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|  | Request for Proposal (RFP) | Template Identifier | 240-43921804 | Rev | 6 |
| | | Document Identifier | 240-114238630 | Rev | 10 |
| | | Effective Date | 03 March 2020 | | |
| | | Review Date | March 2023 | | |

ESKOM HOLDINGS SOC LTD

REQUEST FOR PROPOSAL (RFP)

FOR

THE PROVISION OF LEGAL SERVICES FOR A PERIOD OF THREE (3) YEARS

| | |
|--|---|
| RFP number | MWP1114CX |
| Issue date | 14 January 2022 |
| Closing date and time | 24 January 2022 at 10h00 (South African Standard time) Late tender will not be accepted |
| Tender validity period | 6 months from the closing date and time |
| Clarification meeting | Clarification questions will be addressed via e-mail through the Employer's representative indicated in 1.1 below. |
| Tenders are to be delivered to the following address on the stipulated closing date and time: | Eskom Megawatt Park Tender Office Northside No 1 Maxwell Drive Sunninghill. <p>Eskom will not take any responsibility for any late submissions as a result of non-compliance to the tender delivery requirements.</p> <p>Tenderers shall ensure all precautionary measures to prevent the spread of Covid 19 virus as issued by the Department of Health or as prescribed by the Disaster Management Act and other relevant authorities are undertaken when tender documents are transported and delivered at Eskom Megawatt Park Tender Office.</p> |

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Request for Proposal

Eskom Holdings SOC Ltd (hereinafter “Eskom”) invites you to submit a Request for Proposal (RFP) for the provision of legal services for a period of three (3) years.

The enquiry documents are supplied to you on the following basis:

- Free of charge

Eskom has delegated the responsibility for this tender to the Eskom *Representative* whose name and contact details are set out in the Tender Data. A submission of a proposal by you in response to this RFP will be deemed as your acceptance of the Eskom Standard Conditions of Tender (to be attached).

Queries relating to these RFP documents may be addressed to the Eskom Representative.

Yours faithfully



Name: John Ratone
Designation: Acting Senior Manager: ICT & Professional Services

Date: 14 January 2022

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The following documents listed hereunder are attached to this enquiry.

| Number | Description | Annexure/to be downloaded and attached | Attached (Y/N) |
|--------|---|--|----------------|
| 6.1 | Acknowledgement form | Annexure A | Y |
| 6.2 | Tenderer's particulars | Annexure B | Y |
| 6.3 | Integrity Declaration Form (refer to www.eskom.co.za for the Supplier Integrity Pact that suppliers are required to download and read) | Annexure C | Y |
| 6.4 | SD&L- Tenderer's Undertaking | Annexure D | Y |
| 6.5 | SHE Requirements | Annexure E | Y |
| 6.6 | Quality Requirements | Annexure F | Y |
| 6.7 | Confirmation of receipt of addenda to enquiry document | Annexure G | Y |
| 6.8 | SBD 1 -Invitation to Bid must be filled out by all tenderers and submitted with the tender at tender submission deadline | Annexure H | Y |
| 6.9 | SBD 6.1- Preference Points Claim Form in terms of PPPFA 2017 regulations | Annexure I | Y |
| 6.10 | Technical Evaluation Criteria | Annexure J | Y |
| 6.11 | Pricing schedule | Annexure K | Y |
| 6.12 | Tax Evaluation questionnaire to determine whether a company, close corporation (CC) or Trust is a personal service provider for purposes of PAYE. | Annexure N | Y |

- 1.2 The Tender Data makes several references to the **Eskom Standard Conditions of Tender** and in those instances, the clause numbers are referenced hereunder. If the **Eskom Standard Conditions of Tender** is not attached to the **Request for Proposal**; then the tenderers are required to download this from www.eskom.co.za. The "**Tender Data**" as detailed herein shall take precedence over the **Standard Conditions of Tender** in the event of any ambiguity or inconsistency between the two documents.

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| Clause Number from Standard Conditions of Tender | Tender Data |
|---|---|
| 1.1 Parties | <p>The <i>Employer</i> is Eskom Holdings SOC Ltd</p> <p>The Eskom <i>Representative</i> is: Name: Olga Tshabalala Tel: 011 800 5842 E-mail: MkansiO@eskom.co.za</p> |
| 1.3 Enquiry documents | <p>RFP number is : MWP1114CX</p> <p>See the content list above for the enquiry documents.</p> |
| 1.4 RFP | RFP is an open Invitation to tender |
| 1.6 Eskom's rights to accept or reject any tender | The tender shall be for the whole of the contract. |
| 2.1 Eligible tenders | <p>Submit a tender only if the tenderer (whether a single company or a structure similar to a Joint Venture) complies with the <i>eligibility criteria</i> stated in the Tender Data and the tenderer, or any of his principals, is not under any restriction to do business with Eskom/State Owned Companies.</p> <p>Tenderers are deemed ineligible to submit a proposal if</p> <ul style="list-style-type: none"> • Tenderers have the nationality of a country on any international sanctions list. A tenderer shall be deemed to have the nationality of a country if the tenderer is a national or is constituted, incorporated, or registered and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors or suppliers for any part of the Contract including related services. • Tenderers submit more than one proposal either individually or as a partner in a joint venture (JV) or consortium • Proposals submitted by a JV or consortium where the JV/consortium agreement does not explicitly state that the parties of the JV or consortium shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms. • A Tenderer must not have a conflict of interest. All Tenderers found to have a conflict of interest shall be disqualified. A Tenderer may be considered to have a conflict of interest with one or more parties in this RFP process, if : <ul style="list-style-type: none"> ○ (a) they have a controlling partner/majority shareholder in common; or ○ (b) they have a relationship with each other, directly or through common third parties, that puts them in a position |

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| | <p>to have access to information about or influence on the proposal of another Tenderer, or influence the decisions of the Employer regarding this bidding process;</p> <ul style="list-style-type: none"> • Tenders signed by non- authorized persons • Where the tenderers are not registered on National Treasury's Central Supplier Database (except Foreign Suppliers) • A tender that fails to meet any pre-qualifying criteria stipulated in the tender documents is an unacceptable tender (section 4 (2) of PPPFA Regulations • Any tenderer that is restricted by National Treasury • A tenderer that sub-contracts 100% Scope of Work. <p>Ineligible tenderers will be disqualified.</p> |
| 2.2 -2.5 Tender closing | <p>The deadline for RFP submission is:</p> <p>Date 24 January 2022 Time 10h00 (South African Standard time) Late Tenders will not be accepted</p> <p>Tenders are to be submitted to the Eskom <i>tender box</i> at the following physical address:</p> <p>THE TENDER OFFICE Eskom Megawatt Park Tender Office Northside No 1 Maxwell Drive Sunninghill.</p> |
| 2.9 Copy of original tender | <p>The tenderer must submit the tender as a complete original tender, plus one (1) hard copy of the original tender at tender submission deadline. [In addition to this requirement, a flash disk is to be submitted with the Tender]</p> <p>Where a Tenderer does not submit 1 hard copy of the original tender at tender submission deadline, the tenderer will be disqualified</p> |
| 2.13 Tender validity period | The tender validity period is 6 months from closing date and time. |
| 2.16 Clarification meetings | Clarification questions will be addressed via e-mail through the Employer's representative indicated in 1.1 above. |
| 2.17 Clarification on enquiry documents | <p>The tenderer will notify the Employer of any clarifications required before the closing time for clarification queries, which is one (1) working day (20 January 2022) before the deadline for tender submission.</p> <p>Please note that all enquiries must be sent in writing to the Eskom Representative as stated in the RFP.</p> <p>Tenderers are to monitor the National Treasury and Eskom Tender Bulletins regularly for any potential updates and answers to any</p> |

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| | enquiries. E-mail: MkansiO@eskom.co.za |
| 2.23 Alternative tenders | Alternative tenders are not allowed . |
| 2.25 Conditions of contract | The conditions of contract will be tenderer's bespoke contract. |
| 2.31 Provision of security for performance | Eskom reserves the right to request a Tenderer to provide Performance Bond from the tenderer before contract award. A Performance Bond of 10% of the Total contract value will be required from the Tenderer whose financial standing is not in a position to assume the financial obligations required to render the services for the Tenderer .The Performance Bond shall be from an institution approved by the Eskom Treasury department. |
| 3.4 Opening of tenders | Tenders will be opened at the same date and time as the tender deadline. |
| 3.5 Prices to be read out | Prices will not be read out . |
| 3.9 Basic compliance | Basic compliance for this RFP are: <ul style="list-style-type: none"> • Meet the eligibility criteria for a tenderer • Submit one (1) hard copy of the original tender to Eskom • Submit a complete original tender with commercial, financial and technical information .(hard copy) • Submission of the mandatory commercial tender returnables as at stipulated deadlines. • Central Supplier Database (CSD) number (MAA.....) Tenderers that do not meet basic compliance as at stipulated by the required deadlines will be disqualified and will not proceed to the next stage of evaluation. |
| 3.10 Mandatory tender returnables | A tenderer that does not submit mandatory documents/information by the required deadlines as stipulated in the Tender Returnable section of this Request for Proposal; will be deemed non-responsive. Refer to section 1.3 Tender Returnables |
| 3.11 Pre-qualification criteria | Pre-qualification criteria are applicable Supplier Development Localisation & Industrialisation (SDL&I) will apply the following pre-qualification criteria as envisaged in PPPFA 2017 regulation 4 1. The tenderer's B-BBEE must be a minimum Level 1-4. Tenderers who do not meet the minimum pre-qualification criteria, will be deemed unacceptable and will be disqualified. For more details on Pre-qualification criteria, refer to Annexure D – SD & L requirements |

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| 3.12 Designated materials and thresholds | Designated material thresholds not applicable. | | | | | | | | | | |
|--|--|---------------------|-----------|--|---|---|----|--|----|---|----|
| 3.13 Scope of Work and Functionality requirements. | <p>1) Scope of Work is as follows:</p> <ul style="list-style-type: none"> Review the Reports. Prepare a summary of the Reports for Eskom management and board. Provide strategic legal counsel to Eskom on the findings and recommendations made in the Reports as related to Eskom’s Board of Directors, management, its employees, former employees shareholder and implicated third parties with whom Eskom conducts Business. Provide strategic legal counsel to Eskom and assistance with developing action plans to address findings and recommendations made in the Reports. Prepare submissions on behalf of Eskom or undertake necessary legal processes which may be required to challenge or act on the findings and recommendations in the Reports. Serve as the single point of contact, on behalf of Eskom, with the Commission and its representatives on all matters relating to the findings of the Commission. Assist Eskom with the drafting of responses to queries from the media or from interested third-parties. Provide legal advice and represent Eskom, as may be required, on employment and labour related matters against employees or former employees. Assist Eskom with further forensic investigations which may be required following the findings within the Reports, including post investigative support. <p>2) Functional Requirements</p> <ul style="list-style-type: none"> The following technical evaluation criteria will be applicable for this transaction under functionality criteria: <table border="1" data-bbox="624 1496 1517 1874"> <thead> <tr> <th>Evaluation criteria</th> <th>Weighting</th> </tr> </thead> <tbody> <tr> <td></td> <td>%</td> </tr> <tr> <td>Involvement in the Commission’s Inquiry into State Capture, Corruption and Fraud.</td> <td>25</td> </tr> <tr> <td>Prior experience in working with Eskom in particular on all of the following: <ul style="list-style-type: none"> a clear understanding of Eskom’s business landscape; governance foundation and; procurement processes. </td> <td>15</td> </tr> <tr> <td>Legal counsel provided on energy related matters and its associated laws, policies and regulations.</td> <td>10</td> </tr> </tbody> </table> | Evaluation criteria | Weighting | | % | Involvement in the Commission’s Inquiry into State Capture, Corruption and Fraud. | 25 | Prior experience in working with Eskom in particular on all of the following: <ul style="list-style-type: none"> a clear understanding of Eskom’s business landscape; governance foundation and; procurement processes. | 15 | Legal counsel provided on energy related matters and its associated laws, policies and regulations. | 10 |
| Evaluation criteria | Weighting | | | | | | | | | | |
| | % | | | | | | | | | | |
| Involvement in the Commission’s Inquiry into State Capture, Corruption and Fraud. | 25 | | | | | | | | | | |
| Prior experience in working with Eskom in particular on all of the following: <ul style="list-style-type: none"> a clear understanding of Eskom’s business landscape; governance foundation and; procurement processes. | 15 | | | | | | | | | | |
| Legal counsel provided on energy related matters and its associated laws, policies and regulations. | 10 | | | | | | | | | | |

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| | <p>Experience with managing complex legal matters and providing strategic counsel to State-Owned Companies on all of the following:</p> <ul style="list-style-type: none"> • Public law (including procurement & regulatory) • Energy law • Civil and criminal litigation • Employment law • Forensic investigations • Stakeholder management (including the media) | 25 |
| | <p>A working relationship with regulators within the energy markets, prosecuting bodies and media.</p> | 15 |
| | <p>Project management experience in dealing with multi-disciplinary project team and assistance with document control.</p> | 10 |
| | <p>Functionality will be evaluated on a total weight of 100% with a minimum required threshold of 95%. Tenderers that do not meet the overall minimum required threshold of 95% will not be evaluated further.</p> <p>For more details on the Technical Evaluation criteria, refer to Annexure J.</p> | |
| 3.15 Evaluation of price | <p>Prices will be evaluated as follows:</p> <ul style="list-style-type: none"> • Inclusive of VAT • Making the specified correction for arithmetical errors • Excluding contingencies in any bill of quantities or activity schedule. • Making an appropriate adjustment for any other acceptable variations, deviations, or alternative tenders submitted. • Making a comparison of the Net Present Value of each adjusted tender based on the tendered programme (if provided) and prices, on the estimated effect of Price Adjustment Factors and rate of exchange fluctuations (if applicable) and on other evaluation parameters relating to uncertainty and risk, where applicable. • Unconditional discounts must be taken into account for evaluation purposes; • Conditional discounts must not be taken into account for evaluation purposes but should be implemented when payment is effected. <p>Prices will be scored out of 80 or 90 points</p> | |

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| 3.17 Evaluation of B-BBEE | <p>The 80:20 or 90:10 evaluation criteria will be applied with 80/90 points being price and 10/20 points being B-BBEE contribution.</p> <p>B-BBEE status will be scored out of 10 or 20 points in accordance with PPPFA.</p> <p>If a tenderer fails to submit proof of B-BBEE status level, the tenderer will not be disqualified (except if B-BBEE level is a pre-qualification criterion). The tenderer will, however, be awarded 80 or 90 points for price and will score 0 points for B-BBEE level /status (out of 10 or 20)</p> |
| 3.18 Ranking of tenders | <p>Suppliers will be ranked by applying the preferential point scoring based on the relevant system as stipulated hereunder]:-</p> <ul style="list-style-type: none"> • 80/20 (estimated values of R50M and less inclusive of VAT or • 90/10 (for estimated values above R50M inclusive of VAT) <p>Eskom will then add the score from Pricing and the B-BBEE level together and rank the suppliers from the highest to the lowest.</p> |
| 3.19 Objective Criteria | Objective criteria not applicable |
| Contractual Requirements | <p>Contractual Requirements include the following:</p> <ul style="list-style-type: none"> • SHEQ requirements; • Quality and • Financial statements. <p>Please Note: Contractual requirements are not evaluation criteria. They are required to be met and assessed after the evaluation and ranking of the tenders. Proof that the highest ranked tenderer is able to meet the contractual requirements, must be submitted prior to contract award.</p> <p>Failure to not meet the “Contractual Requirements “by the stipulated deadlines, Eskom will not conclude a contract with the recommended tenderer</p> <p>In the event that there are further documents/actions that are required during execution of the contract, these must be made contractual conditions and compliance thereto must be managed in terms of the contract.</p> |
| CIDB Requirements (where applicable for Engineering and Construction Works Contracts) | CIDB Requirements are not applicable |

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Please note:

Eskom reserves the right to negotiate with preferred bidders after a competitive bidding process or price quotations; should the tendered prices not be deemed market-related Eskom will terminate the negotiation and negotiate a market-related price with tenderer scoring the second highest points. If the tenderer scoring the second highest point does not agree to market-related price, Eskom will terminate the negotiation and negotiate a market-related price with the tenderer scoring the third highest points. If the market-related price is not agreed with the highest tenderer, feedback will be given to the relevant Procurement Tender Committee (PTC) for a decision

Main contractors/ suppliers are discouraged from subcontracting with their subsidiary companies as this may be interpreted as subcontracting with themselves and / or using their subsidiaries for fronting. Where a main contractor subcontracts with a subsidiary this must be declared in tender documents.

A report containing a list of potential sub-contractors may be drawn by accessing the following link: www.csd.gov.za

“proof of B-BBEE status level of contributor” means-

- (a) the B-BBEE status level certificate issued by an authorised body or person; or
- (b) a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; or
- (c) any other requirement prescribed in terms of the Broad-Based Black Economic Empowerment Act;

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1.3 TENDER RETURNABLES

The tenderer must submit the returnables set out hereunder as part of its tender. Returnables that are mandatory for evaluation will result in disqualification if not submitted at tender closing.

| Reference | Returnables from supplier | Returnables mandatory for evaluation purposes and due at tender closing | Returnables mandatory for contract award and due prior to contract award |
|---|--|---|--|
| Basic Compliance | One (1) hard copy of the tender | ✓ | |
| Pre-qualification criteria : <ul style="list-style-type: none"> B-BBEE Certificates for the main Tenderer. The Tenderer's B-BBEE must be Level 1-4 <p>The B-BBEE certificate must be valid at the time of tender closing</p> | The B-BBEE certificate/Sworn affidavit must be valid at the time of tender closing Proof of B-BBEE status level of the contributor | ✓ | |
| | CSD number | ✓ | |
| | | | |
| Annexure A | Acknowledgement Form | ✓ | |
| Additional Documents required in event of JV:- | Letter of intent to form a JV/consortium | ✓ | |
| | Valid joint venture agreement confirming the rights and obligations of each of the joint venture partners and their profit-sharing ratios. | ✓ | |
| | Written confirmation that the joint venture will operate as a single business entity (incorporated) for the duration of the contract (this may be included as an obligation within the JV agreement) | ✓ | |
| | * A trust, consortium or joint venture (including unincorporated consortia and joint ventures) must submit a consolidated B-BBEE Status Level Verification Certificate for every separate tender. | ✓ | |
| | Details and confirmation of a single designated bank account in the name of the JV and independent of the individual JV partners, as set out in the joint venture agreement. | ✓ | |
| Annexure B | Tenderers Particulars | ✓ | |

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| Annexure C | Integrity Pact Declaration form | ✓ | |
| Annexure D | SD& L Requirements | ✓ | |
| Annexure G | Confirmation of receipt of addenda to enquiry document | ✓ | |
| Annexure H (applicable for all suppliers including Foreign suppliers) | SBD 1- to be submitted with the tender at tender submission deadline | ✓ | |
| Annexure I | SBD 6.1- Preference Points Claim Form in terms of PPPFA 2017 regulations | ✓ | |
| Annexure K | Completed pricing schedule | ✓ | |
| Annexure L Tax Evaluation Questionnaire (if services contract and was included as annexure) | Evaluation questionnaire to determine whether a company, close corporation (CC) or Trust is a personal service provider for purposes of PAYE | | ✓ |
| Shareholding | Shareholding organogram and detailed breakdown (for each individual company/JV member) clearly identifying percentages owned by individual shareholders (full names & ID Numbers) and other entities (provide full legal/trading name and respective identifying registration/trust numbers) | | ✓ |
| Tax Clearance Certificates | <p>A certified copy of a tax clearance certificate is still required by Foreign suppliers (with a footprint in South Africa- but who are not on CSD and have not provided a SARS pin number) and Local suppliers (who have not provided their SARS e-filing PIN number for verification by Eskom and/or their CSD profile / CSD number) .</p> <p>Foreign suppliers (even those with no deemed footprint in South Africa) must still complete the relevant section in Part A of the SBD1 document, however, no proof of tax compliance is required if the supplier answers “no” to all questions. If they answer “yes” to any of the questions, however, they are required to register and be tax compliant as per Part B- section 2 of the SBD 1 document and relevant legislation governing tax compliance.</p> | | ✓ |

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| Compliance with Employment Equity Act | To the extent that the tenderer falls within the definition of a “designated Employer” as contemplated in the Employment Equity Act 55 of 1998, the tenderer is required to furnish the Employer with proof of compliance with the Employment Equity Act, including proof of submission of the Employment Equity report to the Department of Labour. (South African tenderers only) | | ✓ |
| Type of contract | Tenderer’s bespoke contract | | ✓ |
| DOCUMENTS REQUIRED UNDER CONTRACTUAL REQUIREMENTS | | | |
| Annexure E | SHE Requirements The following are the SHE requirements: <ul style="list-style-type: none"> • Annexure B • Occupational Health and Safety plan • Baseline Risk Assessment • Valid Letter of Good Standing (COIDA or equivalent) • SHE policy signed by CEO/ MD For more details, refer to Annexure E attached | | ✓ |
| Annexure F | Quality Requirements The following are the Quality requirements: <ul style="list-style-type: none"> • Quality Management System Requirements ISO 9001 • Evidence of QMS in operation • Contract Quality Plan Requirements • User defined additional Requirements miscellaneous For more details, refer to Annexure F attached | | ✓ |
| Financial statements | Audited Financial Statements of the <i>tenderer</i> for the previous 2 financial years, or to the extent that such statements are not available, for the last year. Tenderers must note that in the case of a joint venture or special purpose vehicle (SPV) especially formed for this tender, audited financial statements for each participant in the JV / SPV is required. Start-up enterprises formed within the last 12 months are not required to send in statements, but if | | ✓ |

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| | | | |
|---|--|---|--|
| | successful with their tender will be required to send statements for the first year when once available. | | |
| DOCUMENTS REQUIRED UNDER FUNCTIONALITY/TECHICAL CRITERIA | | | |
| Annexure J Technical (required for functionality scoring) | Technical proposal | ✓ | |

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ANNEXURE A- MWP1114CX

ACKNOWLEDGEMENT FORM

We are in receipt of the Invitation to Tender/Proposal from Eskom Holdings SOC Ltd and the following addenda issued by Eskom:

1. _____
2. _____ --
3. _____

We confirm that the documentation received by us is: **(Indicate by ticking the box)**

Correct as stated in the RFP Content List, and that each document is complete.

Or: Incorrect or incomplete for the following reasons:

Cataloguing Acknowledgement:

[Please select the relevant statement by ticking the appropriate box below]:

1. We agree to provide the cataloguing information as described in the *tender submission*.
2. We have already supplied Eskom with the cataloguing information pertaining to this enquiry in a previous contract/order [***insert previous invitation to tender/RFQ number***] _____
3. We do not intend to provide the cataloguing information for the required scope / specifications. for the reasons stated hereunder:

4. I confirm that I am a Distributor/Importer/Agent and my Principal, being the Original Equipment Manufacturer (OEM) is or is not in the position to supply cataloguing information for items. See attached letter from OEM confirming his position.

Invitation to Tender/Request for Proposal No: _____

Name of company/JV: _____

Country of registration _____

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Name of contact person: _____

Contact details of contact person:

Tel (landline) _____

Cell phone _____

e-mail address _____

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ANNEXURE B – MWP1114CX

TENDERER'S PARTICULARS

The *tenderer* must furnish the following particulars where applicable:

| Indicate the type of tendering structure by marking with an 'X' (where applicable provide registration number): | |
|---|--|
| Individual tenderer | |
| Unincorporated Joint venture (registration number for each member of the JV) | |
| Incorporated JV | |
| Other | |

Please complete the following:

| | |
|---|--|
| Name of lead partner/member in case of JV | |
| CIPC Registration Number (for each individual company / JV member) | |
| VAT registration number (for each individual company / JV member) | |
| CIDB registration number (for each individual company/JV member if applicable), respective contractor grading designation for each individual company/JV member , and combined cidb contractor grading designation (for JVs) | |
| Shareholding information (for each individual company/JV member) clearly identifying percentages owned by individual shareholders (full names & ID Numbers) and other entity shareholders (provide full legal/trading name and respective identifying registration/trust numbers) | Include as separate tender returnable if required. |
| Contact person | |
| Telephone number | |
| E-mail address | |
| Postal address (also of each member in the case of a JV) | |
| Physical address (also of each member of the JV) | |

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If subcontractors are to be used, indicate the following for the main sub-contractor(s). Add to the list of applicable.

| | |
|---|--|
| Name of contractor | |
| CIPC Registration number | |
| VAT registration number | |
| CIDB Registration number (if applicable) and CIDB grade specified for the sub-contractor as may be stipulated in the Tender Data | |
| Shareholding organogram /breakdown (for each individual company/JV member) clearly identifying percentages owned by individual shareholders (full names& ID Numbers) and other entities (provide full legal/trading name and respective identifying registration/trust numbers) | |
| Proposed Scope of work to be done by sub-contractor | |
| Contact person | |
| Telephone number | |
| Fax number | |
| E-mail address | |
| Postal address | |
| Physical address | |

1. If you are currently registered as a vendor with Eskom, please provide your Vendor registration number with Eskom._____
2. If you are currently registered as a vendor on the Treasury Central Supplier Database(CSD) please provide your supplier registration number with Treasury_____
3. Please note that it is mandatory for you to register on National Treasury's CSD if you intend doing work with any State department or State owned entity/company.

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4. You may register online at National Treasury website on www.treasury.gov.za
5. Alternatively, you may contact Babalwa Mhlophe @ phone: 011 800 3478, email: mhlophb@eskom.co.za **from Eskom's Vendor Management department, who can assist you further with the registration on CSD.**
6. If you are registered on SARS Efiling system, please provide your pin number in order to verify your tax compliant status _____
7. If you are required to be tax compliant as per SBD 1, but are not registered on CSD (foreign suppliers) or have not provided your SARS Efiling pin, please confirm that you have attached/will send a copy of a current valid tax compliant certificate as a tender returnable (by contract award stage).

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

8. If sub-contracting is prescribed in the specific enquiry, you need to compete 8.1- 8.7

- 8.1 Confirm if you intend sub-contracting

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

- 8.2 What percentage will you be sub-contracting? _____%
- 8.3 To whom do you intend sub-contracting? _____
- 8.4 Is the said sub-contractor registered on CSD?

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

- 8.5 If yes to 8.4, please provide CSD number. _____
- 8.4 Please confirm B-BBEE level of said sub-contractor _____

- 8.5 Which designated group does the sub-contractor belong to:-
 - a. Black people
 - b. Black people who are youth
 - c. Black people who are women
 - d. Black people with disabilities

If Eskom decides to apply the sub-contracting provision as specified in Regulation 4(c) all tenders above the prescribed maximum threshold for quotations must be advertised through an open competitive bidding process subject to potential tenderers meeting the 30% minimum subcontracting requirement to EMEs or QSEs that are 51% owned by the following enterprises:

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- a. Black people
- b. Black people who are youth
- c. Black people who are women
- d. Black people with disabilities

8.6 Please confirm that you have attached your signed agreement to sub-contract document.

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

8.7 Have you attached proof of sub-contractor's belonging to designated group

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

A. Single tenderers

I, the undersigned, _____ (Full names) hereby confirm that I am duly authorised to sign all documents in connection with this tender and any contract resulting from it, on behalf of _____ (insert the full legal name of the tenderer).

Signature: _____

Designation: _____

Date: _____

B. Joint Ventures

We, the undersigned, are submitting this tender in Joint Venture and hereby authorise Mr/Ms _____ (full names), an authorised signatory of _____, (insert the full legal name of the business entity serving as the lead partner) acting in the capacity of lead partner, to sign all documents in connection with the tender and any contract resulting from it on our behalf.

We attach to this Schedule a copy of the joint venture agreement which incorporates a statement that all partners are liable jointly and severally for the execution of the contract and that the lead partner is authorised to incur liabilities, receive instructions

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and payments and be responsible for the entire execution of the contract for and on behalf of any and all the partners.

| Legal Name of Joint Venture Member | Full Name and Capacity of Authorised Signatory | Signature |
|---|---|------------------|
| | | |
| | | |
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ANNEXURE C- MWP1114CX

INTEGRITY DECLARATION FORM

(Form to be completed and signed by supplier/tenderer as RFP returnable or as part of contract modification documentation)

1. DECLARATION OF INTEREST

I/We understand that any natural/legal person, including employees of the State and/or those related to an Eskom employee/director (as per the definition of “related” set out hereunder), may tender to Eskom. However, in view of possible allegations of favouritism (the practice of showing favour to, or giving preference to some person/group, to the detriment of, or at the expense of another that is entitled to equal treatment or an equal opportunity), should the resulting tender, or part thereof, be awarded to such natural/legal person, as described herein, it is required that the *tenderer/s* declare such interest/relationship where:-

- the *tenderer/s* employees/directors are also employees/contractors/consultants/ directors in the state or a state owned entity.
- the *tenderer/s* employees/directors are also employees/contractors/consultants/ directors of Eskom
- the *tenderer/s* employees/directors are also employees/contractors/consultants or directors in another entity together with Eskom employees/consultants/contractors/ directors
- the *legal person/s (including its employees/contractors/directors/members/ shareholders)* on whose behalf the tender documents are signed, is in some other way “related” to an Eskom employee/contractor/consultant/director involved in the tender evaluation/tender adjudication/tender negotiation. “Related” meaning that:-
 - an individual is related to another individual if they are married, or live together in a relationship similar to marriage;
 - or are separated by no more than two degrees of natural or adopted consanguinity or affinity;
 - an individual is related to a juristic person if the individual directly or indirectly controls the juristic person, as determined in accordance with the definition of “control” (as per Companies Act section 2(1)); and
- a juristic person is “related” to another juristic person if :-
 - (1) either of them directly/indirectly controls the other, or the business of the other, as determined in accordance with the definition of “control”(as per Companies Act section 2(1));
 - (2) either is a subsidiary of the other; or
 - (3) a person directly/indirectly controls each of them, or the business of each of them, as determined in accordance with the definition of “control”
- the *tenderer/s* and one or more of the *tenderers* in this tendering/RFP process have a controlling partner in common, or a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the tender/proposal of another tenderer, or influence the decisions of Eskom regarding this bidding process;

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To give effect to the provisions above, please complete the table hereunder with all required information.

| Full Name & Capacity/ Position within tenderer (e.g. employee/Director/member/ owner/shareholder) | Identity Number | Confirm and provide details (including employee number) if you are a State/State owned entity employee/contractor/ director. | Full Names & Capacity/Position of Eskom employee/ director/ consultant and details of the relationship or interest(marital/ familial/personal/ financial etc.) | To your knowledge is this person involved in the evaluation/ adjudication/ negotiation of tenders |
|--|------------------------|---|---|--|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

1. If any employee/director/member/shareholder/owner of tenderer/s is also currently employed by Eskom, state whether this has been declared and whether there is authorisation(Y/N) to undertake remunerative work outside public sector employment, and attach proof to this declaration.

2. Do the tenderer/s and other tenderer in this tendering/RFP process share a controlling partner or have any relationship with each other, directly or through common third parties? (Y/N) If Yes, attach proof to this declaration. _____

2. DECLARATION OF FAIR TENDERING PRACTICES

This serves as a declaration that when goods/services are being procured, all reasonable steps have been taken to address and/or prevent the exploitation of the procurement process and the use of any unfair tendering practices.

A **proposal** will be disqualified if the *tenderer/s*, or any of its directors have:

- abused the institution's procurement process (e.g. bid rigging/collusion)
- committed fraud or any other improper conduct in relation to such system.

Please complete the declaration with an 'X' under YES or NO

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| Item | Question | Yes/No | No |
|-------|--|--------|----|
| 1.1 | <p>Is the <i>tenderer/s(or any of its directors/members/shareholders)</i> listed on National Treasury's Database of Restricted Suppliers as companies/persons prohibited from doing business with the public sector</p> <p>[Note: Companies/persons who are listed on the Database were informed in writing of this restriction by the Authority/Accounting Officer of the institution that imposed the restriction after the audi alteram partem rule was applied].</p> <p>The Database of Restricted Suppliers can be accessed on the National Treasury's website (www.treasury.gov.za).</p> | | |
| 1.2 | <p>Is the <i>tenderer/s (or any of its directors / members / shareholders)</i>? listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combatting of Corrupt Activities Act (No 12 of 2004)</p> <p>The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za).</p> | | |
| 1.3 | <p>Was the <i>tenderer/s (or any of its directors/members/shareholders)</i> convicted by a court of law (including a court outside South Africa) for fraud and/or corruption with respect to the procurement/tendering processes/procedures during the past five years?</p> | | |
| 1.3.1 | <p>Provide details.</p> | | |
| 1.4 | <p>Was the <i>tenderer/s(or any of its directors/members/shareholders)</i> prohibited from doing business with any International Financial Development/funding Agency or Lending Institution</p> | | |

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|-----|--|--|--|
| 1.5 | <i>Is there any history/record of the tenderer/s (or any of its directors/members/shareholders) failing to meet their contractual obligation with any SOC?</i> | | |
|-----|--|--|--|

I, the undersigned, _____ hereby confirm that I am duly authorised to sign all documents in connection with this tender and any contract resulting from it on behalf of _____ (insert the full legal name of the tenderer)

I declare that I have read and understood the provisions of the Supplier Integrity Pact, that all information furnished herein is correct, that it is understood that the tenderer's tender/proposal may be rejected, and that Eskom will act against the tenderer should any aspect of this this declaration prove to be false.

| | |
|--|--|
| Signature: | |
| Designation and capacity in which signing: | |
| Date: | |

Joint Ventures

I, the undersigned, _____ hereby confirm that acting in the capacity of lead partner, I am duly authorised to sign all documents in connection with the tender and any contract resulting from it on behalf of _____ (insert the full legal name of the JV).

I declare that I have read and understood the provisions of the Supplier Integrity Pact, that all information furnished herein is correct, that it is understood that the JV's tender/proposal may be rejected, and that Eskom will act against the JV should any aspect of this this declaration prove to be false.

| | |
|---|--|
| Signature: | |
| Designation and capacity in which signing : | |
| Date: | |

(A copy of the joint venture agreement which incorporates a statement that all partners are liable jointly and severally for the execution of the contract and that the lead partner is authorised to incur

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liabilities, receive instructions and payments and be responsible for the entire execution of the contract for and on behalf of any and all the partners is attached to the invitation to tender/Request for proposal).

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ANNEXURE G MWP1114CX



CONFIRMATION OF RECEIPT OF ADDENDA TO THE ENQUIRY

We confirm that the following communications received from the *Employer* before the submission of this **proposal**, amending the tender documents, have been taken into account in the **proposal**:

| Item | Date Received | Title or Description |
|------|---------------|----------------------|
| 1. | | |
| 2. | | |
| 3. | | |
| 4. | | |
| 5. | | |
| 6. | | |

(Attach additional pages if more space is required)

Name and Designation

Signature

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ANNEXURE H:- MWP1114CX

SBD 1

**PART A
INVITATION TO BID**

| | | | | | |
|---|--|--|--|--|-------------------------------|
| YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY) | | | | | |
| BID NUMBER: | | CLOSING DATE: | | CLOSING TIME: | |
| DESCRIPTION | | | | | |
| BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS) | | | | | |
| | | | | | |
| BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO | | | TECHNICAL ENQUIRIES MAY BE DIRECTED TO: | | |
| CONTACT PERSON | | | | CONTACT PERSON | |
| TELEPHONE NUMBER | | | | TELEPHONE NUMBER | |
| FACSIMILE NUMBER | | | | FACSIMILE NUMBER | |
| E-MAIL ADDRESS | | | | E-MAIL ADDRESS | |
| 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] | | B-BBEE STATUS LEVEL SWORN AFFIDAVIT | |
| | | <input type="checkbox"/> Yes <input type="checkbox"/> No | | [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] | | | | | |

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| | | | |
|---|--|--|---|
| 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)? YES NO
- DOES THE ENTITY HAVE A BRANCH IN THE RSA? YES NO
- DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? YES NO
- DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? YES NO
- IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? YES NO

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

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**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:

.....

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Annexure I:- MWP1114CX

SBD 6.1

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

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

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

1. GENERAL CONDITIONS

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

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

1.2

a) The value of this bid is estimated to be up to R50 000 000 or above R50 000 000 (all applicable taxes included) and therefore the80/20...or 90/10..... preference point system shall be applicable; or

b) Either the 80/20 or 90/10 preference point system will be applicable to this tender

1.3 Points for this bid shall be awarded for:

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

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

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

1.5 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor

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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;

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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:

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

| | | | |
|-----|--------------------------|----|--------------------------|
| YES | <input type="checkbox"/> | NO | <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 least 51% owned by: | EME | QSE |
|---|-----|-----|
| | √ | √ |
| Black people | | |
| Black people who are youth | | |
| Black people who are women | | |
| Black people with disabilities | | |

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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;

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- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
 - (a) disqualify the person from the bidding process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person’s conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution.

WITNESSES

1.

2.

.....

SIGNATURE(S) OF BIDDERS(S)

DATE:

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