



## REQUEST FOR PROPOSAL (“RFP”)

# PROVISION OF INTERNAL AUDIT SERVICES FOR A PERIOD OF THREE (03) YEARS (2023 – 2026)



|  |  |
|--|--|
| <b>Bid Number</b>  | EWSETA/RFP/01/2023-4   |
| <b>Bid Scope</b>   | PROVISION OF INTERNAL AUDIT SERVICES FOR A PERIOD OF THREE (3) YEARS (2023 – 2026)                                     |
| <b>Issue Date</b>  | MONDAY 04 SEPTEMBER 2023   |
| <b>Closing Date for submission of bids</b>               | TUESDAY 03 OCTOBER 2023 @ 11:00hrs   |
| <b>Inquiries</b><br>(all inquiries should be in writing) | <a href="mailto:scmadmin@ewseta.org.za">scmadmin@ewseta.org.za</a> ;<br>THE FINAL DATE OF INQUIRIES: 15 SEPTEMBER 2023 |



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## **1. BACKGROUND INFORMATION**

The Energy and Water Sector Education and Training Authority (“EWSETA”) is a statutory body established through the Skills Development Act of 1998 to enable its stakeholders to advance the national and global position of the energy and water sectors in the large, medium, small levy-paying and non-levy-paying companies across the sector.

This was as a result of Government commitment to promote active labour market policies and is demonstrated in the Skills Development Act of 1998 and the Skills Development Levies Act of 1999. As guided by its mandate, the EWSETA is an agent of transformation by promoting employment equity and broad-based black economic empowerment (B-BBEE) through skills development. In this context, the EWSETA is keen to form sustainable partnerships and/or collaborations that will further promote its support for transformation.

## **2. ROLE AND OBJECTIVES OF INTERNAL AUDIT**

2.1 Internal Audit Function should be a proactive and independent appraisal function within the EWSETA conducting its activities in terms of standards set by the Institute of Internal Audit (IIA), PFMA and relevant Treasury Regulations applicable to Public Entities. It must be fully acquainted with and understand the importance of corporate governance systems, risk management, and performance auditing. It should be making use of current and appropriate internal audit methodologies and techniques in providing the Accounting Authority and Management with a systematic review and evaluation of operations for determining efficiency, economy, and effectiveness of policies, practices, and control.

2.2 The objective of internal auditing is to add value by assisting the Audit and Risk Committee and Management in the application of principles of Good Governance, the development, and implementation of effective systems of internal control and risk management in discharging their responsibilities at a reasonable cost.

## **3. ORGANISATIONAL STATUS OF INTERNAL AUDIT**

3.1 The Internal Audit unit reports functionally to the Audit and Risk Committee and administratively to the Chief Executive Officer of EWSETA.

## **4. SCOPE OF INTERNAL AUDIT WORK**

The internal audit function must be conducted in accordance with the standards for the Professional Practices of Internal Auditing and the Code of Ethics set by the Institute of Internal Auditors (IIA).

The scope of the Internal Audit function will consist of, but not be limited to the following work:

- 4.1 The evaluation of the adequacy and effectiveness of the organization's corporate governance processes, risk management, and internal control systems.
- 4.2 Review and update the internal audit charter for approval.
- 4.3 The internal auditors, in consultation with the Audit and Risk Committee and the CEO, no later than two (2) months prior to the date the work is due to commence, will prepare:
  - 4.3.1 Roll forward of the current three-year strategic Internal Audit Plan and Annual internal audit plan.
  - 4.3.2 A rolling three-year strategic Internal Audit Plan and Annual Internal Audit Plan, plans must indicate the scope, cost, and timelines of each audit; and
  - 4.3.3 Audit reports directed to the Audit Committee detailing its performance against the plan, to allow effective monitoring and intervention when necessary.
- 4.4 Reviewing the policies and systems established by management to ensure compliance with the PFMA, Treasury Regulations and any other legislation pertaining to the operations of the organisation.
- 4.5 Reviewing the means of safeguarding assets and verifying the existence of assets.
- 4.6 Appraising the economy and efficiency with which resources are employed and, where appropriate, recommend suggestions for improved operating performance.
- 4.7 Reviewing operations or programmes to ascertain whether results are consistent with established objectives and goals and whether the operations or programmes are being carried out as planned.
- 4.8 Reviewing the planning, design, development, implementation, and operation of major computer-based systems to determine whether:
  - 4.8.1 Adequate controls are incorporated into systems.
  - 4.8.2 Thorough systems testing is performed at appropriate stages.
  - 4.8.3 System documentation is complete and accurate.
  - 4.8.4 The needs of users are met, and
  - 4.8.5 That adequate I.T. governance systems are in place.
- 4.9 Perform risk-based audit assignments in line with the standards and guidelines set by the IIA.
- 4.10 Reporting the results of the audits to Audit and Risk Committee
- 4.11 Reporting the results of the audit to management for their response.
- 4.12 Perform any *ad hoc* investigations into any matter or activity affecting the probity, interest and operating efficiency of EWSETA on request by the Audit and Risk Committee, and in conjunction with CEO, before work is due to commence.
- 4.13 Liaise with the external auditors for purposes of aligning the respective work programmes so that, where applicable, the latter may place reliance on the I.A. work output.
- 4.14 Performance of audit assignments.
 

The Internal Audit Function must apply due care and professionalism during the performance of audits to identify serious defects in the internal controls, which might result in possible malpractice. Any such defects must be reported immediately to the Accounting Authority or the Audit and Risk Committee, without disclosing these to any other staff. This also applies to instances where serious fraud and Irregularity is uncovered. In addition to the above, the scope includes but is not limited to the following;

  - 4.14.1 Audit preparation
  - 4.14.2 Review of internal controls
  - 4.14.3 Audit testing
  - 4.14.4 Development of findings and recommendations



- 4.14.5 Obtaining management responses, and
- 4.14.6 Reporting
- 4.15 Quality assurance reviews of the work  
The Successful Bidder shall ensure that all work conforms to the Standards for the Professional Practice of Internal Auditing.
- 4.16 Independence and Objectivity of audit staff.  
In carrying out the audit work, the auditor must ensure that audit staff maintains their objectivity by remaining independent of the activities they audit. The audit consultant shall.
  - 4.16.1 Have no executive or managerial powers, functions or duties except those relating to Internal Audit work.
  - 4.16.2 Not be involved in the day-to-day operations of EWSETA; and,
  - 4.16.3 Not be responsible for the detailed development or implementation of new systems and procedures.
- 4.17 Monitoring progress of assignments  
On a quarterly basis, the Successful Bidder shall meet with the Audit and Risk Committee to report on the progress of work accomplished.
- 4.18 Report of audit results  
The report(s) on findings and recommendations should be sent to the relevant EWSETA Executive, as the case may be, (auditee) responsible for implementing those recommendations for their review and comment. Within ten (10) working days of sending the report(s), the Successful Bidder shall meet with EWSETA management to discuss the findings and obtain written responses to recommendations together with implementation dates. All findings shall then be incorporated into the relevant report.  
The structure of the report is to be as follows:
  - 4.18.1 Introduction
  - 4.18.2 Background
  - 4.18.3 Executive summary
  - 4.18.4 Audit objective and scope
  - 4.18.5 Findings, recommendations, and management response (including implementation dates)
  - 4.18.6 Conclusion, and
  - 4.18.7 Action plan
- 4.19 Fraud and irregularities  
In planning and conducting its work, the successful bidder should consider where fraud risk is present within the business and respond appropriately by auditing the controls of that area, evaluating the potential for the occurrence and re-occurrence of fraud and how the organization manages fraud risk (Standard 2120.A2). Any such irregularities identified must be reported immediately in line with the relevant organisational policies without disclosing these to any other members of the staff.

## **5. EVALUATION CRITERIA**

### **5.1 Stage 1: Pre-Qualification Criteria**

#### **5.1.1 Submission of Compulsory Documents:**

**Prospective bidders must comply with the requirements and submit all required document(s) indicated hereunder with the bid documents at the closing date and time of bid. This phase is not scored and bidders who fail to comply with all the mandatory criteria will be disqualified.**

- 5.1.1.1 Prospective bidders are required to provide proof of registration with the Central Supplier Database by submitting the Centra Supplier Database (CSD) report. In case of a Joint Venture, each party must provide proof of registration with CSD.
- 5.1.1.2 Completed and signed Standard Bidding Documents attached to the bid.
- 5.1.1.3 In case of a Joint Venture, a signed written agreement between the parties which must clearly set out the roles and responsibilities of each member and include a resolution of each company of the Joint Venture together with a resolution by its members authorizing a member of the Joint Venture to sign the documents on behalf of the Joint Venture.
- 5.1.1.4 Proof of registration of the bidding entity with the Institute of Internal Auditors of South Africa IIA(SA) for the prospective bidder.

#### **5.1.2 Non-compulsory documents**

**Prospective bidders must comply with the requirements and submit all required document(s) indicated hereunder with the bid documents at the closing date and time of bid. This phase is not scored and bidders who fail to comply with all the mandatory criteria may be disqualified.**

- 5.1.2.1 Submit a valid Tax Clearance Certificate/ Tax Pin. A prospective service provider must ensure that their tax matters are in order in line with the Treasury Regulations and reflect accordingly on CSD. It is, therefore, a condition of this bid that the tax matters of the bidder be in order at the time of the award. Failure of the bidder for not complying with their tax matters at the time of award will result in the bidder being disqualified.
- 5.1.2.2 Certified copy of B-BBEE Certificate. A Joint Venture will qualify for the specific goals provided that the legal entity submits a valid B-BBEE status level certificate. Failure on the part of the bidder to comply with the above will be deemed that preference points for the B-BBEE status level of contribution are not claimed and will therefore be allocated zero (0) points.

## 5.2 Stage 2: Technical/Functionality

An assessment of Functionality will be based on the evaluation criteria noted in the table below. Each of the evaluation criteria in the table will carry a weighting as indicated, and the bidder will be required to score a minimum of **75 points** (out of the 100 points), i.e. 75%, for Functionality in order to qualify to proceed to Stage 3 of the evaluation process.

**Table 1: CRITERIA**

| Criteria  | Scoring   | Weighted score |
|---|---|----------------|
| <p>Methodology and project approach:<br/>Proposal on methodology and project approach indicating a practical framework to demonstrate adequate understanding of Internal Audit services in line with the scope of work.</p> <p>This plan should cover short-, medium-, and long-term objectives.</p> <ul style="list-style-type: none"> <li>• Methodology and project plan linked to the milestones and timeframes.</li> <li>• Programme structure with clear timelines and outputs;</li> <li>• Quality assurance steps indicated;</li> <li>• Clear reporting mechanisms and</li> <li>• Indicators and means of verifying progress</li> </ul> | <p>The methodology and approach align to the scope of work, the timeframes and project plan are suited and tailored to the project needs. = <b>20 – 30 points</b>.</p> <p>The methodology and approach <b>partially</b> align to the scope of work, the timeframes and project plan are suited and tailored to the project needs = <b>10 – 19 points</b>.</p> <p>The proposed methodology and approach is generic and <b>minimally</b> meets projects requirements. The project plan does not meet all requirements. = <b>1 – 9 points</b>.</p> <p>Non-submission = <b>0 points</b></p> | <b>30</b>      |
| <p>Reference letters from different public sector institutions as evidence of related internal audit work successfully conducted.</p> <p>NB: The Reference Letter(s) must not be older than 5 years, must be on the letterhead of the previously serviced client and should reflect at least name of the client, title of the related work conducted, year(s) conducted and completed, contactable reference name and contact details and signed by the</p>   | <p>5 Reference letters (from public sector) or more including internal audit Letters attached = <b>15 points</b></p> <p>4 Reference letters or more including the audit of performance information attached = <b>10 points</b></p> <p>3 Reference Letter attached = <b>9 points</b></p> <p>2 Reference Letter attached = <b>6 points</b></p> <p>1 Reference Letter attached = <b>3 points</b></p> <p>No / unsatisfactory / incomplete Reference Letters attached = <b>0 points</b></p>  | <b>15</b>      |

|  |   |                  |
|--|---|------------------|
| <p>appropriate delegate. The Reference Letter should indicate the quality of the service rendered.</p>   | <p>Experience in working with SETAs (Submit relevant Reference Letters of the SETA experience)</p> <p>2 SETA Reference Letters attached = <b>10 points</b><br/> 1 SETA Reference Letter attached = <b>5 points</b><br/> No/unsatisfactory/incomplete Reference Letters attached = <b>0 points</b></p>   | <p><b>10</b></p> |
| <p><b>Experience and Qualifications of a Lead Partner / Director</b></p> <p><b>Qualifications:</b><br/> Bidders must attach proof of accreditation with IIA(SA) for its lead Partner / Director</p> <p><b>NB. Bidders must attach certified copies</b> not older than <b>6 months</b> Uncertified qualification / professional certificates <u>will not be allocated points</u>. Foreign qualifications are required to be accompanied by a SAQA evaluation certificate.</p> <p><b>Experience:</b><br/> Bidders must attach a CV of the lead Partner / Director indicating at least 10 years of experience in internal audit services.</p> | <p><b>Qualifications:</b><br/> Proof of relevant professional accreditation is provided = <b>5 points</b><br/> No proof of professional accreditation attached/irrelevant professional accreditation = <b>0 points</b></p> <p><b>Experience:</b><br/> 10 years or more of relevant experience in internal audit services = <b>5 points.</b><br/> Less than 10 years of relevant experience in internal audit services = <b>0 points</b></p> | <p><b>5</b></p>  |
| <p><b>Experience of the proposed team</b></p> <p>Bidders must attach brief CVs of their proposed core management team members.</p>   | <ul style="list-style-type: none"> <li>• Internal Audit Manager with at least 5 years post articles experience = <b>5 points</b></li> <li>• IT Specialist with at least <b>5years</b> experience = <b>5 points</b></li> <li>• Internal Audit Supervisor/ Assistant Manager with at least 3 years of experience = <b>5 points</b></li> <li>• Performance Information Audit Specialist = <b>5 points</b></li> </ul>                           | <p><b>20</b></p> |



|   |  |            |
|---|--|------------|
|   | Non submission of relevant CV(s) or a CV not meeting the minimum required experience will result in the bidder not scoring points for that specific CV.  |            |
| <p><b>Qualifications of proposed team members</b></p> <p><b>NB. Bidders must attach certified copies</b> of their qualifications for the proposed team not older than <b>6 months</b>. Uncertified qualification / professional certificates <u>will not be allocated points</u>. Foreign qualifications are required to be accompanied by a SAQA evaluation certificate.</p> | <ul style="list-style-type: none"> <li>• Internal Audit Manager in possession of a professional accreditation within any of the two bodies (CIA = <b>5 points</b>)</li> <li>• IT Specialist in possession of professional accreditation with CISA = <b>5 points</b></li> <li>• Internal Audit Supervisor/ Assistance Manager with a minimum of a BTech in Internal Auditing and registered with IIA(SA) = <b>2 points</b></li> <li>• Performance Audit Specialist with a minimum of a Bcom. or any other relevant qualification = <b>3 points</b></li> </ul> | <b>10</b>  |
| Company profile   | <p>Company profile should indicate the following elements:</p> <p>Internal audit services as core business = <b>1 point</b></p> <p>Company's years of experience (at least 5 years) = <b>2 points</b></p> <p>physical presence in Gauteng= <b>1 points</b> (awarded only to those companies located and/or have operations within Gauteng Province)</p> <p>No profile attached = <b>0 points</b></p>   | <b>5</b>   |
| <b>TOTAL</b>  |  | <b>100</b> |

### 5.3 Stage 3: Pricing and Specific Goals Stage

5.3.1 The applicable preference point system for this tender is the 80/20 preference points system

80 points are awarded for price.

20 points are awarded for specific goals.

5.3.2 The points scored in respect of specific goals will be added to the points scored for price.

5.3.3 The following formula will be used to calculate the points for Price:

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

P min = Price of lowest acceptable tender

#### 5.4 Points awarded for specific goals

For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 2 below as may be supported by proof/ documentation stated in the conditions of this tender:

**Table 2: Specific goals for the tender and points claimed are indicated per the table below.**

| Specific goals will be allocated as follows: | Points |
|--|--------|
| Minimum B-BBEE Status level 2 contribution   | 10     |
| Minimum of 30% Black Female Ownership        | 5      |
| QSE or EME as classified                     | 5      |
|  | 20     |

#### 5.5 Financial Proposal

**Financial proposals will be compared on the basis of their total amount inclusive of VAT and all other related costs. Bidders are required to submit financial proposals as per the table below on a company letterhead.**

Pricing schedule is compulsory and failure to complete same in prescribed manner as per the Table 3 below and without alterations may result in disqualification of bid price proposal during the financial evaluation process.

It is understood that internal audits are based on hourly rates and that budgets are compiled once the appointed auditor has assessed the likely extent of the work. Financial proposals will be compared on the basis of average hourly rates. Firms are required to submit hourly rates as per the table below. Rates should be inclusive of overheads and VAT

NB: Please note the costing should be as per the below schedule only, where naming is different indicate, bidders must align to the table below for uniformity.



**Pricing schedule:**

**Bidders must submit the pricing schedule in a separate envelope clearly indicating the name of the bidder, contact details, and title of the bid and the tender number EWSETA/RFP/01/2023-4**

| <b>Position Title Category (where applicable)</b>     | <b>Rate / Hour (incl. vat) Year 1</b> | <b>Rate / Hour (incl. vat) Year 2</b> | <b>Rate / Hour (incl. vat) Year 3</b> |
|---|---------------------------------------|---------------------------------------|---------------------------------------|
| Director/Partner Level (or equivalent)                | R                                     | R                                     | R                                     |
| Manager (or equivalent)                               | R                                     | R                                     | R                                     |
| Audit Senior / Supervisor (or equivalent)             | R                                     | R                                     | R                                     |
| Auditor (or equivalent)                               | R                                     | R                                     | R                                     |
| Junior Auditor / Trainee (or equivalent)              | R                                     | R                                     | R                                     |
| IT specialist (or equivalent)                         | R                                     | R                                     | R                                     |
| Audit of Performance Information Specialist           | R                                     | R                                     | R                                     |
| <b>Total sum of rates</b>                             | R                                     | R                                     | R                                     |
| <b>Total Sum of rates inc. of vat for the 3 years</b> |                                       |                                       | R                                     |

If a particular category does not exist for the firm, it can be omitted. The rate quoted excludes costs that relate to travelling and accommodation.

It is recognised that it is difficult for a prospective bidder to be firm about the extent of the work based solely on the terms of reference. However, to assist with assessments, a firm must provide a typical distribution of time for members of the audit team. This should be expressed in percentages of the total person-hours billed on a typical engagement.

The total project cost shall be agreed upon signing of contact.

Any possible staff changes during the course of the engagement must be done in consultation and approval of the EWSETA. To this end, bidders must give an outline of the size and depth of the practice with regard to the number of partners, managers, specialists and assistants with their brief CV's, that could be tapped into, should the need arise, during the course of the engagement.

Only firm prices will be accepted. Non-firm prices will not be considered. Bidders are requested to provide a clear agreement regarding joint venture/consortia. The percentage involvement of each company in the joint venture agreement should be indicated on the agreement.

The EWSETA shall not be obliged to accept the lowest of the average hourly tariff. Annual cost escalation must be factored into account in year 2 and year 3.



## 6. NOTES TO BIDDERS

Outlined below are basic requirements that each bid must comply with. Failure of any bid to meet any or all of these requirements may disqualify such a bid from the evaluation process:

- 6.1 A prospective bidders must ensure that their tax matters are in order in line with the Treasury Regulations and reflect accordingly on CSD. It is therefore a condition of this bid that the tax matters of the bidder be in order at the time of award. Failure of the bidder for not complying with their tax matters at the time of award will result in the bidder being disqualified.
- 6.2 The EWSETA will not be liable to reimburse any costs incurred by applicants in preparing their proposals.
- 6.3 Bids received late shall not be considered under any circumstances. A bid will be considered late if it arrives after 11:00 o'clock on/after the closing date.
- 6.4 EWSETA does not bind itself into making an appointment from proposals and offers received.
- 6.5 The lowest price or any quotation will not necessarily be accepted, and the EWSETA reserves the right to accept the whole or any portion of a quotation.
- 6.6 EWSETA reserves the right, at its sole discretion, to cancel this request for proposals, presentations and prices or not to make any appointment at all.
- 6.7 EWSETA will not make upfront payments.
- 6.8 Successful bidder must undertake to abide by the confidentiality undertakings contained in the agreement to be concluded.
- 6.9 The successful bidder will be informed of the outcome. A contract will only be deemed to be concluded when reduced to writing and signed by the designated responsible person of both parties (duly authorized). The designated responsible person of the EWSETA is the Chief Executive Officer or her/his written authorized delegate.
- 6.10 Please note that any plagiarism of any sort contained within any bid or any other documents submitted to the EWSETA by any bidder will result in the disqualification of the respective bidder and may potentially have legal ramifications.
- 6.11 EWSETA may request clarification or further information regarding any aspect of the bidder. The bidder must provide the requested information within forty-eight (48) hours after the request has been made; otherwise, the bidder may be disqualified.
- 6.12 Nothing, as stipulated in these Terms of Reference may be amended without the written confirmation of the Chief Executive Officer of EWSETA or his/her delegated authority.
- 6.13 Any possible staff changes during the engagement must be done in consultation and approval of the EWSETA.
- 6.14 All bidders must initial on the General Conditions of Contract with alterations.

## 7. SUBMISSION OF BIDS

Bidders are required to submit **ONE original plus two copies and an electronic copy on a USB** of the bid document which should be hand-delivered to the following address.

EWSETA,  
22 Wellington Road  
Parktown, 2193

**All bids must be submitted at the EWSETA reception during office hours and bidders must sign the tender submission register.**



The **Bid number, Title of the bid, and name of the bidder** must be endorsed on the envelope:

Bidders are required to submit their proposals in two (2) sealed envelopes in the following format:

**Envelope 1: Technical Proposal**

Marked with the name of the bidder, contact details, company address, closing date, and Titled: Technical Proposal for EWSETA Tender No: **EWSETA/RFP/01/2023-4**

**Section 1 : Compliance Documents**

**Specify the documents**

**Section 2 : Technical proposal**

- a. Methodology and project approach
- b. Reference letters of previous related work performed
- c. Experience in working within the SETA environment
- d. Experience and qualifications of lead Partner / Director
- e. Experience and qualifications of core team members
- f. Company Profile

**Envelope 2: Price Proposal:**

Marked with name of bidder, contact details, company address closing date, and clearly titled indicating tender number **EWSETA/RFP/01/2023-4**

It must contain the price proposal and valid BEE certificate for EWSETA Tender No: **EWSETA/RFP/01/2023-4**

**8. CLOSING DATE OF PROPOSAL**

A comprehensive proposal together with pricing schedule must reach EWSETA by no later than **TUESDAY 03 OCTOBER 2023 not later than 11H00**. Please note that no late proposals will be considered. Submissions during office hours at the reception. Bidders must sign the register.

**9. TENDER VALIDITY**

This RFP shall be valid for 90 days calculated from Bid closing date.

**10. FRAUD HOT-LINE**

EWSETA subscribes to fair and just administrative processes. EWSETA, therefore, urges its clients, suppliers and the general public to report any fraud or corruption to:

EWSETA TIP-OFFS ANONYMOUS

Free Call: 0800 611 205

Email: [ewseta@tip-offs.com](mailto:ewseta@tip-offs.com) or visit their website [www.tip-offs.com](http://www.tip-offs.com)



**11. ANNEXURE 1 – SBD4 - BIDDER’S DISCLOSURE**

**1. PURPOSE OF THE FORM**

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

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

**2. Bidder’s declaration**

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

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

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

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



2.2 Do you, or any person connected with the bidder, have a relationship with any person who is employed by the procuring institution? **YES / NO**

2.2.1 If so, furnish particulars:

.....  
.....

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

2.3.1 If so, furnish particulars:

.....  
.....

**3 DECLARATION**

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

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium<sup>2</sup> will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win

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



the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.

- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.
- 3.6 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

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

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

.....

|           |      |
|-----------|------|
| Signature | Date |
|-----------|------|

.....

|          |                |
|----------|----------------|
| Position | Name of bidder |
|----------|----------------|





## **12. ANNEXURE 2 - EWSETA GENERAL CONDITIONS OF CONTRACT**

### **General**

EWSETA and the Supplier enter into an order/contract on these conditions to supply the items (goods/services/works) as described in the order/contract.

### **Conditions**

These conditions form the basis of the contract between EWSETA and the Supplier. Notwithstanding anything to the contrary in any document issued or sent by the Supplier, these conditions apply except as expressly agreed in writing by EWSETA. No servant or agent of EWSETA has authority to vary these conditions orally. These general conditions of purchase are subject to such further special conditions as may be prescribed in writing by EWSETA in the order/contract.

### **Price and payment**

The price or rates for the items stated in the order/contract may include an amount for price adjustment, which is calculated in accordance with the formula stated in the order/contract. The Supplier may be paid in one currency other than South African Rand. Only one exchange rate is used to convert from this currency to South African Rand. Payment to the Supplier in this currency other than South African Rand, does not exceed the amounts stated in the order/contract. EWSETA pays for the item within 30 days of receipt of the Suppliers correct tax invoice.

### **Delivery and documents**

The Supplier's obligation is to deliver the items on or before the date stated in the order/contract. Late deliveries or late completion of the items may be subject to a penalty if this is imposed in the order/contract. No payment is made if the Supplier does not provide the item as stated in order/contract.

### **Where items are to be delivered the Supplier:**

Clearly marks the outside of each consignment or package with the Supplier's name and full details of the destination in accordance with the order and includes a packing note stating the contents thereof; On dispatch of each consignment, sends to EWSETA at the address for delivery of the items, an advice note specifying the means of transport, weight, number of volume as appropriate and the point and date of dispatch; Sends to EWSETA a detailed priced invoice as soon as is reasonably practical after dispatch of the items, and states on all communications in respect of the order the order number and code number (if any).

### **Containers / packing material**

Unless otherwise stated in the order/contract, no payment is made for containers or packing materials or return to the Supplier.

**Initial** \_\_\_\_\_



### **Title and risk**

Without prejudice to rights of rejection under these conditions, title to and risk in the items passes to EWSETA when accepted by EWSETA.

### **Rejection**

If the Supplier fails to comply with his obligations under the order/contract, EWSETA may reject any part of the items by giving written notice to the Supplier specifying the reason for rejection and whether and within what period replacement of items or re-work are required.

In the case of items delivered, EWSETA may return the rejected items to the Supplier at the Supplier's risk and expense. Any money paid to the Supplier in respect of the items not replaced within the time required, together with the costs of returning rejected items to the Supplier and obtaining replacement items from a third party, are paid by the Supplier to EWSETA.

In the case of service, the Supplier corrects non-conformances as indicated by EWSETA.

### **Warranty**

Without prejudice to any other rights of EWSETA under these conditions, the Supplier warrants that the items are in accordance with EWSETA's requirements and fit for the purpose for which they are intended and will remain free from defects for a period of one year (unless another period is stated in the Order) from acceptance of the items by EWSETA.

### **Indemnity**

The Supplier indemnifies EWSETA against all actions, suits, claims, demands, costs, charges and expenses arising in connection therewith arising from the negligence, infringement of intellectual or legal rights or breach of statutory duty of the Supplier, his subcontractors, agents or servants, or from the Supplier's defective design, materials or workmanship.

The Supplier indemnifies EWSETA against claims, proceedings, compensation and costs payable arising out of infringement by the Supplier of the rights of others, except an infringement which arose out of the use by the Supplier of things provided by EWSETA.

### **Assignment and sub-contracting**

The Supplier may not assign or subcontract any part of this order/contract without the written consent of EWSETA.

### **Termination**

EWSETA may terminate the order/contract at any time (without prejudice to any right of action or remedy which has accrued or thereafter accrues to EWSETA):

**Initial**\_\_\_\_\_



If the Supplier defaults in due performance of the order/contract, or if the Supplier becomes bankrupt or otherwise is, in the opinion of EWSETA, in such financial circumstances as to prejudice the proper performance of the order/contract, or for any other reason in which case the Supplier will be compensated for all costs incurred.

**Governing law**

The order/contract is governed by the law of the Republic of South Africa and the parties hereby submit to the non-exclusive jurisdiction of the South African courts.

**Initial:** \_\_\_\_\_



**SERVICE LEVEL AGREEMENT**

entered into between

**ENERGY AND WATER SECTOR EDUCATION AND TRAINING AUTHORITY**  
**(hereinafter referred to as “EWSETA”)**

Represented by \_\_\_\_\_, in his/her capacity as \_\_\_\_\_ and she being duly authorised to enter into this Contract,

and

**Entity Name:** \_\_\_\_\_

**Entity Registration number:** \_\_\_\_\_

**(Hereinafter referred to as “SERVICE PROVIDER”)**

Represented herein by \_\_\_\_\_ in his/her capacity as a \_\_\_\_\_ and being duly authorised to enter into this Service Level Agreement.

**WHEREBY IT IS AGREED AS FOLLOWS:**

**1. DEFINITIONS AND INTERPRETATIONS**

1.1. Words importing –

- 1.1.1. any one gender include the other two genders;
- 1.1.2. the singular include the plural and *vice versa*; and
- 1.1.3. natural persons include created entities (corporate or unincorporated) and the state and *vice versa*;

1.2. The following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings, namely –

- 1.2.1. **“Agreement”** means this agreement and its annexures, read in consultation with the preceding bid documents with reference number **EWSETA/RFP/01/2023-24**
- 1.2.2. **“Annexure of Costs”** means annexure two (2) of this Agreement, wherein all Costs relating to the Services provided in terms of this Agreement are set out;
- 1.2.3. **“Annexure of Services”** means annexure one (1) of this Agreement, wherein the details pertaining to the Services to be provided in terms of this Agreement are set out;
- 1.2.4. **“Business Day”** means any day other than a Saturday, Sunday or statutory public holiday in South Africa, on which commercial banks are generally open for business in South Africa;
- 1.2.5. **“Confidential Information”** shall have the meaning ascribed thereto in clause 15.1 of this Agreement;
- 1.2.6. **“Costs”** means the fees payable by EWSETA to the Service Provider in consideration for the Services provided, as set out in the Annexure of Costs, read with clause 7 of this Agreement;
- 1.2.7. **“Effective Date”** means this agreement shall commence on the \_\_\_\_\_
- 1.2.8. **“EWSETA”** means the Energy and Water Sector Education and Training Authority, as established in terms of the Skills and Development Act (97 of 1998);
- 1.2.9. **“Financial Distress Event”** means, in relation to a Party, that such Party:
  - 1.2.9.1. becomes unable to pay its debts generally as they become due;
  - 1.2.9.2. proposes or makes any arrangement or composition with its creditors;
  - 1.2.9.3. has a business rescue practitioner, receiver, administrator, trustee or liquidator appointed over all or any part of its property or assets;
  - 1.2.9.4. proposes a resolution to go into business rescue proceedings, an administration order or goes into bankruptcy, liquidation or receivership;

- 1.2.9.5. takes, suffers or is the subject of (or proposes to take or is threatened with) any similar or analogous action, event or proceedings in any jurisdiction in consequence of debt; or
- 1.2.9.6. ceases, or threatens to cease, to carry on business
- 1.2.10. **“Parties”** means EWSETA and the Service Provider;
- 1.2.11. **“PFMA”** means the Public Finance Management Act (1 of 1999), as amended or replaced from time to time;
- 1.2.12. **“Services”** means the deliverables and services to be provided by the Service Provider in terms of this Agreement, as set out in the Annexure of Services, read with clause 2.1 of this Agreement;
- 1.2.13. **“Service-Provider”** \_\_\_\_\_ means \_\_\_\_\_ the Party entering into this Agreement with EWSETA, and who/which is obligated to comply with the terms and conditions hereof, and in particular (without limitation) the Party which will provide the Services contemplated in this Agreement;
- 1.2.14. **“Supply Chain Policy”** means the supply chain policy of EWSETA, as amended from time to time; and
- 1.2.15. **“Signature Date”** means the date on which this Agreement has been signed by the Parties;
- 1.3. Any reference in this Agreement to **“Signature Date”** shall be read as meaning a reference to the date of the last signature of this Agreement;
- 1.4. Any reference to an enactment is to that enactment as at the Signature Date and as amended or re-enacted from time to time and includes any subordinate legislation made from time to time under such enactment. Any reference to a particular section in an enactment is to that section as at the Signature Date, and as amended or reenacted from time to time and/or an equivalent measure in an enactment, provided that if as a result of such amendment or re-enactment, the specific requirements of a section referred to in this Agreement are changed, the relevant provision of this Agreement shall be read also as if it had been amended as necessary, without the necessity for an actual amendment;
- 1.5. If any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of the Agreement;
- 1.6. When any number of days is prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or public holiday, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday;
- 1.7. If figures are referred to in numerals and in words and if there is any conflict between the two, the words shall prevail;
- 1.8. If any term is defined within the context of any particular clause in this Agreement, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes



in terms of this Agreement, notwithstanding that term has not been defined in this interpretation clause;

- 1.9. 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;
- 1.10. The rule of construction that a contract shall be interpreted against the Party responsible for the drafting or preparation of the contract, shall not apply;
- 1.11. Any reference in this Agreement to a Party shall include a reference to that Party's assignee expressly permitted under this Agreement and, if such Party is liquidated or sequestrated, be applicable also to and binding upon that Party's liquidator or trustee, as the case may be;
- 1.12. The words "include", "including" and "in particular" shall be construed as being by way of example or emphasis only and shall not be construed, nor shall they take effect, as limiting the generality of any preceding word/s;
- 1.13. Any reference in this Agreement to any other agreement or document shall be construed as a reference to such other agreement or document as same may have been, or may from time to time be, amended, varied, novated or supplemented; and
- 1.14. The words "other" and "otherwise" shall not be construed *eiusdem generis* with any preceding words if a wider construction is possible.

## 2. APPOINTMENT OF THE SERVICE PROVIDER

- 2.1. EWSETA hereby appoints the Service Provider to render **internal audit services** on the terms and conditions agreed to, in this Agreement. This agreement was preceded with the procurement process with reference number **EWSETA/RFP/01/2023**, which forms part of this agreement.
- 2.2. The Service Provider accepts the appointment, and undertakes to, amongst others, provide the Services with the professionalism, due care and skill required to fulfil the terms and conditions of this Agreement.
- 2.3. For the avoidance of doubt, the Service Provider shall at no point have any authority to represent EWSETA in any manner, unless EWSETA has provided the Service Provider with prior written consent to do so.

## 3. DURATION

- 3.1. This Agreement will commence on effectively \_\_\_\_\_ and will end on \_\_\_\_\_. EWSETA shall have an option to extend this Agreement at its sole discretion or due to exhaustion of the budget whichever comes first. EWSETA reserves the right to shorten the

duration with one month's notice in the event that a permanent resource is appointed to the position through a recruitment process.

## 4. NO LEGITIMATE EXPECTATION

- 4.1. The Service Provider agrees that it has no expectation of this Agreement being renewed or of a similar agreement being concluded, notwithstanding that this Agreement may have been renewed on a number of previous occasions or that similar agreements to this one may have been concluded between the Parties on a number of previous occasions.
- 4.2. Furthermore, the Service Provider agrees that it has no expectation of being appointed as a service provider for similar, related, or the same, service in the future.

## 5. THE SERVICES

- 5.1. The Service Provider hereby agrees that it will provide the Services as set out in the Annexure of Services (attached) for the duration of this Agreement.

## 6. CONTRACT AMENDMENTS

- 6.1. No variation in or modification of the terms of the agreement shall be made except by written amendment signed by the authorised representatives of the Parties concerned.

## 7. CHARGES AND PAYMENT

- 7.1. The Service Provider shall be entitled to commence invoicing EWSETA for the costs in relation to the Services from the commencement date of such Services, as determined in accordance with the Annexure of Services. The Service Provider shall at all times quote the Purchase Order number when submitting a claim.
- 7.2. The Parties agree that the Services will be chargeable in accordance with the provisions contained in the Annexure of Costs.
- 7.3. Subject to clauses 7.4 EWSETA undertakes to pay within thirty (30) days of presentation of a duly completed tax invoice and supporting documents if required by EWSETA. Payment is to be made by way of an electronic funds transfer into a bank account nominated in writing by the Service Provider for such a purpose.

Account Holder: \_\_\_\_\_

Bank: \_\_\_\_\_

Account Number: \_\_\_\_\_

Branch Code: \_\_\_\_\_

- 7.4. Payment may be withheld if EWSETA is, for any reason, not satisfied with the standard of work done in rendering the Services and is only obligated to make payment upon presentation of a substantiated claim, and if all supporting

documents are submitted with or prior to the receipt of the invoice.

- 7.5. EWSETA shall not pay for any unproductive or duplicated time spent by the Service Provider on any assignment as a result of, amongst others, staff changes or redrafting of reports due to inadequate quality thereof.
- 7.6. Timesheet sign-off shall be made promptly by EWSETA, but in no case later than fifteen (15) days after submission of completed timesheets and supporting documents by the Service Provider.
- 7.7. Prices charged by the Service Provider for the services rendered under the contract shall not vary from the prices quoted by the Service Provider in its bid, with the exception of any price adjustments authorised in the Service Level Agreement or in the EWSETA's request for bid validity extension, as the case may be.

## 8. ACCESS TO INFORMATION

The Service Provider hereby agrees that it shall provide EWSETA with all information reasonably requested by EWSETA in order for EWSETA to assess the financial status and credit worthiness of the Service Provider.

## 9. TAX CLEARANCE CERTIFICATE

- 9.1. The Service Provider agrees to produce a valid and original tax clearance certificate or ancillary documentation on an annual basis in order for EWSETA to comply with the Supply Chain Policy, amongst other things.
- 9.2. **For the avoidance of doubt, where the Service Provider fails to supply EWSETA with such a certificate, EWSETA shall be able to terminate this Agreement forthwith, without affecting any of EWSETA's rights it may have in law.**

## 10. WARRANTIES AND REPRESENTATIONS

- 10.1. The Parties acknowledge that they have entered into this Agreement after making independent investigations, and that neither Party has made any representations or given any warranties other than as may be set out in this Agreement.
- 10.2. The Service Provider warrants and represents that:
  - 10.2.1. it has full capacity and authority to enter into, and perform in terms of, this Agreement and to provide the Services to EWSETA;
  - 10.2.2. it is the owner of, or has the right to use, under licence or otherwise, any intellectual property employed by it during or as part of the Services;
  - 10.2.3. it holds all the necessary permits, licences, authorisations and qualifications necessary to provide the Services;
  - 10.2.4. it is not aware, as at the signature date, of any matter within its reasonable control or knowledge which might or will adversely affect its ability to perform its contractual obligations as contained in this Agreement;

- 10.2.5. it has been provided with a copy of EWSETA's Supply Chain Policy, and is familiar with the contents thereof;
- 10.2.6. the Services shall be performed in accordance with South African law;
- 10.2.7. the Services shall be provided in accordance with the provisions of this Agreement;
- 10.2.8. the Services shall be performed in a professional manner, and the Service Provider (including without limitation its employees and/or agents) shall provide the Services with reasonable skill, care and diligence;
- 10.2.9. it undertakes that –
  - 10.2.9.1. should any of the Service Provider's personnel for any reason whatsoever be found to be incompetent or in any manner untrustworthy or dishonest with respect to any matter relative to this Agreement or its implementation, whether in EWSETA's reasonable bona fide opinion, or otherwise howsoever, such of the Service Provider's personnel shall, if so required by EWSETA, be replaced forthwith, and replaced after consultation with and approval by EWSETA; and
  - 10.2.9.2. should EWSETA at any time request that any of the Service Provider's personnel relative to this Agreement or its implementation be replaced, which it undertakes not to do unreasonably or without bona fide reason, such personnel shall be replaced forthwith after consultation and approval with EWSETA.

## 11. LIMITATION OF LIABILITY

- 11.1. EWSETA shall not be held liable for, and the Service Provider indemnifies and holds the EWSETA harmless against, any and all claims of any person in any manner arising or resulting from, caused by, connected with or related to the provision of the Services, a breach of this Agreement, or EWSETA relying, to its detriment, on incorrect or false information supplied by the Service Provider.
- 11.2. The Service Provider is required to effect and maintain at all times, and verify if requested by EWSETA, a public liability insurance policy and a short-term insurance policy with a reputable insurer in respect of the provision of the Services. The Service Provider is to provide certified proof of same when requested to do so by EWSETA.

## 12. SUB-CONTRACTING

- 12.1. The Services shall be rendered by the Service Provider itself and the Service Provider shall not be entitled to sub-contract the Services or any portion thereof to anyone without the prior written consent of EWSETA, which consent EWSETA may withhold in its absolute and entire discretion without furnishing any reason for such withholding, and in giving any such consent may impose such conditions that it may deem appropriate.

**13. IDENTITY OF THE SERVICE PROVIDER**

13.1. If, without the prior written consent of EWSETA, which consent EWSETA may withhold in its absolute and entire discretion without having to furnish any reason for any such withholding –

- 13.1.1. Any change whatsoever takes place in the membership of the Service Provider; or
- 13.1.2. The Service Provider sells, cede, assigns or otherwise disposes of its business or any part thereof;

13.2. EWSETA shall be entitled at any time thereafter to terminate this Agreement forthwith on written notice to the Service Provider in addition to and without prejudice to any other legal remedy which EWSETA may have.

**14. RELATIONSHIP**

14.1. For the avoidance of any doubt, it is recorded and agreed that the relationship between the Service Provider and EWSETA is that of an independent contractor (constituted by the Service Provider) appointed by EWSETA to provide the Services and consequently the relationship between EWSETA and the Service Provider in terms of this Agreement is a contract of services only and does not constitute nor may it be construed as constituting a contract of agency, representation, employment or partnership with EWSETA. The Service Provider shall not incur any liability whatsoever on behalf of EWSETA and it has no authority to bind EWSETA through any representations, statements or agreements in any manner whatsoever, and the Service Provider undertakes not to hold itself out as such.

**15. CONFIDENTIALITY UNDERTAKING**

15.1. For the purposes of this Agreement, “**Confidential Information**” shall mean all confidential information (however recorded, preserved or disclosed) disclosed by a Party or its employees, officers, representatives or advisers (together, its “**Representatives**”) to the other Party and that Party’s Representatives (whether before, on or after the date of this Agreement) in connection with:

- 15.1.1. the terms of, or for the purposes of fulfilling its obligations in terms of, this Agreement;
- 15.1.2. any information that would be regarded as confidential by a reasonable business person relating to the business, affairs, customers, clients, suppliers, plans, intentions, or market opportunities of the Party disclosing the information, including the operations, processes, product information, know-how, designs, trade secrets or software of such Party; and
- 15.1.3. any information compiled by the Parties in the course of carrying out or fulfilling their obligations in terms of this Agreement, but not including any information that:
  - 15.1.3.1. is or becomes generally available to the public, other than as a result of its disclosure by the recipient or its Representatives in breach of this Agreement or of any other undertaking of

confidentiality addressed to the party to whom the information relates (except that any compilation of otherwise public information in a form not publicly known shall nevertheless be treated as Confidential Information); or

- 15.1.3.2. was available to the recipient on a non-confidential basis prior to disclosure by the disclosing Party; or
- 15.1.3.3. was, is or becomes available to the recipient on a non-confidential basis from a person who, to the recipient’s knowledge, is not bound by a confidentiality undertaking with the disclosing Party or otherwise prohibited from disclosing the information to the recipient; or
- 15.1.3.4. was lawfully in the possession of the recipient before the information was disclosed to it by the disclosing party; or
- 15.1.3.5. the Parties agree in writing that it is not confidential and may be disclosed; or
- 15.1.3.6. is developed by or for the recipient independently of the information disclosed by the disclosing Party; or
- 15.1.3.7. is trivial, obvious or useless.
- 15.1.4. The recipient shall use its reasonable endeavours to keep the disclosing Party’s Confidential Information confidential and, except with the prior written consent of the disclosing Party, shall not, and shall procure that its Representatives shall not:
  - 15.1.4.1. use or exploit the Confidential Information in any way except to ensure compliance with this Agreement; or
  - 15.1.4.2. disclose or make available the Confidential Information in whole or in part to any third party, except as expressly permitted by this Agreement; or
  - 15.1.4.3. copy, reduce to writing or otherwise record the Confidential Information except as strictly necessary in terms of this Agreement.

**16. DELAYS IN SUPPLIER’S PERFORMANCE**

- 16.1. Delivery of the goods and performance of services shall be made by the Service Provider in accordance with the time schedule prescribed by the EWSETA in annexure 2, fees schedule.
- 16.2. If at any time during performance of the contract, the Service Provider or its subcontractor(s) (if approved as per 12.1) should encounter conditions impeding timely delivery of the goods and performance of services, the Service Provider shall promptly notify the EWSETA in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the Service Provider’s notice, the EWSETA shall evaluate the situation and may at his discretion extend the Service Provider’s time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.
- 16.3. A delay by the Service Provider in the performance of its delivery obligations may render the supplier liable to the imposition of



penalties unless an extension of time is agreed upon without the application of penalties.

## 17. BREACH

17.1. If any Party hereto:

17.1.1. breaches any term of this Agreement and fails to remedy such breach within 5 Business Days of receipt of written notice requiring it to do so;

17.1.2. then the aggrieved Party shall be entitled, without notice, in addition to any other remedy available to it at law or under this Agreement, including obtaining an interdict, to cancel this Agreement or to claim specific performance of any obligation whether or not the due date for performance has arrived, in either event without prejudice to the aggrieved Party's right to claim damages.

17.2. The Parties agree that the Apportionment of Damages Act, 1956, shall apply to this Agreement.

## 18. FORCE MAJEURE

18.1. Either party shall be excused from the non-performance of any of its obligations under this agreement, if such non-performance is caused by any factor outside the control of that Party, such factors including (without limitation) fire, storm damage, inclement weather, power failures, riots, unavailability of materials (beyond the sole responsibility of the service provider), strikes, lock-outs, sanctions, embargoes and actions of the legislative, or the executive, or the military authorities (herein after called a force majeure).

## 19. TERMINATION

19.1. Notwithstanding any other provision in this Agreement, either Party shall be able to terminate this Agreement by providing the other Party with 30 calendar days' written notice of termination, and subject to EWSETA paying for all the Services provided by the Service Provider at the time of termination of this Agreement.

## 20. SUMMARY TERMINATION

20.1. If any Party hereto:

20.1.1. commits or is subject to a Financial Distress Event or fraud; or

20.1.2. allows any judgment against it, in excess of R500 000.00 (five hundred thousand Rand), to remain unsatisfied for more than 10 (ten) Business Days without taking the appropriate steps to have it rescinded; or

20.1.3. being a natural person, takes any steps to surrender his estate or is provisionally or finally sequestrated; or

20.1.4. is guilty of grave misconduct or wilful neglect in the discharge of its duties; or

20.1.5. commits a criminal offence of a dishonest and/or serious nature; or

20.1.6. being a created entity, undergoes a change of control,

then the aggrieved Party shall be entitled, without notice, in addition to any other remedy available to it at law or under this Agreement, including obtaining an interdict, to summarily terminate this Agreement or to claim specific performance of any obligation whether or not the due date for performance has arrived, in either event without prejudice to the aggrieved Party's right to claim damages.

20.1.7. The Parties agree that the Apportionment of Damages Act, 1956, shall apply to this Agreement.

## 21. ASSIGNMENT

21.1. The Service Provider shall not be entitled to cede, delegate, assign, or otherwise transfer any part, share or interest herein, to any person other than EWSETA, without the prior written consent of EWSETA.

## 22. DISPUTE RESOLUTION, NEGOTIATION, MEDIATION THEN ARBITRATION

22.1. Should any dispute, disagreement or claim arise between the Parties (the "Dispute") in connection with the Agreement, the Parties shall endeavour to resolve the dispute by negotiation. This entails the authorised representatives of one of the Parties inviting the authorised representatives of the other in writing to meet and to attempt to resolve the dispute within 10 (ten) Business Days from date of written invitation to do so.

22.2. If the dispute has not been resolved by such negotiation within 10 (ten) Business Days of the date of the delivery of the written invitation referred to in clause 22.1, then the Parties shall:

22.2.1. submit the dispute to mediation to be administered by the Arbitration Foundation of Southern Africa ("AFSA"), upon such terms as agreed between the Parties and the secretariat of AFSA; and

22.2.2. failing agreement as aforesaid within 10 (ten) Business Days of the dispute being submitted to mediation, the Parties shall refer the dispute to arbitration as provided in clause 22.3.

22.3. In the event that the Parties are unable to settle the dispute by mediation in accordance with clause 22.2 within 10 (ten) Business Days of submission of the dispute to mediation, the dispute shall be submitted to arbitration for final resolution in accordance with the rules of AFSA by an arbitrator or arbitrators appointed by that foundation.

22.4. Each Party shall be entitled to appeal against the award to an panel (the "Arbitration Appeal Panel") consisting of three retired judges of the Constitutional Court, the Supreme Court of Appeal, the High Court, or practising senior counsel appointed in writing by the Parties and, in the absence of an agreement between the Parties in regard to the appointment of any one or

more of the three Appeal Arbitrators, by the Chairman for the time being of the Johannesburg Bar Council.

- 22.5. The Arbitration Appeal Panel will on appeal have the same powers *mutatis mutandis* as the Supreme Court of Appeal;
- 22.6. Such appeal shall be lodged in accordance with the Uniform Rules of Court and the time limits and procedures laid down in the Rules in regard to appeals from the judgment of a single judge of the Court to a full bench of the Court shall apply in every respect, unless mutually otherwise agreed in writing by the Parties;
- 22.7. The appeal shall be heard and determined in accordance with the ordinary principles regulating appeal hearings at the AFSA Arbitration Centre, Sandton, on a date to be agreed between the Parties and the Arbitration Appeal Panel and, in the absence of agreement within a reasonable time, on a date to be determined by the Arbitration Appeal Panel.
- 22.8. Unless otherwise agreed in writing by both Parties, any such negotiation, mediation or arbitration shall be held in Johannesburg in the English language.
- 22.9. Nothing in this clause shall preclude the Parties from seeking interim and/or urgent relief from the court for the protection of any rights pending the final determination of the dispute.

## 23. WHOLE AGREEMENT, NO AMENDMENT

- 23.1. This Agreement constitutes the whole agreement between the Parties relating to the subject matter hereof, and supersedes any other discussions, agreements and/or understandings regarding the subject matter hereof. This agreement will be read in consultation with the bid documents and should there be a conflict between the bid documents and this Agreement, this Agreement will prevail and should there be a conflict between this Agreement and its annexures
- 23.2. No amendment or consensual cancellation of this Agreement or any provision or term hereof or of any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this Agreement and no settlement of any disputes arising under this Agreement and no extension of time, waiver or relaxation or suspension of or agreement not to enforce or to suspend or postpone the enforcement of any of the provisions or terms of this Agreement or of any agreement, bill of exchange or other document issued pursuant to or in terms of this Agreement shall be binding unless recorded in a written document signed by the Parties (or in the case of an extension of time, waiver or relaxation or suspension, signed by the Party granting such extension, waiver or relaxation). Any such extension, waiver or relaxation or suspension which is so given or made shall be strictly construed as relating strictly to the matter in respect whereof it was made or given.
- 23.3. No oral *pactum de non petendo* shall be of any force or effect.
- 23.4. No extension of time or waiver or relaxation of any of the provisions or terms of this Agreement or any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this Agreement, shall operate as an estoppel against any

Party in respect of its rights under this Agreement, nor shall it operate so as to preclude such Party (save as to any extension, waiver or relaxation actually given) thereafter from exercising its rights strictly in accordance with this Agreement.

To the extent permissible by law no Party shall be bound by any express or implied or tacit term, representation, warranty, promise or the like not recorded herein, whether it induced the contract and/or whether it was negligent or not.

## 24. SURVIVAL OF OBLIGATIONS

Any provision of this Agreement, which contemplates performance or observance subsequent to any termination, or expiration of this Agreement shall survive any termination or expiration of this Agreement and continue in full force and effect.

## 25. CO-OPERATION

The Parties undertake at all times to do all such things, to perform all such acts and to take all such steps and to procure the doing of all such things, performance of all such actions and the taking of all such steps as may be open to them and necessary for or incidental to implementing, the putting into effect of, and the maintenance of the terms, conditions and impact of, this Agreement.

## 26. LEGAL COSTS

- 26.1. Should it at any stage become necessary for EWSETA to institute action against the Service Provider by reason of this Agreement and/or a breach thereof, then the Service Provider shall be liable to pay all the costs so incurred by EWSETA on the scale as between attorney and client;
- 26.2. The Service Provider shall, in addition to the costs referred to above, be liable for all legal costs and related expenses pertaining to and associated with the preparation and registration of any of the securities provided for in this Agreement.

## 27. SEVERABILITY

- 27.1. Any provision in this Agreement which is or may become illegal, invalid or unenforceable in any jurisdiction affected by this Agreement shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be treated *pro non scripto* and severed from the balance of this Agreement, without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

## 28. DOMICILIUM CITANDI ET EXECUTANDI

- 28.1. The Parties choose as their *domicilia citandi et executandi* for all purposes under this Agreement, whether in respect of court process, notices or other documents or communications of whatsoever nature (including the exercise of any option), the following addresses:

**28.2. EWSETA:**

Attention: \_\_\_\_\_  
Physical: 22 Wellington Road  
Ground Floor  
Parktown  
Johannesburg

Tel: 011 274 4700  
Email: \_\_\_\_\_

**28.3. Entity name:** \_\_\_\_\_

Attention: Mr/s. \_\_\_\_\_

Physical: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Tel: \_\_\_\_\_

Email: \_\_\_\_\_

28.4. Any notice or communication required or permitted to be given in terms of this Agreement shall be valid and effective only if in writing, but it shall be competent to give notice by post or e-mail.

28.5. Either Party may by notice to the other Party change the physical address chosen as its *domicilium citandi et executandi* to another physical address where postal delivery occurs in South Africa, provided that the change shall become effective on the 4<sup>th</sup> (fourth) Business Day from the deemed receipt of the notice by the other Party.

28.6. Any notice to a Party –

- 28.6.1. sent by prepaid registered post (by airmail if appropriate) in a correctly addressed envelope to it at an address chosen as its *domicilium citandi et executandi* to which post is delivered shall be deemed to have been received on the 4<sup>th</sup> (fourth) Business Day after posting (unless the contrary is proved);
- 28.6.2. delivered by hand to a responsible person during ordinary business hours at the physical address chosen as its *domicilium citandi et executandi* shall be deemed to have been received on the day of delivery; or
- 28.6.3. sent by e-mail to its chosen e-mail address stipulated in clause 28.1, shall be deemed to have been received on the date of despatch (unless the contrary is proved).
- 28.6.4. Notwithstanding anything to the contrary herein contained a written notice or communication actually received by a Party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen *domicilium citandi et executandi*.

**29. GOVERNING LAW**

29.1. Notwithstanding the conflict of law principles which might otherwise have prevailed, this Agreement shall be governed by and interpreted in accordance with the substantive laws of the Republic of South Africa.

**29.2. PROTECTION OF PERSONAL INFORMATION IN TERMS OF THE PROTECTION OF PERSONAL INFORMATION ACT, 2013 AND THE REGULATIONS THERETO**

29.3. The Service Provider acknowledges and agrees that:

- 29.3.1. it is bound by the provisions of the Protection of Personal Information Act, 2013 and the Regulations thereto (“POPIA”).
- 29.3.2. it shall only process or use EWSETA’s Personal Information for the sole purpose of rendering the stipulated Services, and any other instructions that EWSETA may communicate in terms of this Agreement from time to time;
- 29.3.3. it shall adopt and implement policies, systems and processes designed to safeguard against the unauthorized access and/or use of EWSETA’s Personal Information;
- 29.3.4. it shall immediately notify EWSETA of any unlawful access to EWSETA’s Personal Information;
- 29.3.5. it shall be liable for any losses and/or damages for any breaches of EWSETA’s Personal Information.

29.4. The Parties specifically agree that the provisions of this clause

do not in any way prohibit and/or limit any other recourse that EWSETA may have at law”.

**30. STIPULATIO ALTERI**

No part of this Agreement shall constitute a *stipulatio alteri* in favour of any person who is not a Party to the agreement, unless the provision in question expressly provides that it does constitute a *stipulatio alteri*.



**31. EXECUTION IN COUNTERPARTS**

31.1. This Agreement may be executed in several counterparts, each of which shall together constitute one and the same instrument, which shall include facsimile and/or electronic copies of any relevant counterpart and/or all counterparts, as the case may be.

**Signed at Johannesburg on behalf of EWSETA**

on \_\_\_\_\_ day of \_\_\_\_\_ 2023.

\_\_\_\_\_  
Ms. \_\_\_\_\_

\_\_\_\_\_  
Who warrants that she is duly authorised to sign this agreement

**on behalf of the Service Provider**

Signed at \_\_\_\_\_ on behalf of \_\_\_\_\_

on \_\_\_\_\_ day of \_\_\_\_\_ 2023.

\_\_\_\_\_  
Mr/s. \_\_\_\_\_

**Director**

**Who warrants that he is duly authorised to sign this agreement.**

## **ANNEXURE 1 - SERVICES**

### **The following deliverables have been agreed upon as per the scope of work included in the terms of reference:**

The service provider will render the following services to EWSETA as outlined below.

The internal audit function must be conducted in accordance with the standards for the Professional Practices of Internal Auditing and the Code of Ethics set by the Institute of Internal Auditors (IIA).

The scope of the Internal Audit function will consist of, but not be limited to the following work:  
. The evaluation of the adequacy and effectiveness of the organization's corporate governance processes, risk management, and internal control systems.

- 6.1 Review and update the internal audit charter for approval.
- 6.2 The internal auditors, in consultation with the Audit and Risk Committee and the CEO, no later than two (2) months prior to the date the work is due to commence, will prepare:
  - 2.1 Roll forward of the current three-year strategic Internal Audit Plan and Annual internal audit plan.
    - 2.1.1 A rolling three-year strategic Internal Audit Plan and Annual Internal Audit Plan, plans must indicate the scope, cost, and timelines of each audit; and
    - 2.1.2 Audit reports directed to the Audit Committee detailing its performance against the plan, to allow effective monitoring and intervention when necessary.
  - 2.2 Reviewing the policies and systems established by management to ensure compliance with the PFMA, Treasury Regulations and any other legislation pertaining to the operations of the organisation.
  - 2.3 Reviewing the means of safeguarding assets and verifying the existence of assets.
  - 2.4 Appraising the economy and efficiency with which resources are employed and, where appropriate, recommend suggestions for improved operating performance.
  - 2.5 Reviewing operations or programmes to ascertain whether results are consistent with established objectives and goals and whether the operations or programmes are being carried out as planned.
  - 2.6 Reviewing the planning, design, development, implementation, and operation of major computer-based systems to determine whether:
    - 2.6.1 Adequate controls are incorporated into systems.
    - 2.6.2 Thorough systems testing is performed at appropriate stages.
    - 2.6.3 System documentation is complete and accurate.
    - 2.6.4 The needs of users are met, and
    - 2.6.5 That adequate I.T. governance systems are in place.
  - 2.7 Perform risk-based audit assignments in line with the standards and guidelines set by the IIA.
  - 2.8 Reporting the results of the audits to Audit and Risk Committee
  - 2.9 Reporting the results of the audit to management for their response.
  - 2.10 Perform any *ad hoc* investigations into any matter or activity affecting the probity, interest and operating efficiency of EWSETA on request by the Audit and Risk Committee, and in conjunction with CEO, before work is due to commence.
  - 2.11 Liaise with the external auditors for purposes of aligning the respective work programmes so that, where applicable, the latter may place reliance on the I.A. work output.
  - 2.12 Performance of audit assignments.

The Internal Audit Function must apply due care and professionalism during the performance of audits to identify serious defects in the internal controls, which might result in possible malpractice. Any such defects must be reported immediately to the Accounting Authority or the Audit and Risk Committee, without disclosing these to any

other staff. This also applies to instances where serious fraud and Irregularity is uncovered. In addition to the above, the scope includes but is not limited to the following;

- 2.12.1 Audit preparation
  - 2.12.2 Review of internal controls
  - 2.12.3 Audit testing
  - 2.12.4 Development of findings and recommendations
  - 2.12.5 Obtaining management responses, and
  - 2.12.6 Reporting
- 2.13 Quality assurance reviews of the work  
The Successful Bidder shall ensure that all work conforms to the Standards for the Professional Practice of Internal Auditing.
- 2.14 Independence and Objectivity of audit staff.  
In carrying out the audit work, the auditor must ensure that audit staff maintains their objectivity by remaining independent of the activities they audit. The audit consultant shall.
- 2.14.1 Have no executive or managerial powers, functions or duties except those relating to Internal Audit work.
  - 2.14.2 Not be involved in the day-to-day operations of EWSETA; and,
  - 2.14.3 Not be responsible for the detailed development or implementation of new systems and procedures.
- 2.15 Monitoring progress of assignments  
On a quarterly basis, the Successful Bidder shall meet with the Audit and Risk Committee to report on the progress of work accomplished.
- 2.16 Report of audit results  
The report(s) on findings and recommendations should be sent to the relevant EWSETA Executive, as the case may be, (auditee) responsible for implementing those recommendations for their review and comment. Within ten (10) working days of sending the report(s), the Successful Bidder shall meet with EWSETA management to discuss the findings and obtain written responses to recommendations together with implementation dates. All findings shall then be incorporated into the relevant report. The structure of the report is to be as follows:
- Introduction
  - Background
  - Executive summary
  - Audit objective and scope
  - Findings, recommendations, and management response (including implementation dates)
  - Conclusion, and
  - Action plan
- 2.17 Fraud and irregularities  
In planning and conducting its work, the successful bidder should identify all irregularities, which might result in possible fraud; any such irregularities must be reported immediately in line with the relevant organisational policies without disclosing these to any other members of the staff.

## **ANNEXURE 2 – FEES SCHEDULE**

The service provider shall be paid as per the main Service Level Agreement. The billable fees shall be made as per the schedule below and payments shall only be made as upon the receipt of the submission of all the agreed upon deliverables.

| <b>Position Title Category (where applicable)</b>     | <b>Rate / Hour (incl. vat) Year 1</b> | <b>Rate / Hour Year 2</b> | <b>Rate / Hour Year 3</b> |
|---|---------------------------------------|---------------------------|---------------------------|
| Director/Partner Level (or equivalent)                | R                                     | R                         | R                         |
| Manager (or equivalent)                               | R                                     | R                         | R                         |
| Audit Senior / Supervisor (or equivalent)             | R                                     | R                         | R                         |
| Auditor (or equivalent)                               | R                                     | R                         | R                         |
| Junior Auditor / Trainee (or equivalent)              | R                                     | R                         | R                         |
| IT specialist (or equivalent)                         | R                                     | R                         | R                         |
| Audit of Performance Information Specialist           | R                                     | R                         | R                         |
| <b>Total sum of rates</b>                             | R                                     | R                         | R                         |
| <b>Total Sum of rates inc. of vat for the 3 years</b> |                                       |                           | R                         |

Any other costs over and above the applicable rates will be agreed upon between EWSETA and the service provider prior to services being rendered.

### Travel and accommodation

The service provider will be responsible for their own travel expenses to the place of duty at EWSETA offices located at 22 Wellington Road, Parktown. EWSETA will make all the necessary travel arrangements for assignments as and when required. Travel around Gauteng on business assignments may be claimed for in line with the EWSETA travel and subsistence policy.