

BID No: RSR/RFP/ICT&SM/DSP/21/10/11

REQUEST FOR PROPOSALS:

APPOINTMENT OF SERVICE PROVIDER TO DEVELOP A DIGITAL SIGNATURE PLATFORM TO THE RSR.

Issued by:
Railway Safety Regulator: Supply Chain Department Waterfall Point Building Cnr Woodmead Drive and Waterfall Drive WATERFALL CITY 1685 Contact Person: Goitseone Kgwadibana Tel: 087 284 6666 Email: goitseonek@rsr.org.za

Full Name of Bidding/Tendering Entity: _____

Contact Person: _____

Tel Number: _____

Email Address: _____

Total Bid Amount (incl. VAT): R_____

Advert Date: **29 October 2021**

Closing Date and Time: **22 November 2021 @ 12:00**

Bidder's Authorised Signatory:

Initials and Surname : _____

Signature : _____

A. NOTICE TO TENDERERS

This tender is issued in terms of the Public Finance Management Act 1 of 1999 (PFMA), the Preferential Procurement Policy Framework Act 5 of 2000 (PPPFA), the Preferential Procurement Regulations, 2001 (PPR), Supply Chain Management Regulations issued by the National Treasury and BBBEE Act.

Parties that wish to submit proposals are required to indicate that they are willing to accept the General Conditions and Procedures of the RAILWAY SAFETY REGULATOR.

DESCRIPTION	Appointment of service provider to develop a digital signature platform to the RSR.
ADVERTISEMENT DATE	29 October 2021
TENDER DOCUMENTS	Not for sale. Copies of the bid documents are obtainable from on the e-Tender portal of the National Treasury website, www.etenders.gov.za
CLOSING DATE	22 November 2021 at 12:00 PM
VALIDITY PERIOD	90 Business Working Days from Closing Date. Tenderers are to note that they may be requested to extend the validity period of their tender, at the same terms and conditions, if the internal evaluation process has not been finalized within the validity period. However, once the adjudication body has approved the process and award of the business to the successful Tenderer(s), the validity of the successful Tenderer(s)' bid will be deemed to remain valid until a final contract has been concluded.
SUBMISSION OF PROPOSALS	<p>Proposals must reach the offices of the RAILWAY SAFETY REGULATOR, located at Waterfall Point Building, Cnr Woodmead Drive and Waterfall Drive, Waterfall City before ...12:00 PM......</p> <p>Tender document shall be submitted as one (01) original and three (03) scanned copy (PDF) of the original completed in a Flash Drive with the proposal and forms required:</p> <p>a) REQUEST FOR PROPOSAL - RAILWAY SAFETY REGULATOR:</p> <p>b) APPOINTMENT OF SERVICE PROVIDER TO DEVELOP A DIGITAL SIGNATURE PLATFORM TO THE RSR.</p> <p>The tender box will only be available for the depositing of proposals between 08h00 and 16h30 on weekdays (excluding public holidays).</p> <p>Please note that this RFP closes punctually at 12:00 PM on 22 November 2021. No late submissions will be considered under any circumstances.</p> <p>The RAILWAY SAFETY REGULATOR shall not disclose any details</p>

	<p>pertaining to the responses received, to any other participant(s), as this is regarded as confidential information.</p> <p>Envelopes must not contain documents relating to any RFP other than the one referred to in this RFP.</p> <p>The responses to the RFP will be opened as soon as is practical after the expiry of the time advertised for receiving them.</p> <p>Only the participants that are short-listed after the evaluation process will be informed of the results of their submission.</p>
--	--

B. BID DOCUMENTS CHECKLIST:

The contents of the bid/tender document must be as follows, and numbered as per the numbering below, with each schedule punched, placed in a file and separated from the next schedule with a file divider.

Please complete the checklist below to verify your submission of the relevant documents:

Schedules	Description	COMPULSORY	Submitted – Indicate YES or NO
Schedule 1	Fully completed and duly signed SBD forms	X	
Schedule 2	Central Suppliers database (CSD) Registration	X	
Schedule 3	Tax compliant status (with (PIN)	X	
Schedule 4	B-BBEE certificate / B-BBEE sworn affidavit	X	
Schedule 5	Testimonials/Reference letters	X	
Schedule 6	Certified Proof of accredited ISO 27001 Certification	X	
Schedule 7	Certified Proof of accreditation certificate under the ECTA Act for provision of digital/advanced electronic signatures	X	
Schedule 8	Approach to work/methodology	X	

C. THE BIDDER MUST COMPLETE THE FOLLOWING RETURNABLE DOCUMENTS:

<i>(Bidders must tick the "Returnable Document" column to confirm documents have been completed and returned by inserting tick- incomplete bids may lead to elimination)</i>	Submitted: <i>(tick box)</i>
Returnable Document Name:	
SBD 1	
SBD 3.3	
SBD 4	
SBD 6.1	
SBD 8	
SBD 9	
General Conditions of Contract and/or Special Conditions of Contract	

1. ABBREVIATIONS AND DESCRIPTIONS

Abbreviation	Description
BOARD	Railway Safety Regulator Board of Directors
EXCO	Executive Committee
ECTA	Electronic Communication Act
POPIA	Protection of Personal Information Act
UI	User Interface
PPPFA	Preferential Procurement Policy Framework Act
RSR	Railway Safety Regulator

2. TERMS OF REFERENCE

2.1. INTRODUCTION

2.1.1 The Railway Safety The Railway Safety Regulator (RSR) was established in terms of the National Railway Safety Regulator Act, Act 16 of 2002 (“the Act”) as amended. The RSR is an agency of the South African Department of Transport and comprises a Board of Directors, Chief Executive Officer (appointed by the Minister), Executive management and staff.

2.1.2 The primary legislative mandate of the RSR is to oversee and enforce safety performance by all railway operators in South Africa including those of neighbouring States whose rail operations enter South Africa. Notwithstanding the foregoing, operators are, in terms of the Act, primarily responsible and accountable for ensuring the safety of their railway operations.

2.1.3 In line with the Act, RSR continues to establish robust business processes complemented by state of the art technology to service its operators. It is for this reason that the RSR invites submission of proposals from qualified bidders to provide an

enterprise-wide Digital Electronic Solution that meets the requirements that satisfies compliance with the regulatory framework. The selected solution will be used by the RSR for issuance of Safety Permits, documentation of contracts, HR and Finance documents, and any other related documents with safety signature requirements. The selected bidder is expected to configure and implement the new Digital Electronic Solution, and also provide continuing service and support on the requested product to the RSR.

2.2. BACKGROUND

- 2.2.1 RSR IT Strategy from 2020-2023 Roadmap focuses on reducing operational cost through digitising operations. In line with the IT Strategy, the RSR requires an enterprise digital signature solution which will cover the entire RSR technology landscape. The solution offering is expected to integrate with all business processes and solutions which will be delivered in line with the 3-Year IT and Business Strategy.
- 2.2.2 Therefore, RSR requires services of qualified and experienced bidders to submit proposals for a new technology platform that meets the requirements that takes advantage of compliance to Legislation/Acts (POPIA, ECT), latest Industry 4.0 digital capabilities and who can “future-proof” the organisation.
- 2.2.3 The project is about transforming rail safety through the use of technology by ensuring safety management and regulatory compliance of the over 200 operators who are regulated by the RSR.
- 2.2.4 The service provider’s resources must have undertaken similar projects and should be able to showcase possible digital electronic signature solution implemented.

2.3. PURPOSE

- 2.3.1 The purpose of this Terms of Reference (TOR) is to appoint a service provider to develop a digital signature platform to the RSR.

2.4. SCOPE OF WORK

2.4.1 The appointed service provider will provide the RSR with specialist advice and support services to:

2.4.1.1 Phase 01: System Specifications and requirements

2.4.1.1.1 Phase 01 is to select a system that contains preferred characteristics and functionalities that will help the RSR to accomplish its overall work as presented in the business requirements and technical requirements

2.4.1.2 Phase 02: Implementation of the System

2.4.1.2.1 Part of selecting the Digital Electronic Signature system that best meets the needs of the RSR is the successful installation, configuration and implementation of the system. This part of the scope of work has specific deliverables that the RSR expects from a chosen bidder, including consultation with RSR staff for setup/design of the User Interface (UI), staff training and coaching, and quantity/type of licenses needed. Overall, the selected bidder shall be responsible for the configuration and implementation of a complete and ready to use Digital Electronic Signature system, which RSR staff are trained and able to use.

- i. Project kick-off: Prior to the installation process beginning, the bidder shall organize a kick-off meeting with RSR to discuss, agree and sign off on project governance and approach, agree project budget and deviation processes, high level timelines, identify stakeholder and agree sponsorship, setup process and timeline. A kick-off meeting will be a time for questions and any potential issues to be discussed by both parties prior to work beginning
- ii. Business Analysis: The selected bidder will be expected to run JAD sessions to elicit requirements from stakeholders and users. Part of this phase is to identify people change management requirements and barriers to adoption. Customisable templates, forms, and fields within the program will be established in a collaborative process.
- iii. Solution Architecture: The selected bidder will be expected to engage with RSR IT department to identify all solution architecture dependencies including but not limited to Integration, Security, Solution Pilot, Rollout etc.
- iv. Data Hosting: It is assumed and desired that the Digital Electronic Solution will be hosted on the cloud. Coordination with the RSR IT Department will be

arranged as necessary as part of the project. Digital Electronic Solution is required to work and be compliant with the RSR IT architecture.

- v. Licensing: Part of the implementation process will include establishing the licenses that the RSR has purchased.
- vi. Change Management and Training: RSR staff will need to be trained on how to use the newly configured Digital Electronic Solution system. The RSR expects to have different levels of users, and therefore, different levels of training will be necessary depending on which work group is receiving training. Bidders shall present their approach to change management and training staff as part of their submitted proposal. The selected contractor shall also provide an electronic (training material) guide for RSR. The cost of training shall be incorporated into the proposal

2.4.1.3 Phase 03: Maintenance, Support and Continuing Services

2.4.1.3.1 After the initial purchase and setup of the system is complete, RSR will need continuing services and support from the bidder. This portion of the contract is for a period of 3 years, as indicated in the introduction. RSR anticipates that the following services will be included as part of the continuing services provided by the selected bidder.

- i. Enterprise Licensing: The bidder shall provide licenses for RSR users on a continuing basis. A Supply of 170 annual licenses for 170 users renewable annually. (The 3-year licenses for the software must be renewable after every 3 years). The bidder must accommodate external users who may need to sign on an ad-hoc basis. The bidder must propose the optimal licensing model for the requirements of RSR
- ii. Off/site Technical Support: The bidder will provide an off/onsite technical support to users that are experiencing challenges with the system or have questions about how to use certain components of the system. If software maintenance or fixes are needed due to bugs or issues RSR is experiencing, the bidder must provide this service. If the bidder charges for troubleshooting and/or technical support services, these prices shall be provided in the proposal.
- iii. Change Requests: From time-to-time RSR will require changes to the system. This could be UI changes, reporting, integration etc. The bidder is expected to

provide a rate card for these type of changes for Project Management, Business Analysis, Design, Configuration, Development and Testing resources.

- iv. New Versions of Program or other Software Upgrades: When the bidder introduces new versions or major updates to the system, RSR expects that the bidder will notify RSR staff, and will then coordinate a time to install (if required) and implement the new updates. Testing of new upgrades should be provided and if necessary, a sandbox version shall be utilized so that RSR operations are not disrupted for long periods of time. If RSR decides that further training is needed to learn about updates or other changes to the system, the bidder shall provide this training at an agreed rate card.

2.5. PROPOSAL BUSINESS, TECHNICAL INTEGRATION REQUIREMENTS

2.5.1 Business Requirements

Table 1

No.	Requirements	Provide Solution Example Description/Screen Shot/Architecture	Comments
2.5.1.1	Document Life Cycle: The Digital Signature solution should provide and manage Operators Permit certificates lifecycle and RSR's internal documents.		
2.5.1.2	Unique ID: The solution should be to create a unique Identity Number (ID) for each document digitally signed.		
2.5.1.3	Reminders and Notifications: The solution should provide the functionality to sign documents digitally and easily send documents for digital signature. This should include the ability to provide real-time visibility into the status of a document including send reminders and notifications		
2.5.1.4	Audit Trail: An audit trail of the document workflow information is retained for proof of compliance, from initiation to completion.		
2.5.1.5	Signature Validation: The implemented solution should be able to detect illegal changes in		

	the document and invalidate all signatures already on the document.		
2.5.1.6	Signature Block: The solution must be able to add signature blocks and initialisation all document formats and automatically convert to PDF for signature.		
2.5.1.7	Security Tamper -proof: The Solution should offer a tamper-proof seal on each document proving that the document was not changed during the signing process.		
2.5.1.8	Multiple Signature: The solution should offer multiple signatures - Authorised users can configure who the signatory or signatories of a document.		
2.5.1.9	RSR Signature Block: The solution should offer configuration with RSR identity/Brand/Logo and signature blocks.		
2.5.1.10	Compliance to ECT: Comply with the ECT Act of 2002 and can prove legality and validity of signatures in any document.		

2.5.2 Technical Requirements

Table 02

No	Technical Requirements	Provide Solution Example Description/Screen Shot/Architecture	Comments
2.5.2.1	Support & Maintenance: The Service Provider will be expected to provide technical support to the administrators of the solution should the need arise.		
2.5.2.2	Cloud-Based Solution: Solution is provided as a Cloud-Based solution.		
2.5.2.3	Devices Based: The solution to operate on any device/smart mobile device. Allow and enable users to review and sign		

	documents using any mobile devices.		
2.5.2.4	Local Presence: Solution must have local support presence and locally hosted.		

2.5.3 Integration Requirements

Table 03

No.	Integration Requirements	Provide Solution Example Description/Screen Shot/Architecture	Comments
2.5.3.1	Active Directory (AD) Integration: The solution should provide the functionality to add the names, Active Directory groups and email addressed.		
2.5.3.2	ECM Integration: Enterprise Content Management (ECM) solutions such as SharePoint etc. The solution should be able to provide digital signature capability for the documents within platforms including, but not limited to SharePoint and as a stand-alone		
2.5.3.3	Integration with Systems: Integration with Sage HR and Finance Applications, CURA, CRM and RSR core operations application current under development/configuration.		

The Bidder must provide the above table as an attachment to the RFP response. *All Requirements must be clearly articulated and referenced as per the table above

2.6. PROPOSAL SUBMISSION

2.6.1 The bidder must provide a detailed proposal as part of the tender, addressing and including at least the following:

2.6.1.1 Organisation profile;

- 2.6.1.2 A Joint Venture agreement signed by all parties in case of a Joint Venture / Consortium submission,
- 2.6.1.3 Central Supplier database CSD Registration. Bidders (including each member of joint venture or consortium or partnership agreement) must submit proof of registration with the National Treasury's Central Supplier Database (CSD). Bidders must ensure that they are registered on the CSD before submitting the bid
- 2.6.1.4 A valid B-BBEE certificate or sworn affidavit (the sworn affidavit must indicate the full date i.e., day, month and year of the financial year period e.g., 31 March 2021).
- 2.6.1.5 A trust, consortium or joint venture (including unincorporated consortia and joint ventures) must submit a consolidated B-BBEE Status Level Verification Certificate.
- 2.6.1.6 Valid tax compliance status report with PIN
- 2.6.1.7 Fully completed and duly signed Standard Bidding Documents (SBD) Forms documents supplied with these Terms of Reference
- 2.6.1.8 Proven previous experience, including testimonials/references from previous successful completed projects. The reference letter should be on a client's official letterhead with valid contact details. ****RSR reserves the right to contact the references to confirm the information.***
- 2.6.1.9 Demonstrable capacity to deliver on all the desired services that include response to the project scope and allocated resources through a detailed methodology;
- 2.6.1.10 A pricing proposal/schedule inclusive of all deliverables as per the project scope as well as the provision of the quality assurance activities over the service provider to be appointed for the system build
- 2.6.1.11 A pricing schedule should be submitted on a separate sheet from the technical proposal for ease of evaluation
- 2.6.1.12 Tender document shall be submitted as one (01) original and three (03) scanned copy (PDF) of the original completed in a Flash Drive with all exhibits and forms required included in the proposal length.
- 2.6.1.13 All Prices must include VAT,

2.7. BID EVALUATION CRITERIA OF PROPOSALS

The evaluation of proposal will be done in **six (06)** stages.

2.7.1 Stage 1: Prequalification.

- 2.7.1.1 To advance designated groups on the basis of B-BBEE Status Level of contributor, bidders will be prequalified on the basis of their B-BBEE Status of Level 1, Level 2, Level 3 and Level 4 contributor. A valid B-BBEE certificate or sworn affidavit (the sworn affidavit must indicate the full date i.e., day, month and year of the financial year period e.g., 31 March 2021).
- 2.7.1.2 A trust, consortium or joint venture (including unincorporated consortia and joint ventures) must submit a consolidated B-BBEE Status Level Verification Certificate.
- 2.7.1.3 Bidders that do not meet the pre-qualification criteria stipulated will be disqualified from further evaluation.

2.7.2 Stage 2: Submission of all administrative compliance documentation.

The evaluation of the administrative compliance requirements is indicated below. Failure to comply, may lead to disqualification.

- a) Fully completed and duly signed SBD forms
- b) Bidders (including each member of joint venture or consortium or partnership agreement) must submit proof of registration with the National Treasury's Central Supplier Database (CSD). Bidders must ensure that they are registered on the CSD before submitting the bid.
- c) Valid tax compliant status report with PIN

2.7.3 Stage 3: Mandatory evaluation

2.7.3.1 Bidders must submit the following mandatory documents:

2.7.3.1.1 The Certified Proof of accredited ISO 27001 Certification

2.7.3.1.2 Certified Proof of accreditation certificate under the ECTA Act for provision of digital/advanced electronic signatures.

2.7.3.2 Failure to submit the above documents will lead to immediate disqualification

2.7.4 Stage 4: Functionality Requirements Evaluation

2.7.4.1 The evaluation of the functional requirements as per section 2.8 below.

Bidders must attain a minimum of 70 points to be considered for Phase 05

2.7.5 Stage 5: System Demonstration Evaluation

2.7.5.1 The Bidders will be invited to RSR offices demonstrate business requirements as per table 4. Bidders must attain a minimum of 70 points to be considered for stage 6.

2.7.6 Stage 6: Price and BEE evaluation

2.7.6.1 Only bidders who score 70 points and above in stage 5 will be considered for the price and preference points evaluation. The prospective service providers' bids will be evaluated based on the 80/20 preference point system as stipulated in terms of the South African Preferential Procurement Policy Framework Act of 2017

2.8. Functionality Criteria (Stage 04)

The suitable service provider must demonstrate capacity and capability to execute this project by complying with the functionality criteria Table 4 below

Table 4

FUNCTIONALITY CRITERIA		100
2.8.1	BUSINESS, TECHNICAL INTEGRATION REQUIREMENTS	70 POINTS
2.8.1.1	Compliance to the RSR Digital Signature Solution requirements Bidder must illustrate current capability and capacity to meet RSR Digital Signature Solution Business Technical and Integration requirements:	

	<p>Bidder must illustrate current capability and capacity to meet RSR Digital Signature Business Requirements (refer to Section 2.5.1 for detailed requirements):</p> <ol style="list-style-type: none"> 1. Document Life Cycle 2. Document Unique ID 3. Reminders and Notifications 4. Audit Trail 5. Signature Validation 6. Signature Block 7. Security Tamper-Proof 8. Multiple Signatures 9. RSR Logo/Brand 10. Security Certification <p>Each of the above is 5 points. Does not meet requirement - 0 points</p>	50 Points
	<p>Bidder must illustrate current capability and capacity to meet RSR Digital Signature Technical Requirements (refer to Section 2.5.2 for detailed requirements):</p> <ol style="list-style-type: none"> 1. Support & Maintenance 2. Cloud- Based Solution 3. Devices Based 4. Local Presence <p>Meets 4/4 of Technical Requirements = 10 points Meets less than 4 = 0 points</p>	10 Points
	<p>Bidder must illustrate current capability and capacity to meet RSR Digital Signature Integration Requirements (refer to Section 2.5.3 for detailed requirements):</p> <ol style="list-style-type: none"> 1. Active Directory Integration 2. Enterprise Content Management Integration 3. Other Systems Integration <p>Meets 3/3 of Integration Requirements = 10 points Meets less than 3 = 0 points</p>	10 Points
2.8.2	APPROACH TO WORK- SOLUTION ARCHITECTURE	10 POINTS
2.8.2.1	<p>The bidder must be able to demonstrate their ability to provide Digital Signature solution of which the architecture/design of the solution will be required to interface with SharePoint, Active Directory, Other Systems etc. (bidder must demonstrate the workings of the solution in their response This should be done in the form of graphic diagram and supported by a write up explaining the diagram)</p> <ul style="list-style-type: none"> • No evidence = 0 • Demonstrates ability to do so through a detailed solution design and meet all above requirements= 5 	10

	<ul style="list-style-type: none"> Demonstrates ability to do so through a detailed solution design; meet all above requirements and provides practical examples of similar implementations = 10 	
2.8.3	REFERENCE LETTERS	20 POINTS
2.3.1	<p>Contactable Reference letters – Bidders are to submit reference letter on letterheads for work executed not more 5 years. (Projects executed preferably within a regulated environments i.e. State-Owned Enterprise (SOE), Banks and Regulatory Agencies. Contactable Testimonials and/or references (not older than 5 years)</p> <ul style="list-style-type: none"> 5 references or more = 20 points 4 references = 16 points 3 references = 12 points 2 Reference = 8 points 1 Reference = 4 points 0 Reference = 0 points 	20
	TOTAL	100

2.8.4 Proposals scoring less than the minimum of **70 points** of the total points will be eliminated from further evaluation; and

2.8.5 Only bidders that scored a minimum of 70 points of the total points at the functionality phase will proceed to stage 5, where they will be required to conduct presentations. Bidders will be required to each present a comprehensive approach and methodology on how they will guide the RSR in the achievement of the activities outlined in the areas of scope, outlining their project plans, demonstration of capabilities to deliver the services, demonstrating the past relevant experience. The allocated weighting for the Stage 5 evaluation criteria of the suitability of the presentations is set out in Table 5 below:

Table 5:

CRITERIA	SCORE
Ease of Use (Ability to digitally sign documents in multiple formats (versions))	10
Mobility Features (Ability to sign digitally sign documents in multiple different devices)	10
Security Features (Validation of digital certificates, ability to apply identity of signatory)	30
Workflow Management (Initiation of documents for signatory, ability to sign and send documents to multiple signatories)	30

Integration (ease to integrate with any other systems, SharePoint (DMS - Document Management Systems)	20
---	----

RAIL SAFETY ON THE RIGHT TRACK

2.8.6 Bidders that score the minimum of 70 points of the total points will proceed to stage 6: Price and B-BBEE of the evaluation.

2.9. PRICE AND BBBEE EVALUATION (Stage 06)

2.9.1 Only bidders who score 70 points in Phase: 3 above will be considered for the price and points evaluation. Bids will be evaluated in accordance with the pre-scripts of the Preferential Procurement Policy Framework Act (PPPFA) and its regulations which stipulate ***80/20 Preference point system [(for acquisition of goods or services for a Rand value equal to or above R30 000 and up to R50 million) (all applicable taxes included)]***.

2.9.2 To score points for preference (BBBEE) bidders must submit a valid BBBEE certificate or affidavit. A trust, consortium or joint venture (including unincorporated consortia and joint ventures) must submit a consolidated B-BBEE Status Level Verification Certificate.

2.10. THE FINANCIAL PROPOSAL

2.10.1 The service providers are required to submit a detailed financial proposal costing the services per deliverable as set out in the scope of work. The overall figure must be VAT inclusive

2.11. SUBCONTRACTING

2.11.1 A bidder awarded a contract may only enter into a subcontracting arrangement with the approval of the RSR.

2.11.2 A bidder awarded a contract may not subcontract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level of contributor than the person concerned, unless the contract is subcontracted to an EME that has the capability and ability to execute the subcontract.

2.12. JOINT VENTURES, CONSORTIUMS AND TRUSTS

- 2.12.1 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their valid B-BBEE status level certificate.
- 2.12.2 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- 2.12.3 Bidders must submit concrete proof of the existence of joint ventures and/or consortium arrangements. RSR will accept signed agreements as acceptable proof of the existence of a joint venture and/or consortium arrangement.
- 2.12.4 The joint venture and/or consortium agreements must clearly set out the roles and responsibilities of the Lead Partner and the joint venture and/or consortium party. The agreement must also clearly identify the Lead Partner, with the power of attorney/resolution letter to bind the other party/parties in respect of matters pertaining to the joint venture and/or consortium arrangement.

2.13. LEGAL IMPLICATIONS

- 2.13.1 It is a requirement that the successful bidder will enter into a service level agreement (SLA) with the RSR.

2.14. COMMUNICATION

- 2.14.1 The communication between RSR and bidders is permitted prior to the closing date of the tender, such communication is limited to instances where bid clarity is sought, to obtain information or to extend the validity period. Any communication either by letter or electronic mail or any other form of correspondence to any government official, department or representative of a testing institution or a person acting in an advisory capacity for the RSR in respect of this bid between the closing date and the award of the bid by the bidder is prohibited.

2.15. LATE BIDS

2.15.1 Bids received at the address indicated in the bid documents, after the closing date and time will not be accepted and where applicable, be returned unopened to the bidder.

2.16. PROHIBITION OF RESTRICTIVE PRACTICES

2.16.1 In terms of section 4(1) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder(s) is/ are or a contractor(s) was/were involved in:

- 2.16.1.1 directly or indirectly fixing a purchase or selling price or any other trading condition;
- 2.16.1.2 dividing markets by allocating customers, suppliers, territories or specific types of goods or services; or
- 2.16.1.3 collusive bidding.

2.16.2 If a bidder(s) or contractor(s), in the judgment of the purchaser, has/have engaged in any of the restrictive practices referred to above, the purchaser may, without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered or terminate the contract in whole or in part and refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.

2.17. FRONTING

2.17.1 The RSR supports the spirit of broad based black economic empowerment (B-BBEE), and recognizes that real empowerment can only be achieved through individuals and businesses conducting themselves in accordance with the Constitution and in an honest, fair, equitable, transparent and legally compliant manner. It is therefore against this background the RSR condemns any form of fronting.

2.17.2 The RSR, in ensuring that bidders conduct themselves in an honest manner will, as part of the bid evaluation processes, conduct or initiate the necessary enquiries/investigations to determine the accuracy of the representation made in bid documents. Should any of the fronting indicators as contained in

the Guidelines on Complex Structures and Transactions and Fronting, issued by the Department of Trade and Industry be established during such enquiry/investigation, the onus will be on the bidder I contractor to prove that fronting does not exist. Failure to do so within a period of 14 days from date of notification may invalidate the bid/contract and may also result in the restriction of the bidder/contractor to conduct business with the public sector for a period not exceeding ten years, in addition to any other remedies the RSR may have against the bidder/contractor concerned.

2.18. RSR'S RIGHTS

- 2.18.1 RSR reserves the right to cancel this solicitation in whole or in part, at its sole discretion, at any time before the Agreement is fully executed. This RFP does not commit RSR to award an Agreement, to pay any costs incurred by bidders in the preparation of their proposals submitted in response to this RFP, or to procure or contract for services.
- 2.18.2 The RSR reserves the right to modify or cancel in whole or in part this RFP; to reject any and all proposals; to accept the proposal it considers most favourable to the RSR's interests and at its sole discretion to waive irregularities or informalities in any proposal or the proposal's procedures.
- 2.18.3 The RSR further reserves the right to reject all proposals and seek new proposals when such is considers to be in the best interest of RSR. If there is any evidence indicating that two or more bidders are in collusion to restrict competition or are otherwise engaged in anti-competitive practices, the proposals of all such bidders shall be rejected, and such evidence may be a cause for disqualification of the participants in any future solicitations issued by the RSR.
- 2.18.4 The RSR reserves the right to hold discussions and/or negotiations with any individual or qualified company, to interview or not, to request additional information or revise the proposal, or to request the best and final offers if it is in the best interest of the RSR to do so. However, the RSR may make an award without conducting any interview or negotiations; therefore, proposers/bidders are encouraged to submit their best proposal at the outset.

ANNEXURE A: PROJECT COSTING

Please note that document specifications, quantities and types may vary as per the needs of the RSR. For costing comparison purposes, you are requested to provide your cost breakdown for documents below that should be inclusive of VAT

Table 06

Activity	Duration	Cost Price	Comment
Project Management			
Configuration & Implementation			
Change Management			
Training			
Maintenance And Support			
Licence Fees	3 years		
Total Cost			

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE RAILWAY SAFETY REGULATOR					
BID NUMBER:	RSR/RFP/ICT&SM/DSP/21/10/11	CLOSING DATE:	22 November 2021	CLOSING TIME:	12:00
DESCRIPTION	Appointment of service provider to develop a digital signature platform to the RSR				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
Railway Safety Regulator Head Office					
Waterfall Point Building					
Cnr Woodmead Drive and Waterfall Drive					
Waterfall City, 1685					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	Goitseone Kgwadibana		CONTACT PERSON	Thabang Mothoa	
TELEPHONE NUMBER	087 284 6666		TELEPHONE NUMBER	087 284 6666	
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS	goitseonek@rsr.org.za		E-MAIL ADDRESS	thabang.mothoa@rsr.org.za	
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	[TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No	
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]	
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE A BRANCH IN THE RSA?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?				<input type="checkbox"/> YES <input type="checkbox"/> NO	

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

☐ YES ☐ NO

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

☐ YES ☐ NO

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

PART B TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:

- 1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
- 1.2. **ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED– (NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.**
- 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
- 1.4. **THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).**

2. TAX COMPLIANCE REQUIREMENTS

- 2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
- 2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
- 2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
- 2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
- 2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
- 2.6 WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
- 2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

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

SIGNATURE OF BIDDER:

.....

CAPACITY UNDER WHICH THIS BID IS SIGNED:

.....

(Proof of authority must be submitted e.g. company resolution)

DATE:

.....

PRICING SCHEDULE
(Professional Services)

NAME OF BIDDER:

BID NO.: ... RSR/RFP/ICT&SM/DSP/21/10/11

CLOSING TIME 12:00

CLOSING DATE: 22 November 2021

OFFER TO BE VALID FOR ...90.....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
5.1	Travel expenses (specify, for example rate/km and total km, class of airtravel, 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, eg. 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
7. Estimated man-days for completion of project
8. Are the rates quoted firm for the full period of contract? *YES/NO
9. If not firm for the full period, provide details of the basis on which adjustments will be applied for, for example consumer price index.
-
-
-

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 an advertised competitive bid, a limited bid, a proposal or written price quotation). 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, member):

.....

2.4 Registration number of company, enterprise, close corporation, partnership agreement or trust:.....

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.

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

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? **YES / NO**

2.7.2.1 If yes, did you attach proof of such authority to the bid document? **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 spouses conduct business with the state in the previous twelve months? **YES / NO**

2.8.1 If so, furnish particulars:

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

2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person **YES / NO**

employed by the state and who may be involved with the evaluation and or adjudication of this bid?

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?

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?	YES/NO
------	---	--------

2.11.1 If so, furnish particulars:

.....

.....

.....

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

[illegible]

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
SHOULD THIS DECLARATION PROVE TO BE FALSE.

Signature

Date.....

Name of Bidder

Position

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 The value of this bid is estimated not to exceed R50 000 000 (all applicable taxes included) and therefore the 80/20 system shall be applicable.
- 1.3 Preference points for this bid shall be awarded for:
- (a) Price; and
 - (b) B-BBEE Status Level of Contribution.

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

	POINTS
PRICE	80
B-BBEE STATUS LEVEL OF CONTRIBUTOR	20
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.

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:

80/20

or

90/10

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

Where

P_s = Points scored for price of bid under consideration

P_t = Price of bid under consideration

P_{\min} = 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.

7. SUB-CONTRACTING

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

(*Tick applicable box*)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

- 7.1.1 If yes, indicate:

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

(*Tick applicable box*)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- 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:	RAIL SAFETY ON THE RIGHT TRACK 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		

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

.....

.....

.....

.....

8.6 COMPANY CLASSIFICATION

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

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

8.8 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;
- 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.

WITNESSES

1.

2.

.....
SIGNATURE(S) OF BIDDERS(S)

DATE:

ADDRESS

.....

.....

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?</p> <p>(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 audi alteram partem 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>Yes</p> <input type="checkbox"/>	<p>No</p> <input type="checkbox"/>
4.1.1	<p>If so, furnish particulars:</p>		

4.2	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.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
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"/>
4.3.1	If so, furnish particulars:		
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:		

CERTIFICATION

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

CERTIFICATE OF INDEPENDENT BID DETERMINATION

This Standard Bidding Document (SBD) must form part of all bids¹ invited.

1. 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.
2. 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.
9. 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.
10. 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.

CERTIFICATE OF INDEPENDENT BID DETERMINATION

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

SBD 9

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

GENERAL CONDITIONS OF CONTRACT

NOTES

The purpose of this document is to:

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

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

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

GOVERNMENT PROCUREMENT

TABLE OF CLAUSES

1. Definitions
 2. Application
 3. General
 4. Standards
 5. Use of contract documents and information; inspection
 6. Patent rights
 7. Performance security
 8. Inspections, tests and analysis
 9. Packing
 10. Delivery and documents
 11. Insurance
 12. Transportation
 13. Incidental services
 14. Spare parts
 15. Warranty
 16. Payment
 17. Prices
 18. Contract amendments
 19. Assignment
 20. Subcontracts
 21. Delays in the supplier's performance
 22. Penalties
 23. Termination for default
 24. Dumping and countervailing duties
 25. Force Majeure
 26. Termination for insolvency
 27. Settlement of disputes
 28. Limitation of liability
 29. Governing language
 30. Applicable law
 31. Notices
 32. Taxes and duties
 33. National Industrial Participation Programme (NIPP)
 34. Prohibition of restrictive practices

General Conditions of Contract

1. Definitions

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

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

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

- 1.25 “Written” or “in writing” means handwritten in ink or any form of electronic or mechanical writing.

2. Application

- 2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
- 2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.
- 2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

3. General

- 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.
- 3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from www.treasury.gov.za

4. Standards

- 4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.

5. Use of contract documents and information; inspection.

- 5.1 The supplier shall not, without the purchaser’s prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 5.2 The supplier shall not, without the purchaser’s prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.
- 5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier’s performance under the contract if so required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier’s records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

- 6. Patent rights**
- 6.1 The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof by the purchaser.
- 7. Performance Security**
- 7.1 Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.
- 7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.
- 7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:
- (a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or
 - (b) a cashier's or certified cheque
- 7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified in SCC.
- 8. Inspections, tests and analyses**
- 8.1 All pre-bidding testing will be for the account of the bidder.
- 8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department.
- 8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
- 8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.

- 8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.
- 8.7 Any contract supplies may on or after delivery be inspected, tested or analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.
- 8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of GCC.

9. Packing

- 9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.
- 9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in SCC, and in any subsequent instructions ordered by the purchaser.

10. Delivery and documents

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

11. Insurance

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

12. Transportation

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

13. Incidental Services

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

- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
- (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
- (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
- (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
- (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.

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

14. Spare parts

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

- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and
- (b) in the event of termination of production of the spare parts:
 - (i) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
 - (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

15. Warranty

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

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

the source country, whichever period concludes earlier, unless specified otherwise in SCC.

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

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

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

16. Payment

16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.

16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfilment of other obligations stipulated in the contract.

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

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

17. Prices

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

18. Contract amendments

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

19. Assignment

19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.

20. Subcontracts

20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.

21. Delays in the supplier's performance

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

21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of

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

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

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

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

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

22. Penalties

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

23. Termination for default

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

- (a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
- (b) if the Supplier fails to perform any other obligation(s) under the contract; or

- (c) if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

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

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

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

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

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

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

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

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

and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.

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

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

**25. Force
Majeure**

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

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

**26. Termination
for insolvency**

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

**27. Settlement
Disputes of**

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

27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence

with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.

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

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

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

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

(b) the purchaser shall pay the supplier any monies due the supplier.

28. Limitation of Liability

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

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

(b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

29. Governing Language

29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.

30. Applicable Law

30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.

31. Notices

31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice

The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

32. Taxes and Duties

32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.

- 32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- 32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.

**33.National
Industrial
Participation
(NIP)
Programme**

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

**34.Prohibition
Restrictive
Practices**

- of 34.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).
- 34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.
- 34.3 If a bidder(s) or contractor(s), has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.