

HUMAN SCIENCES RESEARCH COUNCIL

BID DESCRIPTION: Appointment of a service provider to provide COVID-19 laboratory services to the Human Sciences Research Council.

BID NUMBER: HSRC08/06/2021/22

1. INTRODUCTION

The Human Sciences Research Council (HSRC) is a research organisation that advances social sciences and humanities for public use. The HSRC subscribes to the values of good governance, accountable public administration and sound management of the resources as reflected in the Public Financial Management Act of 1999 (PFMA as amended by Act 29 of 1999) and other laws and regulations applicable to public administration.

Established in 1968 as South Africa's statutory research agency and has grown to become the largest dedicated research institute in the social sciences and humanities on the African continent, doing cutting-edge public research in areas that are crucial to development.

Our mandate is to inform the effective formulation and monitoring of government policy; to evaluate policy implementation; to stimulate public debate through the effective dissemination of research-based data and fact-based research results; to foster research collaboration; and to help build research capacity and infrastructure for the human sciences.

2. Background information

The Human Sciences Research Council (HSRC) in collaboration with the with the United States Centers for Disease Control and Prevention (CDC), National Department of Health (NDoH) and South African Medical Research Council (SAMRC) will be implementing the sixth South African National HIV Prevalence, Incidence and Behaviour Survey for the 6th South African National HIV Prevalence, Incidence, Behaviour and Communication Survey, (SABSSM VI). This is a population-based cross-sectional survey of households in South Africa designed to assess the prevalence and trends of key HIV-related indicators in the country. The survey will include a component on COVID-19, that will be undertaken in subsample of 13,000 participants b 15 years and older who consent

3. SUBMISSIONS

- a) Bid documents may either be posted to HSRC Building, 134 Pretorius Street Pretoria (preferably registered mail) OR placed in the tender box OR couriered **to HSRC Building, 134 Pretorius Street Pretoria before the closing date and time.**
- b) **NB:** The HSRC shares the building with the Department of Social Development (DSD). Bidders are requested to ensure that their bid documents are deposited in the correct tender box. Bid documents deposited in the wrong tender box and received from DSD after the closing date will not be considered.
- c) Bid documents will only be considered if received by the HSRC before the closing date and time, regardless of the method used to send or deliver such documents to the HSRC.
- d) The bidder(s) are required to submit **two (2)** copies of each file Original **one (1)** hard copy duplicate **(1) USB** with content of each file by the Closing date 20 September 2021 at 11:00. Each file and **USB** must be marked correctly and sealed separately for ease of reference during the evaluation process. Furthermore, the file and information in the **USB** must be labelled and submitted in the following format:

FILE 1 (TECHNICAL FILE)	FILE 2 (PRICE & BBBEE)
Exhibit 1: Pre-qualification documents (Gate 0: Pre-qualification Criteria)	Pricing schedule SBD 3.1 SBD 6.1 Valid B-BBEE certificate or sworn affidavit
Exhibit 2: • Technical Responses and Bidder Compliance Checklist for Technical Evaluation • Supporting documents for technical responses. (Gate 1: Technical Evaluation Criteria– Desktop Evaluation Technical Scorecard	
Exhibit 3: • General Conditions of Contract (GCC)	

Exhibit 4: • Company Profile • Any other supplementary information	
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Activity	Due Date
Advertisement of bid on Government e-tender portal / print media / Tender Bulletin	05 September 2021
Non-Compulsory virtual briefing and clarification session	N/A
Closing date for bid-related enquiries	09 September 2021
Publication of questions and answers on HSRC website	10 September 2021
Bid closing date	20 September 2021
Notice to bidder(s)	HSRC will endeavour to inform bidders of the progress until conclusion of the tender.

- e) All dates and times in this bid are South African standard time.
- f) Any time or date in this bid is subject to change at the HSRC's discretion.
- g) The establishment of a time or date in this bid does not create an obligation on the part of the HSRC to take any action, or create any right in any way for any bidder to demand that any action be taken on the date established. The bidder accepts that, if the HSRC extends the deadline for bid submission (the Closing Date) for any reason, the requirements of this bid otherwise apply equally to the extended deadline.

3.1. SUPPLIER DUE DILIGENCE

The HSRC reserves the right to conduct supplier due diligence prior to final award or at any time during the contract period. This may include site visits and requests for additional information.

3.2. PRESENTATION / DEMONSTRATION

The HSRC reserves the right to request presentations/demonstrations from the short-listed Bidders as part of the bid evaluation process.

3.3. OBJECTIVE

The objective of the Request for Proposal (RFP) is to appoint a service provider to provide COVID-19 laboratory services to the Human Sciences Research Council.

One of the secondary objectives of the survey is to estimate prevalence of COVID-19 antibody positivity at National and provincial levels. The detection of antibodies to SARS CoV-2 will be performed on venous blood samples using commercially available platforms that have met regulatory requirements including recognition from regulatory authorities such as the United States Food and Drug Administration (US FDA) or equivalent such as the World Health Organization (WHO) and undergone in-country verification and approval by the South African Health Products Regulatory Authority (SAHPRA).

The following platforms based on the above criteria are selected for the survey viz., the Roche Elecsys®Anti-SARS-CoV-2 (CLIA, Total Antibody Test) the Euroimmun Anti-SARS-CoV-2 ELISA (IgG), and a third assay that will be confirmed with the HSRC. The proposed testing algorithm is as shown in the table below.

Table: Testing algorithm: COVID-19 sero substudy in the SABSSM VI survey

SARS CoV-2 serology testing	
	Number of tests
SARS CoV-2 Antibody Screen	13000
SARS CoV-2 Antibody Confirmatory 1	13000
SARS CoV-2 Antibody Confirmatory 2 (60%)	7800

3.4. THE SERVICE PROVIDER WILL BE REQUIRED TO PROVIDE:

- 3.4.1 Providing training related to this sub study within and as part of the main SABBSMVI survey training. Training should include venous blood collection and all aspects of specimen handling in the field as well as labelling and packaging for transportation to the laboratory
- 3.4.2 Providing the pre-packed kits and all other materials required for venous blood specimen collection in the field.
- 3.4.3 Ensuring appropriate courier of samples to the testing laboratory.
- 3.4.4 Capture and or import participant test results on the recommended data capture platform.
- 3.4.5. Providing regular progress reports/communication to HSRC at specified intervals namely;
 - a) Submitting weekly reports detailing: Barcode numbers of the samples received; number of samples received; specimen barcodes recorded on the tracking sheet; date

of specimen collection; date of receipt by laboratory; test; specimens couriered to other laboratories for further testing (number of samples, sample barcodes), any relevant comments.

b) Attend training and weekly project meetings. Meetings will be held virtually.

- 3.4.6. Storage of specimens in accordance with storage regulations as regulated by SANAS or other recognized accreditation body. Specimens are to be stored for a period of 5 years after testing.

Only enterprises with number of employees greater than or equal to 10 will be in the frame. Only private/public (including state-owned) companies will be included; that is no individuals, local authorities, societies, partnerships (but excluding joint ventures) will be included

4. PRICING

- The bidder must provide a detailed project costing based on the description of the scope above.
- A firm ZAR pricing schedule will be required as per SBD 3.1
- The quoted price should be in ZAR and must include all taxes, delivery, shipment and training.
- The quoted (Itemised) price must be valid for a period of 90 days from the closing date of the bid.
- The final price must be inclusive of VAT at all times.
- All tender submissions are subject to the Republic of South Africa Government Procurement General Conditions of Contract.

5. EVALUATION CRITERIA

The HSRC has set minimum standards (Gates) that a bidder needs to meet in order to be evaluated and selected as a successful bidder. The minimum standards consist of the following:

Pre-qualification Criteria (Gate 0)	Technical Evaluation Criteria (Gate 1)	Price and B-BBEE Evaluation (Gate 2)
Bidders must submit all documents as on Gate 0. Only bidders that comply with ALL these criteria will proceed to Gate 1.	Bidder(s) are required to achieve a minimum of 70 points out of 100 points to proceed to Gate 2 (Price and BEE).	Bidder(s) will be evaluated out of 100 points and Gate 2 will only apply to bidder(s) who have met and exceeded the threshold of 70 points .

5.1. GATE 0: PRE-QUALIFICATION CRITERIA

Without limiting the generality of HSRC's other critical requirements for this Bid, bidder(s) must submit the documents listed in the **Table 1 below**. All documents must be completed and signed by the duly authorised representative of the prospective bidder(s). During this phase Bidders' response will be evaluated based on compliance with the listed administration and mandatory bid requirements. The bidder(s) proposal may be disqualified for non-submission of any of the documents

Table 1: Documents that must be submitted for Pre-qualification

Document that must be submitted	Non-submission may result in disqualification?	
Invitation to Bid – SBD 1	Yes	Complete and sign the supplied pro forma document
Tax Status Tax Clearance Certificate – SBD 2	Yes	i. Written confirmation that SARS may on an ongoing basis during the tenure of the contract disclose the bidder's tax compliance status. (Refer Section 4.1.4) ii. Proof of Registration on the Central Supplier Database (Refer Section 4.1.5) iii. Vendor number iv. In the event where the Bidder submits a hard copy of the Tax Clearance Certificate, the CSD verification outcome will take precedence.
Declaration of Interest – SBD 4	Yes	Complete and sign the supplied pro forma document
Preference Point Claim Form – SBD 6.1	No	Non-submission will lead to a zero (0) score on BBEE
Declaration of Bidder's Past Supply Chain Management Practices – SBD 8	Yes	Complete and sign the supplied pro forma document
Certificate of Independent Bid Determination – SBD 9	Yes	Complete and sign the supplied pro forma document

Document that must be submitted	Non-submission may result in disqualification?	
Bidder Compliance form for Functional Evaluation	Yes	Complete and sign
Registration on Central Supplier Database (CSD)	No	The Business Innovation Survey (BIS) must be registered as a service provider on the Central Supplier Database (CSD). If you are not registered proceed to complete the registration of your company prior to submitting your proposal. Visit https://secure.csd.gov.za/ to obtain your vendor number. Submit proof of registration.
SANAS or other recognized body Accreditation	Yes	The bidder must be must accredited by SANAS, FDA OR any other recognized accreditation body and provide valid proof of accreditation
General Conditions of Contract	Yes	Initial each page and sign

5.2. GATE 1: TECHNICAL EVALUATION CRITERIA = 100 POINTS

All bidders are required to respond to the technical evaluation criteria scorecard

Only Bidders that have met the Pre-Qualification Criteria in (Gate 0) will be evaluated in **Gate 1** for functionality. Functionality will be evaluated as follows:

- a) Desktop Technical Evaluation – Bidders will be evaluated out of **100 points** and are required to achieve minimum threshold of **70 points** in order to proceed to Gate 2.

The evaluation criteria for functionality aim to assess the bidder's capability, reliability and ability to execute and maintain a bid and / or contract. The minimum number of points that bidders have to obtain in order to progress to Gate 2 of evaluation is 70. Bids that score less than 70 on functionality will be disqualified and will not progress to Gate 2 of evaluation which is Price and B-BBEE.

As part of due diligence, **HSRC** will conduct a site visit at a client of the Bidder (reference) for validation of the services rendered. The choice of site will be at HSRC's sole discretion.

The Bidder's information will be scored according to the following points system

Functionality	Maximum Points Achievable	Minimum Threshold
Desktop Technical Evaluation – Technical Scorecard	100	70
OVERALL POINTS	100	70

Criteria	Point allocation	Weight
Bidder's relevant experience in serology testing including COVID-19	Reference letters must be aligned to similar services which have been successfully concluded. These reference letters must be signed and dated by the company for which the work was done; it must clearly specify the date that the work was conducted; and it must be on an official letterhead of the company for which the work was done 0 x Reference letters = 0 points 1 x Reference letter = 3 points 2 x Reference letters = 7 points 3 and above reference letters = 10 points	10
Bidder's year of experience or track record in the field of the assignment (Of COVID serology testing)	Bidder must provide company profile which demonstrates experience, assignments including serology testing, length of contracts/assignments and list of clients and programmes with contactable details. Zero Experience = 0 points 1 - 6 months Experience = 3 points 7 – 12 months Experience = 7 points 12 months and more experience = 10 points	10
Bidder to submit CV's of Key personnel to be assigned to the project	Personnel with appropriate qualifications and the relevant membership of accredited professional Bodies and minimum of 5 years' experience for the first two positions and a minimum of 3 years for position 3. This must be demonstrated by provision of CVs and qualifications 1. Team Lead - Virologist – 5 points	15

Criteria	Point allocation	Weight
	2. Technical person - Laboratory technologist/Manager – 5 points 3. Laboratory technologist – person who does the actual laboratory testing and manage databases – 5 points Zero points will be given where the basic requirements are not met	
Bidder to provide names of partnership with Government entities and other research institutions where which shows relevant experience with big national surveys	Partnership with Government and other research institutions with laboratories (to optimize sample storage in cases of transportation issues). Proof of such partnership must be provided. 1. No partnerships = 0 points 2. Partnerships with 1- 2 = 3 points 3. Partnerships with 3 – 4 = 7 points 4. Partnerships with 5 or more = 10 points	10
National footprint	Distribution of their laboratories including partner laboratories across the country. Proof of such laboratories must be provided 1. No laboratories = 0 points 2. Laboratories in 1-2 provinces only = 5 points 2. Laboratories in 3 – 4 provinces = 10 points 3. Laboratories in 5 or more provinces = 15 points	15
Methodology and Project Approach:	The bidder must attach a clear methodology with detailed criterion elements on how they will undertake the project. 1 Materials and supplies (sample collection kits including rakes) = (poor = 0, fair = 3, average = 5, good = 10 points) 2 Training plan (for whole blood collection) = (poor = 0, average = 3, good = 5 points) 3 SOPs for sampling handling, transportation, storage etc (poor = 0, fair = 3, average = 5, good = 10 points) 4 Summary of the laboratory processes/testing (poor = 0, fair = 3, average = 5, good = 10 points) 5 Summary of the data extraction and capturing plan (poor = 0, fair = 1, good = 2 ½ points) 6 Reporting plan - (poor = 0, fair = 1, good = 2 ½ points)	40
TOTAL FUNCTIONALITY POINTS		100

5.3. GATE 2: PRICE AND B-BBEE EVALUATION (80+20) = 100 POINTS

Only Bidders that have met the **70-points** threshold in **Gate 1** will be evaluated in **Gate 2** for **Price** and **BBEE**.

Price and BBEE will be evaluated as follows:

In terms of regulation 6 of the Preferential Procurement Regulations pertaining to the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000), responsive bids will be adjudicated on the 80/20-preference point system in terms of which points are awarded to bidders on the basis of:

- **The bid price (maximum 80 points)**
- **B-BBEE status level of contributor (maximum 20 points)**

Stage 1 – Price Evaluation (80 Points)

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

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

Where

Ps = Points scored for comparative price of bid under consideration

Pt = Comparative price of bid under consideration

Pmin = Comparative price of lowest acceptable bid

Stage 2 – BBEE Evaluation (20 Points) – BBEE Points allocation

A maximum of 20 points may be allocated to a bidder for attaining their B-BBEE status level of contributor in accordance with the table below:

B-BBEE Status Level of Contributor	Number of Points
1	20
2	18

B-BBEE Status Level of Contributor	Number of Points
3	16
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

- a) Failure to submit a fully complete B-BBEE certificates/ sworn affidavit will lead to no award of points for preference.
- b) The points scored by a bidder in respect of points indicated above will be added to the points scored for price.
- c) Bidders are requested to complete the various preference claim forms in order to claim preference points.
- d) Only a bidder who completed and signed the declaration part of the preference claim form will be considered for B-BBEE status.
- e) HSRC may, before a bid is adjudicated or at any time, require a bidder to substantiate claims made with regard to their B-BBEE status.
- f) Points scored will be rounded off to the nearest 2 decimals.
- g) In the event that two or more bids have scored equal total points, the contract will be awarded to the bidder scoring the highest number of points for B-BBEE status. Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.
- h) A contract may, on reasonable and justifiable grounds, be awarded to a bid that did not score the highest number of points.
- i) Joint ventures, consortiums and trusts.
 - i. 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 B-BBEE status level certificate.
 - ii. 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 group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.

- iii. Bidders must submit concrete proof of the existence of joint venture and/ or consortium arrangements. HSRC will accept signed agreements as acceptable proof of the existence of a joint venture and/or consortium arrangement.
- j) The joint venture and/ or consortium arrangements 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 to bind the other party/ parties in respect of matters pertaining to the joint venture and/ or consortium arrangement.
- k) Subcontracting after award of tender
 - i. A person awarded a contract may only enter into a subcontracting arrangement with the approval of HSRC
 - ii. A person awarded a contract in relation to a designated sector, may not subcontract in such a manner that the local production and content of the overall value of the contract is reduced to below stipulated minimum threshold.
 - iii. A person awarded a contract may not subcontract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level of contributor than the person concerned, unless the contract is subcontracted to an EME that has the capability and ability to execute the subcontract.

6. GENERAL CONDITION OF CONTRACT

Any award made to a bidder(s) under this bid is conditional, amongst others, upon –

- a) The bidder(s) accepting the terms and conditions contained in the General Conditions of Contract as the minimum terms and conditions upon which the HSRC is prepared to enter into a contract with the successful Bidder(s).
- b) The bidder submitting the General Conditions of Contract to the HSRC together with its bid, duly signed by an authorised representative of the bidder.

7. CONTRACT PRICE ADJUSTMENT

Contract price adjustments will be done annually on the anniversary of the contract start date.

8. SERVICE LEVEL AGREEMENT

- a) Upon award the HSRC and the successful bidder/s will conclude a Service Level Agreement regulating the specific terms and conditions applicable to the services being procured by the HSRC more or less in the format of the draft Service Level Indicators included in this tender pack.
- b) The HSRC reserves the right to vary the proposed draft Service Level Indicators during the course of negotiations with a bidder/s by amending or adding thereto.

8.1. Bidder(s) are requested to:

- a) Comment on draft Service Level Indicators and where necessary, make proposals to the indicators;
- b) Explain each comment and/or amendment; and
- c) Use an easily identifiable colour font or “track changes” for all changes and/or amendments to the Service Level Indicators for ease of reference.
- d) The HSRC reserves the right to accept or reject any or all amendments or additions proposed by a bidder if such amendments or additions are unacceptable to the HSRC or pose a risk to the organisation.

9. SPECIAL CONDITIONS OF THIS BID

The HSRC reserves the right:

- a) To award this tender to a bidder that did not score the highest total number of points, only in accordance with section 2(1)(f) of the PPPFA (Act 5 of 2000)
- b) To negotiate with one or more preferred bidder(s) identified in the evaluation process, regarding any terms and conditions, including price without offering the same opportunity to any other bidder(s) who has not been awarded the status of the preferred bidder(s).
- c) To accept part of a tender rather than the whole tender
- d) To carry out site inspections, product evaluations or explanatory meetings in order to verify the nature and quality of the services offered by the bidder(s), whether before or after adjudication of the Bid.
- e) To correct any mistakes at any stage of the tender that may have been in the Bid documents or occurred at any stage of the tender process.

- f) To cancel and/or terminate the tender process at any stage, including after the Closing Date and/or after presentations have been made, and/or after tenders have been evaluated and/or after the preferred bidder(s) have been notified of their status as such.
- g) Award to multiple bidders based either on size or geographic considerations.

10. HSRC REQUIRES BIDDER(S) TO DECLARE

In the Bidder's Technical response, bidder(s) are required to declare the following:

Confirm that the bidder(s) is to: –

- a) Act honestly, fairly, and with due skill, care and diligence, in the interests of the HSRC
- b) Have and employ effectively the resources, procedures and appropriate technological systems for the proper performance of the services;
- c) Act with circumspection and treat the HSRC fairly in a situation of conflicting interests;
- d) Comply with all applicable statutory or common law requirements applicable to the conduct of business;
- e) Make adequate disclosures of relevant material information including disclosures of actual or potential own interests, in relation to dealings with the HSRC
- f) Avoidance of fraudulent and misleading advertising, canvassing and marketing;
- g) To conduct their business activities with transparency and consistently uphold the interests and needs of the HSRC as a client before any other consideration; and
- h) To ensure that any information acquired by the bidder(s) from the HSRC will not be used or disclosed unless the written consent of the client has been obtained to do so.

11. CONFLICT OF INTEREST, CORRUPTION AND FRAUD

The HSRC reserves its right to disqualify any bidder who either itself or any of whose members (save for such members who hold a minority interest in the bidder through shares listed on any recognised stock exchange), indirect members (being any person or entity who

indirectly holds at least a 15% interest in the bidder other than in the context of shares listed on a recognised stock exchange), directors or members of senior management, whether in respect of HSRC or any other government organ or entity and whether from the Republic of South Africa or otherwise ("Government Entity")

- a) Engages in any collusive tendering, anti-competitive conduct, or any other similar conduct, including but not limited to any collusion with any other bidder in respect of the subject matter of this bid;
- b) Seeks any assistance, other than assistance officially provided by a government entity, from any employee, advisor or other representative of a government entity in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to a government entity;
- c) Makes or offers any gift, gratuity, anything of value or other inducement, whether lawful or unlawful, to any of the HSRC's officers, directors, employees, advisors or other representatives;
- d) Makes or offers any gift, gratuity, anything of any value or other inducement, to any government entity's officers, directors, employees, advisors or other representatives in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to a government entity;
- e) accepts anything of value or an inducement that would or may provide financial gain, advantage or benefit in relation to procurement or services provided or to be provided to a Government Entity;
- f) pays or agrees to pay to any person any fee, commission, percentage, brokerage fee, gift or any other consideration, that is contingent upon or results from, the award of any tender, contract, right or entitlement which is in any way related to procurement or the rendering of any services to a Government Entity;
- g) has in the past engaged in any matter referred to above; or
- h) has been found guilty in a court of law on charges of fraud and/or forgery, regardless of whether or not a prison term was imposed and despite such bidder, member or director's name not specifically appearing on the List of Tender Defaulters kept at National Treasury.

12. MISREPRESENTATION DURING THE LIFECYCLE OF THE CONTRACT

The bidder should note that the terms of its Tender will be incorporated in the proposed contract by reference and that the HSRC relies upon the bidder's Tender as a material representation in making an award to a successful bidder and in concluding an agreement with the bidder.

- a) It follows therefore that misrepresentations in a Tender may give rise to service termination and a claim by the HSRC against the bidder notwithstanding the conclusion of the Service Level Agreement between the HSRC and the bidder for the provision of the Service in question. In the event of a conflict between the bidder's proposal and the Service Level Agreement concluded between the parties, the Service Level Agreement will prevail.

13. PREPARATION COSTS

- a) The Bidder will bear all its costs in preparing, submitting and presenting any response or Tender to this bid and all other costs incurred by it throughout the bid process.
- b) Furthermore, no statement in this bid will be construed as placing the HSRC, its employees or agents under any obligation whatsoever, including in respect of costs, expenses or losses incurred by the bidder(s) in the preparation of their response to this bid.

14. INDEMNITY

If a bidder breaches the conditions of this bid and, as a result of that breach, the HSRC incurs costs or damages (including, without limitation, the cost of any investigations, procedural impairment, repetition of all or part of the bid process and/or enforcement of intellectual property rights or confidentiality obligations), then the bidder indemnifies and holds the HSRC harmless from any and all such costs which the HSRC may incur and for any damages or losses the HSRC may suffer.

15. PRECEDENCE

This document will prevail over any information provided during any briefing session whether oral or written, unless such written information provided, expressly amends this document by reference.

16. LIMITATION OF LIABILITY

A bidder participates in this bid process entirely at its own risk and cost. The HSRC shall not be liable to compensate a bidder on any grounds whatsoever for any costs incurred or any damages suffered as a result of the Bidder's participation in this Bid process.

17. TAX COMPLIANCE

- a) No tender shall be awarded to a bidder who is not tax compliant. The HSRC reserves the right to withdraw an award made, or cancel a contract concluded with a successful bidder in the event that it is established that such bidder was in fact not tax compliant at the time of the award, or has submitted a fraudulent Tax Clearance
- b) Certificate to the HSRC, or whose verification against the Central Supplier Database (CSD) proves non-compliant. The HSRC further reserves the right to cancel a contract with a successful bidder in the event that such bidder does not remain tax compliant for the full term of the contract.

18. TENDER DEFAULTERS AND RESTRICTED SUPPLIERS

No tender shall be awarded to a bidder whose name (or any of its members, directors, partners or trustees) appear on the Register of Tender Defaulters kept by National Treasury, or who have been placed on National Treasury's List of Restricted Suppliers. The HSRC reserves the right to withdraw an award, or cancel a contract concluded with a Bidder should it be established, at any time, that a bidder has been blacklisted with National Treasury by another government institution.

19. AVAILABILITY OF FUNDS

Should funds no longer be available to pay for the execution of the responsibilities of this bid, the HSRC may terminate the Agreement at its own discretion or temporarily suspend all or part of the services by notice to the successful bidder who shall immediately make arrangements to stop the performance of the services and minimize further expenditure: Provided that the successful bidder shall thereupon be entitled to payment in full for the services delivered, up to the date of cancellation or suspension.

**PART A
INVITATION TO BID**

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)					
BID NUMBER:	HSRC/08/2021/21	CLOSING DATE:	20/09/2021	CLOSING TIME:	11:00
DESCRIPTION	Appointment of a Service Provider for Provision of COVID-19 Laboratory Services.				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
HSRC BUILDING					
134 Pretorius Street					
Pretoria					
0001					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	Musawenkosi Tsibande		CONTACT PERSON		
TELEPHONE NUMBER	012 302 2362		TELEPHONE NUMBER		
FACSIMILE NUMBER	None		FACSIMILE NUMBER		
E-MAIL ADDRESS	Htsibande@hsrc.ac.za		E-MAIL ADDRESS		
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] ☐ 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]					

1 ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	☐ Yes ☐ No [IF YES ENCLOSE PROOF]	2 ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	☐ Yes ☐ No [IF YES, ANSWER PART B:3]
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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, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
1.4. THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).
2. TAX COMPLIANCE REQUIREMENTS
2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
2.6 WHERE NO TCS 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:

SBD 2 – Tax Clearance Certificate Requirements

It is a condition of bid that the taxes of the successful bidder must be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the bidder's tax obligations.

1. In order to meet this requirement bidders are required to complete in full the attached form TCC 001 "Application for a Tax Clearance Certificate" and submit it to any SARS branch office nationally. The Tax Clearance Certificate Requirements are also applicable to foreign bidders / individuals who wish to submit bids.
2. SARS will then furnish the bidder with a Tax Clearance Certificate that will be valid for a period of 1 (one) year from the date of approval.
3. The original Tax Clearance Certificate must be submitted together with the bid. Failure to submit the original and valid Tax Clearance Certificate will result in the invalidation of the bid. Certified copies of the Tax Clearance Certificate will not be acceptable.
4. In bids where Consortia / Joint Ventures / Sub-contractors are involved, each party must submit a separate Tax Clearance Certificate.
5. Copies of the TCC 001 "Application for a Tax Clearance Certificate" form are available from any SARS branch office nationally or on the website www.sars.gov.za.
6. Applications for the Tax Clearance Certificates may also be made via e-Filing. In order to use this provision, taxpayers will need to register with SARS as e-Filers through the website www.sars.gov.za.

Note: Valid Original Tax Clearance Certificate is mandatory

SBD4 – Declaration of Interest

1. Any legal person, including persons employed by the state¹, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-

- the bidder is employed by the state; and/or
- the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

2. **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

2.1 Full Name of bidder or his or her representative:

.....

2.2 Identity Number:

2.3 Position occupied in the Company (director, trustee, shareholder²):

.....

2.4 Company Registration Number:

2.5 Tax Reference Number:

2.6 VAT Registration Number:

.....

2.6.1 The names of all directors / trustees / shareholders² / members, their individual identity numbers, tax reference numbers and, if applicable, employee / persal numbers must be indicated in paragraph 3 below.

1 "State" means –

- (a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (b) any municipality or municipal entity;
- (c) provincial legislature;
- (d) national Assembly or the national Council of provinces; or
- (e) Parliament.

2 "Shareholder" means a person who owns shares in the company and is actively involved in the management of the enterprise or business and exercises control over the enterprise.

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

YES / NO

2.7.1 If so, furnish the following particulars:

Name of person / director / trustee / shareholder/ member:

.....

Name of state institution at which you or the person connected to the bidder is employed

.....

Position occupied in the state institution:

.....

Any other particulars:

.....

.....

.....

2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector?

YES / NO

2.7.2.1 If yes, did you attached proof of such authority to the bid document?

YES / NO

(Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.)

2.7.2.2 If no, furnish reasons for non-submission of such proof:

.....

.....

.....

2.8 Did you or your spouse, or any of the company's trustees / shareholders / members or their spouses conduct business with the state in the previous twelve months?

YES / NO directors /

2.8.1 If so, furnish particulars:

.....

.....

.....

2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid?

2.9.1. If so, furnish particulars.

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

2.10. Are you, or any person connected with the bidder, aware of any relationship (family, friend, other) between any other bidder and any person employed by the state who may be involved with the evaluation and or adjudication of this bid?

YES / NO

2.10.1If so, furnish particulars.

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

2.11. Do you or any of the directors / trustees / shareholders / members of the company have any interest in any other related companies whether or not they are bidding for this contract?

YES / NO

2.11.1If so, furnish particulars.

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

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

Full Name	Identity Number	Personal Reference Number	Tax	State Employee Number / Persal Number

3 DECLARATION

I, THE UNDERSIGNED (NAME).....

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 3 ABOVE IS CORRECT. I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 23 OF THE GENERAL CONDITIONS OF CONTRACT SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of bidder

SBD 6.1 – Preference Points Claim Form in terms of the Preferential Procurement Regulations 2017

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

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

1. GENERAL CONDITIONS

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

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

1.2 The value of this bid is estimated not to exceed R50 million (all applicable taxes included) and therefore the 80/20 preference point system shall be applicable.

1.3 Preference points for this bid shall be awarded for:

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

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

	POINTS
PRICE	80
B-BBEE STATUS LEVEL OF CONTRIBUTION	20
Total points for Price and B-BBEE must not exceed	100

1.5 Failure on the part of a bidder to submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System (SANAS), or a Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA) or a sworn affidavit confirming annual turnover and level of black ownership in case of an EME and QSE together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

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

2. DEFINITIONS

- (a) **“all applicable taxes”** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- (b) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (c) **“B-BBEE status level of contributor”** means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (d) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
- (e) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (f) **“comparative price”** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;
- (g) **“consortium or joint venture”** 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;
- (h) **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;
- (i) **“EME”** means an Exempted Micro Enterprise as defines by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (j) **“Firm price”** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the service provider and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- (k) **“functionality”** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
- (l) **“non-firm prices”** means all prices other than “firm” prices;
- (m) **“person”** includes a juristic person;
- (n) **“QSE”** means a Qualifying Small Enterprise as defined by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (o) **“rand value”** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;

- (p) **“sub-contract”** means the primary contractor’s assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;
- (q) **“total revenue”** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the *Government Gazette* on 9 February 2007;
- (r) **“trust”** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
- (s) **“trustee”** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

3. ADJUDICATION USING A POINT SYSTEM

- 3.1 The bidder obtaining the highest number of total points will be awarded the contract.
- 3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts.
- 3.3 Points scored must be rounded off to the nearest 2 decimal places.
- 3.4 In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for B-BBEE.
- 3.5 However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal preference points for B-BBEE, the successful bid must be the one scoring the highest score for functionality.
- 3.6 Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

4. POINTS AWARDED FOR PRICE

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

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

$$\begin{array}{ccc}
 \mathbf{80/20} & \mathbf{or} & \mathbf{90/10} \\
 P_s = 80 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right) & \text{or} & P_s = 90 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)
 \end{array}$$

Where

- P_s = Points scored for comparative price of bid under consideration
- P_t = Comparative price of bid under consideration
- $P_{\min}$ = Comparative price of lowest acceptable bid

5. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTION

- 5.1 In terms of Regulation 5 (2) and 6 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	8	16
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

- 5.2 A bidder who qualifies as an EME in terms of the B-BBEE Act must submit a sworn affidavit confirming Annual Total Revenue and Level of Black Ownership.
- 5.3 A Bidder other than EME or QSE must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.
- 5.4 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 B-BBEE status level certificate as well as the consolidated B-BBEE certificate for the trust, consortium or joint venture (should the entity wish to claim preference points)
- 5.5 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.
- 5.6 Tertiary Institutions and Public Entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- 5.7 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of

the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.

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

6. BID DECLARATION

- 6.1 Bidders who claim points in respect of B-BBEE Status Level of Contribution must complete the following:

7. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 5.1

- 7.1 B-BBEE Status Level of Contribution: =(maximum of 10 or 20 points)
(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or a sworn affidavit.

8. SUB-CONTRACTING

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

(Tick applicable box)

YES	☐	NO	☐
-----	--------------------------	----	--------------------------

- 8.1.1 If yes, indicate:

- i) What percentage of the contract will be subcontracted.....%
- ii) The name of the sub-contractor
- iii) The B-BBEE status level of the sub-contractor
- iv) Whether the sub-contractor is an EME.

(Tick applicable box)

YES	☐	NO	☐
-----	--------------------------	----	--------------------------

- v) Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations, 2017:

Designated Group: An EME or QSE which is at least 51% owned by:	EME √	QSE √
Black people		
Black people who are youth		
Black people who are women		
Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		
Black people who are military veterans		
OR		
Any EME		
Any QSE		

9. DECLARATION WITH REGARD TO COMPANY/FIRM

9.1 Name of company/firm:

.....

9.2 VAT registration number

.....

9.3 Company registration number:

.....

9.4 TYPE OF COMPANY/ FIRM

- ☐ Partnership/Joint Venture / Consortium
- ☐ One person business/sole propriety
- ☐ Close corporation
- ☐ Company
- ☐ (Pty) Limited

[TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....
.....

9.6 COMPANY CLASSIFICATION

- ☐ Manufacturer
- ☐ Supplier
- ☐ Professional service provider
- ☐ Other service providers, e.g. transportation, etc.

[TICK APPLICABLE BOX]

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

9.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contribution indicated in paragraph 7 of the foregoing certificate, qualifies the company/firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 7, the service provider may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
 - (a) disqualify the person from the bidding process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution.

WITNESSES

1.

2.

.....

SIGNATURE(S) OF BIDDERS(S)

DATE:

ADDRESS:

.....

SBD 8 – Declaration of Bidder’s Past Supply Chain Management Practices

- 1 This Standard Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by institutions in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
- 3 The bid of any bidder may be disregarded if that bidder, or any of its directors have-
 - a. abused the institution’s supply chain management system;
 - b. committed fraud or any other improper conduct in relation to such system; or
 - c. failed to perform on any previous contract.
- 4 In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

Item	Question	Yes	No
4.1	Is the bidder or any of its directors listed on the National Treasury’s Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector? (Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied). The Database of Restricted Suppliers now resides on the National Treasury’s website (www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.	Yes ☐	No ☐
4.1.1	If so, furnish particulars:		
4.2	Is the bidder or any of its directors listed on the Register for BID Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No. 12 of 2004)? The Register for BID Defaulters can be accessed on the National Treasury’s website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.	Yes ☐	No ☐
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes ☐	No ☐
4.3.1	If so, furnish particulars:		

Item	Question	Yes	No
4.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes ☐	No ☐
4.4.1	If so, furnish particulars:		

CERTIFICATION

I, THE UNDERSIGNED (FULL NAME)

..... **CERTIFY THAT THE
INFORMATION FURNISHED ON THIS DECLARATION FORM IS TRUE AND CORRECT.**

**I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION MAY BE
TAKEN AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.**

.....

Signature

.....

Date

.....

Position

.....

Name of Bidder

SBD 9 - Certificate of Independent Bid Determination

- 1 This Standard Bidding Document (SBD) must form part of all bids³ invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).⁴ Collusive bidding is a per se prohibition meaning that it cannot be justified under any grounds.
- 3 Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
 - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
 - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
- 4 This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

3 Includes price quotations, advertised competitive bids, limited bids and proposals.

4 Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
- (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation);
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
 - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No. 89 of 1998 and or may be reported to the National Prosecuting Authority (UMALUSI) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No. 12 of 2004 or any other applicable legislation.

.....

Signature

.....

Date

.....

Position

.....

Name of Bidder

General Conditions of Contract

THE GENERAL CONDITIONS OF THE CONTRACT WILL FORM PART OF ALL BID DOCUMENTS AND MAY NOT BE AMENDED

THE NATIONAL TREASURY Republic of South Africa



- 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.

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| 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 Bid Bulletin. The Government Bid 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 analysed 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 contract 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 Bid 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 of Disputes**
- 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.

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| 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. |
| | 31.2 | 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 of Restrictive practices | 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.

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Signature

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Date

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Position

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Name of Bidder