

**BID BOND/SECURITY FORMAT**

The format and wording of the Bid Bond/Security to be provided (unless otherwise instructed in writing by PRASA) in favour of PRASA is provided below and shall not be amended by a Bidder save for the wording highlighted in yellow:

**Passenger Rail Agency of South Africa
Umjantshi House, 30 Wolmarans Street, Braamfontein, 2001
("the Beneficiary")**

BID BOND/SECURITY

Bid Bond/Security Reference Number: _____

WHEREAS Insert Bidder's Full Legal Name And Company Registration Number (henceforth "**the Bidder**") submits a Bid ("**the Bid**") in response to the Request for Proposals Number Insert PRASA Bid/Tender Number ("**the RFP**") issued by the Passenger Rail Agency of South Africa ("**PRASA**") situated at Umjantshi House, 30 Wolmarans Street, Braamfontein, 2001 ("**PRASA**" or "**the Beneficiary**") for THE PLANNING, DESIGN, SUPPLY, CONSTRUCTION, INSTALLATION, TESTING, COMMISSIONING AND MAINTENANCE OF A NEW FULLY INTEGRATED, FUNCTIONAL, COMPLETE AND FUTURE-PROOFED PRASA TRAIN CONTROL SYSTEM ("PTCS") IN PRASA'S KWAZULU-NATAL ("KZN") SERVICE REGION ("**THE PROJECT**");

AND WHEREAS the Bidder proposes to submit to PRASA a Bid in response to the RFP;

AND WHEREAS the Bidder is required to furnish PRASA with a guarantee in the form of a payment-on-demand Bid Bond/Security, from a South African Bank whose primary place of business operations is South Africa, in the amount of ZAR80,000,000.00 (Eighty Million Rand) ("**the Bid Bond/Security**") to secure admission to the RFP process and the ability to submit the Bid;

AND WHEREAS we, Insert Bank's Full Legal Name And Company Registration Number being a South African Bank whose primary place of business operations is South Africa and situated at Insert Bank's domicilium citandi et executandi In South Africa ("**the Bank**"), provide PRASA with such required Bid Bond/Security;

NOW THEREFORE:

1. The Bank, hereby irrevocably and unconditionally guarantees and undertakes on behalf of the Bank to pay PRASA, without objection or argument, amounts up to a maximum aggregate amount of ZAR80,000,000.00 (Eighty Million Rand) (“**the Bid Bond/Security Amount**”) upon receipt of the first written demand by PRASA at [Insert Bank’s domicilium citandi et executandi In South Africa] and addressed for the attention of [Insert Bank Authorised Official’s Full Legal Name and South African Identity Number] declaring (at PRASA’s sole discretion and without any obligation for PRASA substantiation) that any or all of the following events are occurring or have occurred:
 - a) Bidder making any misrepresentations in the Bid; and/or
 - b) Bidder or any of its advisors, officers, employees or agents allegedly engaging in any collusive action with respect to the RFP processes and/or PRASA’s procurement processes; and/or
 - c) Bidder or any of its advisors, officers, employees or agents allegedly engaging in illegal or fraudulent activities in relation to the RFP processes and/or PRASA’s procurement processes; and/or
 - d) Bidder’s failure, if selected as the “Preferred Bidder” or “Reserve Bidder” (as defined in the RFP and for which the definition shall remain at the discretion of PRASA) by PRASA, to conclude a contract with PRASA on substantially the same terms and conditions as contained in the RFP or Bid (in either instance at the sole discretion of PRASA and to the satisfaction of PRASA); and/or
 - e) Bidder, without PRASA’s written agreement, withdraws the Bidder’s Bid after the latest time specified by PRASA as the closing date for the Bid and/or before the expiry of the validity of the Bid as specified by PRASA; and/or
 - f) Bidder refuses to accept any correction of errors in the Bidder’s Bid in accordance with any conditions of invitation and/or instructions to bidders and/or the RFP processes and/or PRASA’s procurement processes; and/or
 - g) PRASA awards the Bid to the Bidder and the Bidder fails to comply with any conditions of the award and/or award instruction; and/or

- h) PRASA signs an agreement and/or contract with the Bidder and the Bidder fails to comply with any conditions of the agreement and/or contract and/or the agreement instruction and/or contract instruction respectively; and/or
 - i) PRASA notifies a Bidder of the Bidder's appointment and/or PRASA signs an agreement and/or contract with the Bidder (the earliest date) and the Bidder fails to produce the actual Performance Bond/Security, in unequivocal compliance with PRASA's requirements and to the sole satisfaction of PRASA as per the RFP Performance Bond/Security Format provided (and any other instruction issue by PRASA), within 30 calendar days from the date of PRASA notification to the Bidder of the Bidder's appointment and/or PRASA signature of an agreement and/or contract with the Bidder (the earliest date); and/or
 - j) PRASA signs an agreement and/or contract with the Bidder and the Bidder fails to perform any obligations and/or liabilities and/or comply with the agreement/contract and/or agreement/contract instruction respectively; and/or
 - k) PRASA, in PRASA's opinion, is entitled to amounts recoverable from the Bidder for any reason whatsoever.
- 2. The Bank's liability under this Bid Bond/Security is principal in nature and is not subject to any agreement and/or contract. The Bank's liability shall not be reduced, or in any way be affected by any alteration of the terms of the RFP or any other arrangements between the Applicant and PRASA, whether oral or in writing.
 - 3. The Bank will pay PRASA within 14 (fourteen) calendar days upon receipt of a written demand and will not determine the validity of the demand or become party to any claim or dispute of any nature which any party may allege.
 - 4. Any demand for payment together with this Bid Bond/Security shall constitute prima facie proof of the Bank's indebtedness hereunder for the purposes of any proceedings including but not limited to provisional proceedings instituted against the Bank in any court of law having jurisdiction.
 - 5. This Bid Bond/Security exists independently of any agreement and/or contract (or any amendment, variation or novation thereof) between the Bidder and PRASA.
 - 6. This Bid Bond/Security is neither negotiable nor transferable and cannot be ceded or assigned by PRASA, or otherwise dealt with in any manner whatsoever

- which has or may have the effect of transferring or encumbering or alienating PRASA's rights hereunder.
7. The demand for payment together with this Bid Bond shall constitute prima facie proof of the Bank's indebtedness hereunder for the purposes of any proceedings including but not limited to provisional proceedings instituted against the Bank in any court of law having jurisdiction.
 8. This Bid Bond/Security Amount shall be governed by and construed in accordance with the laws of the Republic of South Africa and shall be subject to the jurisdiction of the South African courts.
 9. The Bank accepts that the Beneficiary's address reflected above is the Beneficiary's domicilium citandi et executandi for all purposes in connection with this Bid Bond/Security.
 10. This Bid Bond/Security shall remain valid notwithstanding the insolvency, winding-up, liquidation, judicial management, dissolution or deregistration whether provisionally or finally of the Bidder.
 11. This Bid Bond/Security shall Expire upon either of the following 2 dates ("**the Expiry**"):
 - a) At 17h00 Central Africa Time ("**CAT**") on the 365th calendar day after the closing date of the Bid or later as may be extended through an instruction in writing from PRASA (and shall compliantly be agreed in writing between the Bidder and the Bank) throughout the duration of PRASA's procurement process; or
 - b) PRASA notification to the Bidder in writing that the Bidder has been unsuccessful as the "Preferred Bidder" or "Reserve Bidder" (as defined in the RFP and Contract and for which the definition shall remain at the discretion of PRASA).
 12. The Bank confirms that the Bank is duly represented by Insert Bank Authorised Representative's Full Legal Name and South African Identity Number being duly authorized sign this Bid Bond/Security and incur obligations in the name of the Bank under and in terms of a Resolution of the Board of Directors and/or Power of Attorney of the Bank, a certified copy of which is annexed hereto.

Signed at _____ on this _____ day of _____ 20

Name of Bank Representative

**Signature of Bank Representative duly
authorized thereto**

Name of Bank

Address of Bank

Date

Witnesses:

1. _____

For: **Bank**

Duly represented by

Full Name:

Capacity:

2. _____

For: **Bank**

Duly represented by

Full Name:

Capacity: