

BID No: RSR/RFP/OCOO/PSRSD/26/08/03

REQUEST FOR PROPOSALS:

**Appointment of a service provider to developing the Permanent Way (Perway) Railway Safety
Regulator Standard (Superstructure).**

Issued by:
Railway Safety Regulator: Supply Chain Unit
Waterfall Point Building
Cnr Woodmead Drive and Waterfall Drive
WATERFALL CITY
1685
Contact Person: Goitseone Kgwadibana
Tel: 010 495 5391
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: **24 August 2026**

Closing Date and Time: **14 September 2026 @ 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, (PPR 2022), 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 a service provider to developing the Permanent Way (Perway) Railway Safety Regulator Standard (Superstructure).
ADVERTISEMENT DATE	24 August 2026
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 and the Railway Safety Regulator website, www.rsr.org.za/procurement/
CLOSING DATE	14 September 2026 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	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...... Tender document shall be submitted as one (01) original and one (01) scanned copy (PDF) of the original completed in a Flash Drive with the proposal and forms required: a) REQUEST FOR PROPOSAL - RAILWAY SAFETY REGULATOR: b) APPOINTMENT OF A SERVICE PROVIDER TO DEVELOPING THE PERMANENT WAY (PERWAY) RAILWAY SAFETY REGULATOR STANDARD (SUPERSTRUCTURE). The tender box will only be available for the depositing of proposals between 08h00 and 16h30 on weekdays (excluding public holidays). Please note that this RFP closes punctually at 12:00 PM on 14 September 2026. No late submissions will be considered under any circumstances. The RAILWAY SAFETY REGULATOR shall not disclose any details pertaining to the responses received, to any other participant(s), as this is regarded as confidential information.

Envelopes must not contain documents relating to any RFP other than the one referred to in this RFP.

The responses to the RFP will be opened as soon as is practical after the expiry of the time advertised for receiving them.

Only the participants that are short-listed after the evaluation process will be informed of the results of their submission.

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	Valid B-BBEE certificate/sworn affidavit	X	
Schedule 5	Valid company registration documentation that are issued by Companies & Intellectual Property Commission (CIPC)	X	
Schedule 6	Proof of Registration with the Engineering Council of South Africa (ECSA)	X	
Schedule 7	Reference Letters	X	
Schedule 8	CVs and qualifications of the proposed two qualified experts	X	
Schedule 9	Detailed Methodology	X	
Schedule 10	Detailed Project Plan	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	
General Conditions of Contract and/or Special Conditions of Contract	

1. ABBREVIATIONS AND TERMINOLOGY DESCRIPTIONS

Table 1- Abbreviations and Terminology Descriptions

Abbreviation	Description
CAP	Cape Gauge (1065 mm)
CEN	European Committee for Standardization
CENELEC	European Committee for Electrotechnical Standardization
ECSA	Engineering Council of South Africa
ERA	European Union Agency for Railways
ETSI	European Telecommunications Standards Institute
EXCO	Executive Committee of the Railway Safety Regulator
FRA	Federal Railroad Administration
OPCO	Operations Committee of the Railway Safety Regulator
RSR	Railway Safety Regulator
SABS	South African Bureau of Standards
SANS	South African National Standards
SAQA	South African Qualifications Authority
SARA	Southern African Railway Association
SEIAS	Socio-Economic Impact Assessment System
SLA	Service Level Agreement
TOR	Terms of Reference
TERMINOLOGY	DEFINITION
The Act	Refers to the Railway Safety Act, 2024 (Act No. 30 of 2024).
Perway	The railway superstructure components including rails, sleepers, fastenings, ballast, turnouts, and associated systems.
Superstructure	The portion of the railway infrastructure above formation, including rail, fastenings, sleepers, ballast, and turnouts.
Draft Standard	A proposed version of the Perway Railway Safety Regulator Standard produced prior to public consultation, incorporating gap analysis, benchmarking, and Working Group inputs.
Final Standard	The completed Perway Railway Safety Regulator standard incorporating approved public comments and governance approvals.
Working Group	The advisory body convened by the RSR to provide technical guidance during development of the standard; non-decision-making and non-procurement influencing.
Gauge	The distance between the inner surfaces of the two rails; the TOR references Cape gauge (1065mm) and Standard gauge.

Condition Monitoring	Systems and technologies (manual or automated) used to measure and assess the condition of Perway components for maintenance and safety assurance.
Maintenance Regime	A structured set of inspection, servicing, and repair activities to ensure infrastructure performance and safety.
Wheel-Rail Interaction	The dynamic relationship between rolling stock and track, impacting safety, wear, and interoperability.
Public Consultation	The regulatory process through which stakeholders comment on the draft standard prior to approval and publication.

2. TERMS OF REFERENCE

2.1. INTRODUCTION

- 2.1.1 The proclamation of the Railway Safety Regulator Act, 2024 (Act No. 30 of 2024), on 01 August 2025, together with the National Rail Policy of 2022, has ushered in a new era of transformation for South Africa's rail sector. The Railway Safety Regulator (RSR) is an agency of the Ministry of Transport and comprises a Board, 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.

2.2. BACKGROUND

- 2.2.1 Central to the National Rail Policy and legislative framework is the introduction of an open access regime, designed to liberalise the rail market by enabling multiple operators to utilise the national rail network.
- 2.2.2 While this presents opportunities for growth, competition, and innovation, it also introduces significant challenges in ensuring safe, reliable, and harmonised operations across diverse operators and technologies.
- 2.2.3 Currently, the sector relies on a body of safety standards and manuals, including SABS Standards, regulator standards, voluntary guidelines, and operator-specific manuals, some of which may not align with the requirements of the Act or international best practice.

2.2.4 The RSR, mandated to provide oversight, is therefore confronted with regulatory gaps that hinder its ability to effectively enforce safety and interoperability.

2.2.5 In response to this challenge, the RSR has initiated a Standards Development Roadmap, an integrated phased approach to developing and implementing an updated Railway Safety Standards for the rail industry, which combines immediate interventions with medium to long-term reforms.

2.3. PURPOSE

2.3.1 The purpose of this Terms of Reference (TOR) is to appoint a suitably qualified service provider to render specialist services for the development of a Permanent Way (Perway) Railway Safety Regulator Standard (Superstructure).

2.3.2 An appointed Service Provider is required to address existing regulatory gaps that hinder effective enforcement and interoperability.

2.3.3 An appointed Service Provider shall provide a team of two (2) railway experts with demonstrable experience in railway Perway systems and railway safety regulation and must be professionally registered with the Engineering Council of South Africa (ECSA) in terms of the Engineering Profession Act, 46 of 2000 as either as a Professional Engineer, Professional Technologist or Technician.

2.3.4 An appointed Service Provider will be required to:

2.3.4.1 Assess and consider existing SABS/SANS standards, RSR standards, operator manuals and other listed documents used by railway operators in South Africa and globally, for the purpose of developing the RSR Perway Safety Regulator Standard to achieve safe railway operations, and

2.3.4.2 Develop a draft and final Perway Railway Safety Regulator Standard (Superstructure) that supports the RSR's regulatory mandate, which includes identified safety requirements for safe operations and where applicable, include identified improvements.

2.4. SCOPE OF WORK

2.4.1 The successful bidder shall deliver on the following scope of work:

2.4.1.1 To assess and consider existing SABS/SANS Perway standards, manuals and specifications used by railway operators in South Africa to achieve safe railway operations.

- 2.4.1.2 To identify safety-critical gaps and improvements in safety measures and technologies, commonalities, differences, and areas of contradiction within the existing applicable standards, manuals and specification, and consider and identify safety-critical gaps/areas of weakness or area of improvement.
- 2.4.1.3 To recommend proposed solutions to be incorporated into the proposed standard to address the identified safety-critical gaps or improvements to enable the oversight of safe operations by the RSR.
- 2.4.1.4 To provide a draft report, with all annexures/supporting documents, demonstrating that the service provider has met the requirements of the Terms of Reference and that the report accurately reflects this. The annexures must include:
 - 2.4.1.4.1 A list of the reviewed Perway standards, manuals, and specifications currently applied by operators to support safe railway operations;
 - 2.4.1.4.2 The safety parameters and requirements identified and extracted from the Perway standards, manuals, and specifications for use as regulatory tools;
 - 2.4.1.4.3 The safety-critical gaps and recommended improvements identified in the existing Perway standards, manuals, and specifications used by operators; and
 - 2.4.1.4.4 The developed and proposed safety parameters incorporated into the proposed Perway Safety Regulator Standard, including any requirements added where no existing standards were available for reference or review.
- 2.4.1.5 Facilitate technical working sessions with the RSR-appointed Perway Working Group as required to validate findings and inform drafting.
- 2.4.1.6 Liaise with the RSR-appointed signalling and telecoms standard development working groups to ensuring that there is no conflicting regulation/standards or enforcement tool on wheel-rail interaction principles, as well as signalling (e.g., turnouts inspections and maintenance). The RSR shall facilitate this engagement.
- 2.4.1.7 Producing the completed first draft Perway Railway Safety Regulator Standard, which includes identified safety requirements for safe operations and where applicable, include identified improvements.
- 2.4.1.8 Present the draft Perway Railway Safety Regulator Standard to the Technical Committee, OPCO, EXCO and Board, for approval as applicable. (*The*

approved draft Perway Railway Safety Regulator Standard is at this stage to be published for public comments. This is the responsibility of the RSR)

- 2.4.1.9 Review the draft Perway Railway Safety Regulator Standard to incorporate inputs from the public comments phase where applicable.
- 2.4.1.10 Present the final Perway Railway Safety Regulator Standard (which incorporates public comments where applicable) to the Technical Committee, OPCO, EXCO and Board, as applicable.
- 2.4.1.11 Support the RSR during public consultation and incorporate approved public comments.
- 2.4.1.12 The total project duration is estimated at approximately ten months from the date of contract commencement, and **with deliverables 2.4.1.1 to 2.4.1.7 (that is, producing the first draft of the standard) being completed within three months** from the date of contract commencement.

2.5. PROJECT DELIVERABLES

2.5.1 The service provider shall deliver the following tangible outputs:

- 2.5.1.1 A report on considered existing Perway standards, manuals and specifications currently applied by railway operators in South Africa, including relevant SABS standards. The report must also identify safety-critical gaps, improvements, commonalities, differences and contradictions within the existing documents, including but not limited to those contained in 2.5.1.1.1 to 2.5.1.1.18) below. The report to include relevant signalling/ telecommunications interface where applicable, but only to the extent needed for Perway interfaces. The report must also recommend solutions for incorporation into the proposed standard to support RSR oversight of safe railway operations. (Estimated 140 hours)**.
- 2.5.1.1.1 SANS 3000 2-2: 2016,
- 2.5.1.1.2 SANS 3000 2-2-1: 2021,
- 2.5.1.1.3 RSR 00-2-7: 2016,
- 2.5.1.1.4 Transnet Manual for Track Maintenance: 2025,
- 2.5.1.1.5 Inspection and maintenance of permanent way – Geometry and gauge clearance: 2009,
- 2.5.1.1.6 B222-1: Railway Civil engineering Handbook,
- 2.5.1.1.7 BBB 8341: Track Welding Manual,
- 2.5.1.1.8 E10-1996 - Specification for railway trackwork,

- 2.5.1.1.9 ENG/M series - Reference guide for turnouts,
- 2.5.1.1.10 S406: Ballast specification,
- 2.5.1.1.11 BBD 6462: Derailment investigation handbook,
- 2.5.1.1.12 Human Factors Management (SANS 3000-4: 2011 and the RSR 00-4-1: 2016)
(as applicable),
- 2.5.1.1.13 National Rail Policy,
- 2.5.1.1.14 Railway Safety Act, 2024 (Act 30, of 2024),
- 2.5.1.1.15 European Standardisation Organisations (CEN, CENELEC, ETSI, FRA)
- 2.5.1.1.16 Federal Railroad Administration (standards for the US Railways),
- 2.5.1.1.17 Harmonised Southern African Railways Association (SARA standard),
- 2.5.1.1.18 Gautrain Perway specifications for track and civil infrastructure,
- 2.5.1.2 Draft Perway Railway Safety Regulator Standard (Superstructure) incorporating inputs from the Working Group (Estimated 300 hours)**. The proposed standard to incorporate the following elements:
 - 2.5.1.2.1 Draft specification on inspections and maintenance regimes of rails, sleepers, fastening systems, turnouts, and ballast.
 - 2.5.1.2.2 Content of the standard to be categorised per rail service operations, i.e., passenger on Cape, Narrow and Standard gauges, as well as freight on Cape gauge.
 - 2.5.1.2.3 All life cycle phases (concept, design, construction, etc.).
 - 2.5.1.2.4 Track geometry parameters that must be measured for the superstructure (rails, fastening system, sleepers, ballast, turnout, etc.).
 - 2.5.1.2.5 Maintenance regimes of all superstructure components and their activities, including ballast.
 - 2.5.1.2.6 Maintenance principles of all superstructure components and their activities, including ballast.
 - 2.5.1.2.7 Inspections of all superstructure components and their activities, including ballast and turnouts.
 - 2.5.1.2.8 Condition monitoring systems (machines and non-machine technologies) for superstructure components regimes or principles, etc., including ballast and turnouts.
 - 2.5.1.2.9 Inland and coastal or wetland considerations for all superstructure components and their activities, including ballast and turnouts maintenance and inspection philosophies detailed above.

2.5.1.2.10 Resources (i.e., personnel, budget, time/duration) required for assessing the Perway superstructure components, including ballast and turnouts and their various activities condition and conducting maintenance.

2.5.1.3 Executive Summary and presentation material outlining key findings and the proposed Safety Standard (Estimated 60 hours)**.

2.5.1.4 Final proposed Perway Railway Safety Regulator Standard incorporating approved public comments (Estimated 60 hours)**.

2.5.1.5 All deliverables are to be submitted to the RSR-appointed Project lead(s)/manager(s). The estimated hours for each deliverable are a total for both specialists.

2.6. RESPONSIBILITY OF THE PERWAY WORKING GROUP

2.6.1 The Perway/Track working groups an advisory body appointed by the RSR to provide technical input and guidance during the development of the Safety Standard.

2.6.2 The Working Group members shall:

- 2.6.2.1 Review draft technical outputs produced by the Service Provider;
- 2.6.2.2 Provide non-binding technical inputs and recommendations; and
- 2.6.2.3 Support alignment of the draft Safety Standard with regulatory intent.

2.6.3 The Working Group members shall not:

- 2.6.3.1 Submit bids/proposals for this project;
- 2.6.3.2 Participate in bid evaluation, adjudication, or contract management;
- 2.6.3.3 Direct or influence procurement outcomes; or
- 2.6.3.4 Provide any commercial or competitive advantage to the Service Provider(s).

2.7. RESPONSIBILITY OF THE RSR

2.7.1 The RSR shall:

- 2.7.1.1 Appoint Project Manager(s) to serve as the primary liaison between the RSR and the Service Provider;
- 2.7.1.2 Convene and oversee Working Group engagements;
- 2.7.1.3 Review and formally accept deliverables submitted by the Service Provider; and
- 2.7.1.4 Facilitate governance approvals, public consultation processes, and publication of the final Safety Standard.

2.7.2 The RSR will pay the service provider in accordance with the agreed contractual rates and approved deliverables.

2.8. PROPOSAL SUBMISSION

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

- 2.8.1.1 Organisation's profile.
- 2.8.1.2 A Joint Venture agreement signed by all parties in case of a Joint Venture / Consortium submission (if applicable),
- 2.8.1.3 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
- 2.8.1.4 Valid B-BBEE certificate / sworn affidavit. A trust, consortium, or joint venture (including unincorporated consortia and joint ventures) must submit a consolidated B-BBEE Status Level Verification Certificate, 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 2024).
- 2.8.1.5 A trust, consortium, or joint venture (including unincorporated consortia and joint ventures) must submit a consolidated B-BBEE Status Level Verification Certificate
- 2.8.1.6 Valid tax compliance status report with PIN.
- 2.8.1.7 Valid company registration documentation that are issued by Companies & Intellectual Property Commission (CIPC).
- 2.8.1.8 A Copy of the identity document of the company owner(s).
- 2.8.1.9 Valid Medical Certificate (Where applicable).
- 2.8.1.10 Valid South African Social Security Agency (SASSA) registration (where applicable).
- 2.8.1.11 Valid National Council for Persons with Physical Disability in South Africa registration (NCPDSA).
- 2.8.1.12 Fully completed and duly signed Standard Bidding Documents (SBD) Forms supplied with these Terms of Reference.

- 2.8.1.13 Proven previous experience, including testimonials/references letters* from previous successful completed projects, within the past fifteen (15) years. The reference letters should be on a client's official letterhead with valid contact details.
- 2.8.1.14 No appointment letters will be considered. **RSR reserves the right to contact the references for verification of the information provided.** No points shall be awarded for letters which the RSR cannot verify/validate.
- 2.8.1.15 Demonstrable capacity to deliver on the desired services that include response to the project scope and deliverables through a detailed methodology and project plan for the review and development of the Permanent way railway safety standard for the RSR.
- 2.8.1.16 Tender documents shall be submitted as one (01) original, and one (01) scanned copy (PDF) of the original completed in a Flash Drive with all exhibits and forms required included in the proposal length.
- 2.8.1.17 All prices must be VAT Inclusive with estimated costs/fees

2.9. TENDER BRIEFING SESSION AND FREQUENTLY ASKED QUESTIONS (FAQS)

- 2.9.1 Interested bidders are required to attend the online non-compulsory briefing session and should send their e-mail addresses to tenders@rsr.org.za not later than the 26 August 2026, at 16:30. RSR will share the invitation on the 27 August 2026 for the briefing session to be held on 28 August 2026 at 10:00, via MS Teams.
- 2.9.2 Any enquiries relating to this bid should be sent to tenders@rsr.org.za no later than 04 September 2026, at 16H00.

2.10. BID EVALUATION CRITERIA OF PROPOSALS

- 2.10.1 The proposals/BIDS will be evaluated on a four (04) phases approach consisting of:
 - 2.10.1.1 **Phase 01: Submission of all administrative compliance documentation.**
 - 2.10.1.1.1 The evaluation of the administrative compliance requirements is indicated below. Failure to comply, may lead to disqualification.
 - 2.10.1.1.2 Fully completed and duly signed SBD forms

2.10.1.1.3A trust, consortium, or joint venture (where applicable) must adhere to the requirements set out in section 2.15 of the tender document.

2.10.1.1.4Central 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.

2.10.1.1.5Valid tax compliant status report with PIN

2.10.1.2 Phase 02: Mandatory Requirements Criteria

2.10.1.2.1The evaluation of the mandatory documents:

2.10.1.2.1.1 The proposed specialists must be registered with the Engineering Council of South Africa (ECSA) in terms of the Engineering Profession Act 46. of 2000 as a Professional Engineer, Technologist or Technician. (Submit a valid proof) or an internationally recognised equivalent registration acceptable to the RSR and supported by documentary proof

2.10.1.2.1.2 Failure to submit the mandatory documents (proof of registration with ECSA for both proposed specialists) will lead to disqualification and the proposal will not be considered for Phase 03

2.10.1.3 Phase 03: Functionality Evaluation

2.10.1.3.1The evaluation of the functional requirements is as per section 2.11 below. Bidders must attain a minimum of 70 points to be considered for Phase 04.

2.10.1.4 Phase 04: Price and Specific Goals Evaluation

2.10.1.4.1The price quotations will be evaluated in accordance with the pre-scripts of the Preferential Procurement Policy Framework Act (PPPFA) and its regulations, in particular Preference Procurement Regulation 2022 which stipulate 80/20 preference point system for acquisition of goods or services with Rand value equal to or below R50 million (inclusive of all applicable tax).

2.10.1.4.2A maximum of 80 points for price and 20 points for the specific goal specified on the request for proposal may be awarded to a Bidder.

2.10.1.4.3For Points to be awarded for the specific goals the proof of the claim for such goal must be submitted.

2.11. FUNCTIONALITY CRITERIA EVALUATION- PHASE 03

2.11.1 The suitable service provider must demonstrate capacity and capability to execute this project by complying with the functionality criteria on table 2 below.

2.11.2 Bidders that score the minimum of 70 points of the total points will proceed to Phase 04: Price and Specific Goals

Table 2- Functionality Evaluation Criteria

TECHNICAL EVALUATION CRITERIA		Points Weightings	Scoring Criteria
2.11.2.1	Contactable Reference Letters: Company's proven experience in technical standards implementation/development projects in the public or private sector. Provide contactable reference letters for relevant work completed (not older than 15 years) RSR reserves the right to contact the references to confirm the information	15	a) Five (5) or more reference letters = 15 points b) Four (4) reference letters = 12 points c) Three (3) reference letters = 9 points d) Two (2) relevant reference letters = 6 points e) One (1) relevant reference letters = 3 points f) No letter / irrelevant letter = 0 points
2.11.2.2	Bidder's Technical Team Qualifications and Experience Enclosure: 1. The submission for evaluation must be for two separate individuals (Experts) 2. CVs 3. Certified copies - certificates of academic qualifications <u>The CV and certificates of individuals will be used for evaluation of the each of the key personnel for this section.</u> Expert 1: Project Lead – (Max 25 points) with relevant local and/or international railway Perway experience, with ability to apply it to the South African regulatory environment. The scoring of the key personnel will be as below:		
2.11.2.2.1	Qualifications - Qualification in Civil Engineering [or its International Qualification equivalent as verified by South African Qualification Authority (SAQA). It is the responsibility of the bidder to secure the verification]	10	a) NQF level 9 or higher = 10 points b) NQF level 8 = 8 points c) NQF level 7 = 5 points d) No qualification/below NQF 7 = 0 points
2.11.2.2.2	Years of work experience in Perway in railways	15	a) 10 years or more = 15 points b) 5 years but less than 10 years = 10 points c) 2 years but less than 5 years = 8 points d) 1 year but less than 1 year = 5 points e) Less than 1 year = 0 points
2.11.2.3	Expert 2: Perway Expert – (Max 25 points) with Perway experience.		
2.11.2.3.1	Qualifications - Qualification in Civil Engineering [or its International Qualification equivalent as verified by SAQA] It is the responsibility of the bidder to secure the verification	10	a) NQF level 9 or higher = 10 points b) NQF level 8 = 8 points c) NQF level 7 = 5 points d) No qualification/below NQF 7 = 0 points

TECHNICAL EVALUATION CRITERIA		Points Weightings	Scoring Criteria
2.11.2.3.2	Years of work experience as Perway Expert in Rail Industry	15	a) 10 years or more = 15 points b) 5 years but less than 10 years = 10 points c) 2 years but less than 5 years = 5 points d) Less than 1 year = 0 points
2.11.2.4	Structured Approach/Methodology Comprehensive Methodology that highlights techniques that will be employed for the project, this must include the approach and alignment to best practice.	20	a) Well defined approach methodology aligned with project plan and project deliverables = 20 points b) Moderately defined approach methodology aligned with project plan and project deliverables = 10 points c) Poorly defined approach methodology = 05 points d) No approach or unacceptable methodology = 0 points
2.11.2.5	Project Plan covering management of the scope with milestones/phases and timelines	15	a) Well defined Project Plan with milestones, timelines and costing aligned with project deliverables, timelines, and also the project organogram = 15 points b) Moderately defined Project Plan with milestones and timelines = 10 points c) Poorly defined Project Plan = 5 points d) No project or unacceptable plan = 0 points
TOTAL		100	

2.11.3 Proposals scoring less than the minimum of 70 points will be eliminated from further evaluation and will not be evaluated on Phase 04, price and specific goals evaluation.

2.11.4 Only bidders that scored a minimum of 70 points of the total points at the functionality phase will proceed to Phase 04, price and specific goals evaluation.

2.12. PRICE AND SPECIFIC GOALS EVALUATION- PHASE 04

2.12.1 Only bidders who scored 70 points and above in phase 03 will be considered for the price and specific goals evaluation.

2.12.2 The price quotations will be evaluated in accordance with the prescripts of the Preferential Procurement Policy Framework Act (PPPFA) and its regulations, in particular Preference Procurement Regulation 2022 which stipulate 80/20 preference point system for acquisition of goods or services with Rand value equal to or below R50 million (inclusive of all applicable tax).

2.12.3 A maximum of 80 points for price and 20 points for the specific goal specified on the request for proposal may be awarded to a Bidder.

2.12.4 Points for the specific goal will be awarded as specified on the table below:

Table 3: Specific goals

NO	SPECIFIC GOALS	PREFERENCE POINT (OUT OF 20)	PROOF OF CLAIM
1	An Exempt Micro Enterprises (EME) or Qualifying Small Enterprise (QSE) which is at least 51% owned by black people	10	• Copy of the identity document of the owner(s) • A valid SANAS accredited BBBEE certificate or a valid BBEEE sworn affidavit (whichever is applicable) • Central Supplier Database (CSD) report • Valid company registration documentation that are issued by Companies & Intellectual Property Commission (CIPC)
2	An Exempt Micro Enterprises (EME) or Qualifying Small Enterprise (QSE) which is at least 51% owned by black women	5	• Copy of the identity document of the owner(s) • A valid SANAS accredited BBBEE certificate or a valid BBEEE sworn affidavit (whichever is applicable) • Central Supplier Database (CSD) report • Valid company registration documentation that are issued by Companies & Intellectual Property Commission (CIPC)
3	An Exempt Micro Enterprises (EME) or Qualifying Small Enterprise (QSE) which is at least 51% owned by youth	3	• Copy of the identity document of the owner(s) • A valid SANAS accredited BBBEE certificate or a valid BBEEE sworn affidavit (whichever is applicable) • Central Supplier Database (CSD) report • Valid company registration documentation that are issued by Companies & Intellectual Property Commission (CIPC)
4	An Exempt Micro Enterprises (EME) or Qualifying Small Enterprise (QSE) which is at least 51% owned by person(s) with disabilities	2	• Copy of the identity document of the owner(s) • A valid SANAS accredited BBBEE certificate or a valid BBEEE sworn affidavit (whichever is applicable) • Central Supplier Database (CSD) report • Valid company registration documentation that are issued by Companies & Intellectual Property Commission (CIPC) • Valid Medical Certificate • Valid South African Social Security Agency (SASSA) registration (where applicable) • Valid National Council for Persons with Physical Disability in South Africa registration (NCPDPSA)

2.13. THE FINANCIAL PROPOSAL

2.13.1 The service The bidders are required to submit a detailed financial proposal costing the services per scope of work and deliverables. The overall figure must be VAT inclusive.

Table 4: Pricing Schedule

Hours to be Spent for duration (Estimated)	Position	Rate per hour	Total
280 hours	Perway infrastructure expert in railways- Expert 1		
280 hours	Perway infrastructure expert in railways- Expert 2		
Sub Total			
VAT @ 15%			
Grand Total			

2.13.2 All prices should include VAT and exclude all local travelling, and accommodation expenses as they will be arranged and paid for by the RSR utilizing the approved RSR Travel Policy.

2.14. SUBCONTRACTING

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

2.15. JOINT VENTURES, CONSORTIUMS AND TRUSTS

2.15.1 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.

2.15.2 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.

2.15.3 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.

2.15.4 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.

2.16. LEGAL IMPLICATIONS

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

2.17. COMMUNICATION

2.17.1 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.

2.18. LATE BIDS

2.18.1 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.

2.19. PROHIBITION OF RESTRICTIVE PRACTICES

2.19.1 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:

2.19.1.1 directly or indirectly fixing a purchase or selling price or any other trading condition;

2.19.1.2 dividing markets by allocating customers, suppliers, territories or specific types of goods or services; or

2.19.1.3 collusive bidding.

2.19.2 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.

2.20. FRONTING

2.20.1 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.

2.20.2 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 / 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.

2.21. RSR'S RIGHTS

2.21.1 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.

- 2.21.2 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.
- 2.21.3 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.
- 2.21.4 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.

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE RAILWAY SAFETY REGULATOR					
BID NUMBER:	RSR/RFP/OCOO/PSRSD/26/08/03	CLOSING DATE:	14 September 2026	CLOSING TIME:	12:00
DESCRIPTION	Appointment of a service provider to developing the Permanent Way (Perway) Railway Safety Regulator Standard (Superstructure).				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
Railway Safety Regulator Head Office					
Waterfall Point Building, Building 04					
Cnr Woodmead Drive and Waterfall Drive					
Waterfall City, Midrand, 1685					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	Goitseone Kgwadibana		CONTACT PERSON	Reginald Ntshingila	
TELEPHONE NUMBER	010 495 5391		TELEPHONE NUMBER	010 495 5391	
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS	goitseonek@rsr.org.za		E-MAIL ADDRESS	reginald.ntshingila@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] ☐ Yes ☐ No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX] ☐ Yes ☐ 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?	☐ Yes ☐ No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?		☐ Yes ☐ No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?				☐ YES ☐ NO	
DOES THE ENTITY HAVE A BRANCH IN THE RSA?				☐ YES ☐ NO	
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?				☐ YES ☐ NO	

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

☐ YES ☐ NO

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

☐ YES ☐ NO

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

PART B TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:

- 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, 2022, 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.: ... Appointment of a service provider to developing the Permanent Way (Perway) Railway Safety Regulator Standard (Superstructure).

CLOSING TIME 12:00

CLOSING DATE: 14 September 2026

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.....
R.....
R.....
R.....

..... days
..... days
..... days
..... 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.
-
-
-

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

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

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

2. Bidder's declaration

2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest¹ in the enterprise, employed by the state? **YES/NO**

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

Full Name	Identity Number	Name of State institution

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

2.2.1 If so, furnish particulars:

.....
.....

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

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

- 2.3.1 If so, furnish particulars:

.....
.....

3 DECLARATION

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

- 3.1 I have read and I understand the contents of this disclosure;
3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium² will not be construed as collusive bidding.
3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.
3.6 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten

² 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) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

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

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

.....
Signature Date

.....
Position Name of bidder

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for specific goals.

NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to invitations to tender:

- 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 To be completed by the organ of state

(delete whichever is not applicable for this tender).

- a) The applicable preference point system for this tender is the **80/20** preference point system.

1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:

- (a) Price; and
- (b) Specific Goals.

1.4 To be completed by the organ of state:

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	80
SPECIFIC GOALS	20
Total points for Price and SPECIFIC GOALS	100

1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.

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

2. DEFINITIONS

- (a) **“tender”** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- (b) **“price”** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (c) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (d) **“tender for income-generating contracts”** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
- (e) **“the Act”** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

3.1.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

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

$$\begin{array}{ccc}
 \mathbf{80/20} & \mathbf{or} & \mathbf{90/10} \\
 \\
 \mathbf{Ps} = \mathbf{80} \left(\mathbf{1} - \frac{\mathbf{Pt} - \mathbf{P}_{min}}{\mathbf{P}_{min}} \right) & \mathbf{or} & \mathbf{Ps} = \mathbf{90} \left(\mathbf{1} - \frac{\mathbf{Pt} - \mathbf{P}_{min}}{\mathbf{P}_{min}} \right)
 \end{array}$$

Where

$\mathbf{Ps}$ = Points scored for price of tender under consideration
 $\mathbf{Pt}$ = Price of tender under consideration
 $\mathbf{Pmin}$ = Price of lowest acceptable tender

3.2. FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT

3.2.1. POINTS AWARDED FOR PRICE

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

$$\begin{array}{ccc}
 \mathbf{80/20} & \mathbf{or} & \mathbf{90/10} \\
 \\
 \mathbf{Ps} = \mathbf{80} \left(\mathbf{1} + \frac{\mathbf{Pt} - \mathbf{P}_{max}}{\mathbf{P}_{max}} \right) & \mathbf{or} & \mathbf{Ps} = \mathbf{90} \left(\mathbf{1} + \frac{\mathbf{Pt} - \mathbf{P}_{max}}{\mathbf{P}_{max}} \right)
 \end{array}$$

Where

$\mathbf{Ps}$ = Points scored for price of tender under consideration
 $\mathbf{Pt}$ = Price of tender under consideration
 $\mathbf{Pmax}$ = Price of highest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

- 4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:
- 4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—
- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
 - (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,
- then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

Table 1: Specific goals for the tender and points claimed are indicated per the table below.

(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.)

Note to tenderers: The tenderer must indicate how they claim points for each preference point system.)

The specific goals allocated points in terms of this tender	Number of points allocated (90/10 system) (To be completed by the organ of state)	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (90/10 system) (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)
An Exempt Micro Enterprises (EME) or Qualifying Small Enterprise (QSE) which is at least 51% owned by black people	N/A	10		
An Exempt Micro Enterprises (EME) or Qualifying Small Enterprise (QSE) which is at least 51% owned by black women	N/A	5		
An Exempt Micro Enterprises (EME) or Qualifying Small Enterprise (QSE) which is at least 51% owned by youth	N/A	3		
An Exempt Micro Enterprises (EME) or Qualifying Small Enterprise (QSE) which is at least 51% owned by person(s) with disabilities	N/A	2		

DECLARATION WITH REGARD TO COMPANY/FIRM

4.3. Name of company/firm.....

4.4. Company registration number:

4.5. TYPE OF COMPANY/ FIRM

- ☐ Partnership/Joint Venture / Consortium
- ☐ One-person business/sole propriety
- ☐ Close corporation
- ☐ Public Company
- ☐ Personal Liability Company
- ☐ (Pty) Limited
- ☐ Non-Profit Company
- ☐ State Owned Company

[TICK APPLICABLE BOX]

4.6. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I 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 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
 - (a) disqualify the person from the tendering 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 tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted 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, if deemed necessary.

.....
SIGNATURE(S) OF TENDERER(S)

SURNAME AND NAME:

DATE:

ADDRESS:

.....

.....

.....

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.