

**SANRAL**  
SOUTH AFRICAN NATIONAL ROADS AGENCY SOC LTD



BUILDING SOUTH AFRICA  
THROUGH BETTER ROADS

# **THE SOUTH AFRICAN NATIONAL ROADS AGENCY SOC LIMITED**

**TENDER NO: NRA RFQ 7: 5121- 1040-2021/7**

**FOR**

**SUPPLY AND DELIVERY OF ONE (1)  
RESCUE/ESCORT MOTOR VEHICLE AT THE  
HUGUENOT TOLL PLAZA AND TUNNEL**

**TENDER DOCUMENT**

ISSUE DATE: DECEMBER 2021

**ISSUED BY: SOUTH AFRICAN NATIONAL ROADS AGENCY SOC LIMITED**

**CHIEF EXECUTIVE OFFICER  
SOUTH AFRICAN NATIONAL ROADS AGENCY LIMITED  
48 TAMBOTIE AVENUE  
VAL DE GRACE  
PRETORIA, 0184**

**NAME OF TENDERER: .....**

## RETURNABLE CHECKLIST

FORM NO / SBD NO	FORM DESCRIPTION	TICK IF COMPLETED	MANDATORY FOR EVALUATION	MANDATORY FOR CONTRACT AWARD
SBD 1	INVITATION TO TENDER		X	
	CERTIFICATE OF AUTHORITY FOR SIGNATORY		X	
	SCHEDULE OF DEVIATIONS OR QUALIFICATIONS BY TENDERER		X	
FORM A1	CERTIFICATE CONFIRMING THAT THE TENDERER READ THE PRESENTATION ISSUED WITH THE TENDER DOCUMENTATION AND THE PRESENTATION OF THE NON-COMPULSORY CLARIFICATION MEETING		X	
FORM A1.1	CERTIFICATE OF INTENTION TO SUBMIT A TENDER		X	
A5	SCHEDULE OF ADDENDA TO TENDER DOCUMENTS		X	X
FORM A / SBD 7	FORM OF OFFER		X	
	SECTION C2: PRICING SCHEDULE SUMMARY		X	
FORM C	REGISTRATION ON NATIONAL TREASURY CENTRAL SUPPLIER DATABASE		X	
FORM D	CERTIFICATE OF TAX COMPLIANCE		X	X
FORM E / SBD 4	DECLARATION OF INTEREST		X	
FORM G / SBD 8	DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES		X	
FORM H / SBD 9	DECLARATION FOR INDEPENDENT BID DETERMINATIONS		X	
FORM I	DECLARATION OF OUTSTANDING SANRAL DEBT			X

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## SOUTH AFRICAN NATIONAL ROADS AGENCY SOC LIMITED

### NOTICE AND INVITATION TO SUBMIT TENDERS

CONTRACT NRA RFQ 7: 5121- 1040-2021/7

The South African National Roads Agency SOC Limited (SANRAL) invites tenders for the **SUPPLY AND DELIVERY OF ONE (1) RESCUE/ESCORT MOTOR VEHICLE AT THE HUGUENOT TOLL PLAZA AND TUNNEL.**

Tender documents are available at no cost in electronic format downloaded from the SANRAL's website by the following link: <https://www.nra.co.za/service-provider-zone/tenders/open-tenders/>.

The closing time for receipt of tenders is 11h00 on Friday, 04 February 2022.

#### COMPLETION AND DELIVERY OF TENDERS

Tenders are to be **hand delivered** to The South African National Roads Agency (SOC) Ltd: 1 Havenga Street, Oakdale, 7530 Cape Town.

Place and seal the printed offer in an envelope clearly marked "Tender" as well as the Employer's address, state description of **RFQ 7: 5121- 1040-2021/7: SUPPLYING OF ONE (1) RESCUE/ESCORT MOTOR VEHICLE** as well as the tenderer's name, authorised representative's name, postal address and contact telephone numbers.

#### Eligibility Criteria

All tenders must be registered with CSD and be tax compliant.

Only tenderers with a B-BBEE contributor status level of 1- 4, are eligible to tender.

Telegraphic, telephonic, telex, email, facsimile and late tenders will not be accepted.

Tenders may only be submitted as an electronic copy (flash drive) with all relevant information and certificates scanned or copied electronically to the flash drive.

**Requirements for sealing, addressing, delivery, opening and assessment of tenders are as follows.**

Place and seal the flash drive in an envelope clearly marked "TENDER" and bearing the Employer's name, the tender number and description, the tenderer's authorised representative's name, the tenderer's postal address and contact telephone numbers.

**The Employer's address for delivery of tender offers and identification details to be shown on each tender offer package are:**

Location of tender box: SANRAL Western Region, Reception

Physical address: 1 Havenga Street, Oakdale, Bellville, Cape Town

Identification details: Place the signed original tender offer in a package marked TENDER:  
NRA RFQ 7: 5121- 1040-2021/7

Tenders must be submitted during hours (09:00 to 16:00) Monday to Friday at the Employer's address.

It is in the tenderer's interest to ensure that the delivery of the tender offer is recorded in the Employer's tenders received register.

Supply Chain Management Specialist Derrick Links:, Tel: No. (021) 957 4600, E-mail:  
[ProcurementWR@nra.co.za](mailto:ProcurementWR@nra.co.za)

## PART A

### INVITATION TO BID FROM (SBD1)

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)</b>					
BID NUMBER:	NRA RFQ 7: 5121- 1040-2021/7	CLOSING DATE:	04 FEBRUARY 2022	CLOSING TIME:	11H00
DESCRIPTION	ONE (1) RESCUE/ESCORT MOTOR VEHICLE AT THE HUGUENOT TOLL PLAZA AND TUNNEL				
<b>THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).</b>					
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
1 Havenga Street, Oakdale, 7530 Cape Town					
<b>SUPPLIER INFORMATION</b>					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
	TCS PIN:		OR	CSD No:	
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]	<input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		<input type="checkbox"/> Yes <input type="checkbox"/> No
IF YES, WHO WAS THE CERTIFICATE ISSUED BY?					
AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA) AND NAME THE APPLICABLE IN THE TICK BOX	<input type="checkbox"/>	AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA)			
	<input type="checkbox"/>	A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS)			
	<input type="checkbox"/>	A REGISTERED AUDITOR			
	<input type="checkbox"/>	NAME:			
<b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/SWORN AFFIDAVIT(FOR EMEs&amp; QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]</b>					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No  [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?		<input type="checkbox"/> Yes <input type="checkbox"/> No  [IF YES ANSWER PART B:3 BELOW ]
SIGNATURE OF BIDDER	.....		DATE		
CAPACITY UNDER WHICH THIS BID IS SIGNED (Attach proof of authority to sign this bid; e.g. resolution of directors, etc.)					
TOTAL NUMBER OF ITEMS OFFERED			TOTAL BID PRICE (ALL INCLUSIVE)		
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:</b>			<b>TECHNICAL INFORMATION MAY BE DIRECTED TO:</b>		
DEPARTMENT/ PUBLIC ENTITY	SANRAL SCM		CONTACT PERSON	DERRICK LINKS	
CONTACT PERSON	DEREK LINKS		TELEPHONE NUMBER	(021) 957 4600	
TELEPHONE NUMBER	(021)957 4600		FACSIMILE NUMBER	(021) 910 1699	
FACSIMILE NUMBER	(021) 910 1699		E-MAIL ADDRESS	ProcurementWR@nra.co.za	
E-MAIL ADDRESS	ProcurementWR@nra.co.za				

## PART B

### TERMS AND CONDITIONS FOR BIDDING

<b>1. BID SUBMISSION:</b>	
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 ONLINE	
1.3. BIDDERS MUST REGISTER ON THE CENTRAL SUPPLIER DATABASE (CSD) TO UPLOAD MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS; AND BANKING INFORMATION FOR VERIFICATION PURPOSES). B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.	
1.4. WHERE A BIDDER IS NOT REGISTERED ON THE CSD, MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS MAY NOT BE SUBMITTED WITH THE BID DOCUMENTATION. B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.	
1.5. 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 LEGISLATION OR SPECIAL CONDITIONS OF CONTRACT.	
<b>2. TAX COMPLIANCE REQUIREMENTS</b>	
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 VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.	
2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) OR PIN 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.	
2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS TOGETHER WITH THE BID.	
2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE PROOF OF TCS / 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.	
<b>3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>	
3.1. IS THE BIDDER A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? NO	<input type="checkbox"/> YES <input type="checkbox"/>
3.2. DOES THE BIDDER HAVE A BRANCH IN THE RSA? NO	<input type="checkbox"/> YES <input type="checkbox"/>
3.3. DOES THE BIDDER HAVE A PERMANENT ESTABLISHMENT IN THE RSA? NO	<input type="checkbox"/> YES <input type="checkbox"/>
3.4. DOES THE BIDDER HAVE ANY SOURCE OF INCOME IN THE RSA? NO	<input type="checkbox"/> YES <input type="checkbox"/>
IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN, IT IS NOT A REQUIREMENT TO OBTAIN A TAX COMPLIANCE STATUS / TAX COMPLIANCE SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE.	

**NB: FAILURE TO PROVIDE ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.**

## CERTIFICATE OF AUTHORITY FOR SIGNATORY

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### Notes to tenderer:

1. The signatory for the tenderer shall confirm his/her authority thereto by attaching on the tendering company's letterhead a duly signed and dated copy of the relevant resolution of the board of directors/partners.
2. In the event that the tenderer is a joint venture, a certificate is required from each member of the joint venture clearly setting out:
  - authority for signatory,
  - undertaking to formally enter into a joint venture contract should an award be made to the joint venture,
  - name of designated lead member of the intended joint venture, as the joint venture agreement.
3. The resolution below is given as an example of an acceptable format for authorisation, but submission of this page with the example completed shall not be accepted as authorisation of the tenderer's signatory.

By resolution of the board of directors passed at a meeting held on .....

Mr/Ms ..... ,  
whose signature appears below, has been duly authorised to sign all documents in connection with the tender for

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and any contract which may arise therefrom on behalf of *enter name of tenderer in block capitals*

.....

SIGNED ON BEHALF OF THE COMPANY: .....

IN HIS/HER CAPACITY AS: .....

DATE: .....

SIGNATURE OF SIGNATORY: .....

WITNESS:	.....	.....
	SIGNATURE	SIGNATURE

.....  
NAME (PRINT)

.....  
NAME (PRINT)



## Schedule of deviations

The deviations listed below constitute agreed deviations/amendments to the tender document negotiated between the tenderer and employer based on information provided in Form A4: Schedule of Deviations or Qualifications by the tenderer or imposed conditions of award.

Addenda issued during the tender period are deemed not to be deviations to the tender.

1. Subject: .....  
Details: .....
2. Subject: .....  
Details: .....  
.....
3. Subject: .....  
Details: .....
4. Subject: .....  
Details: .....

By the duly authorised representatives signing this agreement, the Employer and the tenderer agree to and accept the foregoing schedule of deviations as the only deviations from and amendments to the documents listed in the tender data and addenda thereto as listed in the returnable schedules, as well as any confirmation, clarification or changes to the terms of the offer agreed by the tenderer and the Employer during this process of offer and acceptance.

It is expressly agreed that no other matter whether in writing, oral communication or implied during the period between the issue of the tender documents and the receipt by the tenderer of a completed signed copy of this agreement shall have any meaning or effect in the contract between the parties arising from this agreement.

SIGNED BY TENDERER: .....

**FORM A1: CERTIFICATE CONFIRMING THAT THE TENDERER READ THE PRESENTATION  
ISSUED WITH THE TENDER DOCUMENTATION AND THE PRESENTATION OF  
THE NON-COMPULSORY CLARIFICATION MEETING**

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This is to certify that I, .....

.....

representative of (tenderer).....

of (address) .....

.....

.....

telephone number .....

fax number .....

e-mail.....

read/viewed the clarification presentation loaded on the SANRAL website with the tender  
documentation.

TENDERER'S REPRESENTATIVE (Signature) .....

**FORM A1.1: CERTIFICATE OF INTENTION TO SUBMIT A TENDER**

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**Notes to Tenderer:**

1. The duly completed certificate of intention to submit a tender must be submitted by whoever intends to tender for this particular tender no later than 14 January 2022. Failure to submit the certificate of intention to tender within the required period may render the tenderer non-responsive and SANRAL does not accept responsibility for any communication not received by the tenderer timeously.
2. Late notification of intention to tender by a prospective tenderer will not necessarily result in the tender closing date being extended.
3. Should you intend to submit a tender for this particular tender please sign the certificate, scan and email the completed document to the email address indicated in Part A of this tender document.
4. The Employer shall send all correspondence, including Addenda, only to the Tenderer's email address as provided herein.

This is to certify that I, .....

.....

representative of (insert name of tenderer) .....

of (address) .....

.....

.....

telephone number .....

fax number .....

e-mail: .....

intends to submit a tender in response to the tender notice and invitation for tender this contract.

TENDERER'S REPRESENTATIVE (Signature): .....

DATE: .....

## FORM A5: SCHEDULE OF ADDENDA TO TENDER DOCUMENTS

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We confirm that the following communications received from the Employer before the submission of this tender offer, amending the tender documents, have been taken into account in this tender offer:		
	<b>Date</b>	<b>Title or Details</b>
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

SIGNED BY TENDERER: .....

**FORM A: FORM OF OFFER (SBD 7)**

The South African National Roads Agency SOC Limited  
48 Tambotie Avenue  
Val de Grace  
Pretoria 0184

Sir,

CONTRACT NRA RFQ 7: 5121- 1040-2021/7

**SUPPLY AND DELIVERY OF ONE (1) RESCUE/ESCORT MOTOR VEHICLE AT THE HUGUENOT TOLL PLAZA AND TUNNEL**

I/we further confirm that by submitting this offer the tenderer accepts the conditions of tender and offers to perform all of the obligations and liabilities of the contractor/supplier under the contract including compliance with all its terms and conditions according to their true intent and meaning for an amount to be determined in accordance with the conditions of tender and the conditions of contract identified in the contract data.

**A. PRICE OFFERED**

THE OFFERED TOTAL OF THE PRICES (ALL INCLUSIVE) BROUGHT FORWARD FROM SECTION C2: PRICING SCHEDULE SUMMARY IS .....

.....

.....(in words)

(R ..... in figures)

I/we confirm that if any difference between the total of the Pricing Schedule Summary and the amounts stated above exists, the total in the Pricing Schedule Summary shall apply.

**B. PREFERENCE CLAIMED**

I/we claim the following B-BBEE contributor status level ..... as per Returnable Schedule Form C1: Tenderer's B-BBEE Verification Certificate subject to Tender Data 5.11.8. In the event of any difference between the above stated status level and the Verification Certificate attached to Form C1, the Verification Certificate shall apply.

You may accept this offer by signing and returning to the tenderer one copy of the Form of acceptance before the end of the period of validity stated in the tender data, (or at the end of any agreed extension thereof), whereupon the tenderer becomes the party named as the contractor/supplier in the conditions of contract identified in the contract data.

Notwithstanding anything contained in a covering letter to this tender, I/we declare this offer is submitted entirely without deviations or qualifications other than those stipulated in Form A4: Schedule of Deviations or Qualifications by the tenderer and that it is made free from any fraud, corruption and misrepresentation.

Willing and able to commence immediately once appointed and deliver the vehicle by no later than 30 days after the letter of award date.

Yours faithfully

SIGNATURE: .....

DATE: .....

NAME (IN CAPITALS): .....

CAPACITY: .....

NAME AND ADDRESS OF ORGANISATION: .....

.....

NAME AND SIGNATURE OF WITNESS:

SIGNATURE: .....

DATE: .....

NAME (IN CAPITALS): .....

CAPACITY: .....

### WARRANTY PERIOD

The bidder shall provide the following details relating to the warranty period of the Rescue/Escort Motor Vehicle (**minimum of 3 year / 100 000km warranty**):

i) NUMBER OF YEARS: \_\_\_\_\_

ii) MILEAGE: \_\_\_\_\_

iii) OTHER: \_\_\_\_\_

### ANTI CORROSION WARRANTY

The bidder shall provide the following details relating to anti corrosion warranty (**minimum of 3 year anti-corrosion warranty**):

I) COVER: \_\_\_\_\_

II) PERIOD OF VALIDITY: \_\_\_\_\_

### SERVICE PLAN

The bidder shall provide the details relating to service plan (**service plan with a minimum distance limit of 150 000km**):

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**SECTION C2: PRICING SCHEDULE SUMMARY:**

**NOTES TO TENDERER**

Prices exclude Contract Price Adjustment

Details of vehicle offered:

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Checklist on specification:

<b>SPECIFICATION REQUIRED</b>	<b>MET</b>	<b>NOT MET</b>	<b>JUSTIFICATION</b>
Colour - White Paint			
Trim – Black/Grey			
Fuel - Diesel			
Fixed Towbar			
Rescue Equipment to be supplied by Tolcon own selected supplier			
Disc brakes – front and drum brakes – rear or disc brakes all round			
ABS – Anti lock brake system			
Electronic Brake Force Distribution			
Stability and Traction Control (TRC)			
Steel wheels			
Four Wheel Drive Single Cab Vehicle			
Hill Start Assist			
Hill Descent Control			
Centre wheels covered with Dust Caps			
Full size (steel) spare wheel			
Air-conditioner			
AM/FM Radio CD Player with USB			
Driver and front passenger airbags			
3 point automatic seat belts front and passenger seats			
Height Adjustable seatbelts			
Immobiliser			
Electronic power steering			
Manual/electric Adjustable side view mirrors			
Anti-dazzle rear view mirror			
Manual gear transmission			
Seat cover – vinyl			
Minimum 5mm thick Heavy Duty Polyurethane rubberized load bin			
Side impact Protection Bars			

<b>Proposed Vehicle details (Make and Model):</b> (minimum: Single Cab LDV 4X4 2.5 litre (or Higher) Diesel with bin)	<b>Value of new Vehicle (Excl. Vat) and All Licences and Registration Costs</b>	<b>Value Added Tax (VAT) <i>if registered</i></b>	<b>Total Value of new Vehicle (all inclusive) <b>C2: PRICING SCHEDULE SUMMARY BROUGHT TO FORM OF OFFER</b></b>

## FORM B: SCOPE OF ENGAGEMENT

### BACKGROUND:

The South African National Roads Agency SOC Limited (SANRAL) - SANRAL's mandate is to maintain and develop South Africa's expanding national road network that is done through contractors and professional Service providers. SANRAL is a state-owned entity and the Minister of Transport is the sole shareholder.

SANRAL is a company established in terms of the National Roads Act, Act 7 of 1998. It has its main offices located in Val De Grace, Pretoria and has four regional offices namely: Northern Region (Menlyn, Pretoria), Eastern Region (Pietermaritzburg), Southern Region (Port Elizabeth) and Western Region (Cape Town). **SANRAL requires the services of a motor dealer to provide one rescue/escort motor vehicle as per the requirements set out hereunder in Cape Town.**

The South African National Roads Agency SOC Limited (SANRAL) is soliciting Tenders from Supplier/s that will supply the following rescue motor vehicles:

### 1.1 GENERAL REQUIREMENTS

#### 1.1.1 Introduction

1.1.1.1 One (1) X **Single Cab LDV 4X4 2.5 litre (or Higher) Diesel with bin**

#### 1.1.2 Minimum Motor Vehicle Features

- Colour - White Paint
- Trim – Black/Grey
- Fuel - Diesel
- Fixed Towbar
- Rescue Equipment to be supplied by Tolcon own selected supplier
- Disc brakes – front and Drum brakes – rear or disc brakes all round
- ABS – Anti lock brake system
- Electronic Brake Force Distribution (EBD)
- Stability and Traction Control (TRC)
- Steel wheels
- Four Wheel Drive Single Cab Vehicle
- Hill Start Assist
- Hill Descent Control
- Centre wheels covered with Dust Caps
- Full size (steel) spare wheel
- Air-Conditioner
- Radio
- Driver and front passenger airbags
- 3 point automatic seat belts
- Height Adjustable seatbelts
- Immobiliser
- Electronic power steering
- Manual/electric Adjustable side view mirrors
- Anti-dazzle rear view mirror
- Manual gear selection
- Seat cover – vinyl
- Minimum 5mm thick Heavy Duty Polyurethane rubberized Load Bin
- Side impact Protection Bars

- Must be able to carry Load of 1000kg continuously 24/7

## 1.2 WARRANTY SUPPORT SERVICE

### 1.2.1 GENERAL

- A minimum of 3 year / 100 000km warranty (whichever comes first) inclusive in the price. **(FORM A)**
- 3 year anti-corrosion warranty **(FORM A)**
- A service plan with a minimum distance limit of 150 000km. **(FORM A)**

## 1.3 SPECIFIC REQUIREMENTS TO BE MET

- 1.3.1 The motor vehicles must be new, un-used and the latest model available.
- 1.3.2 The motor vehicle colour shall be white.
- 1.3.3 Module specifications for Information only –

The vehicle would be use as a Rescue/Escort Response vehicle in and around the Huguenot Tunnel area. The vehicle will be equipped with Rescue Medical and Fire Fighting equipment (not included in this tender) . The vehicle will also carry different types of Fire Extinguishers Breathing Apparatus equipment and various other types of Rescue equipment which will be installed and fitted by Tolcon and their selected Module supplier. Therefore, the vehicle must always be able to carry a minimum weight of 1000kg, have a useful payload of at least 1.2 Tons and the Load bin Coated with Polyurethane Rubberize protection.

## FORM C: CONTRACT SUPPLIER DATABASE

Tenderers who are not registered on the National Treasury Central Supplier Database at close of tender, shall submit a copy of their proof of registration, with their tender submission. Tenders received from such tenderers who have not submitted proof of their registration with their tender submissions, will not be considered.

Failure to satisfy the eligibility criteria is a breach of the Conditions of this tender and as such, results in instant disqualification.

The service providers shall provide a printed copy of the Active Supplier Listing on the National Treasury Central Supplier Database ([www.treasury.gov.za](http://www.treasury.gov.za)).

Name of Service Provider: .....

Central Supplier Database Supplier Number: .....

Central Supplier Database 36 Digit Code/reference Number: .....

**FORM D: CERTIFICATE OF TAX COMPLIANCE (Incorporating SBD2)**

The Tenderer shall complete the declaration below.

I, ..... (name) the undersigned in my

capacity as ..... (position) on behalf

of ..... (name of company) herewith grant consent that SARS may disclose to the South African National Roads Agency SOC Limited (SANRAL) our tax compliance status. For this purpose our

unique security personal identification number (PIN) is .....

In the event of a joint venture each member shall comply with the above requirements.

.....  
**SIGNATURE**

.....  
**DATE.**

## **FORM E: DECLARATION OF INTEREST (SBD 4)**

### **(SBD 4) FORM: COMPULSORY DECLARATION (INCORPORATING SBD4)**

#### **Notes to tenderer:**

1. Any legal person, including persons employed by the State, 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 tender. In view of possible allegations of favouritism, should the resulting tender, 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 tenderer or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where:
  - the tenderer is employed by the State; and/or
  - the legal person on whose behalf the tender document is signed, has a relationship with person/s who are involved in the evaluation and/or adjudication of the tender, 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 tender.
2. Definitions:
  - 2.1 "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.
  - 2.2 "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.
3. In the case of a joint venture (JV), a separate declaration form is to be completed and submitted by each JV member.

(SBD4) **FORM: COMPULSORY DECLARATION (continued)**

CONTRACT NRA RFQ 7: 5121- 1040-2021/7

SUPPLY AND DELIVERY OF ONE (1) RESCUE/ESCORT MOTOR VEHICLE AT THE HUGUENOT TOLL PLAZA AND TUNNEL

The following particulars must be furnished. In the case of a joint venture, separate declarations in respect of each partner must be completed and submitted.

**Section 1: Enterprise details**

Name of enterprise	
Contact person	
E-mail	
Telephone	
Cell	
Fax	
Physical address	
Postal address	

**Section 2: Particulars of companies and close corporations**

Company / Close Corporation registration number	
---	--

**Section 3: SARS information**

Tax reference number	
VAT registration number	(state Not Registered if not registered for VAT)

**Section 4: CIDB registration number**

CIDB Registration number	
--------------------------	--

**Section 5: Particulars of principals**

**Principal:** means a natural person who is a partner in a partnership, a sole proprietor, a director of a company established in terms of the Companies Act of 2008 (Act No. 71 of 2008) or a member of a close corporation registered in terms of the Close Corporations Act, 1984, (Act No. 69 of 1984)

Full name of principal	Identity number	Personal tax reference number

Attach separate page if necessary.

**Section 6: Record in the service of the state:**

Indicate by marking the relevant boxes with a cross, if any principal is currently or has been within the last 12 months in the service of any of the following:

- |  |  |
|--|--|
| <input type="checkbox"/> a member of any municipal council                                     | <input type="checkbox"/> an employee of any department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999) |
| <input type="checkbox"/> a member of any provincial legislature                                | <input type="checkbox"/> a member of an accounting authority of any national or provincial public entity   |
| <input type="checkbox"/> a member of the National Assembly or the National Council of Province | <input type="checkbox"/> an employee of Parliament or a provincial legislature   |
| <input type="checkbox"/> a member of the board of directors of any municipal entity            |  |
| <input type="checkbox"/> an official of any municipality or municipal entity                   |  |

**If any of the above boxes are marked, disclose the following:**

Name of principal	Name of institution, public office, board or organ of state and position held	Status of service (tick appropriate column)	
		Current	Within last 12 months

Insert separate page if necessary.

**Section 7: Record of family member in the service of the state:**

**Family member:** a person's spouse, whether in a marriage or in a customary union according to indigenous law, domestic partner in a civil union, or child, parent, brother, sister, whether such relationship results from birth, marriage or adoption

Indicate by marking the relevant boxes with a cross, if any family member of a principal as defined in section 5 is currently or has within the last 12 months been in the service of any of the following:

- |  |  |
|--|--|
| <input type="checkbox"/> a member of any municipal council                                     | <input type="checkbox"/> an employee of any department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999) |
| <input type="checkbox"/> a member of any provincial legislature                                | <input type="checkbox"/> a member of an accounting authority of any national or provincial public entity   |
| <input type="checkbox"/> a member of the National Assembly or the National Council of Province | <input type="checkbox"/> an employee of Parliament or a provincial legislature   |
| <input type="checkbox"/> a member of the board of directors of any municipal entity            |  |
| <input type="checkbox"/> an official of any municipality or municipal entity                   |  |



**If any of the above boxes are marked, disclose the following:**

Name of family member	Name of institution, public office, board or organ of state and position held	Status of service (tick appropriate column)	
		Current	Within last 12 months

Insert separate page if necessary

(SBD 4) **FORM: COMPULSORY DECLARATION (continued)**

CONTRACT NRA RFQ 7: 5121- 1040-2021/7

SUPPLY AND DELIVERY OF ONE (1) RESCUE/ESCORT MOTOR VEHICLE AT THE HUGUENOT TOLL PLAZA AND TUNNEL

**Section 8: Record of termination of previous contracts with an organ of state**

Was any contract between the tendering entity, including any of its joint venture partners, terminated during the past five years for reasons other than the employer no longer requiring such works or the employer failing to make payment in terms of the contract?

☐ Yes ☐ No (tick appropriate box)

If yes, provide particulars:

--

Insert separate page if necessary

**Section 9: Declaration**

The undersigned, who warrants that he/she is duly authorised to do so on behalf of the tendering entity, confirms that the contents of this Declaration are within my personal knowledge, save where stated otherwise in an attachment hereto, and to the best of my belief is both true and correct, and that:

- i) neither the name of the tendering entity, nor any of its principals, appears on:
  - a) the Register of Tender Defaulters established in terms of the Prevention and Combating of Corrupt Activities Act of 2004 (Act No. 12 of 2004); or
  - b) National Treasury's Database of Restricted Suppliers (see [www.treasury.gov.za](http://www.treasury.gov.za));
- ii) the tendering entity or any of its principals has not been convicted of fraud or corruption by a court of law (including a court outside of the Republic of South Africa) within the last five years;
- iii) any principal who is presently employed by the state has the necessary permission to undertake remunerative work outside such employment (attach permission to this declaration);
- iv) the tendering entity is not associated, linked or involved with any other tendering entities submitting tender offers;
- v) the tendering entity has not engaged in any prohibited restrictive horizontal practices, including consultation, communication, agreement, or arrangement with any competing or potential tendering entity regarding prices, geographical areas in which goods and services will be rendered, approaches to determining prices or pricing parameters, intentions to submit a tender or not, the content of the submission (specification, timing, conditions of contract, etc.) or intention to not win a tender;
- vi) the tendering entity has no other relationship with any of the tenderers or those responsible for compiling the scope of work that could cause or be interpreted as a conflict of interest;
- vii) neither the tenderer nor any of its principals owes municipal rates and taxes or municipal service charges to any municipality or a municipal entity, and are not in arrears for more than three months;
- viii) SARS may, on an on-going basis during the term of the contract, disclose the tenderer's tax compliance status to the Employer and, when called upon to do so,

obtain the written consent of any subcontractors who are subcontracted to execute a portion of the contract that is entered into in excess of the threshold prescribed by National Treasury, for SARS to do likewise.					
<p>I, the undersigned ..... certify that the information furnished in Form A3.1 above is correct. I accept that the Employer may reject the tender or act against me in terms of 5.7 of the Conditions of Tender should this declaration prove to be false.</p> <table><tr><td>..... Signature (duly authorised)</td><td>..... Date</td></tr><tr><td>..... Position</td><td>..... Name of Enterprise</td></tr></table>		..... Signature (duly authorised)	..... Date	..... Position	..... Name of Enterprise
..... Signature (duly authorised)	..... Date				
..... Position	..... Name of Enterprise				
<p>NOTE 1: The Standard Conditions of Tender contained in SANS 10845-3 prohibits anticompetitive practices (clause 3.1) and requires that tenderers avoid conflicts of interest, only submit a tender offer if the tenderer or any of his principals is not under any restriction to do business with the Employer (4.1.1) and submit only one tender either as a single tendering entity or as a member in a joint venture (clause 4.13.1). Clause 5.7 also empowers the Employer to disqualify any tenderer who engages in fraudulent and corrupt practice. Clause 3.1 also requires tenderers to comply with all legal obligations.</p>					

**(SBD 4) FORM: COMPULSORY DECLARATION (continued)**

CONTRACT NRA RFQ 7: 5121- 1040-2021/7

SUPPLY AND DELIVERY OF ONE (1) RESCUE/ESCORT MOTOR VEHICLE AT THE HUGUENOT TOLL PLAZA AND TUNNEL

NOTE 2: Section 30(1) of the Public Service Act, 1994, prohibits an employee (person who is employed in posts on the establishment of departments) from performing or engaging remunerative work outside his or her employment in the relevant department, except with the written permission of the executive authority of the department. When in operation, Section 8(2) of the Public Administration Management Act, 2014, will prohibit an employee of the public administration (i.e. municipalities and all national departments, national government components listed in Part A of Schedule 3 to the Public Service Act, provincial departments including the office of the premier listed in Schedule 1 of the Public Service Act and provincial departments listed in schedule 2 of the Public Service Act, and provincial government components listed in Part B of schedule 3 of the Public Service Act) or persons contracted to executive authorities in accordance with the provisions of section 12A of the Public Service Act of 1994 or persons performing similar functions in municipalities, from conducting business with the State or to be a director of a public or private company conducting business with the State. The offence for doing so is a fine or imprisonment for a period not exceeding five years, or both. It is also a serious misconduct which may result in the termination of employment by the employer.

NOTE 3: Regulation 44 of Supply Chain Management regulations issued in terms of the Municipal Finance Management Act of 2003 requires that municipalities and municipal entities should not award a contract to a person who is in the service of the State, a director, manager or principal shareholder in the service of the State or who has been in the service of the State in the previous twelve months.

NOTE 4: Regulation 45 of Supply Chain Management regulations requires a municipality or municipal entity to disclose in the notes to the annual statements particulars of any award made to a close family member in the service of the State.

NOTE 5: Corrupt activities which give rise to an offence in terms of the Prevention and Combating of Corrupt Activities Act of 2004, include improperly influencing in any way the procurement of any contract, the fixing of the price, consideration or other moneys stipulated or otherwise provided for in any contract, and the manipulating by any means of the award of a tender.

NOTE 6: Section 4 of the Competition Act of 1998 prohibits restrictive horizontal practice, including agreements between parties in a horizontal relationship, which have the effect of substantially preventing or lessening competition, directly or indirectly fixing prices or dividing markets or constituting collusive tendering. Section 5 also prohibits restrictive vertical practices. Any restrictive practices that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties.

## FORM F: EVALUATION PROCESS (SBD6.1)

### NOTES TO TENDERER

1. The tenderer shall attach to this form a valid original or original certified copy of the B-BBEE verification certificate issued in accordance with the revised Notice of Clarification published in Notice 444 of 2015 of Government Gazette No.38799 on 15 May 2015 by the Department of Trade and Industry.
2. In the event of a joint venture (JV), a consolidated B-BBEE verification certificate in the name of the JV shall be attached, as well as a valid B-BBEE verification certificate for each member of the JV.
3. The attached verification certificate and the associated assessment report shall identify:
  - (a) The name and domicilium citandi et executandi of the tenderer.
  - (b) The registration and VAT number of the tenderer.
  - (c) The dates of granting of the B-BBEE score and the period of validity.
  - (d) The expiry date of the verification certificate.
  - (e) A unique identification number.
  - (f) The standard and/or normative document, including the issue and/or revision used to evaluate the tenderer.
  - (g) The name and/or mark/logo of the B-BBEE verification agency or registered auditor.
  - (h) The category (Generic, QSE, Exempt) in which the tenderer has been measured.
  - (i) The B-BBEE status level.
  - (j) The South African National Accreditation System (SANAS) logo on the verification certificate once verification agencies have been accredited.
  - (k) The B-BBEE procurement recognition level.
  - (l) The score achieved per B-BBEE element.
  - (m) The % black shareholding.
  - (n) The % black women shareholding.
  - (o) The % black persons with disabilities
  - (p) The value added status of the tenderer.
4. The Employer will not be responsible to acquire data that it needs for its own reporting systems and which may not form part of a verification agency's standard certificate format. The tenderer, at its own cost, must acquire any missing specified data listed in 3 above from its selected verification agency or registered auditor and have it recorded on the certificate. Alternatively, such missing data must be supplied separately, but certified as correct by the same verification agency or registered auditor and also attached to this form.

SANRAL will reduce each responsive quotation offer to a comparative offer and evaluate it using a points system using the formulae given under each of the evaluation criteria hereunder. Suppliers will be awarded points on a scale of 0 to 100, being the accumulation of points achieved for each of the criteria. The specifications on which these formulae are based are stipulated hereafter.

The value of  $W_1$  is:

- 1) 90 where the financial value, inclusive of VAT, of all responsive tender offers received has a value in excess of R 50 000 000,00; or

- 2) 80 where the financial value, inclusive of VAT, of one or more responsive tender offers has a value that equals or is less than R 50 000 000,00.

The value of  $A$  will be calculated utilising the following formula:

$$A = (1 - (P - P_m) / P_m)$$

Where  $P$  is the comparative offer of the tender offer under consideration and  $P_m$  is the comparative offer of the most favourable comparative offer

In the event that the calculated value is negative, the allocated score shall be 0.

Up to 100 minus  $W_1$  tender evaluation points will be awarded to tenderers who submit responsive tenders and who are found to be eligible for the preference claimed. Points are based on a tenderer's scorecard measured in terms of the Broad-Based Black Economic Empowerment Act (B-BBEE, Act 53 of 2003) and the Regulations (2009) to the Preferential Procurement Policy Framework Act (PPPFA, Act 5 of 2000).

Points awarded will be according to a tenderer's B-BBEE status level of contributor and summarised in the table below:

<b>B-BBEE Status Level of contributor</b>	<b>Number of Points for Contract value up to R50 000 000</b>	<b>Number of Points for Contract Value above R50 000 000</b>
1	20	10
2	18	9
3	14	6
4	12	5
5	8	4
6	6	3
7	4	2
8	2	1
Non-compliant Contributor	0	0

Eligibility for preference points is subject to the following conditions:

- i. A tenderer's scorecard shall be a B-BBEE Certificate issued in accordance with the revised Notice of Clarification published in Notice 444 of 2015 of Government Gazette No.38799 on 15 May 2015 by the Department of Trade and Industry ; and
- ii. The scorecard shall be submitted as a certificate attached to Returnable Schedule Form F; and
- iii. The certificate shall:
- iv. be an original or an original certified copy of the original; and
- v. have been issued by a verification agency accredited by the South African National Accreditation System (SANAS); or
- vi. be in the form of an original sworn affidavit in the case of an Exempted Micro Enterprise (EME) or Qualifying Small Enterprise (QSE); and
- vii. The Verification Certificate must be valid at the tender closing date; and
- viii. The date of issue of the certificate must be less than 12 (twelve) months prior to the tender closing date (see Tender Data 4.15); and

- ix. Compliance with any other information requested to be attached to Returnable Schedule Form C1; and
- x. Failure to submit a valid verification certificate will result in the award of 0 (zero) points for preference; and
- xi. In the event of a joint venture (JV), a consolidated B-BBEE verification certificate in the name of the JV shall be submitted, as well as a valid B-BBEE verification certificate for each member of the JV.

**FORM G: DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES (SBD 8)**

CONTRACT NRA RFQ 7: 5121- 1040-2021/7

SUPPLY AND DELIVERY OF One (1) RESCUE/ESCORT MOTOR VEHICLE AT THE HUGUENOT TOLL PLAZA AND TUNNEL

**Notes to tenderer:**

1. **This declaration:**
  - a) **must form part of all tenders submitted.**
  - b) **in the case of a joint venture (JV), must be completed and submitted by each member of the JV.**
2. **This form 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 tender of any tenderer may be disregarded if that tenderer 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 this tender.**

4.1	<p>Is the tenderer or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?</p> <p><b>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.</b></p> <p>The Database of Restricted Suppliers now resides on the National Treasury website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) and can be accessed by clicking on its link at the bottom of the home page.</p>	<p>Yes <input type="checkbox"/></p>	<p>No <input type="checkbox"/></p>
4.1.1	<p>If Yes, furnish particulars:</p>		
4.2	<p>Is the tenderer or any of its directors listed on the Register for Tender Defaulters in terms of Section 29 of the Prevention and Combating of Corrupt Activities Act (No. 12 of 2004)?</p> <p><b>The Register for Tender Defaulters can be accessed on the National Treasury website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) by clicking on its link at the bottom of the home page.</b></p>	<p>Yes <input type="checkbox"/></p>	<p>No <input type="checkbox"/></p>



4.2.1	If Yes, furnish particulars:		
4.3	Was the tenderer or any of its directors convicted by a court of law (including a court outside the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If Yes, furnish particulars:		
4.4	Was any contract between the tenderer and any organ of State terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If Yes, furnish particulars:		

### **CERTIFICATION**

I, the undersigned, .....  
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: .....

Name: .....

Position: .....

Date: .....

Name of tenderer: .....  
:

**(SBD 9) Form H: CERTIFICATE OF INDEPENDENT BID DETERMINATION**

- 1 This Standard Bidding Document (SBD) must form part of all bids<sup>1</sup> 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).<sup>2</sup> Collusive bidding is a *pe 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:

**<sup>1</sup> Includes price tenders, advertised competitive bids, limited bids and proposals.**

**<sup>2</sup> 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.**

**<sup>3</sup> Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.**

## CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

---

(Bid Number and Description)

in response to the invitation for the bid made by:

---

(Name of Institution)

do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: \_\_\_\_\_ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
  - (a) has been requested to submit a bid in response to this bid invitation;
  - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
  - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium<sup>3</sup> will not be construed as collusive bidding.

7. In particular, without limiting the generality of paragraph 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 (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

Signature

Date:

.....

.....

Position

Name of Bidder

.....

.....

**FORM I: DECLARATION OF TENDERER'S CURRENT STATUS OF ANY DEBT  
OUTSTANDING TO SANRAL**

CONTRACT NRA RFQ 7: 5121- 1040-2021/7

SUPPLY AND DELIVERY OF ONE (1) RESCUE/ESCORT MOTOR VEHICLE AT THE  
HUGUENOT TOLL PLAZA AND TUNNEL

**Notes to tenderer:**

- 1. The signatory for the tenderer (as per Form A2.1) shall complete and sign this form declaring the current status of (any) debt outstanding to SANRAL.**
- 2. In the event that the tenderer is a Joint Venture, a declaration is required from each member of the Joint Venture.**

I, the undersigned, ..... declare that:

1. the tenderer or any of its Directors/Members do not have any debt outstanding to SANRAL, other than what is listed below:

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

2. the tenderer and/or any of its Directors/Members freely, voluntarily and without undue duress unconditionally authorises SANRAL to set off any debts agreed to which is due and payable by the tenderer or any of its Directors/Members in terms of this declaration against any moneys due to the tenderer or any of its Directors/Members.
3. to the best of my knowledge the above information is true and accurate.

Signed and sworn before me at ..... on the ..... day of  
..... 20.....

.....  
SIGNATURE

The deponent having:

1. Acknowledge that he/she knows and understands the contents hereof;
2. Confirmed that he/she has not objection to the taking of the prescribed oath;
3. That he/she considered the prescribed oath as binding upon his/her conscience; and
4. The Regulations contained in the Government Gazette Notice R1258 of July 1972 and R 1648 of August 1977 having been complied with.

.....  
COMMISSIONER OF OATHS

## **FORM J: TERMS AND CONDITIONS**

### **1. CONDITIONS OF TENDER**

#### **NOTE:**

*Only suppliers with the necessary experience and capacity to execute these works satisfactory need submit a Tender. SANRAL may request more information in order to permit a full appraisal of the Suppliers' experience and capacity to execute these works satisfactorily. Such information shall be provided timeously.*

### **2. FORM OF TENDER**

2.1. The Tender shall be signed and witnessed on the Form of Tender incorporated herein. The Schedule of Rates and Prices shall be fully priced and totalled in the currency of the Republic of South Africa to show the amount of the Tender, and the summary thereof shall be signed. The certificates, schedules and forms contained herein shall be completed and signed by the Supplier. All forms, certificates and schedules shall be completed and signed in black ink.

2.2. Where the space provided in the bound documents is insufficient, separate schedules may be drawn up in accordance with the given formats. These schedules shall then be bound together with a suitable contents page and submitted with the Tender documents. All such schedules shall be signed.

### **3. SIGNING OF TENDER**

3.1. The Tender shall be signed by a person duly authorised to do so. A Tender submitted by a corporation shall bear the seal of the corporation and be attested by its secretary. Tenders submitted by joint ventures of two or more firms shall be accompanied by the document of formation of the joint venture, authenticated by a notary public or other official deputed to witness sworn statements, in which is defined precisely the conditions under which the joint venture will function, its period of duration, the persons authorised to represent and obligate it, the participation of the several firms forming the joint venture, and any other information necessary to permit a full appraisal of its functioning.

### **4. TENDER VALIDITY PERIOD**

4.1. The Tender validity period is 120 days

### **5. TENDER ALL-INCLUSIVE**

5.1. The Supplier shall allow in the Tender for all deliverables as stipulated in the scope, labour, material, consumables, accessories, software, supervision, overhead costs, profit, royalties, all taxes, levies, duties, variations in exchange rates (if applicable), disbursements and everything necessary for the execution and completion of the works in accordance with the Tender documents.

5.2. Value Added Tax (VAT) shall be excluded from the rates and prices and provided for as the total VAT on the cost of the Works in the Summary of Schedule of Rates and Prices.

5.3. The Supplier rates and prices shall be fixed for the duration of the contract and not subject to adjustment except as provided for in the conditions of contract.

5.4. The offer must be in ZAR currency

## **6. ALTERATIONS TO TENDER DOCUMENTS**

6.1. No unauthorised alteration or addition shall be made to the Form of Tender, to the Schedule of Rates and Prices or to any other part of the Tender documents. If any such alteration or addition is made or if the Schedule of Rates and Prices, other schedules or certificates are not properly completed, the Tender may be rejected.

6.2. The use of masking fluid is prohibited.

## **7. TENDER QUALIFICATION**

7.1. Tenders submitted in accordance with these Tender documents shall be without any qualifications. The Suppliers shall request SANRAL in writing at an early a date as possible and at least three working days before the closing time stated in Tender notice to clarify any point that is difficult to interpret.

7.2. Should the Supplier, despite the provisions of Tender rule 7.1, wish to amend or qualify the Tender documents, such amendment or qualification shall be expressly set out with full details. Any qualification or amendment not appearing on form shall not have any force or effect despite the fact that it may be contained elsewhere in the Tender documents or in the covering letter to the Tender. Any qualification or amendment appearing in a programme or which may be derived there from and which is submitted with a Tender shall not have any force or effect unless it has in writing

## **8. ALTERNATIVE TENDERS**

8.1. If, in addition, the Supplier desires to submit for consideration any alternative solution or any other variation (including the offer of a guarantee in lieu of retention money), the Form of "ALTERNATIVE TENDER" shall be completed for each alternative Tender submitted, and each alternative Tender shall be accompanied by a separate, complete and itemized Schedule of Rates and Prices, fully priced and extended, and a statement setting out the salient features of the alternative Tender.

8.2. No alternative Tender shall be considered unless a Tender without any qualifications and strictly on the basis of the Tender documents is also submitted. Alternative tenders shall reflect the same provisional sums for contingencies and contract price adjustment as provided for in the Tender documents for the postulated scheme. Any manipulation of these provisional sums shall disqualify the alternative Tender. Unless the Tender document for the postulated scheme calls for a fixed price contract, no alternative offering a fixed price shall be considered.

8.3. When a Supplier wishes to submit an alternative Tender involving modifications to the design or qualifications of the Tender documents, the following procedure shall be observed:

8.3.1.1.1. If the Supplier does decide to submit an alternative Tender, it shall be accompanied by supporting information and a fully priced alternative Schedule of Rates and Prices so that its

technical acceptability, completion time and price can be fully assessed.

- 8.3.1.1.2. When a qualified Tender is submitted, it shall be compiled in the form of an alternative offer, showing the financial or other implications of the qualification(s) on the unqualified Tender.
- 8.3.1.1.3. Any alternative Tender shall be assessed on its merits and shall not necessarily be accepted on its price alone. An accepted alternative shall become the baseline for the purposes of the Agreement.
- 8.3.1.1.4. A decision as to whether or not to adopt a technically acceptable modified solution shall be governed by the amount of the overall savings which it can be reliably expected to achieve. Matters to be considered in arriving at the overall saving shall include the quality and reliability of the product, the life cycle cost of the modified solution and the effect of any deferment in the starting date arising from extra time needed for the preparation of an amended agreement for signature..

## **9. CONFIDENTIAL COPYRIGHT OF DOCUMENTS**

- 9.1. All recipients of the Tender documents (whether or not a Tender is submitted) shall treat the details of the documents as confidential.
- 9.2. Use and copy the documents issued by SANRAL only for the purpose of preparing and submitting a Tender offer in response to the invitation

## **10. COST INCURRED BY SUPPLIERS**

- 10.1. SANRAL will not be responsible for, or pay for, any expenses or losses, which may be incurred by the Supplier in the preparation and submission of the Tender or in visiting the site in connection therewith.

## **11. ATTENDANCE AT SITE INSPECTION / SUPPLIERS' MEETING**

- 11.1. No formal site inspection/Suppliers meeting will be held.
- 11.2. The Supplier shall inform himself on the nature of the site and shall visit and inspect the site should he/she require so.

## **12. SUBMISSION OF TENDERS**

- 12.1. All tenders and supporting documents shall be submitted strictly in accordance with the instructions given in the official Tender Notice.
- 12.2. Each Supplier shall sign the Tender offer. SANRAL will hold all authorized signatories liable on behalf of the Supplier.



- 12.3. All tenders and supporting documents shall be sealed in an envelope or package. The envelope or package shall clearly state on the outside the Tender title as well as the Suppliers name and contact details.
- 12.4. Tenders shall be delivered to SANRAL by hand or by courier. In all cases the Tender shall reach the stipulated address not later than the closing date and hour stated in the Tender Notice and the onus shall be on the Supplier to obtain confirmation of receipt.
- 12.5. SANRAL shall not accept Tender offers submitted by telegraph, telex, facsimile or e-mail.
- 12.6. SANRAL shall announce at the submission opening held immediately after the closing of Tender submissions, at the venue indicated in the Tender notice, the name of each supplier whose Tender offer is opened and the total of his prices. Tender submissions *for which requests* for withdrawal have been submitted will not be opened.

### **13. TENDER WITHDRAWAL OR MODIFICATION PRIOR TO CLOSING DATE**

- 13.1. Any Supplier has the right to withdraw, modify or correct his Tender after it has been delivered, provided that the written request for such withdrawal, modification or correction, together with full details of such modification or correction is received at the address given for the submission of tenders before the closing date and hour set for the receipt of tenders.
- 13.2. The original Tender as amended by such written communication shall be considered the Supplier's offer.

### **14. TENDER WITHDRAWAL OR MODIFICATION AFTER CLOSING DATE**

- 14.1. SANRAL may ask any Supplier for a clarification of his Tender, or to amend or adjust imbalanced Tender rates according to subrules 18.2; nevertheless no Supplier shall be permitted to alter his Tender sum after the tenders have been opened. However, clarifications or amendments to imbalanced Tender rates which do not change the Tender sum may be accepted.
- 14.2. Tenders shall remain valid for a period of one hundred and twenty (120) days from the time set for the opening of tenders and no Tender may be withdrawn during this period unless SANRAL informs the Supplier in writing before the end of this period that his Tender is not accepted.
- 14.3. Should a Supplier amend (other than according to rule 18) or withdraw his Tender after the time set for the receipt and opening of Tender and during the period of its validity, but prior to his being notified of the acceptance of his original Tender, or should a Supplier, after having been notified that his Tender has been accepted-
  - 14.3.1.1.1. give notice of his inability to execute the agreement in terms of his Tender; or
  - 14.3.1.1.2. fail to sign a agreement or furnish the security within the period fixed in the conditions reflected in the Form of Tender or any extended period fixed by SANRAL; or

- 14.3.1.1.3. fail to execute the agreement according to the agreement documents;
- 14.3.1.1.4. he shall pay either the difference between his Tender and a less favourable Tender accepted in terms of the provisions of subrule 14.4, or if SANRAL decides to invite fresh tenders, all additional expenses which SANRAL has to incur in this regard, as well as any difference between his Tender and the accepted new Tender: Provided that SANRAL may fully or partly exempt a Supplier from the provisions of this subrule if SANRAL is of the opinion that the circumstances justify the exemption.
- 14.4. When, in the circumstances mentioned in subrule 14.3 it is not deemed desirable to invite fresh tenders, SANRAL may accept another Tender from those already received.

## **15. CANCELLATION OF TENDER**

- 15.1. If SANRAL is satisfied that any person (being an employee, partner, director or shareholder of the Supplier or a person acting on behalf of or with the knowledge of the Supplier), firm or company-
  - 15.1.1.1.1. is executing an agreement with SANRAL unsatisfactory;
  - 15.1.1.1.2. has offered, promised or given a bribe or other gift or remuneration to any officer or employee of SANRAL in connection with obtaining or executing a agreement;
  - 15.1.1.1.3. has acted in a fraudulent manner or in bad faith or in any other unsatisfactory manner in obtaining or executing a agreement with any government department, provincial administration, public body, company or person, or that he has managed his affairs in such a way that he has in consequence thereof been found guilty of a criminal offence;
  - 15.1.1.1.4. has approached an officer or employee of the South African National Roads Agency Limited or in the service of SANRAL before or after quotations have been called for, to influence the award of the agreement in his favour;
  - 15.1.1.1.5. has withdrawn or amended his quotation after the time set for the receipt and opening of quotations;
  - 15.1.1.1.6. when advised that his quotation has been accepted, has given notice of his inability to execute or sign the agreement or to furnish the security required;
  - 15.1.1.1.7. has entered into any agreement or arrangement, whether legally binding or not, with any other person, firm or company to refrain from quoting for this agreement, or as to the amount of the quotation to be submitted by either party;
  - 15.1.1.1.8. has disclosed to any other person, firm or company the exact or approximate amount of his proposed quotation except where disclosure, in confidence, was necessary to obtain insurance premium quotations required for the preparation of the quotation, SANRAL may, in addition to any claim which he may have in terms of rule 14, and in addition to any other legal resources, cancel any agreement between SANRAL and such

person, firm or company and no quotation from such person, firm or company shall be favourably considered for a specified period.

- 15.2. If SANRAL is satisfied that any person, firm, or company is or was a shareholder or a director of a firm or company which, in terms of subrule 15.1, is one from which no quotation will be favourably considered for a specified period, SANRAL may also decide that no quotation from such person, firm or company shall be favourably considered for a specified period, and in addition to any other legal resources, cancel any agreement between SANRAL and such person
- 15.3. SANRAL may, at its sole discretion, reverse or amend any decision in terms of subrule 15.1
- 15.4. Any restriction imposed upon any person, firm or company shall, for the purpose of this rule, apply to any other undertaking with which such person, firm or company is actively associated. The expression “person, firm or company” shall include an authorised employee or agent of such person, firm or company.
- 15.5. SANRAL may take any decision of a State Tender Board, including those of SA Post Office Ltd and Telkom SA Ltd, Transnet Ltd or any provincial administration or organ of state with regard to the restriction of a Supplier as being applicable to quotations for SANRAL from such Supplier.
- 15.6. Decisions of SANRAL in terms of subrules 15.1 to 15.4 and any revocation or variation of such decisions shall be communicated by SANRAL to all the tender boards concerned.

## **16. TEST FOR RESPONSIVENESS**

- 16.1. SANRAL will determine, on opening and before detailed evaluation, whether each Tender offer properly received:
  - 16.1.1.1.1. meets the requirements of these Conditions of Tender;
  - 16.1.1.1.2. has been properly and fully completed and signed, and
  - 16.1.1.1.3. is responsive to the other requirements of the Tender documents.
- 16.2. A responsive Tender is one that conforms to all the terms, conditions and specifications of the Tender documents without material deviation or qualification. A material deviation or qualification is one which, in the opinion of SANRAL, would:
  - 16.2.1.1.1. detrimentally affect the scope, quality, or performance of the works, services or supply identified in the Scope of Work;
  - 16.2.1.1.2. change SANRAL's or the Suppliers risks and responsibilities under the contract, or
  - 16.2.1.1.3. affect the competitive position of other Suppliers presenting responsive tenders, if it were to be rectified.
- 16.3. SANRAL will reject a non-responsive Tender offer, and, not allow it to be subsequently made responsive by correction or withdrawal of the non-

conforming deviation or reservation unless it can be subsequently rendered responsive by correction that does not prejudice the other suppliers.

## 17. ADDITIONAL INFORMATION REQUIRED

- 17.1. The Supplier shall submit with his Tender all the information as applicable and as required in terms of the provisions of the Tender documents. SANRAL reserves the right, in the event of such details being insufficient, to call for further information. The Supplier shall furnish such additional information within the time stipulated.
- 17.2. The Supplier shall make full allowance in the relevant scheduled rates for all costs in connection with the preparation of tenders and furnishing the information required by SANRAL.
- 17.3. SANRAL reserves the right to appoint a firm of chartered accountants and auditors to report on the financial resources of any Supplier. The Supplier shall provide all reasonable assistance in such an investigation.
- 17.4. All written information submitted by the Supplier, together with and in support of his Tender, shall be considered to form the basis on which the Tender has been prepared and submitted..

## 18. AMENDMENTS TO TENDER BY SANRAL

- 18.1. Arithmetical Errors: SANRAL reserves the right to check for arithmetical errors and correcting them in the following manner:
  - 18.1.1.1.1. Where there is a discrepancy between the amounts in figures and in words, the amount in words shall govern;
  - 18.1.1.1.2. If a Pricing Schedule (or schedule of quantities or schedule of rates) applies and there is an error in the line item total resulting from the product of the unit rate and the quantity, the *unit rate* shall govern and the *line item* shall be corrected. *However, where* there is an obviously gross misplacement of the decimal point in the unit rate, the unit rate will be corrected;
  - 18.1.1.1.3. Where there is an error in the total of the prices either as a result of other corrections required by this checking process or in the Supplier's addition of prices, the total of the prices shall *be corrected*.
- 18.2. Imbalance in quoted rates: In the event of there being any rate or rates which are declared to be unacceptable by SANRAL for reasons which SANRAL will indicate, the Supplier will, in terms of rule 17, be requested:
  - 18.2.1.1.1. to justify any specific rate or rates, i.e. to give a financial breakdown of how such rate or rates were obtained,
  - 18.2.1.1.2. and subsequently to consider amending and adjusting such rate or rates while retaining the Tender sum derived under subrule 18.1 unchanged and fixed.

- 18.3. It must be understood that in the event of the Supplier refusing to correct or accept the correction of his arithmetical errors or amend/adjust an imbalanced unit rate, SANRAL may reject his Tender offer.

## **19. TENDER ACCEPTANCE**

- 19.1. SANRAL does not bind itself to accept the lowest or any Tender.
- 19.2. SANRAL may accept or reject any variation, deviation, Tender offer, or alternative Tender offer, and may cancel the Tender process and reject all Tender offers at any time before the formation of a contract. SANRAL shall not accept or incur any liability to a supplier for such cancellation and rejection, but will give reasons for such action upon written request to do so.
- 19.3. Notify the successful Supplier of SANRAL's acceptance of his Tender offer in writing before the expiry of the validity period stated in this document, or agreed additional period. This will constitute the formation of a contract between SANRAL and the successful Supplier as described in the form of offer and acceptance.
- 19.4. After the successful Supplier has acknowledged SANRAL's notice of acceptance, the other suppliers will be notified that their Tender offers have not been accepted by SANRAL.

## **20. LEGAL ASPECTS**

- 20.1. The laws of the Republic of South Africa shall be applicable to each agreement created by the acceptance of a Tender and each Supplier shall indicate a place in the Republic and specify it in his Tender as his domicilium citandi et executandi (permanent physical business address) where any legal process may be served on him.
- 20.2. Each Supplier shall undertake to accept the jurisdiction of the law-courts of Republic of South Africa.
- 20.3. Each foreign Supplier shall state in his Tender the name of his accredited agent in the Republic of South Africa in whom the necessary legal capacity is vested and who has been duly appointed to sign any agreement.

## **21. TENDER RULES ARE BINDING**

- 21.1. The Tender Rules as well as the instructions given in the official Tender Notice shall be binding on all Suppliers submitting tenders for the service or services stated in the tender documents.

## **22. LANGUAGE OF THE AGREEMENT**

- 22.1. The tender documents have been drafted in English. Each Agreement that originates from the acceptance of the tender will be interpreted and construed in English.

## **23. DELEGATION OF AUTHORITY BY SANRAL**

- 23.1. **SANRAL may delegate any power vested in it by virtue of these rules to an officer or employee of SANRAL.**

### **3. CONDITIONS OF CONTRACT**

#### **3.1 AGREEMENT**

- 3.1.1 Upon acceptance of its tender the successful Supplier shall enter into a contract agreement with SANRAL by completing and signing the Form of Contract Agreement.

#### **3.2 DEFINITIONS**

- 3.2.1 In the Agreement (as hereinafter defined) the following words and expressions shall have the meanings hereby assigned to them, except where the context requires otherwise:
- 3.2.1.1.1 "Agreement" shall mean this agreement including all annexures and appendices thereto and any written supplementary agreements which may be validly concluded between the parties thereto.
  - 3.2.1.1.2 "Contractor/Supplier" means the person or persons, partnership, company or firm whose quotation has been accepted for the execution of the contract work as specified in this contract and includes the Contractor/Supplier's legally appointed representatives, heirs, successors, assignees, executors, administrators, trustees or sureties of such person, persons, partnership, company or firm.
  - 3.2.1.1.3 "SANRAL" means The SOUTH AFRICAN NATIONAL ROADS AGENCY (SOC) LIMITED instituted in terms of the South African National Roads Agency Limited and National Roads Act (Act No 7 of 1998) or a person delegated by the South African National Roads Agency Limited to act on its behalf.
  - 3.2.1.1.4 "Site" shall refer to the 5 SANRAL offices located in Cape Town, Pretoria (2), Port Elizabeth and Pietermaritzburg.
  - 3.2.1.1.5 "Works", "Supply Contract", or "Contract" shall mean the works described and specified in the Agreement.
- 3.2.2 All references to days shall mean days of 24 (twenty four) hours duration commencing at midnight (00.00) and which shall include non-working days unless otherwise stated.
- 3.2.3 The headings of clauses in the Agreement are for reference purposes only and shall not be taken into account in construing the context thereof.
- 3.2.4 In the Agreement unless inconsistent with the context, the words "notice", "notify", "notification", "certification" and "issue" shall connote an act to be carried out in writing.
- 3.2.5 In the Agreement, unless inconsistent with the context, the masculine includes the other gender, the singular includes the plural and vice versa, and persons shall include bodies corporate.
- 3.2.6 Any document or notice sent by a party in terms of the Agreement by prepaid registered post addressed to the other party at his domicilium citandi et executandi shall be deemed to have reached the other party within 7 (seven) days from date of posting.

- 3.2.7 The Agreement constitutes the whole agreement between the parties and no variation, amendment or addition to any of the terms and conditions shall have any force or effect unless reduced to writing and signed by both the parties.
- 3.2.8 The law applicable to this agreement is the law of the Republic of South Africa.
- 3.2.9 The tender document has been drafted in English, which language shall apply to this Agreement.

### **3.3 GENERAL**

3.3.1.1 The Contractor/Supplier holds harmless and indemnifies SANRAL from and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever arising out of or in connection with any failure to perform obligations or to fulfil liabilities and, without limiting the generality of the foregoing, the Contractor/Supplier holds harmless and indemnifies SANRAL from and against:

- 3.3.1.1.1 Faulty design of the subcontract works and materials to be supplied if and where such design is the responsibility of the Contractor/Supplier;
- 3.3.1.1.2 Materials, faulty workmanship or failure of the goods if and where the goods were manufactured and/or supplied by the Contractor/Supplier;
- 3.3.1.1.3 Any negligence by the Contractor/Supplier, his agents, workmen and servants;
- 3.3.1.1.4 Any claims from the aforesaid.

### **3.4 WARRANTIES AND REPRESENTATIONS**

3.4.1 The Contractor/Supplier warrants and represents that:

- 3.4.1.1.1 the Contractor/Supplier has full capacity and authority and all necessary licences, permits and consents (including but not limited to, where its circumstances and procedures so require, the consent of its Parent Company) to enter into and to perform this Agreement;
- 3.4.1.1.2 this Agreement is executed by a duly authorised representative of the Contractor/Supplier;
- 3.4.1.1.3 the provision of the Services and SANRAL's use thereof shall not infringe on any Intellectual Property Rights of any third party and indemnifies SANRAL in respect of any claim arising out of SANRAL's use thereof;
- 3.4.1.1.4 the Services shall be supplied and rendered by appropriately experienced, qualified and trained personnel with all due skill, care and diligence. SANRAL reserves the right to call upon the

Contractor/Supplier to remove any personnel whom in his opinion is incompetent;

- 3.4.1.1.5 the Contractor/Supplier shall discharge its obligations hereunder with all due skill, care and shall perform all Services in terms of this Agreement with the highest standards consistent with, and applicable to the industry, practice and its own established internal procedures;
- 3.4.1.1.6 the Services shall be performed in compliance with all applicable laws, enactments, orders, regulations, and other similar instruments;
- 3.4.1.1.7 the Services satisfy the Specifications and Performance Criteria and all components and Equipment supplied and/or used in the course of the provision of the Services shall operate in accordance with their technical specifications;
- 3.4.1.1.8 the provision of the Services shall not cause electrical interferences beyond the limits laid down in the relevant standard specifications,
- 3.4.1.1.9 all equipment supplied is new and unused;
- 3.4.1.1.10 all statements and representations made to SANRAL are, to the best of its knowledge, information and belief, true and accurate and that it will advise SANRAL of any fact, matter or circumstance of which it may become aware which would render any such statement or representation to be false or misleading.

### **3.5 LIMITATION OF LIABILITY**

- 3.5.1 Each party hereby indemnifies the other party against any loss or damages of whatsoever nature arising out of the wilful or negligent acts or omissions of the other of them, its employees, representatives or agents:
  - 3.5.1.1.1 provided that neither party shall be responsible for consequential damages of whatsoever nature and howsoever arising; and
  - 3.5.1.1.2 provided further that the Contractor/Supplier shall not be liable for any loss so occasioned to SANRAL which exceeds the total consideration received by the Contractor/Supplier in terms of this agreement and / or any statement of work.
- 3.5.2 The limitations and exclusions of liability in clause 3.5 do not apply to and shall not in any way limit or exclude any claims based on the death or injury suffered by any individual.



### **3.6 ASSIGNMENT AND SUBLETTING**

- 3.6.1 The Contractor/Supplier shall not cede or delegate his rights or obligations in respect of the whole or any part of this Agreement.
- 3.6.2 The Contractor/Supplier shall not sublet the whole or any part of the Works without the prior written consent of SANRAL.
- 3.6.3 This consent of SANRAL to any subcontracting permitted hereunder:
  - 3.6.3.1.1 shall not imply a contract between SANRAL and the Subcontractor or any responsibility or liability on the part of SANRAL to the Subcontractor; or
  - 3.6.3.1.2 shall not relieve the Contractor/Supplier from any liability or responsibility for the acts, neglect, omission or any Default of its Subcontractors.

### **3.7 INTELLECTUAL PROPERTY RIGHTS INDEMNITY**

- 3.7.1 The Contractor/Supplier shall indemnify SANRAL against all claims, demands, actions, costs, expenses (including but not limited to legal costs and disbursements on an attorney and Agency scale), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including but not limited to the defence of such alleged infringement) in South Africa of any Intellectual Property Right arising out of or consequent upon the services rendered by the Contractor/Supplier to SANRAL.
- 3.7.2 The Contractor/Supplier shall promptly notify SANRAL if any claim or demand is made or action brought against the Contractor/Supplier for infringement or alleged infringement of any Intellectual Property Right.
- 3.7.3 If a claim or demand is made or action brought to which Clause 3.7.1 may apply or in the reasonable opinion of the Contractor/Supplier is likely to be made or brought, the Contractor/Supplier shall at its own expense either:
  - 3.7.3.1.1 Modify any or all of the services without reducing the performance and functionality, or substitute alternative services of equivalent performance and functionality for any or all of the services, so as to avoid the infringement or the alleged infringement, provided that the terms of this Agreement shall apply mutatis mutandis to such modified or substituted services and such modified or substituted services shall be acceptable to SANRAL, who will not unreasonably withhold such acceptance; or
  - 3.7.3.1.2 Procure a royalty free licence to use the service on terms which are acceptable to SANRAL.

### **3.8 TERMINATION RIGHTS**

- 3.8.1 Notwithstanding anything else contained herein, this Contract may be terminated:
  - 3.8.1.1.1 by the Contractor/Supplier forthwith on giving notice in writing to SANRAL, if SANRAL shall fail to pay any sum due under the terms of this Contract (otherwise than as a consequence of any Default on

the part of the Contractor/Supplier) and such sum remains unpaid for 14 (fourteen) calendar days after written notice from the Contractor/Supplier that such sum has not been paid (such notice to contain a warning of the Contractor/Supplier's intention to terminate); or

3.8.1.1.2 by either party forthwith on giving notice in writing to the other if the other commits any breach of any term or condition of this Contract (other than any failure by SANRAL to make any payment hereunder which event the provisions of sub-clause 3.8.1.1.1 above shall apply) and (in the case of a breach capable of being remedied) fails, within 30 (thirty) calendar days after the receipt of a request in writing from the other party specifying the breach and requiring its remedy (such request to contain a warning of such party's intention to terminate); or

3.8.1.1.3 by either party forthwith on giving notice in writing to the other if the other party shall have a receiver or Administrator appointed over it or over any part of its undertaking or assets or shall pass a resolution for winding-up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or a court of competent jurisdiction shall make an order to that effect or if the other party shall become subject to an administration order or shall enter into any voluntary arrangement with its creditors or shall cease or threaten to cease to carry on business; or

3.8.1.1.4 there is a change of control in the Contractor/Supplier or its Parent Company.

3.8.1.1.5 by SANRAL by giving to the Contractor/Supplier not less than 30 (thirty) calendar days written notice of termination to expire on the scheduled date for completion of any task (taking into account any extensions of time granted pursuant to any provision hereof). Upon such termination SANRAL shall immediately pay to the Contractor/Supplier all sums accrued due to the Contractor/Supplier hereunder.

3.8.2 Termination in accordance with this Clause 3.8 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to either party.

3.8.3 SANRAL shall only be permitted to exercise its rights pursuant to Clause 3.8.1.1.4 for 6 (six) months after each such change of control and shall not be permitted to exercise such rights where SANRAL has gained in advance notification in writing to the particular change of control and such change of control takes place as proposed. The Contractor/Supplier shall notify SANRAL at least 2 (two) months before any change of control take place.

3.8.4 This Contract may be cancelled by SANRAL, after giving 7 (seven) calendar days notice in writing to the Contractor/Supplier, if in his opinion the Contractor/Supplier:

3.8.4.1.1 has abandoned the Contract, or

- 3.8.4.1.2 without reasonable excuse has failed to commence the works, or has suspended the progress of the works for 14 (fourteen) calendar days after receiving from SANRAL written notice to proceed, or
- 3.8.4.1.3 has failed to proceed with the works with due diligence, or
- 3.8.4.1.4 is not executing the works in accordance with the Contract, or is neglecting to carry out his obligations under the Contract, or
- 3.8.4.1.5 has, to the detriment of good workmanship or in defiance of SANRAL's instructions to the contrary, sublet any part of the Contract, or
- 3.8.4.1.6 anyone on his behalf or in his employ would pay, offer or offer as payment to any person in the employ of SANRAL a gratuity or reward or commission, or
- 3.8.4.1.7 furnished inaccurate information in his tender, inter alia as regards his previous experience or the equipment at his disposal for the works, or any other important information.

### **3.9 CONSEQUENCES OF TERMINATION**

3.9.1 In the event that this Contract is terminated as provided for herein:

- 3.9.1.1.1 the Contractor/Supplier shall repay forthwith to SANRAL all monies with interest paid up to and including such date of termination other than monies in respect of any works or part thereof properly performed in accordance with the Contract;
- 3.9.1.1.2 the Contractor/Supplier shall return to SANRAL all Client Property in its possession;
- 3.9.1.1.3 the Contractor/Supplier shall render reasonable assistance to SANRAL, if requested, to the extent necessary to effect an orderly assumption by a replacement Contractor/Supplier of the Services theretofore performed by the Contractor/Supplier hereunder;
- 3.9.1.1.4 as soon as possible following any notice of termination being given (in the case of an early termination of this Contract) and no later than 3 (three) months prior to the expire of this Contract (in the case of the termination of this Contract through the effluxion of time) the Contractor/Supplier shall provide to SANRAL or to a replacement Contractor/Supplier nominated by SANRAL details of the terms of employment of all Contractor/Supplier personnel who are then employed in the performance of the Services as reasonably required by SANRAL;

3.9.1.1.5 the Contractor/Supplier shall Immediately, at the sole option of SANRAL, return to SANRAL all records, documentation, Client's Data, and any other Material & Information and all copies thereof which are owned by SANRAL and shall certify that no copies of any Client's Data have been retained;

3.9.1.1.6 SANRAL may, without thereby affecting the rights and powers conferred on SANRAL by the Contract, call upon the sureties in writing to take over and to complete the works or any part thereof, or if the said sureties shall refuse or fail to commence work within 14 (fourteen) calendar days from the date of the notice, or having commenced shall fail to carry out the work in compliance with the Contract to the satisfaction of SANRAL, SANRAL may himself complete the works or may employ another Contractor/Supplier to complete the works.

### **3.10 CONFIDENTIALITY**

3.10.1 The Contractor/Supplier acknowledges that all Material & Information obtained from or relating to SANRAL, its employees or agents is the property of SANRAL.

3.10.2 In further consideration of SANRAL executing this Contract with the Contractor/Supplier, the Contractor/Supplier hereby warrants that:

3.10.2.1.1 the Contractor/Supplier (and any person employed or engaged by the Contractor/Supplier in connection with this Contract in the course of such employment or engagement) shall only use the Material & Information for the purposes of this Contract;

3.10.2.1.2 the Contractor/Supplier (and any person employed or engaged by the Contractor/Supplier in connection with this Contract in the course of such employment or engagement) shall not disclose any *Material & Information* to any third party without the prior written consent of SANRAL;

3.10.2.1.3 the Contractor/Supplier shall take all necessary precautions to ensure that all *Material & Information* is treated as confidential and not disclosed or used other than for the purposes of this Contract by the Contractor/Supplier's employees, agents or subcontractors; and

3.10.2.1.4 without prejudice to the generality of the foregoing neither the Contractor/Supplier nor any person engaged by him whether as a employee or a consultant or otherwise shall use the *Material & Information* for the solicitation of business from SANRAL or another part of the South African Government by the Contractor/Supplier or by such employee or consultant or by any third party.

3.10.3 SANRAL:

3.10.3.1.1 shall treat as confidential all *Material & Information* obtained from the Contractor/Supplier, and

3.10.3.1.2 shall not subject to Clause 3.10.5 disclose to any third party without the prior written consent of the Contractor/Supplier any *Material & Information* obtained from the Contractor/Supplier.

3.10.4 The provisions of Clauses 3.10.1, 3.10.2 and 3.10.3 shall not apply to any Material & Information which:

3.10.4.1.1 is or becomes public knowledge other than by breach of this Clause 3.10; or

3.10.4.1.2 is in the possession of the receiving party without restriction in relation to disclosure before the date of receipt from the disclosing party; or

3.10.4.1.3 is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure; or

3.10.4.1.4 is independently developed without access to the *Material & Information*.

3.10.5 Nothing in this Clause 3.10 shall prevent the Contractor/Supplier or SANRAL from using data processing techniques, ideas and know-how gained during the performance of this Contract in the furtherance of its normal business, to the extent that this does not relate to a disclosure of any Material & Information or an infringement by SANRAL or the Contractor/Supplier of any Intellectual Property Right.

### **3.11 PUBLICITY**

3.11.1 Neither party shall use the name or any other material and Information of the other in publicity releases or advertising or for other promotional purposes, without securing the prior written approval of the other party.

3.11.2 Both parties shall take all reasonable steps to ensure the observance of the provisions of this Clause 3.11 by all their employees, agents, Sub-Contractors and Service Providers.

Notwithstanding the provisions of Clause 3.11.1 above, SANRAL shall be entitled to publicise the Agreement in accordance with any legal or quasi-legal obligation upon SANRAL.

### **3.12 GIFTS AND PAYMENTS OF COMMISSION**

3.12.1 The Contractor/Supplier shall not:

3.12.1.1.1 Offer or give or agree to give any person of SANRAL or Agency any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or performance of this Agreement or any other Agreement with SANRAL

3.12.1.1.2 or for showing or forbearing to show favour or disfavour to any person in relation to this Agreement; nor

3.12.1.1.3 Enter into this Agreement if in connection with it commission has been paid or agreed to be paid to any person of SANRAL or Agency by the Contractor/Supplier or on the Contractor/Supplier's behalf or to the Contractor/Supplier's knowledge, unless before this

Agreement particulars of any commission and of the terms and conditions of any Agreement for the payment thereof have been disclosed in writing to SANRAL.

- 3.12.2 In the event of any breach of Clause 3.11.1 by the Contractor/Supplier or by anyone employed by the Contractor/Supplier or acting on the Contractor/Supplier's behalf in relation to this Agreement or any other contract with SANRAL, SANRAL may summarily terminate this Agreement by notice in writing to the Contractor/Supplier and withhold all payments due to the Contractor/Supplier for completed work. Provided always that such termination shall not prejudice or affect any right of action or remedy which shall have accrued or shall accrue thereafter to SANRAL and provided always that SANRAL may recover from the Contractor/Supplier the amount or value of any such gift, consideration or commission.
- 3.12.3 The decision of SANRAL shall be final and conclusive in any dispute, difference or question arising in respect of:
  - 3.12.3.1 The interpretation of this Clause (except insofar as the same may relate to the amount recoverable from the Contractor/Supplier under Clause 3.12.2 in respect of any loss resulting from such termination of this Agreement); and/or
  - 3.12.3.2 The right of SANRAL under Clause 3.11.3 to terminate this Agreement; and/or
  - 3.12.3.3 The amount of value of any such gift, consideration or commission.
- 3.12.4 In the event that any gift, consideration or commission was solicited by any employee of SANRAL or Agency, this shall immediately be disclosed in writing to SANRAL.

### **3.13      *FORCE MAJEURE***

- 3.13.1 For the purpose of this Agreement the expression "Force Majeure" shall mean a cause affecting the performance by a party of its obligations arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control including (but without limiting the generality thereof) acts of God, fire, flood, or any disaster, governmental regulations, war, rebellion or other military action. Any act, event, omission, happening or non-happening will only be considered Force Majeure if it is not attributable to the wilful act, neglect or failure to take reasonable precautions of the effected party, its employees, agents, Sub-Contractors or Service Providers.
- 3.13.2 Neither party shall in any circumstances be liable to the other for any loss of any kind whatsoever including but not limited to any damages whether directly or indirectly caused to or incurred by the other party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure. Notwithstanding the foregoing, each party shall use all reasonable endeavours to continue to perform, or resume performance of such obligations hereunder for the duration of such Force Majeure event.
- 3.13.3 If either of the parties shall become aware of circumstances of Force Majeure which give rise to or which are likely to give rise to any such failure or delay on its part it shall forthwith notify the other by the most expeditious method

available and shall inform the other of the period which it is estimated that failure or delay shall continue.

3.13.4 It is expressly agreed that any failure by the Contractor/Supplier to perform or any delay by the Contractor/Supplier in performing its obligations under this Agreement which results from any failure or delay in the performance of its obligations by any person, firm or company with which the Contractor/Supplier shall have entered into any such contract, supply arrangement or sub-contract or otherwise, shall be regarded as a failure or delay due to Force Majeure only in the event that such person, firm or company shall itself be prevented from or delayed in complying with its obligations under such contract, supply arrangement or subcontract or otherwise as a result of circumstances of Force Majeure.

3.13.5 If a party fails to inform the other party of the Force Majeure event concerned as set out in this Clause, then such party shall thereafter not be entitled to refer to or rely on such Force Majeure as a reason for non-fulfilment of any obligation in terms of this Agreement, provided that this obligation to perform shall not apply if a Force Majeure event is known by both parties or the party is unable to inform the other party due to the Force Majeure event.

3.13.6 If the Force Majeure continues for more than 90 (ninety) days, either party shall have the right to terminate this Contract with immediate affect.

### **3.14        *INSURANCE***

3.14.1 The Contractor/Supplier shall act and take out insurance and maintain at his own cost such insurance as he deems necessary to cover his responsibilities in terms of the Agreement including the deductible excesses of the insurance. SANRAL shall be at liberty to examine the insurance purchased.

### **3.15        *COMMENCEMENT AND PROGRAMME***

3.15.1 The Contractor/Supplier shall commence the Works as specified herein, and shall proceed with the same with due expedition and without delay except as may be expressly sanctioned or ordered by SANRAL or be completed beyond the control of the Contractor/Supplier.

### **3.16        *TIME FOR COMPLETION***

3.16.1 The Works shall be executed by the date specified herein or such extended time as may be provided for in terms of the Agreement.

### **3.17        *FAILURE TO PERFORM***

3.17.1 If the Contractor/Supplier fails to execute the Works by the date of completion or within the constraints and limitations detailed in the Agreement, the Contractor/Supplier shall reimburse SANRAL for the costs reasonably incurred in arranging for the works or duties or tasks which the Contractor/Supplier has

consistently failed to execute satisfactorily to be carried out by others on his behalf, in accordance with the provisions of the Agreement.

3.17.2 SANRAL may, without prejudice to any other form of recovery, deduct such sum or sums from any monies due or which may become due to the Contractor/Supplier.

3.17.3 The payment or deduction of such sum or sums shall not relieve the Contractor/Supplier of his obligation to complete the Works or from any of his obligations or liabilities under the Agreement.

3.17.4 A penalty of one (1) percent of the total contract value per calendar day or part thereof shall be applicable for late-completion or non-completion of the Installation Phase of the Works.

3.17.5 Penalties will be applied for non-performance during the Maintenance Phase of the Works as specified.

### **3.18 DISPUTE RESOLUTION**

3.18.1 In the event of any dispute or difference arising between the Parties hereto relating to or arising out of this agreement, including the implementation, execution, interpretation, rectification, validity, enforceability, termination or cancellation of this agreement, the Representatives will meet forthwith after a request by either Party's Representative to do so, to attempt to settle such dispute or difference, and failing such settlement within a period of 14 days the following provisions shall apply:

3.18.1.1.1 The matter will be referred to the Parties' respective Managing Directors or their nominated authorised representatives. The Parties record that it is their intention that the said Managing Directors or their nominated authorised representatives will use their best endeavours to settle or resolve the issue in question as expeditiously as possible, but in any event within a period of 14 days of the matter being referred to them;

3.18.1.1.2 Should the Parties' Managing Directors or their nominated authorised representatives fail to resolve such dispute or difference within the aforesaid period or such longer period as the Parties may agree such dispute or difference shall be finally resolved by arbitration. Such arbitration shall be held in Johannesburg, South Africa unless otherwise agreed between the Parties and shall be held in a summary manner with a view to it being completed as soon as possible;



3.18.2 There shall be one arbitrator who shall be, if the question in issue is:

3.18.2.1.1 primarily an accounting matter, an independent chartered accountant with no fewer than 10 (ten) years' experience as a chartered accountant;

3.18.2.1.2 primarily a legal matter, a practising Senior Counsel or, alternatively, a practising attorney with no fewer than 10 (ten) years' experience as an attorney;

3.18.2.1.3 primarily a technical matter, a suitably-qualified person; and

3.18.2.1.4 any other matter, a suitably-qualified person.

3.18.3 The appointment of the arbitrator shall be agreed upon between the Parties, but failing agreement between them within a period of 14 (fourteen) days after the arbitration has been demanded, either of the Parties shall be entitled to request the Chairman for the time being of the Arbitration Foundation of Southern Africa to make the appointment who, in making his appointment, shall have regard to the nature of the dispute.

3.18.4 Subject to the other provisions of this clause, each arbitration shall be held in accordance with the Rules of the Arbitration Foundation of Southern Africa, save where the Parties agree otherwise in writing.

3.18.5 The arbitrator shall be obliged to give in writing the reasons for any decision made by him in the course of the arbitration.

3.18.6 The Parties agree that any interim or final award by an arbitrator in terms of this clause 3.18 shall be final and binding on the Parties and may be made an order of any court of competent jurisdiction in accordance with the provisions of clause 34. Each of the Parties hereby submits itself to the jurisdiction of the Witwatersrand Local Division of the High Court of South Africa should the other Party wish to make such a decision of the arbitrator an order of that Court. The provisions of this clause shall survive any termination of this Agreement.

3.18.7 Nothing in this clause shall preclude either Party from seeking any interim relief from any competent court having jurisdiction pending the institution of any arbitration proceedings in terms of this clause. Each of the Parties hereby submits itself to the jurisdiction of the Witwatersrand Local Division of the High Court of South Africa for this purpose; provided that the Party seeking interim relief may approach any other competent Court having jurisdiction in order to obtain interim relief.

### **3.19 TRAVELLING**

3.19.1 The Contractor/Supplier to include all travelling cost in his tender for no extra costs will be paid.

### **3.20 SITE ACCOMMODATION**

3.20.1 No contractor/supplier personnel will be allowed to stay on site.

3.20.2 No offices are available on site for the contractor/supplier.

### **3.21      *SITE INSPECTIONS***

- 3.21.1 Before commencing with the installation/supply the Contractor/Supplier shall inspect the site and photographically document any existing problems in the infrastructure such as, damaged cable trays, damaged power skirting, broken light fittings, damage to walls and paintwork, damage to ceiling structure and panels, etc, where applicable.
- 3.21.2 All cost associated with the repair of damage in the areas that the contractor/supplier worked shall be to the account of the contractor/supplier, unless if he can proof otherwise.

### **3.22      *EQUIPMENT AND MATERIALS***

- 3.22.1 The Contractor/Supplier must safeguard all material and equipment. This responsibility passes to SANRAL from the date that an Inspection Release Certificate in respect of the completed system installation/supply is handed over. It will be the Contractor/Suppliers responsibility to take out any necessary insurance cover.
- 3.22.2 The Contractor/Supplier can under no circumstance make use of any other Contractor/Suppliers or subcontractor's equipment on site to complete their work, without the prior written consent of the Contractor/Supplier or subcontractor.

### **3.23      *SOFTWARE LICENCING***

- 3.23.1 Where applicable, the Contractor/Supplier shall procure all software in the name of SANRAL and deliver the original of all such licenses and software to SANRAL before the completion of the Installation Phase of the Works.

### **3.24      *VACATION OF SITE***

- 3.24.1 Where applicable, the Contractor/Supplier shall hand the site back to SANRAL in the same condition as it was before the commencement of the works. Failing to do so, SANRAL will affect all repairs, replacement and/or cleaning necessary to return the site to its original condition. All costs associated herewith will be deducted from the payment due to the Contractor/Supplier.

### **3.25      *MEASUREMENT AND PAYMENT***

- 3.25.1 The Contractor/Supplier shall submit to SANRAL, on completion of the Installation Phase/Supply of the Works and acceptance thereof by SANRAL (refer to Project Specifications), and on an ad-hoc basis for the maintenance service, an invoice and statement of the amount it claims in accordance with the provisions of this Agreement.
- 3.25.2 In the event of a failure by Contractor/Supplier to achieve a service level, SANRAL will be entitled to a reduction in the monthly/adhoc charges, which

reduction shall be determined in accordance with the provisions of this document.

3.25.3 Payment shall be made within 30 (thirty) calendar days of receipt by SANRAL (at its nominated address for invoices) of a valid invoice and statement from the Contractor/Supplier.

3.25.4 If any sum payable under this Agreement is not paid within 30 (thirty) calendar days after the due date then (without prejudice to the Contractor/Supplier's other rights and remedies) the Contractor/Supplier shall be entitled to receive interest compounded monthly on the amount owing during the period of delay. Interest shall be calculated at the prime rate plus 1 percent charged by the Contractor/Supplier's bank at the time.

### **3.26 CONTRACT PRICE ADJUSTMENT**

3.26.1 The Contractor/Supplier shall allow for exchange rate variation for the whole of the Works and shall arrange forward cover if so desired. The cost thereof shall be for the account of the Contractor/Supplier.

3.26.2 The rates and prices for the maintenance and support shall be fixed for the period of 12 months and no change during this period will be allowed for escalation. For the following 12 months the rates and prices shall be adjusted by the South African twelve-month year on year CPI index (as published in the monthly bulletin PO141.1 of Statistics South Africa and fixed at this value for the following 12-month period. Subsequent 12-month periods shall be dealt with on the same basis.

### **3.27 NOTICES AND DOMICILIA**

3.27.1 Except as otherwise expressly provided no notice from one party to the other shall have any validity under this Agreement unless made in writing by or on behalf of SANRAL or as the case may be by or on behalf of the Contractor/Supplier

3.27.1.1 delivered by hand during the normal Business Hours of the recipient; or

3.27.1.2 sent by prepaid registered post to the postal address chosen by the addressee; or

3.27.1.3 transmitted by facsimile.

3.27.2 Any notice in terms of the provisions of this Contract will be considered to be duly received:

3.27.2.1 if delivered by hand, on the day of delivery, provided it was delivered to a responsible person during normal Business Hours;

3.27.2.2 if sent by registered post as indicated in Clause 3.27.1.1 above, within 10 (ten) Business Days from the date it was posted;

3.27.2.3 if transmitted by facsimile be deemed to have been received by the addressee within 4 (four) hours of transmission if transmitted during

normal Business Hours or within 4 (four) hours of commencement of the first Business Day after it is transmitted if it is transmitted outside those Business Hours; unless the contrary is proven.

3.27.3 For the purpose of Clause 3.27.1 above the parties choose as their domicilia citandi et executandi for all purposes arising out or in connection with this Agreement the following addresses:

3.27.3.1 For SANRAL:

The South African National Roads Agency Limited

PHYSICAL  
48 Tambotie Ave  
Val de Grace  
0184

POSTAL  
PO Box 415  
Pretoria  
0001  
South Africa

Marked for the attention of:  
Ms Inge Mulder.  
Telephone.+27 12 844 8000 ;Facsimile. +27 12 844 8200.

3.27.3.2 For the Contractor/Supplier:

Contractor/Supplier Name .....

PHYSICAL

POSTAL

.....

.....

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.....

.....

.....

.....

.....

Marked for the attention of: .....

Telephone .....; Facsimile .....

3.27.4 Either party may change its domicilium citandi et executandi as referred to in Clause 3.27.3 to another physical address within the Republic of South Africa by notice as provided in this Clause.

#### **4. SEVERABILITY**

4.1.01 If any court of competent jurisdiction holds any provision of this Agreement invalid, illegal, unlawful or unenforceable for any reason, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this Agreement had been executed with the invalid, illegal or unenforceable provision eliminated.

4.1.02 In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of this Agreement, SANRAL and the Contractor/Supplier shall agree to meet and review the matter and if any valid and enforceable means is reasonably

available to achieve the same objective as the invalid or unenforceable provision, to adopt such means by mutual agreement by way of variation of the Agreement.

## **4.2 WAIVER**

4.2.01 The failure of either party to insist upon strict performance of any provision of this Agreement, or the failure of either party to exercise any right or remedy to which it is entitled hereunder, shall not constitute a waiver thereof and shall not cause a diminution of the obligations established by this Agreement.

4.3 A waiver of any Default shall not constitute a waiver of any subsequent default.

## **4.4 SUCCESSION**

4.4.01 This Agreement shall be binding on the successors in title, assignees, administrators, executors and heirs of either party.

## **4.5 NON RENOUNCEMENT OF STATUTORY POWERS**

4.5.01 Notwithstanding any provision contained in this Agreement or any right or obligations arising there from:

4.5.01.1 SANRAL does not renounce any of its statutory powers; and

4.5.01.1.1 both parties record SANRAL's power to act in accordance with the existing or future acts of Parliament or regulations made by virtue thereof and that this Agreement shall not affect such powers in any way whatsoever; and

4.5.01.1.2 SANRAL shall have the right to refuse to furnish any information or documentation that the Contractor/Supplier may request in terms of this Agreement if SANRAL is of the opinion, based on reasonable grounds, that such information or documentation is confidential, or if the disclosure of such information or documentation will infringe another party's copyright or any other right or breach a relation of trust between SANRAL and another party.

## **4.6 ENTIRE AGREEMENT**

4.6.01 The Agreement constitutes the entire understanding between the parties relating to the subject matter of this Agreement and supersedes all prior representations, negotiations or understandings, proposals or prior arrangements, oral or written with respect hereto, except in respect of any fraudulent misrepresentation made by either party.

4.6.02 The Contractor/Supplier shall be deemed to have waived and renounced any condition printed upon any stationary used by them for the purpose of or in connection with the submission of the tender.

#### **4.7 GOVERNING LAW**

4.7.01 This Agreement will be governed in all respects by and will be construed in accordance with the laws of the Republic of South Africa.