tenders submitted in accordance with this tender document shall be without any qualifications.

13. FSCA'S rights

13.1 The FSCA is entitled to amend any bid conditions, bid validity period, tender specifications, or extend the bid's closing date, all before the bid closing date. All bidders, to whom the tender documents have been issued and where the FSCA have record of such bidders, may be advised in writing of such amendments in good time and any such changes will also be posted on the


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FSCA's website under the relevant tender information. All prospective bidders should, therefore, ensure that they visit the website regularly and before they submit their bid response to ensure that they are kept updated on any amendments in this regard.

- 13.2 The FSCA reserves the right not to accept the lowest priced bid or any bid in part or in whole.
- 13.3 The FSCA reserves the right to award this bid as a whole or in part.
- 13.4 The FSCA reserves the right to conduct site visits at bidder's corporate offices and/or at client sites if so required.
- 13.5 The FSCA reserves the right to consider the guidelines and prescribed hourly remuneration rates for consultants as provided in the National Treasury Instruction Note 02 of 2016/2017: Cost Containment Measures, where relevant.
- 13.6 The FSCA reserves the right to request all relevant information, agreements and other documents to verify information supplied in the bid response. The bidder hereby gives consent to the FSCA to conduct background checks on the bidding entity and any of its directors/trustees/shareholders/members.

14. Undertaking by bidder

- 14.1 By submitting a bid in response to this tender, the bidder will be taken to have offered to render all or any of the services described in the bid response submitted by it to the FSCA on the terms and conditions and in accordance with the specifications stipulated in this tender document.
- 14.2 The bidder shall prepare for a possible presentation should the FSCA require such and the bidder shall be notified thereof in good time before the actual presentation date. Such presentation may include a practical demonstration of products or services as called for in this tender.
- 14.3 The bidder agrees that the offer contained in its bid shall remain binding upon him and receptive for acceptance by the FSCA during the bid validity period indicated in this document and calculated from the bid closing date. Its acceptance shall be subject to the terms and conditions contained in this tender document read with the bid.
- 14.4 The bidder furthermore confirms that they have satisfied themselves as to the correctness and validity of their bid response; that the price(s) and rate(s) quoted cover all the work/item(s) specified in the bid response documents; and that the price(s) and rate(s) cover all their obligations under a resulting contract for the services contemplated in this tender; and that they accepts that any mistakes regarding price(s) and calculations will be at their risk.

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14.5 The successful bidder accepts full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on them under the supply agreement and Service Level Agreement (SLA) to be concluded with the FSCA, as the principal(s) liable for the due fulfilment of such contract.

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

15. Central supplier database

15.1 The FSCA will not award any bid to a supplier who is not registered as a prospective supplier on the Central Supplier Database (CSD) as required in terms of National Treasury Circular No. 3 of 2015/2016 and National Treasury SCM Instruction Note 4 of 2016/2017.

16. Supplier performance management

16.1 Supplier Performance Management is viewed by the FSCA as a critical component in ensuring value for money acquisition and good supplier relations between the FSCA and all its suppliers.

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

16.3 The successful bidder will be required to comply with the above conditions, and also provide a scorecard on how their product/service offering is being measured to achieve the objectives of this condition.


17. Cancellation of contract

17.1 If the FSCA is satisfied that any person (including an employee, partner, director or shareholder of the tenderer or a person acting on behalf of or with the knowledge of the tenderer), firm or company:

17.1.1 is executing a contract with the FSCA unsatisfactorily,

17.1.2 has in any manner been involved in a corrupt act or provided gift or remuneration in relation to any officer or employee of the FSCA in connection with obtaining or executing a contract,

17.1.3 has acted in bad faith, in a fraudulent manner or committed an offence in obtaining or executing a contract,

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- 17.1.4 has in any manner influenced or attempted to influence the awarding of an FSCA's bid,
- 17.1.5 has when advised that his tender has been accepted, given notice of his inability to execute or sign the contract or to furnish any security required,
- 17.1.6 has engaged in any anti-competitive behaviour, including having entered into any agreement or arrangement, whether legally binding or not, with any other person, firm or company to refrain from tendering for this contract, or relating to the tender price to be submitted by either party,
- 17.1.7 has disclosed to any other person, any information relating to this bid, except where disclosure, in confidence, was necessary to obtain quotations required for the preparation of the tender, the FSCA may, in addition to any other legal recourse, which it may have, cancel the contract between the FSCA and such a person and/or resolve that no tender from such a person will be favourably considered for a specified period,

the FSCA is satisfied that any person is or was a shareholder or a director of a firm or company which in terms of paragraph 17.1, is one from which no tender will be favourably considered for a specified period, the FSCA may also decide that no tender from such a person, firm or company shall be favourably considered for a specified period.


- 17.2 Any restriction imposed upon any person shall apply to any other person with which such a person is actively associated.

18. Applicable laws

- 18.1 The laws of the Republic of South Africa shall be applicable to each contract created by the acceptance of a tender and each tenderer shall indicate an address in the Republic and specify it in the tender as his domicilium citandi et executandi where any legal process may be served on him.
- 18.2 Each tenderer shall accept the jurisdiction of the courts of the Republic of South Africa.

19. Reasons for disqualification of tender

- 19.1 The FSCA reserves the right to disqualify any bidder who does any one or more of the following, and such disqualification may take place without prior notice to the offending bidder. However, the bidder will be notified in writing of such disqualification:

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- 19.1.1 bidders who submit incomplete information and documentation as specified in the requirements of this tender document;
- 19.1.2 bidders who submit information that is fraudulent, factually untrue or inaccurate;
- 19.1.3 bidders who receive information not available to other potential bidders through any means;
- 19.1.4 bidders who do not comply with mandatory requirements, if stipulated in the tender document;
- 19.1.5 bidders who fail to attend a compulsory briefing session, if stipulated in the tender advert and/ or in this tender document; and/or
- 19.1.6 bidders who fail to comply with FICA (Financial Intelligence Centre Act) requirements (where applicable).

20. Delegation of authority

20.1 The FSCA may delegate any power vested in it by virtue of these rules to an officer or employee of the FSCA.

21. Tender rules are binding

21.1 The tender rules as well as the instructions given in the official tender notice shall be binding on all tenderers submitting tender applications for the service or services set out in the tender document.

22. Language of contract

22.1 The tender documents are drafted in English and any contract, which originates from the acceptance of the tender, will be interpreted and construed in English.

D. TERMS OF REFERENCE

23. Objectives

23.1 The broad objectives of this bid include:

23.1.1 To provide prospective contractors with adequate information to understand and respond to the FSCA's requirements to appoint a contractor for project management of taking FSCA to the people project.

23.1.2 To ensure uniformity in the responses received from each prospective contractor.

23.1.3 To provide a structured framework for the evaluation of proposals.

24. Pre-qualification criteria

24.1 In terms of Regulation 4 of the Preferential Procurement Policy Framework Act Regulations of 2017, the FSCA requires that bidders must have a minimum B-BBEE contributor status level of 2 or better.

24.2 The FSCA will only consider a bid if the relevant bidder meets the pre-qualification criteria mentioned in paragraph 24.1. Where a bidder fails to meet the pre-qualification criteria, the bid will be considered an unacceptable bid and will be disqualified from further evaluation.

25. Background

25.1 In 2017/18 the FSCA previously known as the FSB, embarked on "Taking Regulation to the People" road shows in 9 provinces. The purpose of the project was to assist consumers to apply for unclaimed pension benefits as well as to assist with on-site registration of potential financial services providers.


25.2 The project team consisted of the Consumer Education and various other departments at the FSCA.

25.3 A similar project is proposed for 2019. The approach will, however, be to increase awareness of the FSCA in South Africa. This will be done by conducting road shows to educate consumers about the role of the FSCA and to continue assisting consumers to apply for unclaimed pension benefits.

25.4 The CED seeks to appoint a contractor to manage the implementation of 18 road shows across the 9 provinces. Two road shows per province will be conducted. The project is expected to run for a non-consecutive period of 18 months.

26. Purpose of the request for bid

26.1 The purpose of this bid is to appoint a contractor for the project management of Taking FSCA to the People project.

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27. Scope of work

27.1 The contractor will be required to:

27.1.1 Coordinate and project manage 18 road shows in 9 provinces. Two road shows per province.

27.1.2 Draft a project implementation schedule and implementation plan in consultation with the FSCA.

27.1.3 Attend 9 project meetings at the FSCA and be physically present at each road show to oversee the implementation and address project management challenges that may arise. The contractor must include the costs of travelling for these events.

27.1.4 Print and distribute 3 000 flyers at each location where the road shows will be held. This should be done one week prior to the implementation of each road show. The FSCA will provide the designed flyers.

27.1.5 Source and appoint 5 marshals per province to assist with crowd control and physical work on the day of each road show. The FSCA will provide t-shirts and caps to be worn by marshals on the day of the road shows. These marshals must be fully vetted by the appointed contractor. Vetting must include, but is not limited to, screening of identity documents and that marshals have been sourced from the area where the event will be hosted.

27.1.6 Pay marshals sourced in 27.1.5 stipend of R400.00 per day for the days they are contracted for. These costs must not be factored into the events management quote. The bid must also include the payment method to the marshals, e.g. electronic transfer or e-wallet or, etc.


27.1.7 The appointed contractor must provide refreshments (e.g. starch, protein, vegetable and a soft drink) for marshals. The total cost for refreshments per day must not exceed R80 per marshal. These costs must not be factored into the events management quote.

27.1.8 The costs mentioned in paragraph 27.1.6 and 27.1.7 will be reimbursed to the appointed contractor by the FSCA.

27.1.9 The marshals will attend a 30 minutes induction programme offered by the FSCA prior to the commencement of each road show at the road show venue.

27.1.10 Source quotations and manage the procurement of items listed on Table 1 below. The cost of each item should not form part of the project management quotation.

27.1.11 Work closely with the FSCA Supply Chain Management Department for procurement of items listed on Table 1. Liaise closely with the Consumer Education Department (CED) for coordination of the road shows.

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27.1.12 Ensure that Joint Operation Committee requirements for hosting events are met for all the road shows. As part of this condition, ensure that the police, disaster management and emergency medical services agencies are present during the road shows to ensure the health and safety of consumers.

27.1.13 The FSCA will require the contractor to submit an interim report after completion of 9 road shows and a comprehensive final report after completion of 18 road shows. The report template will be provided by the FSCA.

27.1.14 The contractor must employ the services of a report writer/editor/proof reader who is a member of the Professional Editors Guild. A letter confirming valid membership must be attached as part of this bid submission.


27.1.15 The contractor must allow for five (5) amendments to all material developed for the FSCA. Spelling and grammatical errors will not be considered as an amendment.

27.1.16 The editing and validation costs should form part of the project management quotation.

27.2 Furthermore, the contractor must coordinate, and project manage procurement of the items as listed in Table 1 below:

Table 1

DESCRIPTION	QUANTITY
Venues that has electricity outlets for the road shows and accommodative to people with disabilities	18
Promotional items:	
Squeeze bottles	14 400
Lanyards	14 400
Shopper bags	14 400
Pens	14 400
Photocopy/printing machines in all the identified venues including sufficient papers (3 Photocopy/ printing machine per road show)	54
Catering for consumers:	
Juice	14 400
Bottled water	14 400
Muffins	28 800
Apple or pear	14 400
Transportation of goods to the venues	18
Branded t-shirts and caps with specification provided by the FSCA	200
Pre-promotions consisting of 2 radio interviews, 10 live reads per radio station prior to each road show. This will be done on national radio stations	216

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28. Note on costing

- 28.1 Table 1 above is only provided as a guideline of the required items and therefore procurement of these items should not form part of your quote.
- 28.2 Transportation of food should be claimed back at cost from the FSCA will be limited to per kilometer rate used by the FSCA. The rate will be provided to the successful bidder.

29. Bid evaluation

- 29.1 The proposals will be evaluated as follows.

29.1.1 Evaluation Stage One: Compliance

Compliance with administrative requirements stated in the Standard Bidding Documents and the mandatory requirements as listed in paragraph 32 below. In this evaluation stage, all bidders that fail to provide the required information and documentation, will be disqualified from further evaluation.

29.1.2 Evaluation Stage Two: Functional evaluation (Desktop evaluation)


In this evaluation stage, bidders are expected to obtain a minimum of 70 out of 100 points to proceed to the next evaluation stage of the evaluation. Failure to obtain the prescribed minimum points will automatically disqualify the bid offer from proceeding to the next evaluation stage.

29.1.3 Evaluation Stage Three: Preference Point System

The 80/20 preference point system shall be applicable to this phase, where 80 points represent maximum obtainable points for the lowest acceptable price, and 20 points represents the B-BBEE level status. Points will be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table as listed in the bid documentation.

29.1.4 Evaluation Stage Four: Site Inspection

At the FSCA's discretion, a site inspection may be conducted at this stage. The FSCA will visit the selected contractors' premises with the objective of verifying information as contained in their respective bid documents. Should it be discovered during a site inspection or presentation that the information submitted by the contractor is inconsistent with what is on their current premises of business, such bidders will be disqualified.

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30. Functional evaluation (Desktop)

30.1 The bid/proposal will be evaluated for functionality and be rated as follows:

30.1.1 Values: 0=Poor 1=Below average, 2=Average, 3=Good, 4=Very Good, 5=Excellent

Table 2

ITEM	EVALUATION CRITERIA	DETAILED DESCRIPTION	POINTS ALLOCATION	RATING	SUB WEIGHT	WEIGHT
			DESCRIPTION			
1.	Project plan or similar	1.1. Provide a project plan which clearly demonstrates a comprehensive understanding of the requirements for this tender which includes amongst other things, resource allocation, coordination and deliverables.	1.1.1. No evidence or minimal provided to demonstrate a comprehensive understanding of the requirements for this tender.	0-3	40	40
			1.1.2. Clear comprehensive evidence provided to demonstrate understanding of the requirements for this tender.	4-5		
2.	Capability and profile of the bidder and references	2.1. A business profile (or equivalent) which clearly reflects an alignment between the business and the requirements for this tender with a minimum of three (3) years' experience in events and project management.	2.1.1. No or minimal business profile is provided and does not demonstrate an alignment between the business and the requirements for this tender with 0-1 years of experience.	0-1	20	40
			2.1.2. A business profile is provided but reflects limited alignment between the business and the requirements for this tender with 1-2 years of experience.	2-3		
			2.1.3. A business prospectus is provided and reflects clear alignment between the business and the requirements for this tender with three (3) years of experience.	4-5		

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ITEM	EVALUATION CRITERIA	DETAILED DESCRIPTION	POINTS ALLOCATION	RATING	SUB WEIGHT	WEIGHT
			DESCRIPTION			
		2.2. Three verifiable and relevant reference letters with contact details of clients for projects completed which are similar in scope as required by this tender.	2.2.1. No reference letters provided for work which is in alignment with this tender.	0-1	20	
			2.2.2. Two reference letters provided for work which is in alignment with this tender.	2-3		
			2.2.3. Three or more reference letters/emails provided for work which is in alignment with this tender.	4-5		
3.	Knowledge and expertise	3.1. The successful contractor must provide four (4) curriculum vitae (CVs) of their project management team with their relevant experience in events and project management. Including the CV of a proof reader/editor. The letter confirming valid membership to the Professional Editors Guild must be attached.	3.1.1. No CVs of the project management team including their relevant experience.	0-1	20	20
			3.1.2. One or three CVs of the project management team including their relevant experience.	2-3		
			3.1.3. Four or more comprehensive CV's of the project management team including their relevant experience. The letter confirming valid membership to the Professional Editors Guild is attached.	4-5		
TOTAL						100

31. Preference point system

31.1 The formula below will be used to calculate the preference procurement points for price:

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

31.2 Where

P_s = Points scored for comparative price of bid under consideration

P_t = Comparative price of bid or offer under consideration

P_{min} = Comparative price of lowest acceptable bid

31.3 Depending on the bidder's level of broad-based black empowerment contribution, a maximum of 20 points may be allocated to a bidder. The points scored by a bidder for broad-based black economic empowerment contribution will be added to the preference procurement points allocated for price.

31.4 The table below reflects the number of points to be allocated to a bidder based on broad-based black economic empowerment contribution:

Table 3

B-BBEE Status Level of Contributor	Number of points (80/20 system)
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

32. Standard bidding documents

32.1 The following compulsory additional information is required. Failure to complete and supply any of these documents will lead to disqualification from this bid:

Table 4

Invitation to bid	SBD 1
Pricing Schedule	SBD 3.3

Declaration of Interest	SBD 4
Preference Points Claim Form for Preferential Procurement Regulations 2017 (including a valid B-BBEE Status Level Verification Certificate)	SBD 6.1
Should a bidder not complete and sign the SBD6.1, the bidder will be allocated 0.00 points for B-BBEE.	
Declaration: Abuse of Supply Chain Management Systems	SBD 8
Certificate of Independent Bid Determination	SBD 9

33. Timeline of the bid process

- 33.1 The period of validity of the tender and the withdrawal of offers, after the closing date and time are 60 days, expiring on 31 August 2019. The project timeframes of this bid are set out below:

Table 5


STAGE	DESCRIPTION OF STAGE	ESTIMATED COMPLETION DATE (OR WORK WEEK ENDING)
1.	Advertisement of bid on Government e-tender portal / print media / Tender Bulletin	7 June 2019
2.	Briefing session	20 June 2019
3.	Questions relating to bid from bidder(s)	21 June 2019
4.	Bid closing date	2 July 2019
5.	Compliance: Bid Evaluation Committee	5 July 2019
6.	Functional Evaluation: (Desktop evaluation)	5 July 2019
7.	Preference Point System: Bid Evaluation Committee	12 July 2019
8.	Bid Adjudication: Bid Adjudication Committee	26 July 2019
9.	Notification of the outcome to the bidders	16 August 2019

- 33.2 All dates and times in this bid are South African Standard Time.

- 33.3 Any time or date in this bid is subject to change at the FSCA's discretion. The establishment of a time or date in this bid does not create an obligation on the part of the FSCA to take any action or create any right in any way for any bidder to demand that any action be taken on the date established. The bidder accepts that, if the FSCA extends the deadline for bid submission (the Closing Date) for any reason, the requirements of this bid otherwise apply equally to the extended deadline.

E. STANDARD BIDDING DOCUMENTS**Standard Bidding Document (SBD 1)****PART A
INVITATION TO BID**

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE FINANCIAL SECTOR CONDUCT AUTHORITY					
BID NUMBER:	FSCA2019/20-DF003	CLOSING DATE:	02 JULY 2019	CLOSING TIME:	11H00
DESCRIPTION	PROJECT MANAGEMENT OF TAKING FSCA TO THE PEOPLE PROJECT				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (<i>STREET ADDRESS</i>)					
Riverwalk Office Park, Block B					
41 Matroosberg Road (Corner Garsfontein and Matroosberg Roads)					
Ashlea Gardens, Extension 6, Menlo Park					
Pretoria, South Africa, 0081					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	Georgina Serumula		CONTACT PERSON	Georgina Serumula	
TELEPHONE NUMBER	012 422 2855 /2925		TELEPHONE NUMBER	012 422 2855 /2925	
FACSIMILE NUMBER	Not applicable		FACSIMILE NUMBER	Not applicable	
E-MAIL ADDRESS	tenders@fsc.co.za		E-MAIL ADDRESS	tenders@fsc.co.za	
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		

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PROJECT MANAGEMENT OF TAKING FSCA TO THE PEOPLE PROJECT

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

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

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

QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? YES NO

DOES THE ENTITY HAVE A BRANCH IN THE RSA? YES NO

DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? YES NO

DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? YES NO

IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? YES NO

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

**PART B
TERMS AND CONDITIONS FOR BIDDING**

1. BID SUBMISSION:
<p>1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.</p> <p>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.</p> <p>1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.</p> <p>1.4. THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).</p>
2. TAX COMPLIANCE REQUIREMENTS
<p>2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.</p> <p>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.</p> <p>2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.</p> <p>2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.</p> <p>2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.</p> <p>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.</p> <p>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.”</p>


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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Standard Bidding Document (SBD 3.3)

PRICING SCHEDULE
(Professional Services)

NAME OF BIDDER:.....	BID NO.: FSCA2019/20-DF003
CLOSING TIME 11:00	CLOSING DATE: 02 JULY 2019

OFFER TO BE VALID FOR 60 DAYS FROM THE CLOSING DATE OF BID.

ITEM NO	DESCRIPTION	BID PRICE IN RSA CURRENCY **(ALL APPLICABLE TAXES INCLUDED)
---------	-------------	--

1. The accompanying information must be used for the formulation of proposals.
2. Bidders are required to indicate a ceiling price based on the total estimated time for completion of all phases and including all expenses inclusive of all applicable taxes for the project. R.....

3. PERSONS WHO WILL BE INVOLVED IN THE PROJECT AND RATES APPLICABLE (CERTIFIED INVOICES MUST BE RENDERED IN TERMS HEREOF)

4. PERSON AND POSITION	HOURLY RATE	DAILY RATE
-----	R-----	-----
-----	R-----	-----
-----	R-----	-----
-----	R-----	-----
-----	R-----	-----

5. PHASES ACCORDING TO WHICH THE PROJECT WILL BE COMPLETED, COST PER PHASE AND MAN-DAYS TO BE SPENT

-----	R-----	-----days
-----	R-----	-----days
-----	R-----	-----days
-----	R-----	-----days
-----	R-----	-----days

PROJECT MANAGEMENT OF TAKING FSCA TO THE PEOPLE PROJECT

5.1 Travel expenses (specify, for example rate/km and total km, class of air travel, etc.). Only actual costs are recoverable. Proof of the expenses incurred must accompany certified invoices.

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT
.....	R.....
.....	R.....
.....	R.....
.....	R.....

TOTAL: R.....

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

5.2 Other expenses, for example accommodation (specify, e.g. three star hotel, bed and breakfast, telephone cost, reproduction cost, etc.). On basis of these particulars, certified invoices will be checked for correctness. Proof of the expenses must accompany invoices.

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT
.....	R.....
.....	R.....
.....	R.....
.....	R.....

TOTAL: R.....

6. Period required for commencement with project after acceptance of bid

Estimated man-days for completion of project

7. Are the rates quoted firm for the full period of contract? *YES/NO

8. If not firm for the full period, provide details of the basis on which adjustments will be applied for, for example consumer price index.


***[DELETE IF NOT APPLICABLE]**

Any enquiries regarding bidding procedures may be directed to the –

Contact Person: Georgina Serumula

Tel: 012 422 2925

[Email address: tenders@fsc.co.za](mailto:tenders@fsc.co.za)

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Standard Bidding Document (SBD 4)

DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state¹, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-

- the bidder is employed by the state; and/or
- the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

2. **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

2.1 Full Name of bidder or his or her representative:

2.2 Identity Number:

2.3 Position occupied in the Company (director, trustee, shareholder²) :.....

2.4 Company Registration Number:

2.5 Tax Reference Number:


2.6 VAT Registration Number:

2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / persal numbers must be indicated in paragraph 3 below.

¹“State” means –

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

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

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DECLARATION OF INTEREST (continuation)

2.7 Are you or any person connected with the bidder presently employed by the state?

TICK APPLICABLE

YES	NO

2.7.1 If so, furnish the following particulars:

Name of person / director / trustee / shareholder/ member:

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

Position occupied in the state institution:

Any other particulars:

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

2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative Work outside employment in the public sector?

TICK APPLICABLE

YES	NO

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

2.7.2.1 If yes, did you attach proof of such authority to the ? bid document?

TICK APPLICABLE

YES	NO

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

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

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

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

2.8 Did you or your spouse, or any of the company's Directors /trustees /shareholders /members or their spouse conduct business with the state in the previous twelve months?

TICK APPLICABLE

YES	NO

2.8.1. If so, furnish particulars:

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

DECLARATION OF INTEREST (continuation)

2.9 Do you or any person connected with the bidder have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid

TICK APPLICABLE

YES	NO

2.9.1. If so, furnish particulars:

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

2.10 Are you, or any person connected with the bidder, aware of any relationship (family, friend, other) between any other bidder and any person employed by the state who may be involved with the evaluation and or adjudication of this bid?

TICK APPLICABLE

YES	NO

2.10.1. If so, furnish particulars:

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

2.11 Do you or any of the directors /trustees/shareholders/ members of the company have any interest in any other related companies whether or not they are bidding for this contract?

TICK APPLICABLE

YES	NO

2.11.1. If so, furnish particulars:

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

3. Full details of directors / trustees / members / shareholders.

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

4 DECLARATION

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

.....
 Signature

.....
 Date

.....
 Position

.....
 Name of bidder

Standard Bidding Document (SBD 6.1)

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017

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

NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.

1. GENERAL CONDITIONS

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

- the 80/20 system for requirements with a Rand value of up to 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

- (a) The value of this bid is estimated to not exceed R50 000 000 (all applicable taxes included) and therefore the 80/20 preference point system shall be applicable; or
- (b) The 80/20 preference point system will be applicable to this tender.

1.3 Points for this bid shall be awarded for:


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

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

	POINTS
PRICE	
B-BBEE STATUS LEVEL OF CONTRIBUTOR	
Total points for Price and B-BBEE must not exceed	100

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

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

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**PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL
PROCUREMENT REGULATIONS 2017 (continuation)**

2. DEFINITIONS


- (a) “**B-BBEE**” means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (b) “**B-BBEE status level of contributor**” means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (c) “**bid**” means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services, through price quotations, advertised competitive bidding processes or proposals;
- (d) “**Broad-Based Black Economic Empowerment Act**” means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (e) “**EME**” means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (f) “**functionality**” means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.
- (g) “**prices**” includes all applicable taxes less all unconditional discounts;
- (h) “**proof of B-BBEE status level of contributor**” means:
- 1) B-BBEE Status level certificate issued by an authorized body or person;
 - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
 - 3) Any other requirement prescribed in terms of the B-BBEE Act;
- (i) “**QSE**” means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (j) “**rand value**” means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

3. POINTS AWARDED FOR PRICE**3.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS**

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

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

80/20 or 90/10

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PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017 (continuation)

Where

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

4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

- 4.1 In terms of Regulation 6 (2) and 7 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

5. BID DECLARATION

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

6. B-BBEE STATUS LEVEL OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1

6.1 B-BBEE Status Level of Contributor: . =(maximum of 10 or 20 points)
(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

SBD 6.1

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017 (continuation)

7. SUB-CONTRACTING

7.1 Will any portion of the contract be sub-contracted?

(Tick applicable box)

YES		NO	
-----	--	----	--

7.1.1 If yes, indicate:

- i) What percentage of the contract will be subcontracted.....%
- ii) The name of the sub-contractor.....
- iii) The B-BBEE status level of the sub-contractor.....
- iv) Whether the sub-contractor is an EME or QSE

(Tick applicable box)

YES		NO	
-----	--	----	--

v) Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations,2017:

Designated Group: An EME or QSE which is at last 51% owned by:	EME √	QSE √
Black people		
Black people who are youth		
Black people who are women		
Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		
Black people who are military veterans		
OR		
Any EME		
Any QSE		

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017 (continuation)

8. DECLARATION WITH REGARD TO COMPANY/FIRM

8.1 Name of company/firm:.....

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
 - One person business/sole propriety
 - Close corporation
 - Company
 - (Pty) Limited
- [TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

.....

.....

.....

.....


COMPANY CLASSIFICATION

- Manufacturer
 - Supplier
 - Professional service provider
 - Other service providers, e.g. transporter, etc.
- [TICK APPLICABLE BOX]

8.6 Total number of years the company/firm has been in business:.....

8.7 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

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

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- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
 - (a) disqualify the person from the bidding process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person’s conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury 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.


<p>WITNESSES</p> <p>1.</p> <p>2.</p>	<p>.....</p> <p style="text-align: center;">SIGNATURE(S) OF BIDDERS(S)</p> <p>DATE:</p> <p>ADDRESS.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
--	--

Standard Bidding Document (SBD 8)

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

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

Item	Question	Yes	No
4.1	<p>Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector? (Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</p> <p>The Database of Restricted Suppliers now resides on the National Treasury's website (www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.</p> <p>4.1.1 If so, furnish particulars:</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2	<p>Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.</p> <p>4.2.1 If so, furnish particulars:</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>

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

I, THE UNDERSIGNED (FULL NAME).....
CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS TRUE AND CORRECT.

I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION MAY BE TAKEN AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder
 Js365bW


Standard Bidding Document (SBD 9)

CERTIFICATE OF INDEPENDENT BID DETERMINATION

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

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

² Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete SBD 9

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CERTIFICATE OF INDEPENDENT BID DETERMINATION (continuation)

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)


in response to the invitation for the bid made by:

(Name of Institution)

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

I certify, on behalf of: _____ that:
(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word “competitor” shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder.

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CERTIFICATE OF INDEPENDENT BID DETERMINATION (continuation)


6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.
 7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
 - (f) bidding with the intention not to win the bid.
 8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
 9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- ³ 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.**
10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

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F. ADMINISTRATIVE CHECKLIST

Hereunder is a checklist to ensure that the bid document is complete in terms of administrative compliance. Please ensure that the following forms have been completed and signed and that all documents, as requested, are attached to the tender document.

ITEM	DOCUMENT REFERENCE		ACTION TO BE TAKEN	YES/NO
1.	SBD 1	Invitation to bid	Is the form duly completed and signed?	
2.	SBD 3.3	Pricing Schedule	Is the form duly completed and signed?	
3.	SBD 4	Declaration of Interest	Is the form duly completed and signed?	
4.	SBD 6.1	Preference Points Claim Form for Preferential Procurement Regulations 2017	Is the form duly completed, B-BBEE points claimed and form signed?	
5.	B-BBEE status level verification certificate		Is proof of B-BBEE Status level of contributor attached?	
6.	SBD 8	Declaration: Abuse of Supply Chain Management Systems	Is the form duly completed and signed?	
7.	SBD 9	Certificate of Independent Bid Determination	Is the form duly completed and signed?	
8.	Tender submission		Two (2) printed copies (one original and one copy) submitted?	
			One (1) electronic copy submitted?	


I, the undersigned (name)
certify that the information furnished on this checklist is true and correct.

.....
Signature

.....
Date


.....
Position

.....
Name of Bidder

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G. DRAFT AGREEMENT

Bidders are required to familiarize themselves with the draft agreement attached hereunder, which will be used as an agreement for this bid, subject to negotiations where applicable.

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SERVICE AGREEMENT

ENTERED INTO BY AND BETWEEN

THE FINANCIAL SECTOR CONDUCT AUTHORITY

AND

NAME		
REG/ID NO.		
CSD NO.		
CONTRACT NO.	FSCA1920-SLA05	
BID NO.	FSCA2019/20-DF003	
ADDENDUM NO.	N/A	
CONTRACT AMOUNT	R0.00	
GOODS/SERVICES DESCRIPTION	PROJECT MANAGEMENT OF TAKING FSCA TO THE PEOPLE PROJECT	
CONTRACT TERM	START	END
CONTACT NO.		
EMAIL		



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1. INTERPRETATION

1.1 In this Agreement headings are for the purpose of making this Agreement readable and shall not be used in its interpretation and, unless the context clearly indicates a contrary intention, an expression which denotes:

1.1.1 any gender includes the other genders;

1.1.2 a natural person includes an artificial or juristic person and vice versa; and

1.1.3 the singular includes the plural and *vice versa*.

1.2 The following terms shall bear the meanings assigned to them in this Agreement and cognate expressions shall have corresponding meanings:

1.2.1 **“Agreement”** means this agreement, all Instruction Letters, Annexures and/or schedules hereto as well as Purchase Orders and all other documents executed under this Agreement including tender documents, each of which may be amended from time to time including all Annexures hereto and policies, procedures, other documents incorporated herein by way of reference, any subsequent amendment, novation or substitution of this agreement, read together with the bid FSCA201920-DF003 which is incorporated herein by reference;

1.2.2 **“BID FSCA201920-DF003”** means the invitation bid for the appointment of a Service Provider to render project management of Taking the FSCA to the People project on behalf of the FSCA for a period of **XXXXXXXXXX (..)** months;

1.2.3 **“Causal Event”** means:

1.2.3.1 a compromise or composition or threatened compromise or composition by the Service Provider with its creditors;

1.2.3.2 provisional or final liquidation of the Service Provider or placement of the Service Provider in judicial management or business rescue, whether provisionally or finally;

1.2.3.3 in circumstances where there is a default or cessation or a reasonable prospect of default or cessation (as the case may be) of the Service Provider’s normal line of business;

1.2.3.4 commitment of any act or omission which would, in the case of an entity, be an act of insolvency;

1.2.3.5 disposal by the Service Provider of a material portion of its undertaking / business or assets; or

- 1.2.3.6 any change in the control or material change in the business of the Service Provider;
- 1.2.3.7 the Causal Events set forth in clauses 1.2.3.5 and 1.2.3.6 are subject to the further qualification that they shall only be considered Causal Events where the FSCA, acting in good faith, considers such events to be detrimental to it for sound business reasons;
- 1.2.4 **“Confidential Information”** means:
- 1.2.4.1 any information of whatever nature, which has been or may be obtained by either of the Parties from the other prior to or after the Signature Date, and shall include, without limiting its ordinary meaning, any oral, written, printed, photographically and electronically recorded information of all types, documents, letters, agreements, undertakings, messages, codes, data, formulae, specifications, blueprints, plans, processes, marketing methods, know-how, methodology, intellectual property, trade secrets, projects, projections, cash flow charts, software and copies, notes and extracts, and the strategic plans, financial plans and financial planning process, the direction, manner, timing and implementation of any projects to be undertaken, as well as any information, economic as well as financial, regarding the affairs of the FSCA to this Agreement which comes to the attention of the Service Provider pursuant to this Agreement.
- 1.2.4.2 any analysis, concepts, compilations, studies and other material prepared by or in possession or control of the recipient which contain or otherwise reflect or are generated from any such information as is specified in this definition, but excludes:
- 1.2.4.2.1 information known to the Service Provider prior to the date that it was received from the FSCA;
- 1.2.4.2.2 information known to the public or generally available to the public prior to the date that it was disclosed by the FSCA; or
- 1.2.4.2.3 information which becomes known to the public or becomes generally available to the public subsequent to the date that it was disclosed by the FSCA to the Service Provider through no act or failure to act on the part of the Service Provider, as the recipient of such information.

- 1.2.5 “**Contract Price**” means the prices payable by the FSCA to the Service Provider for the Services in terms of this Agreement and as set out in Annexure B and C;
- 1.2.6 “**Completion Date**” means the period as recorded in terms of this Agreement;
- 1.2.7 “**Defect**” or “**Deficiencies**” or “**Defective**” means with respect to the Services:
- 1.2.7.1 Part of the service, as performed by the Service Provider which does not comply with the requirements of the Agreement;
- 1.2.7.2 any error, problem, non-conformity or defect resulting from a deviation from the documentation for such deliverable;
- 1.2.7.3 any other error, problem, non-conformity or defect that impacts the use or performance of the deliverable where the deliverable is used or performs in the environment defined for its use or performance; or
- 1.2.7.4 incorrect or incomplete documentation.
- 1.2.8 “**Disclosing Parties**” means either the FSCA or the Service Provider, as the Party that discloses the Confidential Information; and Disclosing Party means, as the context requires, any one of them;
- 1.2.9 “**Duration**” means the period as recorded in this Agreement;
- 1.2.10 “**Effective Date**” means **XXXXXXXX. 20..**, notwithstanding the date of signature hereto;
- 1.2.11 “**End-of-Contract Assistance**” means the provision by the Service Provider of all reasonable information and assistance to the FSCA to enable the FSCA or a third party designated by the FSCA to take over the Service Provider’s obligations under this Agreement in the event of termination or expiration of this Agreement as provided for in clause 28.
- 1.2.12 “**FSCA**” means the Financial Sector Conduct Authority, a juristic entity established in terms of section 56 of the Financial Sector Regulation Act, (Act No. 9 of 2017) with its principal place of business at Riverwalk Office Park, Block B, 41 Matroosberg Road, Ashlea Gardens Extension 6, Pretoria, 0081;
- 1.2.13 “**Intellectual Property**” means any patent, copyright, design, trademark, trade name, brand name, license or other property of similar nature whether registered or not, owned or partly owned by either Party from time to time;

- 1.2.14 “**Losses**” means all liabilities, damages and claims, and all related costs and expenses (including legal charges on a scale as between attorney and own client, tracing and collection charges, costs of investigation, interest and penalties);
- 1.2.15 “**Parties**” means the FSCA and the Service Provider, collectively, and “**Party**” means either of the Parties as the context may require;
- 1.2.16 “**Personal Information**” means personal information as defined in the Protection of Personal Information Act, 2013 (Act No. 4 of 2013);
- 1.2.17 “**Project Leader**” means someone appointed to work as an intermediary between the FSCA and the Service Provider;
- 1.2.18 “**Project Management**” means the practice of initiating, planning, executing, controlling and closing the team work to achieve specific goals and meet specific success criteria at the specified time;
- 1.2.19 “**Project Manager**” means an official of the FSCA designated in accordance with clause 42 of this Agreement;
- 1.2.20 “**Purchase Order**” means the official FSCA purchase order relating to the supply of the Services;
- 1.2.21 “**Services**” means render of project management services of Taking the FSCA to the People project on behalf of the FSCA, as set out in this Agreement and/or Annexure hereto; as these may evolve during the continued duration of this Agreement, as they may be supplemented, enhanced, modified or replaced in accordance with the terms of this Agreement;
- 1.2.22 “**Service Provider**” means **XXXXXXXXXXXXXXXXXXXXXXXXXXXX** (Registration Number: **XXXXXXXXXXXX**), being the juristic person appointed in terms of this Agreement to render the Services to the FSCA;
- 1.2.23 “**Staff**” means any employee, independent Service Provider, agent, consultant, sub-Service Provider or other representative of either Party;
- 1.2.24 “**Termination/End Date**” means a period of **XXXXXXXXXXXX** (..) months (**XXXXXXXXXXXX**) reckoned from the Effective Date, or the date agreed to by the Parties in accordance with the term of this Agreement; and
- 1.2.25 “**Working Days**” means the days on which the Services are to be rendered as set in terms of this Agreement.

1.3 Any reference in this Agreement to:

- 1.3.1 "**Business hours**" shall be construed as being the hours between 08h00 and 17h00 on any business day. Any reference to time shall be based upon South African Standard Time;
- 1.3.2 "**Days**" shall be construed as calendar days unless qualified by the word "business", in which instance a "business day" will be any day other than a Saturday, Sunday or public holiday as gazetted by the government of the Republic of South Africa from time to time;
- 1.3.3 "**Law**" means any South African law of general application and includes the common law and any statute, constitution, decree, treaty, regulation, directive, ordinance, by-law, order or any other enactment of legislative measure of government, (including local and provincial government) statutory or regulatory body which has the force of law;
- 1.3.4 "**Person**" means any person, company, close corporation, trust, partnership or other entity whether or not having separate legal personality; and
- 1.3.5 "**Writing**" means legible writing and in English and excludes any form of electronic communication contemplated in the Electronic Communications and Transactions Act, No 25 of 2002 but shall not exclude telefaxes. Communications in traditional letter format may be transmitted as pdf attachments by the Parties and other contractual role players' one to the other by e-mail.
- 1.4 The words "include" and "including" mean "include without limitation" and "including without limitation". The use of the words "include" and "including" followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it.
- 1.5 The words "shall" and "will" and "must" used in the context of any obligation or restriction imposed on a Party have the same meaning.
- 1.6 Any substantive provision, conferring rights or imposing obligations on a Party and appearing in any of the definitions in this clause or elsewhere in this Agreement, shall be given effect to as if it were a substantive provision in the body of the Agreement.
- 1.7 Words and expressions defined in any clause shall, unless the application of any such word or expression is specifically limited to that clause, bear the meaning assigned to such word or expression throughout this Agreement, schedules or annexures to this Agreement that do not themselves contain their own definitions.
- 1.8 Unless otherwise provided, defined terms appearing in this Agreement in title case shall be given their meaning as defined, while the same terms appearing in lower case shall be interpreted in accordance with their plain English meaning.

- 1.9 A reference to any statutory enactment shall be construed as a reference to that enactment as at the Signature Date and as amended or substituted from time to time.
- 1.10 If the due date for performance of any obligation in terms of this Agreement is a day which is not a business day then (unless otherwise stipulated) the due date for performance of the relevant obligation shall be the immediately next business day.
- 1.11 Where figures are referred to in numerals and in words, and there is any conflict between the two, the words shall prevail, unless the context indicates a contrary intention.
- 1.12 No provision of this Agreement shall (unless otherwise stipulated) constitute a stipulation for the benefit of any person (*stipulatio alteri*) who is not a Party to this Agreement;
- 1.13 The use of any expression in this Agreement covering a process available under South African law, such as winding-up, shall, if either of the Parties to this Agreement is subject to the law of any other jurisdiction, be construed as including any equivalent or analogous proceedings under the law of such other jurisdiction.
- 1.14 In this Agreement the words "clause" or "clauses" and "annexure" or "annexures" refer to clauses of and annexures to this Agreement.
- 1.15 Whenever a person is required to act "as an expert and not as an arbitrator" in terms of this Agreement, then:
- 1.15.1 the determination of the expert shall (in the absence of error) be final and binding but subject to clause 1.15.6;
 - 1.15.2 subject to any express provision to the contrary, the expert shall determine the liability for his or its charges, which shall be paid accordingly;
 - 1.15.3 the expert shall be entitled to determine such methods and processes as he or it may, in his or its sole discretion, deem appropriate in the circumstances provided that the expert may not adopt any process which is manifestly biased, unfair or unreasonable;
 - 1.15.4 the expert shall consult with the relevant Parties (provided that the extent of the expert's consultation shall in his or its sole discretion) prior to rendering a determination;
 - 1.15.5 having regard to the sensitivity of any Confidential Information, the expert shall be entitled to take advice from any person considered by him or it to have expert knowledge with reference to the matter in question; and

1.15.6 to the extent that the decision of the expert is in manifest error, the Parties shall be entitled to appeal such decision in terms of the rules for commercial arbitration of the Association of Arbitrators (Southern Africa).

1.16 The expiration or termination of this Agreement shall not affect the provisions of this Agreement that expressly provide that they will operate after any such expiration or termination, or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.

1.17 The rule of construction that this Agreement shall be interpreted against the Party responsible for the drafting or preparation of this Agreement shall not apply.

2. BASIS OF AGREEMENT

2.1 The FSCA and the Service Provider hereby enter into this Agreement on the terms and conditions set out herein. Notwithstanding anything to the contrary contained herein, in respect of additional work, or in any other document, no guarantee is made as to any volumes or quantities whatsoever and the FSCA shall further not be precluded from obtaining the Services from a third Party or to provide same itself.

2.2 For the avoidance of doubt, it is specifically recorded that any deviation from this Agreement must be specifically identified and recorded as such in an annexure and/or addenda to this Agreement in order to be effective against either Party. In this regard, to the extent that any Service Provider's terms and conditions stated upon a quotation, an invoice, a proposal or any other contractual document furnished by the Service Provider to the FSCA conflict with this Agreement, such deviation shall be of no force or effect unless specifically identified and recorded as such and signed by both Parties herein.

2.3 All official Purchase Orders issued by the FSCA to the Service Provider shall be governed by this Agreement.

2.4 The terms and conditions set forth in this Agreement shall not be effective until this Agreement is executed by both Parties. Unless otherwise agreed between the Parties in writing, any work, supply or service undertaken by the Service Provider which is not set forth in this Agreement, and any subsequent amendment, Annexure and/or purchase orders relating to this Agreement shall be at the Service Provider's risk and cost.

3. COMMENCEMENT AND DURATION

3.1 The FSCA appoints the Service Provider, who accepts such appointment, with effect from the Effective Date to render the Services to the FSCA, in accordance with the terms and conditions of this Agreement.

- 3.2 Unless terminated in terms of this Agreement or by operation of law, this Agreement shall commence on the Effective Date and endure for a period of **XXXXXXXXXXXXX (..) months.**
- 3.3 It is specifically recorded that this Agreement provides for the early termination of the relationship between the Parties by mutual agreement under certain circumstances, which are beyond the control of the FSCA. Such early termination may be in respect of particular Agreements between the Parties, particular Purchase Orders, or the entire relationship between the Parties.
- 3.4 If, during the currency of this Agreement the FSCA operations are curtailed for any reason, the FSCA shall have the right to terminate this Agreement and the Service Provider shall have no claim against the FSCA of whatsoever nature as a result.
- 3.5 The FSCA may in its sole discretion, without creating any rights whatsoever for extension or further extension of the period of this Agreement or to appoint the Service Provider for any other similar services, extend the duration of this Agreement for a further period.
- 3.6 In the event of any such extension of the period of this Agreement, the terms and conditions set out herein shall remain in force and application, unless as may be varied by the Parties in terms of this Agreement.

4. THE SERVICE PROVIDER'S DUTIES AND OBLIGATIONS

- 4.1 The Service Provider professes specialised knowledge, skill, attributes and expertise generally and in respect of the rendering of the Services and in particular warrants and undertakes to carry out its obligations in terms of this Agreement in a responsible, professional and expert manner, and to exercise the utmost caution, care and diligence in the performance of the Services. The provisions of this clause shall not detract in any way from any statutory or common law duty of care that may be imposed on the Service Provider in the performance of the Services or in connection with this Agreement.
- 4.2 The Service Provider shall act in a fiduciary manner towards the FSCA, and shall at all times support and safeguard the FSCA legitimate interests.
- 4.3 The Service Provider shall at all times during the currency of this Agreement, maintain the appointment of a Relationship Manager. It is recorded that the Relationship Manager's duties shall include, but not be limited to, the settlement of financial aspects of the relationship between the Parties, the regulation of financial and legal relationships, the governance of the Agreement and the responsibility of maintaining professional relationships between the Parties.
- 4.4 The Service Provider shall at all times during the currency of this Agreement, be required to procure the availability of sufficient numbers of key Service Provider Staff with knowledge of the FSCA requirements as well as technical expertise relating to the requirements for the supply of the Services.

- 4.5 The FSCA shall be entitled, by giving no less than two (2) business days' written notice thereof to the Service Provider setting out full and precise reasons, to require the Service Provider to reconsider the deployment of any member of the Service Provider Staff who, in its reasonable opinion, is failing to perform his duties in a satisfactory manner.
- 4.6 The Service Provider shall investigate the complaint and shall, if is able to rectify the conduct of that member of the Service Provider Staff within two (2) business days' of its receipt of such complaint, do so, failing which it shall ensure that such Staff member is withdrawn from the FSCA environment. The foregoing notwithstanding, where in the FSCA reasonable opinion, circumstances warrant an accelerated process in terms of this clause, the time periods set out above may be adjusted.
- 4.7 The Service Provider undertakes to apply and comply in all respects with all regulatory and other obligations imposed upon it in terms of any law or in terms of any guidelines in respect of corporate governance.
- 4.8 The Service Provider undertakes that it shall ensure that it and its Staff shall, while on the FSCA premises, conduct themselves in a manner which is appropriate to the context of a well-managed corporate environment and is appropriately respectful to the interests of all Staff. The conduct is not limited to the FSCA premises but should be appropriate even where the Service Provider is conducting work on behalf of the FSCA.
- 4.9 Access to the FSCA property or venues shall be restricted to the Service Provider's authorised Staff and vehicle/s and only on permission from the FSCA. Access to the FSCA premises and/or property shall at all times be subject to the FSCA approval and conditions of access and all other policies and procedures of the FSCA applicable thereto.
- 4.10 The FSCA shall have the right, at all times, without prior notice or warning to search, inspect or examine any of the Service Provider's property, agents, representatives, employees or Service Provider's equipment whilst such is on the FSCA property or premises.
- 4.11 The Service Provider's vehicles shall be restricted to areas and routes for which access to FSCA property or premises is necessary.
- 4.12 Should the FSCA at any time have reason to believe that any member of the Service Provider's Staff is failing to comply with the policies and procedures set out in this Agreement or that such Staff member poses a threat or risk to the FSCA, the FSCA shall be entitled to deny such Staff member access to any or all of the FSCA premises and require the Service Provider to withdraw such member of Staff from the Service Provider's provision of Services to the FSCA without delay.
- 4.13 The Service Provider shall be obliged to ensure that Staff who no longer require a right of access to the FSCA premises or any part thereof for the normal

performance of their Services shall immediately return all access cards, security codes and any other like FSCA property to the FSCA.

- 4.14 The Service Provider shall undertake the Services in compliance with the requirements set forth in this Agreement and Annexure hereto.
- 4.15 The Service Provider undertakes to apply reasonable endeavours to promptly bring to the FSCA attention an act or omission of the FSCA or its Staff, which may impact upon the provision of the Services. In addition, the Service Provider undertakes to apply reasonable endeavours to promptly bring to the FSCA attention an act or omission of the Service Provider or its Staff which may impact upon the provision of the Services.
- 4.16 The Service Provider shall be responsible for developing and/or maintaining up-to-date documentation pertaining to any Services provided to the FSCA. The form and substance of such documentation (including any updates thereto) shall be specified by the FSCA and shall be subject to the FSCA approval. The failure by the Service Provider to comply with the contents of this clause will be deemed to be a material breach of this Agreement.
- 4.17 The Service Provider shall attend, and ensure the attendance of its Staff, at all meetings required in terms of this Agreement.
- 4.18 The Service Provider shall prepare all reports as required in terms of the Agreement.
- 4.19 The Service Provider shall undertake the Services in accordance with the terms of this Agreement.
- 4.20 Where the services include the exercise of powers to certify, decide or otherwise exercise discretion concerning an agreement or agreements between the FSCA and others, the Service Provider shall act in respect of that agreement or agreements as an independent professional. The agreement shall not render the independent professional to be an employee, partner, agent or joint venture with the FSCA for any purpose.
- 4.21 The independent professional is, and will remain an independent professional in relationship with the FSCA. The FSCA shall not be responsible for withholding taxes with respect to the independent professional's compensation. The Service Provider and/or independent professional shall have no claim whatsoever against the FSCA for leave pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.
- 4.22 The Service Provider may not commence the rendering of any of the Services on and/or any task unless the FSCA has issued a Purchase Order.
- 4.23 The Service Provider is responsible to ensure that all sub-contractors to whom it subcontracts are registered on the National Treasury's Central Supplier Database (CSD) and are also tax compliant. It is further, the responsibility of the

Service Provider to manager the performance of the said sub-contractors (if any).

5. DELIVERABLES AND SCOPE OF WORK

5.1 The Service Provider will be required to:

5.1.1 Coordinate and project manage eighteen (18) road shows in nine (9) provinces. Two (2) road shows per province.

5.1.2 Draft a project implementation schedule and implementation plan in consultation with the FSCA.

5.1.3 Attend nine (9) project meetings at the FSCA and be physically present at each road show to oversee the implementation and address project management challenges that may arise. The Service Provider must include the costs of travelling for these events.

5.1.4 Print and distribute 3 000 flyers at each location where the road shows will be held. This should be done one week prior to the implementation of each road show. The FSCA will provide the designed flyers.

5.1.5 Source and appoint five (5) marshals per province to assist with crowd control and physical work on the day of each road show. The FSCA will provide t-shirts and caps to be worn by marshals on the day of the road shows. These marshals must be fully vetted by the Service Provider. Vetting must include, but is not limited to, screening of identity documents and that marshals have been sourced from the area where the event will be hosted.

5.1.6 Pay marshals sourced as per Annexure A stipend of R400.00 per day for the days they are contracted for. These costs must be separate from the project management price. The Service Provider must also provide the payment method to the marshals, e.g. electronic transfer or e-wallet or, etc.

5.1.7 The Service Provider must provide refreshments (e.g. starch, protein, vegetable and a soft drink) for marshals. The total cost for refreshments per day must not exceed R80 per marshal. These costs must not be separate from the project management price.

5.1.8 The said costs mentioned in Annexure A will be reimbursed to the Service Provider by the FSCA.

5.1.9 The marshals will attend a 30 minutes induction programme offered by the FSCA prior to the commencement of each road show at the road show venue.

5.1.10 Source quotations and manage the procurement of items listed on Table 1 below. The cost of each item should be separate from the project

management price.

- 5.1.11 Work closely with the FSCA Supply Chain Management Department for procurement of items listed on Table 1. Liaise closely with the Consumer Education Department (CED) for coordination of the road shows.
 - 5.1.12 Ensure that Joint Operation Committee requirements for hosting events are met for all the road shows. As part of this condition, ensure that the police, disaster management and emergency medical services agencies are present during the road shows to ensure the health and safety of consumers.
 - 5.1.13 The FSCA will require the Service Provider to submit an interim report after completion of nine (9) road shows and a comprehensive final report after completion of eighteen (18) road shows. The report template will be provided by the FSCA.
 - 5.1.14 The Service Provider must employ the services of a report writer/editor/proof reader who is a member of the Professional Editors Guild. A letter confirming valid membership must be provided to the FSCA.
 - 5.1.15 The Service Provider must allow for five (5) amendments to all material developed for the FSCA. Spelling and grammatical errors will not be considered as an amendment.
 - 5.1.16 The editing and validation costs shall form part of the project management price.
- 5.2 Furthermore, the Service Provider must coordinate, and project manage procurement of the items as listed in Table 1 below:

Table 1

DESCRIPTION	QUANTITY
Venues that has electricity outlets for the road shows and accommodative to people with disabilities	18
Promotional items:	
Squeeze bottles	14 400
Lanyards	14 400
Shopper bags	14 400
Pens	14 400
Photocopy/printing machines in all the identified venues including sufficient papers (3 Photocopy/ printing machine per road show)	54
Catering for consumers:	
Juice	14 400
Bottled water	14 400
Muffins	28 800
Apple or pear	14 400

DESCRIPTION	QUANTITY
Transportation of goods to the venues	18
Branded t-shirts and caps with specification provided by the FSCA	200
Pre-promotions consisting of 2 radio interviews, 10 live reads per radio station prior to each road show. This will be done on national radio stations	216

5.3 Note on costing

5.3.1 Table 1 above is only provided as a guideline of the required items and therefore procurement of these items shall not form part of the project management price.

5.3.2 Transportation of food should be claimed back at cost from the FSCA, and will be limited to per kilometer rate used by the FSCA. The rate will be provided to the Service Provider.

6. TIME FOR COMPLETION

6.1 The Service Provider shall be bound by the timelines of each milestone set out in the project management implementation plan as per requirements of Annexure A.

6.2 Should it at any time during the progress of this Agreement become evident to the FSCA that the Service Provider may not be able to execute all the Services in accordance with the timelines of each milestone, the FSCA may direct the Service Provider to take such measures, including the employment of additional labour and/or extension of working hours, to ensure that the timelines of milestones are adhered to.

6.3 Any additional costs incurred by the Service Provider as a result of clause 6.2 shall, unless it can be shown that the delay was caused by reasons attributable to the FSCA, be for the Service Provider's account.

7. EXTENSION OF TIME FOR COMPLETION

7.1 If by reason of any cause attributable to the FSCA, the Service Provider shall have been delayed in the completion of the Agreement the Service Provider may, within a reasonable period but no later than two (2) days after becoming aware of the cause, submit a request for an extension of time to the FSCA for the FSCA consideration.

7.2 The FSCA may grant to the Service Provider such extension of time as, in the FSCA sole opinion, is necessary to complete the Agreement. The terms and conditions of any extension of time granted shall be confirmed by means of an amendment to this Agreement executed, and which amendment shall be issued by the Parties in accordance with the terms herein.

8. THE FSCA DUTIES AND OBLIGATIONS

8.1 The FSCA shall:

8.1.1 grant the Service Provider reasonable access to site, data, information, equipment and facilities, as reasonably required by the Service Provider in order to effectively perform its duties and obligations in terms of the Agreement.

8.1.2 for the duration of this Agreement allow the Service Provider's Staff to make reasonable use of the FSCA resources and facilities as are necessary for it to perform its duties and obligations in terms of the Agreement.

8.1.3 ensure that the Service Provider is afforded the reasonable assistance by the FSCA Staff as is reasonably required by the Service Provider to effectively perform its duties and obligations in terms of the Agreement, provided that adequate notice of such requirement is given.

8.1.4 take reasonable measures to ensure that the users of the Services provided by the Service Provider under this Agreement use such Services as intended to the extent expressly set forth in this Agreement.

8.1.5 provide the Service Provider at the appropriate times with the technical information necessary to enable the Service Provider to comply with all its obligations in terms of this Agreement and Annexure.

8.2 In the event of any omission or discrepancy occurring in the technical information, this shall be brought to the attention of the FSCA before or at the time of bidding. If, at any later stage, any ambiguity or discrepancy is discovered in the technical information the matter shall immediately be referred to the FSCA Project leader responsible.

8.3 The FSCA undertakes to apply reasonable endeavours to promptly bring to the Service Provider's attention an act or omission of the Service Provider or its Staff which may impact upon the Service Provider's performance of its duties and obligations in terms of the Agreement. In addition, the FSCA undertakes to apply reasonable endeavours to promptly bring to the Service Provider's attention an act or omission of the FSCA or its Staff, which may impact upon its performance of its duties and obligations in terms of the Agreement.

9. CONTRACT PRICE

9.1 The Contract Price applicable to performing Services under this Agreement is **R.....** including management fee and Value Added Tax (VAT) as specified in Annexure Band C.

9.2 The above amount is for the first year of the contract and the continuation of the project for the second and third years will be subject to the availability of budget and the satisfactory outcomes of the Service Provider's rendering of the Service.

- 9.3 The Contract Price shall include, where applicable, all taxes, duties and trade discounts but exclude any settlement discounts.
- 9.4 Value Added Tax (VAT) applicable to any Contract Price payable is to be reflected separately. The FSCA shall pay all VAT that is payable on such Contract Price.
- 9.5 In all instances, the FSCA may demand, before payment is made, that the Contract Price computation be substantiated by documentary evidence.
- 9.6 If the Services are performed on a time and materials basis, the Service Provider will be compensated only for actual hours of work performed and such compensation shall be at the rates set forth in Annexure B and C. In this regard, the following further provisions are of application:
- 9.6.1 all rates are deemed to be fully inclusive of all the Service Provider's Staff costs and expenses for rendering the Services pursuant to this Agreement, including mobilisation and demobilisation costs, compliance with laws, including but not limited to, the Service Provider's portion of any employee insurance and social security benefits, payroll and income taxes, levies, premiums for insurance and all other contributions and benefits and the costs to the Service Provider for its Staff, unless otherwise specifically provided for in Annexure B and C
- 9.6.2 time and materials rates as well as unit rates and fixed prices are deemed to be inclusive of any and all costs and expenses incurred by the Service Provider in establishing and maintaining a supply base/office or any other establishment.
- 9.7 The Service Provider shall be deemed to have satisfied itself as regards the sufficiency of its Contract Price for the Services and such Contract Price shall remain fixed and firm for the duration of the Agreement or the applicable Purchase Order, unless otherwise specifically provided for in this Agreement. In respect of any time and materials charges levied by the Service Provider in respect of work performed by its Staff, all hours for such Staff shall be recorded and authorised in strict accordance with the FSCA time and attendance policies, systems and procedures.
- 9.8 Third party expenses specifically identified in this Agreement as well as in Annexures, shall be treated as pass-through expenses in accordance with clause 9.10 to the extent that such third party expenses do not exceed the estimate therefor set forth in Annexure B. Unless authorised by the FSCA in writing, any third party expenses not so identified (including third party expenses excess of the estimate set forth in Annexure B and any expenses for which no estimate was set forth in Annexures) shall be for the Service Provider's account. The Service Provider shall not incur any third party expense as a pass-through expense without the FSCA's prior consent.
- 9.9 Unless specifically agreed to the contrary, the Service Provider will quote all prices in South African Rand.

- 9.10 Both Parties acknowledge that the Contract Price is intended to compensate the Service Provider fully for all Services provided or supplied pursuant to this Agreement. Accordingly, the FSCA will not be obligated to pay the Service Provider any amounts in addition to those specifically described in Annexure B.
- 9.11 With respect to any expenses that are to be treated as a pass-through expense, the following shall apply:
- 9.11.1 the Service Provider shall arrange to receive the invoices for each pass-through expense. Promptly following the receipt of an invoice, the Service Provider shall review such invoice and determine which charges are valid and proper. The Service Provider shall then provide the FSCA with such invoice together with a statement identifying the charges that are, and are not, proper and valid. Payment shall be made directly to the third party by the FSCA;
 - 9.11.2 the Service Provider shall not apply a margin to or otherwise mark-up or charge an administration fee for pass-through expenses; and
 - 9.11.3 the Service Provider shall use commercially reasonable efforts to minimise the cost of the Services provided to the FSCA on a pass-through expense basis, the FSCA reserves the right to;
 - 9.11.3.1 obtain such services or materials directly from a third party;
 - 9.11.3.2 designate the third party source for such services or materials;
 - 9.11.3.3 designate the particular services or materials the Service Provider shall obtain;
 - 9.11.3.4 require the Service Provider to identify and consider multiple sources of such services or materials or to conduct a competitive procurement; and
 - 9.11.3.5 review and approve the pass-through expense for such services or materials before entering into a contract for such services or materials.

10. PAYMENT

- 10.1 As a consideration for the Services to be rendered by the Service Provider, the FSCA shall pay the Service Provider at agreed rates per Annexure B and C.
- 10.2 The Service Provider's price for project management and coordination should be based on rate per hour. Service Provider must also provide a per-kilometer rate for travel.
- 10.3 The following must be considered when costing for travel:

- 10.3.1 Some meetings will be held at the FSCA offices and others at the provinces;
- 10.3.2 Gauteng must be used as a base for travel claims to other provinces.
- 10.4 The invoice submitted to the FSCA shall be paid within thirty (30) days after:
- 10.4.1 receipt of a correct invoice;
- 10.4.2 the FSCA is satisfied that all milestones, deliverables and/or activities required have been met and are acceptable to the FSCA;
- 10.4.3 the FSCA has confirmed that the amounts claimed are due and in accordance with the provisions of this agreement; and
- 10.4.4 the deduction of any applicable tax liability.
- 10.5 The Service Provider shall be entitled to render invoices when any fees are due throughout the duration of this Agreement. Invoices shall include a full narrative and supporting documentation to substantiate any fees included in the invoice. It is specifically agreed that the FSCA representatives may determine the format in which invoices must be submitted.
- 10.6 All payments shall be made by means of electronic funds transfer by the FSCA into the Service Provider's bank account.
- 10.7 The FSCA shall be entitled to stipulate, on reasonable written notice, invoicing standards applicable to any invoice issued by the Service Provider to the FSCA.
- 10.8 The Service Provider shall submit invoices which correspond with the prices reflected on the Purchase Order(s) issued by the FSCA to the Service Provider or the Contract prices stipulated in Annexure B and C. All invoices and statements submitted by the Service Provider must include the complete purchase order numbers as issued by the FSCA to the Service Provider.
- 10.9 The Service Provider shall maintain complete and accurate records of, and supporting documentation for the amounts billed to and payments made by the FSCA in accordance with generally accepted accounting principles applied on a consistent basis. The Service Provider agrees to provide the FSCA with any and all information with respect to each invoice as may be reasonably requested by the FSCA to verify accuracy and compliance with the provisions of this Agreement.
- 10.10 With respect to any amount that is to be paid by the FSCA under this Agreement, the FSCA may set-off against such amount any amount that the Service Provider is obliged to pay FSCA under this Agreement.
- 10.11 The FSCA shall pay the undisputed Contract Price when such payments are due under this Agreement. The FSCA may withhold any amounts that it disputes in good faith, for any non-performance and / or poor performance, provided that the Parties shall engage in the process to resolve the said dispute.

- 10.12 Any disputed amount payable by the FSCA to the Service Provider shall not bear interest.
- 10.13 The Service Provider will only be paid for the Services rendered as detailed in this Agreement, Annexures and/or a Purchase Order. No payment will be made where variations to the Services are carried out, unless such variations are carried out in terms of an instruction in writing by the FSCA and an amendment to this Agreement issued and signed by both Parties.
- 10.14 The Services detailed shall be invoiced at the prices contained in this Agreement and/or a Purchase Order. No variations to such prices shall be permitted unless contained in an amendment to this Agreement issued by the FSCA and signed by both Parties.
- 10.15 The Parties understand and agree that the Service Provider's banking details shall be furnished to the FSCA, on or before the Effective Date.

11. ELECTRONIC FUNDS TRANSFER (EFT)

- 11.1 The FSCA confirms that all payments to the Service Provider will be made by EFT and accordingly the Service Provider agrees to provide the FSCA with:
- 11.1.1 a confirmation from the Service Provider's bank account details including account name, the bank, branch and account number.
- 11.2 The Parties agree that the FSCA would have met its payment obligations to the Service Provider, once the EFT payment has been received into the Service Provider's designated bank account.

12. WARRANTIES

- 12.1 The Service Provider represents and warrants that it shall at all times:
- 12.1.1 use adequate numbers of qualified Staff with suitable training, education, experience and skill to perform the Services;
- 12.1.2 use and adopt any standards and processes required under the Agreement; and
- 12.1.3 provide the Services with promptness and diligence and in a workmanlike manner and in accordance with the practises and high professional standards used in well-managed operations who supply similar Services.
- 12.2 The Service Provider represents and warrants that it shall at all times with respect to Services for which the Service Provider is compensated on a time and materials basis, use its best efforts to perform the Services in the most cost-effective manner consistent with the level of quality and performance required in terms of industry best practises as well as under this Agreement and the applicable Purchase Order(s).

- 12.3 The Service Provider represents and warrants that it shall at all times perform its responsibilities under this Agreement and under any Purchase Order(s) in a manner that does not infringe, or constitute an infringement or misappropriation of, any Intellectual Property or other proprietary rights of any third party and have the rights required to meet its obligations under clause 15.
- 12.4 The Service Provider represents and warrants that it :
- 12.4.1 has all the necessary licenses, certificates, authorisations and consents required under the laws of the Republic of South Africa or under any other applicable jurisdiction for the provision of the Services;
- 12.4.2 shall comply with all legal requirements and the terms and conditions of all licenses, certificates, authorisations and consents required for the provision of the Services ; and
- 12.5 The Service Provider represents and warrants that it shall at all times:
- 12.5.1 ensure that Services shall comply with the terms and conditions stipulated in this Agreement and annexure A;
- 12.5.2 ensure that all Services delivered by the Service Provider pursuant to this Agreement will comply in all respects with the terms as agreed by the Parties and any Annexure to this Agreement or the applicable Purchase Order(s).
- 12.6 To the extent that the Service Provider fails in any respect to comply with the above warranties and without in any way detracting from whatever other rights and remedies the FSCA may have, the Service Provider hereby indemnifies and holds the FSCA harmless against any claims damages etc incurred as a result of such failure.
- 12.7 Notwithstanding clause 12.6, to the extent that the Service Provider fails in any respect to comply with the warranties in clause 12.3, and without in any way detracting from whatever other rights and remedies the FSCA may have, the Service Provider shall promptly at the Service Provider's expense use its best efforts to secure for the FSCA the right to continue using the item or replace or modify the item to make it non-infringing, provided that any such replacement or modification will not degrade the performance or quality of the affected component of the Services.
- 12.8 In the event that none of such actions can be accomplished by the Service Provider, and only in such event, the Service Provider shall remove the item from the Services and the Service Provider's charges shall be equitably reduced to reflect the reduction in the value of the Services to the FSCA.
- 12.9 The FSCA may terminate the Agreement or the applicable Purchase Order(s) without liability and without prejudice to any claims against the Service Provider which the FSCA may have if the Service Provider removes the item from the Services and, in the FSCA reasonable opinion, inclusion of such item in the

Services is material to the value of, and benefit derived from the Services by the FSCA.

12.10 The Service Provider acknowledges that non-compliance with any or all of the requirements in this clause 12 shall constitute a material breach of this Agreement.

13. INSURANCE

13.1 The Service Provider shall for the continued duration of this Agreement have and maintain in force sufficient insurance to cover both its obligations and liabilities under this Agreement. The Service Provider shall provide on request a copy of such insurance policy to the FSCA.

14. INDEMNITIES

14.1 The Service Provider hereby indemnifies and holds harmless FSCA, its successors and assigns, from any and all Losses arising from or in connection with any claim or action arising from the Service Provider's failure to observe or perform any duties or obligations to be observed or performed on or after the Effective Date by the Service Provider under licenses for third party Intellectual Property or third party service contracts.

14.2 The Service Provider hereby indemnifies and holds harmless FSCA, its successors and assigns, from any and all Losses arising from any claim of infringement of any third party Intellectual Property or other proprietary rights, alleged to have occurred because of the FSCA use of any goods or other resources provided by the Service Provider to the FSCA, or based upon performance of the Services by the Service Provider.

14.3 The Service Provider hereby indemnifies and holds harmless FSCA, its successors and assigns, from any and all Losses arising from any claim arising out of the Service Provider's insurance obligations pursuant to this clause 14.

14.4 The Service Provider hereby indemnifies and holds harmless FSCA, its successors and assigns, from any and all Losses arising from any claim or action arising from the Service Provider's failure to observe or perform any duties or obligations in accordance with any law, license, certificate, authorisations and consents required for the provision of Services by the Service Provider to the FSCA.

14.5 Without in any way detracting from the rights of the FSCA in terms of this Agreement, the Service Provider hereby indemnifies and holds harmless FSCA, its successors and assigns, from any and all Losses which the FSCA may suffer as a result of any breach of Agreement, any breach by the Service Provider of the warranties in clause 12 and non-compliance with the terms of clause 19.

14.6 Any Party that breaches ("the Breaching Party") hereby indemnifies and holds harmless the other Party ("the Aggrieved Party"), its successors and assigns

from any and all Losses arising from or in connection with any claim or action arising from the Breaching Party's breach of any obligation with respect to Confidential Information.

14.7 The Breaching Party hereby indemnifies and holds harmless the Aggrieved Party, its successors and assigns from any and all Losses arising from or in connection with:

14.7.1 the damage, loss or destruction of any real or tangible personal property of any Staff, client, business invitee, or business visitor or any person caused by the Breaching Party; and

14.7.2 any claim by any Staff, client, business invitee, or business visitor or other person against the Aggrieved Party but resulting from an act or omission of the Breaching Party in its capacity as an employer of any person.

15. INTELLECTUAL PROPERTY RIGHTS

15.1 The Service Provider acknowledges and agrees that all rights in and to the FSCA intellectual property made available to Service Provider by the FSCA from time to time, vests and shall remain vested in the FSCA and that the FSCA is the owner thereof.

15.2 The Service Provider acknowledges and agrees that the FSCA shall own all rights, including without limitation all Intellectual Property rights in and to any materials prepared or created by Service Provider, or to which Service Provider's members contributed, pursuant to this Agreement. Service Provider shall ensure that all Service Provider's employees are informed and agree that all Intellectual Property in and to such material vests in the FSCA.

15.3 To the extent that title to material is not automatically vested in the FSCA, the Service Provider hereby irrevocably assigns all right, title and interest in and to the same to the FSCA. The Service Provider further undertakes, as and when requested by the FSCA, to execute all such instruments and to do all such things as may be necessary to vest copyright and ownership of such material in the FSCA, and in the event of Service Provider failing to comply promptly with any such request by the FSCA, Service Provider hereby unconditionally and irrevocably nominates and appoints the FSCA to be its agent, with power to sign all such documents and do all such other acts, matters and things as may be necessary to give due and proper effect to the terms of this clause.

15.4 The Service Provider acknowledges and agrees that the FSCA shall have the right to modify any of the Services provided to the FSCA by Service Provider, pursuant this Agreement and Service Provider shall ensure that all Service Provider's employees are informed and agree that the FSCA has the right to modify such Services. However, such modification(s) shall not relieve Service Provider from any of its obligations as stated herein.

- 15.5 Save with the written consent of the FSCA neither the Service Provider nor any of its employees shall at any time, copy, duplicate or reproduce in any manner or form, the material or any part thereof or make any adaptations or translations of such material.
- 15.6 The Service Provider shall not introduce into the FSCA environment any third party Intellectual Property for the continued Duration of this Agreement or otherwise use such third party Intellectual Property to provide the Services without first obtaining FSCA written consent thereto. To the extent that the FSCA grants such consent, the Service Provider shall be responsible for obtaining a license on behalf of the FSCA and in the FSCA name, to litigate such third party Intellectual Property from the third party.

16. CHANGE CONTROL

- 16.1 On becoming aware of any matter that will materially change or has changed the scope, cost or timing of the Services, the Service Provider shall give notice thereof to the FSCA.
- 16.2 The Service Provider shall:
- 16.2.1 control, monitor, and manage changes to the Services, to the environment in which it provides the Services, and that it maintains and supports as part of the Services, in accordance with the change control requirements of the FSCA, current change management standards, policies and procedures which includes the documentation thereof and the submission of said documentation and/or reports by the Service Provider to the FSCA.
- 16.2.2 not take any action or make any decision which may:
- 16.2.2.1 have a material effect on the FSCA or its data or equipment; or
- 16.2.2.2 adversely affect the performance of efficiency of, or charges for (including third party expenses) the Services, without first:
- 16.2.2.2.1 analysing the possible action or change and providing FSCA with a report thereon;
- 16.2.2.2.2 providing FSCA with a reasonable period of time to review the said report; and
- 16.2.2.2.3 obtaining FSCA consent to the proposed change. With respect to any change which may have an adverse effect on the FSCA or the Services, the FSCA may withhold its approval in its sole discretion.

16.2.3 schedule changes so as to minimise disruption of the FSCA normal business operations.

16.3 Until such time as any changes have been agreed by the FSCA in writing, the Parties shall continue to perform their respective obligations in terms of this Agreement.

16.4 Changes shall be implemented in accordance with priorities designated by the FSCA.

17. INDEPENDENCE OF SERVICE PROVIDERS

17.1 This Agreement shall not render the Service Provider to be an employee, partner, agent or joint venture with the FSCA for any purpose. The Service Provider is, and will remain an independent Service Provider in relationship with the FSCA. The FSCA shall not be responsible for withholding taxes with respect to the Service Provider's compensation.

17.2 The Service Provider shall have no claim against the FSCA for leave pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.

17.3 The Service Provider shall:

17.3.1 perform the Services and carry out its obligations with due diligence, efficiency and economies in accordance with good corporate governance; generally accepted professional techniques and practices, and shall observe sound management principles, practices and employ appropriate methods.

17.3.2 always act, in respect of any matter relating to any agreement or to the Services, as faithful advisor to the FSCA, and shall at all times support and safeguard FSCA legitimate interests in any dealings with any sub-consultants, Service Providers or third parties.

18. AUDITS

18.1 The Service Provider shall allow FSCA, its auditors (including internal audit Staff and external auditors) as the FSCA may from time to time designate in writing, access at all reasonable times to any facility or part of a facility at which either the Service Provider or any of its sub-Service Providers is providing the Services, to the Service Provider Staff, and to hardware, software, data and records relating to the provision of Services for the purpose of performing audits and inspections of either the Service Provider or any of its sub-Service Providers to:

18.1.1 verify the accuracy of the Service Provider's charges and invoices;

18.1.2 verify the integrity of the FSCA data and examine the systems that process, store, support and transmit that data;

- 18.1.3 examine the Service Provider's performance of the Services;
- 18.1.4 at any reasonable time, audit and perform a due diligence on the Service Provider in order to ensure compliance of the Service Provider with applicable legislation, regulations, policies and procedures as well as undertakings regarding service delivery and BEE objectives.
- 18.2 The Service Provider shall make available promptly to the FSCA the findings of any review or audit conducted by the Service Provider (including internal and external auditors) to the extent such findings reflect conditions and events which have a material impact on the FSCA or delivery.
- 18.3 Promptly after the issuance of any audit report or findings issued under above clause, the Service Provider and the FSCA shall meet to review such audit report or findings and to mutually agree upon the appropriate manner, if any, in which to respond to the changes suggested by the audit report or findings.
- 18.4 The Service Provider shall maintain a complete audit trail of all financial and non-financial transactions resulting from this Agreement as reasonably necessary to give effect to the provisions of this clause 18.
- 18.5 The Service Provider will maintain and provide the FSCA access upon request to the records, documents and other information that make up such audit trail until the later of:
 - 18.5.1 three (3) years after expiration or termination of this Agreement; or
 - 18.5.2 all pending matters relating to this Agreement (e.g. disputes) are closed; or such other period as is required by applicable law.

19. REGULATORY REQUIREMENTS

- 19.1 The Service Provider warrants that it is and will remain for the duration of this Agreement, fully cognisant of any relevant legislative or regulatory requirements and rulings of any competent authority that has jurisdiction over the provision of Services under this Agreement.
- 19.2 The Service Provider shall promptly identify and notify the FSCA of any relevant changes in law, legislative enactments and/or regulatory requirements and of rulings of any competent authority that may relate to the Service Provider's provision of the Services.
- 19.3 The Service Provider and the FSCA shall co-operate to identify the impact of such changes on how the Service Provider provides the Services.
- 19.4 The Service Provider shall be responsible for any fines and penalties arising from any non-compliance with any law, legislative enactment or regulatory requirements or rulings of any competent authority relating to the delivery or use of the Services.

20. ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM

- 20.1 The FSCA is committed to compliance with all relevant legislation in the jurisdictions in which the FSCA operates, including legislation and guidelines related to the prevention of money laundering and the combating of the financing of terrorism. Accordingly, the FSCA will co-operate with all the relevant authorities and bodies, and expects the Service Provider to do the same.
- 20.2 It is a policy of the FSCA to rely on the diligence and compliance of financial institutions together with the relevant financial intelligence legislation as regards to the traceability of funds and the FSCA expects the Service Provider to apply the same caution. The FSCA reserves the right in this regard to do whatever is necessary to perform a due diligence, including verification of banking details, sources of funds, etc.
- 20.3 Should the Service Provider have cause to suspect that the FSCA might be or have been exposed to funds for which the source is doubtful, the circumstances must immediately be advised to the FSCA.
- 20.4 The FSCA further reserves the right to investigate and / or report any doubtful / suspicious transactions to whichever authorities that may need to be so advised.
- 20.5 If there is a suspicion that this Agreement was entered into under dubious circumstance this Agreement can be placed on hold, at the risk of the Service Provider pending an investigation to the FSCA satisfaction.

21. BLACK ECONOMIC EMPOWERMENT

- 21.1 It is recorded that all the Service Providers of Services to the FSCA are required to make certain representations to the FSCA with regard to Black Economic Empowerment (BEE). Generally, these commitments will be made at the time that the Service Provider is registered as an approved Service Provider with the FSCA, yet resubmission of BEE certificates may be requested and there shall be pre-qualification criteria in respect of all bids. Any such commitments form part of the Terms and Conditions binding upon the Service Provider and failure to comply with such commitments may result in a material breach of this Agreement.

22. SAFETY, HEALTH AND THE ENVIRONMENT

- 22.1 The Service Provider at all times:
- 22.1.1 for the duration of this Agreement ensure that it complies with all relevant occupational health and safety legislation.
- 22.1.2 and at its cost comply with all rules and regulations, both statutory and domestic, regarding environmental management.

22.2 The Service Provider shall comply with all reasonable instructions regarding compliance and adherence to security and any other regulations and procedures which may, from time to time, apply to personnel; Service Providers; agents or places of work.

23. LEGISLATION

23.1 The Service Provider warrants, to the FSCA, that the Service Provider complies with and shall continue to comply with all relevant labour legislation including pension fund legislation and shall comply with any legislation which may come into being during the currency of this Agreement. In this regard and without limitation, the Service Provider confirms that it is complying with all legislation.

24. CONFLICT OF INTEREST

24.1 The Service Provider undertakes that it shall not engage in practises or pursue interests which are in conflict with the interest of the FSCA and which could result in financial damage or loss being suffered by the FSCA, or the FSCA reputation being harmed in the eyes of the business community or the public at large.

24.2 All conflicts of interest must be disclosed in writing to the FSCA.

25. DOCUMENTATION

25.1 All documents, correspondence and drawings to be supplied by the Service Provider to the FSCA shall be in the English language and/or as set out in this Agreement as well as Annexure A, B and C.

26. VARIATION OF SERVICES

26.1 The FSCA shall have power, by notice, in writing, to direct the Service Provider to alter, amend, omit, add to or otherwise vary any of the Services supplied. Any approved variation to the Agreement will be enforced by an official amendment to the Agreement, issued by the FSCA.

26.2 The FSCA may, without changing the objectives or scope of this Agreement, order variations to the Services in writing or may request the Service Provider to submit a proposal, including the time and cost implications, for such variation to the Services.

26.3 The reasonable cost of preparation and submission of such proposals and the incorporation into this Agreement of any variations to the services ordered by the FSCA, including any change in this Agreement price, shall be agreed between the Service Provider and the FSCA, and reduced to writing in accordance with the terms of this Agreement.

26.4 Where a variation is necessitated by default or breach of this Agreement by the Service Provider, any additional cost attributable to such variation shall be borne by the Service Provider, and the Service Provider shall, within one (1)

calendar month of the effective date, jointly with the FSCA, develop a project plan, and submit the project plan in respect of the varied Services to the FSCA for approval.

27. CONFIDENTIALITY

27.1 The Service Provider acknowledges the significant importance of Confidential Information to the FSCA and, where applicable, third party proprietors of such information, and recognises that the FSCA and/or third party proprietors may suffer irreparable harm or loss in the event of such information being disclosed or used otherwise than in accordance with this Agreement.

27.2 The Service Provider agrees and undertakes:

27.2.1 except as permitted by this Agreement, not to disclose or publish any Confidential Information, including Personal Information, of the in any manner, for any reason or purpose whatsoever without the prior written consent of the FSCA and provided that in the event of the Confidential Information being proprietary to a third party, it shall also be incumbent on the Service Provider to obtain the consent of such third party.

27.2.2 except as permitted by this Agreement, not to utilise, employ, exploit or in any other manner whatsoever without the prior written consent of the FSCA and provided that in the event of the Confidential Information being proprietary to a third party, it shall also be incumbent on the Service Provider to obtain the consent of such third party.

27.2.3 to restrict the dissemination of the Confidential Information to only those of the Staff who are actively involved in activities for which use of Confidential Information is authorised and then only on a “need to know” basis, and the Service Provider shall initiate, maintain and monitor internal security procedures reasonably acceptable to the FSCA to prevent unauthorised disclosure by the Staff.

27.2.4 to take all practical steps, both before and after disclosure, to impress upon the Staff who are given access to Confidential Information the secret and confidential nature thereof.

27.2.5 to ensure that none of its or its sub-Service Providers, employees, agents or representatives (without limitation) take any photographs and or video recordings (in the broadest possible sense) of the FSCA (without limitation) premises, works or equipment.

27.3 All Confidential Information disclosed by the FSCA to the Service Provider or which otherwise comes to the knowledge of the Service Provider, is acknowledged by the Service Provider:

27.3.1 to be proprietary to the FSCA or where applicable, the relevant third party proprietor; and

- 27.3.2 not to confer any rights of whatsoever nature in such Confidential Information on the Service Provider.
- 27.4 The Service Provider shall protect the Confidential Information in the manner, and with the endeavour, of a reasonable person protecting their own Confidential Information. In no event shall the Service Provider use less than reasonable efforts to protect the confidentiality of the Confidential Information.
- 27.5 FSCA may at any time on written request to the Service Provider, require that the Service Provider immediately returns to the FSCA any Confidential Information and may, in addition, require that the Service Provider furnish a written statement to the effect that upon such return, it has not retained in its possession or under its control, either directly or indirectly, any such Confidential Information or material.
- 27.6 Alternatively, the Service Provider shall, as and when required by the FSCA on written request to the Service Provider, destroy all such Confidential Information and material and furnish FSCA with a written statement to the effect that the same has been destroyed. The Service Provider shall comply with any request in terms of this clause 27.6 within seven (7) days of receipt of such request.
- 27.7 The Service Provider may retain Confidential Information to the extent required by, and for the duration of, any Services performed for the FSCA in terms of agreements between the Parties, provided that the FSCA has not waived performance of such Services and subject to the right of the FSCA to recover the Confidential Information at any time in terms of this clause 27.7.
- 27.8 The Service Provider shall ensure that the Service Provider Staff who have access to Confidential Information, give a written undertaking in favour of the FSCA in regard to the Confidential Information on substantially the same terms and conditions contained within this Agreement.
- 27.9 The FSCA shall be entitled to deny a Service Provider Staff member access to its premises or prevent such member conducting any work in relation to the Services on its premises or under the FSCA direct control, should the FSCA not be in receipt of a signed undertaking from such member on such terms and conditions as determined by the FSCA. The FSCA failure to obtain receipt of the undertaking referred to in clause 27.8 shall in no way detract from the Service Provider's obligations in terms of this Agreement.
- 27.10 The Parties record that this clause 27 shall not be applicable where the Service Provider discloses Confidential Information to attorneys or auditors, provided that such disclosure is reasonably required by the Service Provider for the purposes of conducting its business activities.
- 27.11 Nothing contained in this Agreement will restrict either Party from the use of any generic ideas, concepts, know-how, or techniques developed or learned by such Party in the course of performing any Services under this Agreement, provided that in doing so such Party does not disclose the FSCA Confidential Information to third parties or infringe the Intellectual Property rights of the other Party or third parties who have licensed or provided materials to the other Party.

27.12 Service Provider shall comply with any confidentiality, copyright, patents and indemnity agreements of the FSCA. Each employee of the Service Provider is required to sign any confidentiality, copyright, patents and indemnity agreements as may be required by the FSCA.

27.13 The Service Provider shall keep indemnified the FSCA against all losses and costs including legal costs as between attorney and client and all other expenses that the FSCA may incur as a result of any action, proceeding or claim made against the FSCA resulting from any Intellectual Property infringement.

28. TERMINATION

28.1 If the Service Provider commits a breach of this Agreement and fails to remedy such breach within fourteen (14) days of notice or such period as determined in this Agreement or annexure thereto, the FSCA shall be entitled, in addition to any other rights and remedies that it may have in terms of this Agreement or otherwise, to terminate this Agreement and/or any or all Purchase Order(s) without prejudice to any claims which the FSCA may have for damages against the other upon written notice to the other, it being recorded that the withholding of disputed charges / moneys in this Agreement by the FSCA shall not constitute a breach of this Agreement.

28.2 If:

28.2.1 a Causal Event occurs in respect of the Service Provider; or

28.2.2 the Service Provider fails to adhere to any legal requirement or breaches any term or condition of any license, authorisation or consent required for the provision of the Services and which failure or breach the FSCA, in its sole discretion, considers to be detrimental to the FSCA for sound business reasons, then FSCA shall be entitled, but not obliged, to terminate this Agreement and/or any or all Purchase Order(s) on written notice to the Service Provider, in which event such termination shall be without any liability and without prejudice to any claims which the FSCA may have for damages against the Service Provider.

28.3 Should the Service Provider fail to fulfil any of its BEE obligations contemplated in clause 21 above and set out elsewhere in this Agreement, or it is established that the Service Provider has misrepresented itself in its bid submissions, or dissolves whatever arrangement is already in place, the FSCA shall have the right to terminate this Agreement and/or any or all Purchase Order(s) on written notice to the Service Provider, in which event such termination shall be without any liability and without prejudice to any claims which the FSCA may have for damages against the Service Provider.

28.4 In the event of such termination in terms of Clause 28.3 above, the FSCA shall be entitled to re-tender the Services or award a contract to an alternate Service Provider based on a tender evaluation.

28.5 The expiration or termination of the Agreement shall not affect such of the provisions of the Agreement as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.

29. END-OF-CONTRACT ASSISTANCE

29.1 At the expiration or termination of this Agreement and/or any or all Purchase Order(s), the Service Provider shall, at the request of the FSCA, make itself available to provide End-of-Contract Assistance. The End-of-Contract Assistance to be provided by the Service Provider in the case of termination or expiration of a Purchase Order will include the End-of-Contract Assistance described in this Agreement and/or such Purchase Order.

29.2 If this Agreement or any Purchase Order(s) or part thereof expires, or if this Agreement or any Purchase Order(s) or part thereof is terminated other than pursuant to clause 28, End-of-Contract Assistance will be provided to the FSCA. Subject to approval of Service Provider’s quotation, the Service Provider shall be entitled to charge for such assistance.

29.3 If the Agreement or any Purchase Order(s) is terminated by the FSCA in terms of clause 28 and the FSCA elects to have the Service Provider provide End-of-Contract Assistance, the Service Provider shall not be entitled to charge for such assistance.

30. LIMITATION OF LIABILITY

30.1 Notwithstanding anything to the contrary set forth in this Agreement, the Parties acknowledge that the Service Provider’s liability will be limited to contract amount for the work to be done.

31. MEDIATION AND ARBITRATION

31.1 Any dispute arising between the Parties in regard to any aspect of this Agreement (“Dispute”) shall be referred to a mediator agreed upon between the Parties, upon written notice by any Party.

31.2 If the Parties are unable either to agree on a mediator within seven (7) days or to resolve the Dispute by way of mediation, within twenty eight (28) days of the Dispute having been raised in writing, then the Dispute shall be submitted to and decided by arbitration. Save as set out herein, the arbitration shall be conducted in Pretoria, in accordance with the rules and regulations in force from time to time of the Association of Arbitrators (Southern Africa) NPC.

31.3 The Parties agree that the decision of the arbitrator shall be final and binding, and they agree to abide by the decision.

32. NOTICES AND DOMICILIUM

32.1 The Parties hereto select as their respective *domicilia citandi et executandi* the following addresses or such other address as may be substituted by notice given as herein required:

32.1.1 The FSCA:

Contact Person	HoD: Office of the General Counsel
Physical Address	Riverwalk Office Park Block B, 41 Matroosberg Road, Ashlea Gardens Extension 6, 0081
Postal Address	P O Box 35655 Menlo Park 0102
Telephone	012 428 8000
Facsimile	012 346 5641
Email	contracts@fsc.co.za

32.1.2 The Service Provider:

Contact Person	
Physical Address	
Telephone	
Facsimile	
Email	

32.2 All notices, requests, demands and determinations under this Agreement (other than routine operational communications), shall be valid and effective only if in writing and if delivered by hand; telefax; mail or e-mail as specifically provided for herein. In this regard, a notice, request, demand and determination under this Agreement:

32.2.1 delivered by hand shall be deemed duly given when delivered by hand during ordinary business hours as evidenced by a receipt declaration by a member of the addressee's Staff or a delivery declaration by a person authorised to deliver the notice, request, demand and determination by the addresser; or

32.2.2 delivered by mail, shall be deemed duly given when mailed in a properly addressed envelope to a responsible person at the addressee's *domicilium* by registered mail, which delivery shall be evidenced by the registered mail receipt. A notice, request, demand and determination sent by mail shall be deemed to have been received five (5) days after posting if addressed within the Republic of South Africa to an address within the Republic of South Africa, and ten (10) days after posting in all other instances.

32.3 Notwithstanding the above, any notice given in writing in English and actually received by the Party to whom the notice is addressed, will be deemed to have

been properly given and received, notwithstanding that such notice has not been given in accordance with this clause.

- 32.4 The Parties record that whilst they may correspond via email during the currency of the Agreement and this Agreement for operational reasons, all formal notices required in terms of this Agreement, and any amendment of or variation to the Agreement or this Agreement may be given or concluded via email on condition that amendments or variations are signed by both parties and returned to the other by means of scanning and transmitting scanned and/or pdf documents.
- 32.5 The Service Provider is required to take cognizance that only the signatories to the Agreement or any person duly delegated with the appropriate authority shall have legal authority to commit the FSCA to the terms and conditions of this and any other Agreement.
- 32.6 Communications in traditional letter format may be transmitted as pdf attachments by the Parties and other contractual role players by e-mail.

33. VIS MAJOR AND CASUS FORTUITUS

- 33.1 Failure on the part of a Party (the “Affected Party”) to perform in terms of or comply with the provisions of the Agreement shall not be deemed to be a breach of the Agreement by the Affected Party, insofar as such failure is due to an event or circumstances of *vis major* (i.e. any superior force, power or agency which cannot be resisted or controlled by an ordinary individual – including acts of nature and acts of man) or is due to *casus fortuitous* (i.e. an inevitable event that is something exceptional, extraordinary or unforeseen and which human foresight cannot be expected to anticipate or to reasonably foresee, or if it can be foreseen, it cannot be avoided by the exercise of reasonable care or caution).
- 33.2 Without limiting the generality and intention of clause 33.1 in any way, the event or circumstances may include (without being limited thereto):
- 33.2.1 acts of God, war, hostilities, riots, civil or military insurrection and like political disturbances, natural disasters such as earthquakes, fires, floods and storms, acts or omissions by Governments (national, regional, provincial, local, municipal) and state organs/public authorities; terrorism or sabotage, denial of the use of railway or other means of public transport;
- 33.2.2 provided that inconvenience, hardship, discomfort, strikes, lock-outs and the mere shortage of labour, materials or utilities shall not constitute *vis major* or *casus fortuitous*, unless caused by events or circumstances which themselves are *vis major* or *casus fortuitous*.
- 33.3 If the Affected Party is by reason of *vis major* or *casus fortuitous* prevented from fulfilling its obligations under the Agreement, the Affected Party shall immediately notify the other Party in writing thereof. Such notice shall stipulate:

- 33.3.1 the cause, nature and extent of the event or circumstances;
- 33.3.2 the expected duration of the circumstances or event; and
- 33.3.3 the extent to which the performance of the Affected Party will be affected.
- 33.4 The Parties shall then promptly confer within five (5) days with a view to dealing with the matter in a cost-effective way.
- 33.5 To the extent that the Affected Party is prevented to perform its obligations in terms of the Agreement due to *vis major* or *casus fortuitous*, the Affected Party shall for the duration of *vis major* or *casus fortuitous* be temporarily excused from its liability to perform such obligations – provided always that the Affected party shall not be so excused or discharged from its obligations if its non-performance is due to the fault, negligence or wilful act or omission of the Affected Party.
- 33.6 The Affected Party shall within five (5) days of its notice to the other Party in terms of clause 33.3, having regard to all the relevant factors, submit in good faith alternative proposals to the other Party as to how the event or circumstances can be overcome. Such proposals shall be in sufficient detail to enable the other Party to technically and financially assess the alternatives and to decide whether any of the alternatives are acceptable to the other Party.
- 33.7 Should any of the Parties not accept the alternative proposal, the matter must be referred for mediation.
- 33.8 Until the other Party has made its decision referred to in clause 33.3 above, and if the other Party has decided not to terminate the Agreement, as aforesaid, the following provisions shall apply:
- 33.8.1 the Affected Party shall make every effort to mitigate the effect on the other Party of its failure or omission to perform fully;
- 33.8.2 the Affected Party shall keep the other Party fully informed about the situation.
- 33.9 To the extent that the Affected Party is prevented by *vis majors* or *casus fortuitous* to comply fully with its obligations in terms of this Agreement, the other Party shall not have any claim for damages, compensation or loss of any nature against the Affected Party, provided always, that the other Party shall have a claim for damages or other lawful remedy against the Affected Party in the event that the non-performance by the Affected Party is due to the fault, negligence or wilful act or omission of the Affected Party.
- 33.10 In the event that the period of *vis major* or *casus fortuitous* exceeds an uninterrupted period of one hundred and twenty (120) days, either Party may terminate this Agreement and/or any or all Purchase Orders.

34. COSTS

Each Party will bear and pay its own legal costs and expenses of and incidental to the negotiation, drafting, preparation and implementation of this Agreement.

35. CORRUPT PRACTICES

35.1 The Service Provider shall, comply with all applicable South African laws, statutes and regulations relating to anti-money laundering/proceeds of crime and anti-bribery and anti-corruption (as may be amended from time to time) including but not limited to the South African Prevention and Combating of Corrupt Activities Act 2004 (collectively referred to as the “Anti-corruption Laws”).

35.2 The Service Provider acknowledges that the FSCA takes a zero-tolerance approach to acts of fraud, bribery and corruption and is committed to ensuring that those who act on its behalf conduct themselves with the utmost integrity and without improper influence and as such the FSCA requires a commitment from the Service Provider that it too, in performing its obligations to the FSCA under this Agreement, will conduct its business in a like manner.

35.3 In this regard the FSCA and Service Provider also undertake to one another other than in the event that either one becomes aware of any laws, statutes, regulations and international policies relating to anti-money laundering/proceeds of crime and anti-bribery and anti-corruption, other than the Anti-corruption Laws, at any time during the duration of this Agreement, that may be applicable to either of them (“the Additional Anti-corruption Laws”), then they shall endeavour, in good faith, to do all such things, perform all such acts and take all steps to procure the doing of all such things and the performance of all such acts as may be necessary or incidental to amend the definition of Anti-corruption Laws in this clause 35 to incorporate reference to the Additional Anti-corruption Laws.

36. GENERAL

36.1 This Agreement constitutes the whole of the agreement between the Parties relating to the matters dealt with herein and, save to the extent otherwise provided herein, no undertaking, representation, term or condition relating to the subject matter of this Agreement not incorporated in this Agreement shall be binding on either of the Parties.

36.2 This Agreement supersedes and replaces any and all agreements between the Parties (and other persons, as may be applicable) and undertakings given to or on behalf of the Parties (and other persons, as may be applicable) in relation to the subject matter hereof.

36.3 No addition to or variation, deletion, or agreed cancellation of all or any clauses or provisions of this Agreement will be of any force or effect unless in writing and signed by the Parties.

- 36.4 No latitude, extension of time or other indulgence which may be given or allowed by any Party to the other Parties in respect of the performance of any obligation hereunder, and no delay or forbearance in the enforcement of any right of any Party arising from this Agreement, and no single or partial exercise of any right by any Party under this Agreement, shall in any circumstances be construed to be an implied consent or election by such Party or operate as a waiver or a novation of or otherwise affect any of the Party's rights in terms of or arising from this Agreement or estop or preclude any such Party from enforcing at any time and without notice, strict and punctual compliance with each and every provision or term hereof.
- 36.5 All provisions and the various clauses of this Agreement are, notwithstanding the manner in which they have been grouped together or linked grammatically, severable from each other. Any provision or clause of this Agreement which is or becomes unenforceable in any jurisdiction, whether due to voidness, invalidity, illegality, unlawfulness or for any other reason whatever, shall, in such jurisdiction only and only to the extent that it is so unenforceable, be treated as *pro non scripto* and the remaining provisions and clauses of this Agreement shall remain of full force and effect.
- 36.6 The Parties declare that it is their intention that this Agreement would be executed without such unenforceable provision if they were aware of such unenforceability at the time of execution hereof.
- 36.7 The expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.
- 36.8 The Service Provider may not delegate or sub-contract all its obligations under this Agreement without the written consent of the FSCA.
- 36.9 The Agreement will be governed by and construed in accordance with the law of the Republic of South Africa and all disputes, actions and other matters relating thereto will be determined in accordance with such laws.
- 36.10 The Parties warrant and acknowledge that the relationship between them is not in the nature of a partnership and that neither Party is in any manner entitled to make or enter into binding agreements of any nature on behalf of the other Party.
- 36.11 The Service Provider shall not, during the currency of the Agreement, cede or transfer to any person its right, title and interest in and to any existing or future book debts of its business at any time, except with the consent, in writing, of the FSCA.

37. SERVICES

- 37.1 The Service Provider will provide the Services to the FSCA subject to the terms and conditions of this Agreement.
- 37.1.1 At the FSCA election, the FSCA may itself perform any of the Services included in the scope of this agreement provided that both Parties agree in writing. If such an agreement has been reached, both Parties agree that the FSCA shall pay the Service Provider for Services already rendered and due for payment under this Agreement or the application Purchase Order(s).
- 37.1.2 In this regard the Service Provider shall co-operate with the FSCA, and
- 37.1.3 Subject to agreement in writing by FSCA and Service Provider, this agreement shall be subject to changes by addition, deletions or revisions. Such additions, deletions or revisions will be documented through revised project plan/s and / or functional and technical specifications or written change request/s.
- 37.2 Except as otherwise provided in this Agreement, the Service Provider shall be responsible for providing the facilities, Staff and other resources as necessary for the Service Provider to provide the Services in accordance with the service levels.

38. COMPLIANCE BY THE SERVICE PROVIDER

- 38.1 The Service Provider shall comply with all prescribed formalities, submit all prescribed returns and make all payments as may be required in terms of Laws and/or Regulations of the Republic of South Africa and/or (if applicable) such other jurisdiction.
- 38.2 The Service Provider undertakes, at all times, to comply with the provisions of any collective agreements which may be binding upon or become binding upon the Service Provider and/or its Staff and/or the FSCA.
- 38.3 The Service Provider shall provide the FSCA with copies of certificates of registration and/or prescribed forms or returns relating to this clause 38, if requested to do so by the FSCA.

39. DEVELOPMENT SERVICES

Where the Service Provider provides a Service to the FSCA relating to the development of any item, the scope of any Services to be undertaken by the Service Provider relating to the development of the items shall be outlined in a project plan and in the functional and technical specifications, as recorded in this Agreement as well as Annexure A, relating to the development of the Services.

40. SERVICE PERFORMANCE STANDARDS

The Service Provider shall ensure that the Services (including all workmanship) and all products, materials, documentation, tools and equipment used or required for the rendering of the Services, comply with the FSCA quality assurance and other general requirements as there may be from time to time.

41. SERVICE LEVELS

- 41.1 Notwithstanding the fact that an Agreement may not contain any service levels, the Service Provider is required to perform the Services with promptness, diligence and courtesy and the Service Provider shall at all times execute the Services in a professional manner and in accordance with the practices and professional standards used in well-managed operations performing services similar to the Services.
- 41.2 The Agreement may set forth the quantitative service levels (as outlined in clause 5) by which the Service Provider's performance of the Services is to be measured.
- 41.3 The Service Provider recognises that its failure to meet an agreed service level may have a material adverse impact on the business and operations of the FSCA and that the damage from the Service Provider's failure to meet any service level is not susceptible to precise determination. Accordingly, in the event that the Service Provider fails to meet a service level, then in addition to any non-monetary remedies available to the FSCA, the FSCA may elect, in lieu of pursuing other monetary remedies, to recover as its sole and exclusive monetary remedy for such failure to meet a service level, a penalty determined by reference to Annexure A and/or B as liquidated damages.
- 41.4 In the event the FSCA is entitled to a penalty under this Agreement, the amount of such penalty shall be set forth as a deduction on the Service Provider's invoice for the month following the month in which the service level failure occurred. If the FSCA elects to impose a penalty, the FSCA payment of the Service Provider's invoice shall be net of such penalty.
- 41.5 If the Service Provider fails to meet any service level, the Service Provider shall:
- 41.5.1 investigate and report on the root cause/s of the problem,
 - 41.5.2 promptly correct the problem and begin meeting the service levels,
 - 41.5.3 advise the FSCA, as and to the extent requested by the FSCA, of the status of remedial efforts being undertaken with respect to such problems, and
 - 41.5.4 take appropriate preventive measures so that the problem does not recur.
 - 41.5.5 Where service levels are provided for in the Agreement or a Purchase

Order, the Service Provider shall be responsible for monitoring and measuring its performance of the Services against the service levels. It is recorded that the FSCA is entitled to reasonable access to all data in the Service Provider's possession relating to service levels and service level performance as provided for in the Agreement and/or Purchase Order.

42. PROJECT MANAGERS

42.1 The FSCA designates the following individuals as Project Manager who will have the authority to administer this Agreement on its behalf and who will be responsible for the communication with the Service Provider:

PROJECT MANAGER	TITLE	DEPARTMENT

42.2 The Project Manager shall, subject to policies and directives of the FSCA, have complete authority in giving instructions and receiving communications on the FSCA behalf and interpreting and defining the FSCA policies and requirements with regard to the Services or any part thereof in so far as same relates to their areas of work.

42.3 The Project Managers shall be responsible for receiving, storing and handling in an appropriate manner, reports and other information concerning the Services as may be received from the Service Provider.

42.4 The FSCA may at any time, by way of a letter to the Service Provider, replace the Project Manager referred to in this clause 42.

43. SIGNATURES

IN WITNESS WHEREOF, the Parties have executed this Agreement:

THE SERVICE PROVIDER		FOR: FINANCIAL SECTOR CONDUCT AUTHORITY	
Name			
Designation			
Signature			
Signature Date			
Place		Pretoria	
The Service Provider (herein represented by the signatory in her capacity asand as such duly authorised to conclude this Agreement).		The FSCA (herein represented by the signatory in his capacity as Chief Financial Officer , and as such duly authorised to conclude this Agreement).	
WITNESSES			
1	Name		
	Signature		
2	Name		
	Signature		

ANNEXURE A: TERMS OF REFERENCE

LEFT BLANK INTENTIONALLY

DRAFT

ANNEXURE B: PRICING SCHEDULE

ANNEXURE C MILESTONES