

BID No: RSR/RFP/FFSM/OAER/24/05/04

REQUEST FOR PROPOSALS:

**APPOINTMENT OF A SERVICE PROVIDER TO PROVIDE OFFICE ACCOMMODATION
FOR THE RAILWAY SAFETY REGULATOR FOR THE EASTERN REGION**

Issued by: Railway Safety Regulator: Supply Chain Department Waterfall Point Building Cnr Woodmead Drive and Waterfall Drive WATERFALL CITY 1685 Contact Person: Goitseone Kgwadibana Tel: 087 284 6666 Email: goitseonek@rsr.org.za

Full Name of Bidding/Tendering Entity: _____

Contact Person: _____

Tel Number: _____

Email Address: _____

Total Bid Amount (incl. VAT): R_____

Advert Date: 10 May 2024

Closing Date and Time: 05 June 2024 @ 12:00

Bidder's Authorised Signatory:

Initials and Surname : _____

Signature : _____

A. NOTICE TO TENDERERS

This tender is issued in terms of the Public Finance Management Act 1 of 1999 (PFMA), the Preferential Procurement Policy Framework Act 5 of 2000 (PPPFA), the Preferential Procurement Regulations, (PPR 2022), Supply Chain Management Regulations issued by the National Treasury and BBBEE Act.

Parties that wish to submit proposals are required to indicate that they are willing to accept the General Conditions and Procedures of the RAILWAY SAFETY REGULATOR.

DESCRIPTION	Appointment of a service provider to provide office accommodation for the Railway Safety regulator for the eastern region (Kwa-Zulu Natal)
ADVERTISEMENT DATE	10 May 2024
TENDER DOCUMENTS	Not for sale. Copies of the bid documents are obtainable from on the e-Tender portal of the National Treasury website, www.etenders.gov.za and the Railway Safety Regulator website, www.rsr.org.za/procurement/
CLOSING DATE	05 June 2024 at 12:00 PM
VALIDITY PERIOD	90 Business Working Days from Closing Date. Tenderers are to note that they may be requested to extend the validity period of their tender, at the same terms and conditions, if the internal evaluation process has not been finalized within the validity period. However, once the adjudication committee has approved the process and award of the business to the successful Tenderer(s), the validity of the successful Tenderer(s)' bid will be deemed to remain valid until a final contract has been concluded.
SUBMISSION OF PROPOSALS	<p>Proposals must reach the offices of the RAILWAY SAFETY REGULATOR, located at Waterfall Point Building, Cnr Woodmead Drive and Waterfall Drive, Waterfall City before ...12:00 PM.....</p> <p>Tender document shall be submitted as one (01) original and one (01) scanned copy (PDF) of the original completed in a Flash Drive with the proposal and forms required:</p> <p>a) REQUEST FOR PROPOSAL - RAILWAY SAFETY REGULATOR: b) APPOINTMENT OF A SERVICE PROVIDER TO PROVIDE OFFICE ACCOMMODATION FOR THE RAILWAY SAFETY REGULATOR FOR THE EASTERN REGION</p> <p>The tender box will only be available for the depositing of proposals between 08h00 and 16h30 on weekdays (excluding public holidays).</p> <p>Please note that this RFP closes punctually at 12:00 PM on 05 June 2024. No late submissions will be considered under any circumstances. The RAILWAY SAFETY REGULATOR shall not disclose any details pertaining to the responses received, to any other participant(s), as this is regarded as confidential information.</p>

	<p>Envelopes must not contain documents relating to any RFP other than the one referred to in this RFP.</p> <p>The responses to the RFP will be opened as soon as it is practical after the expiry of the time advertised for receiving them.</p> <p>Only the participants that are short-listed after the evaluation process will be informed of the results of their submission.</p>
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B. BID DOCUMENTS CHECKLIST:

The contents of the bid/tender document must be as follows, and numbered as per the numbering below, with each schedule punched, placed in a file and separated from the next schedule with a file divider.

Please complete the checklist below to verify your submission of the relevant documents:

Schedules	Description	COMPULSORY	Submitted – Indicate YES or NO
Schedule 1	Fully completed and duly signed SBD forms	X	
Schedule 2	Central Suppliers database (CSD) Registration	X	
Schedule 3	Tax compliant status report (with (PIN)	X	
Schedule 4	Valid B-BBEE certificate / B-BBEE sworn affidavit	X	
Schedule 5	Valid company registration documentation that are issued by Companies & Intellectual Property Commission (CIPC)	X	
Schedule 6	Reference letters	X	
Schedule 7	Confirmation of a minimum Grade A as defined by SAPOA	X	
Schedule 8	Proof of valid insurance for the proposed building	X	
Schedule 9	Zoning certificate	X	
Schedule 10	Mandate letter from the owner/landlord or Proof of ownership		

C. THE BIDDER MUST COMPLETE THE FOLLOWING RETURNABLE DOCUMENTS:

<i>(Bidders must tick the "Returnable Document" column to confirm documents have been completed and returned by inserting tick- incomplete bids may lead to elimination)</i>	Submitted: <i>(tick box)</i>
Returnable Document Name:	
SBD 1	
SBD 4	
SBD 6.1	
General Conditions of Contract and/or Special Conditions of Contract	

1. ABBREVIATIONS AND ACRONYMS DESCRIPTIONS

Table 1- Abbreviations and Acronyms Definitions

ACCRONYMS	DEFINITIONS
RSR	Railway Safety Regulator
the Act	National Railway Safety Regulator Act 16 of 2002 as amended
TOR	Terms of Reference
SLA	Service Level Agreement
Service Provider	Service provider shall mean the Bidder who is a landlord, or a property management agency appointed by the building owner. Such bidder is the one that furnished all documents necessary for the bid and has full authority to sign lease agreement with the RSR.
SAPOA	South African Property Owners Association
Property Management Agency	a third party that manages a property on behalf of the owner
Grade A building	Generally, a 10 to 30 years old building and with major renovations/upgrade after 15 years since its building, with high quality properties providing good access and are professionally managed with continued above average maintenance. The building has high quality modern finishes, air conditioning, adequate onsite parking and clearly articulated entrance, lobby with clear circulation as defined by SAPOA.
Contract	Contract shall include the General Conditions of Contract and/or Special Conditions of Contract (if any), the specifications including any schedules attached to the specifications, and any agreement entered into in terms of these General Conditions of Contract.
Occupation Date	shall mean the date which the RSR fully occupies the office accommodation as stipulated in the contract.
Beneficial Occupation	shall mean a rent-free period provided by the Landlord in order to give the tenant time to do fit-out before final completion.
Safe Electrical plugs	Shall mean red plugs.
Fit Out	shall mean the internal office installations.
HVAC	means Heating, Ventilation, and Air conditioning. The system used to provide heating and cooling services to buildings.
Fibre Optic Installed	means the building must have/ consist of or use thin flexible fibres with a glass core through which light signals can be sent with very little loss of strength.
Common area	the area which is available for use by more than one person and are available for common use by all tenants, (or) groups of tenants and their invitees and maintained or serviced by the landlord. Such as parking bathrooms, entrances
LAN	Local Area Network used to connect devices such as laptops, phones and printers to each other and to the internet.

VoIP	Voice over Internet Protocol (VoIP), is a technology that allows you to make voice calls using a broadband Internet connection instead of a regular phone line
Category six cables	Cable used for computer networks reaching a Gb (1000 Mbps) or one Gbps of data transfer speed (DTR) or higher
CBD	Central Business District

2. TERMS OF REFERENCE

2.1. INTRODUCTION

2.1.1 The Railway Safety Regulator (RSR) is a schedule 3A public entity established in terms of section 4 of the National Railway Safety Regulator Act, Act 16 of 2002 (“the Act”) as amended, to establish a national framework for South Africa and to monitor and enforce safety compliance in the rail sector.

2.1.2 The primary legislative mandate of the RSR is to oversee and enforce safety performance by all railway operators in South Africa including those of the neighboring states whose rail operations enter South Africa. Notwithstanding the foregoing, operators are, in terms of the Act, primarily responsible and accountable for ensuring the safety of their railway operations.

2.2. BACKGROUND

2.2.1 The RSR has been currently leasing in Durban, Kwa Zulu Natal for the past 4 years and the lease agreement is ending in November 2024. The Offices provide the RSR with the opportunity to have a footprint next to their stakeholders, particularly the railway industry.

2.2.2 The location of the building affords the RSR opportunity to be able to have easy access to both stakeholders, amenities and transport services such as the airport facility.

2.3. PURPOSE

2.3.1 The purpose of this Terms of Reference (TOR) is to appoint a service provider (Landlord or Property management agency) who has the capacity to provide office space in North of Durban, Kwa Zulu Natal for occupation from 01 December 2024. Two service providers cannot submit bids for the same building.

2.3.2 The Railway Safety Regulator (RSR) is looking to sign a lease agreement/s, which include(s) inter alia office accommodation, office fit out, network cables and LAN points and electrical points (normal and safe plugs).

2.4. SCOPE OF WORK

2.4.1 The appointed service provider shall be required to provide the following:

2.4.1.1 Office Space (existing building) in a Grade A building as a minimum with alternative power supply.

2.4.1.2 Office space which has been installed with office fit-out (Installations) with electrical points (both normal and safe plugs) and network points that support voice-over Internet Protocol (only category 6 network LAN points will be accepted) as per the office layout requirements suitable for the RSR.

2.4.1.3 The successful service provider must be prepared to execute the fit-out of the premises as per designs and specifications prepared by its professional team as instructed by the RSR. It must be noted that the RSR will only contribute financially to RSR specific fit-out requirements of the premises and not towards clearing and preparing the premises prior to fit-out.

2.4.1.4 Office space in the North of Durban, KwaZulu Natal for 60 Months.

2.4.1.5 The service provider must be prepared to afford the RSR with beneficial occupation during fit- out until the date of full occupation by the RSR.

2.4.1.6 Office Installation (fit- out)

2.4.1.6.1 Each bidder must ascertain that their proposal addresses the minimum mandatory fit-out requirements as in indicated below:

2.4.1.6.2 Approximately 450 square metres (M²) office space in north of Durban, KwaZulu Natal.

- 2.4.1.6.3 Four (4) enclosed offices (dry wall) with network LAN points and electrical red plugs (safe plugs).
 - 2.4.1.6.4 Reception area with network LAN point and red plugs (safe plugs).
 - 2.4.1.6.5 Internal divisions and internal wall finishes (doors, painting etc)
 - 2.4.1.6.6 Flooring (carpets, tiles etc).
 - 2.4.1.6.7 Data Centre (Air conditioned).
 - 2.4.1.6.8 Installation of access control system and cameras.
 - 2.4.1.6.9 Two (2) Storerooms with electrical points.
 - 2.4.1.6.10 Kitchen (plumbing, double sink and kitchen cupboards and counter and space for a sitting canteen for 4 x 4-seater tables.
 - 2.4.1.6.11 Four-way open plan seaters electrical plugs and network points to accommodate 16 individuals.
 - 2.4.1.6.12 One (1) x 20-seater boardroom with power skirtings and network LAN points.
 - 2.4.1.6.13 One (1) x 4-seater consultation room with power skirtings and network LAN points.
 - 2.4.1.6.14 Two Electrical red plugs (safe plugs) in the boardroom ceiling to power projector screen, projector and TV.
 - 2.4.1.6.15 Motion and occupancy light sensors.
 - 2.4.1.6.16 Vertical movements (ramp, lifts and stairs).
 - 2.4.1.6.17 Lifts must be disability friendly.
 - 2.4.1.6.18 Fire detectors.
 - 2.4.1.6.19 Air conditioners/HVAC.
 - 2.4.1.6.20 Ceilings
 - 2.4.1.6.21 Thirty (30) parking bays inclusive of visitors parking
- 2.4.2 The RSR Space Utilisation & Standard Norms are 5 – 10sqm /staff. See below for the more detail:
- 2.4.2.1 Workstation- 10sq.m /staff member
 - 2.4.2.2 Common areas- 10sq.m / staff member (Ablution facilities, foyers, meeting rooms, storage, pause areas)

2.5. FUNCTIONAL REQUIREMENTS

2.5.1 The appointed service provider is expected to have the above-mentioned office(s) **AVAILABLE FOR FULL ACCOMMODATION AND READY FOR BUSINESS OPERATIONS ON 01 DECEMBER 2024**. The RSR reserves the right to change the date of occupation at any time without notice or publicly giving reason(s).

2.5.2 Kwa Zulu Natal, North of Durban

Table 2- Functional Requirements

LOCATION	PREFERRED NODE	OFFICE SIZE (SQM)	NO OF STAFF	GRADE OF BUILDING	PARKING	DATE OF OCCUPATION
Kwa Zulu Natal	North of Durban	450	20	Minimum Grade A	30	01 December 2024

2.5.3 PROPERTY AND EMPLOYEE REQUIREMENTS

- 2.5.3.1 The property must be in compliance with the Occupational Health and Safety Act (OHSA), building regulations and relevant regulations.
- 2.5.3.2 The property should have a smoker's area in accordance with relevant legislation.
- 2.5.3.3 The entrances/exit points, reception counter(s), lifts, fire escapes, parking, ablution facilities and the general office layout and fittings should be disabled-friendly.
- 2.5.3.4 The Landlord must provide the RAILWAY SAFETY REGULATOR signage (as per the RSR's specifications, colors and material) on the outside and directional signage on the side of the premises/building, available on request before ending of clarification period.
- 2.5.3.5 Ablution facilities, including disability facilities, sufficient facilities to be provided in accordance with relevant legislation.
- 2.5.3.6 The property should have a clearly demarcated emergency assembly point.

2.5.4 MAINTENANCE

- 2.5.4.1 Over and above the building being at a minimum Grade A building, it is expected that during the lease tenure, the appointed service provider will maintain the exterior façade of the building and keep it in a good and usable condition.
- 2.5.4.2 The building must include air conditioning that is fully operational and effective. (Air conditioning units must be maintained by the service provider in accordance with the manufacturer's specifications and maintenance manual).
- 2.5.4.3 The service provider must be willing to accept changes to dry walling within the building if necessary.

- 2.5.4.4 The property must be equipped with a generator that can supply at least lighting.
- 2.5.4.5 An electrical compliance certificate for the building must be handed to the RAILWAY SAFETY REGULATOR prior to moving in.
- 2.5.4.6 An occupation certificate for the building must be handed to the RAILWAY SAFETY REGULATOR prior to moving in.

2.5.5 FIRE SAFETY

- 2.5.5.1 The following measures should be made available on the proposed premises and meet all fire regulatory requirements:
 - 2.5.5.2 The building shall be equipped with fire detection, fire suppression system and an evacuation plan.
 - 2.5.5.3 Efficient and easy evacuation in the case of fire must be possible with fitted signage and floor plan.
 - 2.5.5.4 The property must have fire extinguishers in accordance with the relevant legislation.

2.5.6 SECURITY AND ACCESS CONTROL

- 2.5.6.1 The following security and access control measures should be made available on the proposed premises:
 - 2.5.6.1.1 A floor plan of the building is required.
 - 2.5.6.1.2 Provision must be made for an access control system.
 - 2.5.6.1.3 The service provider will appoint, contract, manage and performance-appraise the Security Service Provider that guard the complex/building. This cost should be incorporated in the operational costs.

2.5.7 CLEANING SERVICES

- 2.5.7.1 The proposal must include (daily) cleaning services for common areas as part of the operational costs. The cleaning will include windows and common areas, with all cleaning detergents; cleaning materials, sanitary bins, air fresheners, hand soap, toilet rolls and hand dryers or paper towels to accommodate employees and visitors.
- 2.5.7.2 The lessor must maintain the yard, parking bays or garden around the office building and the building envelope.

2.5.8 SHOP FITTING

2.5.8.1 The RSR requires that the service provider appoint a full professional team to assist with the internal fit-out of the premises to ensure conformity to applicable South African statutory regulations, Acts and the RSR specific fit-out requirements. Should the building be deemed suitable during the design evaluation phase, the RSR will supply detailed shop fitting layouts to the landlord's professional team.

2.6. PROPOSAL SUBMISSION

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

2.6.1.1 Indicate the all-inclusive cost of rental (rental associated costs, parking, fit outs etc.) depicted on a monthly and yearly schedule of payment which includes annual escalations. All costs to be VAT inclusive.

2.6.1.2 Indicate pure rental which includes associated costs, parking etc. separate from the cost of installations.

2.6.1.3 Organisation profile.

2.6.1.4 A Joint Venture agreement signed by all parties in case of a Joint Venture / Consortium submission (if applicable).

2.6.1.5 Central Supplier database CSD Registration. Bidders (including each member of joint venture or consortium or partnership agreement) must submit proof of registration with the National Treasury's Central Supplier Database (CSD). Bidders must ensure that they are registered on the CSD before submitting the bid.

2.6.1.6 Valid B-BBEE certificate / B-BBEE sworn affidavit. A trust, consortium, or joint venture (including unincorporated consortia and joint ventures) must submit a consolidated B-BBEE Certificate, A valid B-BBEE certificate or sworn affidavit (the sworn affidavit must indicate the full date i.e., day, month, and year of the financial year period e.g., 31 March 2021).

2.6.1.7 Valid tax compliance status report with tax PIN.

2.6.1.8 Valid company registration documentation that are issued by Companies & Intellectual Property Commission (CIPC).

2.6.1.9 A Copy of the identity document of the company owner(s).

2.6.1.10 Valid Medical Certificate (Where applicable).

- 2.6.1.11 Valid South African Social Security Agency (SASSA) registration (Where applicable).
- 2.6.1.12 Valid National Council for Persons with Physical Disability in South Africa registration (NCPDPSA) (Where applicable).
- 2.6.1.13 Fully completed and duly signed Standard Bidding Documents (SBD) Forms documents supplied with these Terms of Reference.
- 2.6.1.14 Provide references letters of previous successful completed projects that the service provider has facilitated within the past ten (10) years. The reference letter should be on a client's official letterhead with valid contact details. ***RSR reserves the right to contact the references to confirm the validity of information of the letters provided.** No points shall be awarded for letters which the RSR cannot verify/validate.
- 2.6.1.15 A pricing proposal/schedule inclusive of all deliverables as per the required services. All estimated costs must be stipulated and itemised.
- 2.6.1.16 Only fixed prices will be accepted. (Any price escalations and costs incidental to the lease agreement must be specified in percentage and actual costs)
- 2.6.1.17 A pricing schedule should be submitted on a separate sheet from the technical proposal for ease of evaluation.
- 2.6.1.18 The RSR will not be bound by any costs not disclosed in the tender document.
- 2.6.1.19 All Prices must include VAT.
- 2.6.1.20 Tender document shall be submitted as one (01) original and one (01) scanned copy (PDF) of the original completed in a Flash Drive with all exhibits and forms required included in the proposal length.

2.7. TENDER BRIEFING SESSION AND FAQs

- 2.7.1 Interested bidders are required to attend the online compulsory briefing session and should send their e-mail addresses to tenders@rsr.org.za not later than the 15 May 2024, at 16:30. RSR will share the invitation on the 16 May 2024 for the briefing session to be held on 17 May 2024 at 10:00, via MS Teams.
- 2.7.2 Any enquiries relating to this bid should be sent to tenders@rsr.org.za no later than 27 May 2024, at 16H00. RSR will compile a list of the answers to the queries sent and share them with the interested bidders on the RSR website.

2.8. BID EVALUATION CRITERIA OF PROPOSALS

2.8.1 The proposals/BIDS will be evaluated on a five (05) phase approach consisting of:

2.8.1.1 Phase 01: Submission of all administrative compliance documentation. The evaluation of the administrative compliance requirements is indicated below.

Failure to comply, may lead to disqualification.

2.8.1.1.1 Fully completed and duly signed SBD forms

2.8.1.1.2 A Joint Venture agreement signed by all parties in case of a Joint Venture / Consortium submission (if applicable).

2.8.1.1.3 Central Supplier database (CSD) Registration. Bidders (including each member of joint venture or consortium or partnership agreement) must submit proof of registration with the National Treasury's Central Supplier Database (CSD). Bidders must ensure that they are registered on the CSD before submitting the bid.

2.8.1.1.4 Valid tax compliant status report with PIN

2.8.1.2 Phase 02: Mandatory Requirements Evaluation

2.8.1.2.1 Confirmation of a minimum Grade A as defined by SAPOA.

2.8.1.2.2 Alternative Power supply/Generator fitted on the building.

2.8.1.2.3 Proof of valid insurance for the proposed building

2.8.1.2.4 Fibre Optic installed building.

2.8.1.2.5 Zoning certificate.

2.8.1.2.6 Mandate letter from the owner/landlord or Proof of ownership.

2.8.1.3 Phase 03: Functionality Evaluation

The evaluation of the functional requirements as per Section 2.9 below. Bidders must attain a minimum of 70 points to be considered for the physical evaluation (Phase 04).

2.8.1.4 Phase 04 - Physical Evaluation of the proposed premises

The evaluation of the physical evaluation as per Section 2.10 below. Bidders must attain a minimum of 70 points to be considered for the Preference Point System evaluation (Phase 05).

2.8.1.5 Phase 05: Price and BEE Evaluation

2.8.1.5.1 The price quotations will be evaluated in accordance with the pre-scripts of the Preferential Procurement Policy Framework Act (PPPFA) and its regulations,

in particular Preference Procurement Regulation 2022 which stipulate 80/20 preference point system for acquisition of goods or services with Rand value equal to or below R50 million (inclusive of all applicable tax).

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

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

2.9. Functionality Criteria Evaluation (Phase 03)

2.9.1 Only bidders that score a minimum of 70 points of the total points at the functionality evaluation (Phase 03) will proceed to the physical evaluation (Phase 04).

2.9.2 The suitable service provider must demonstrate capacity and capability to execute this project by complying with the functionality criteria Table below

Table 3- Functional Evaluation Criteria

No.	EVALUATION CRITERIA	Weight	Scoring criteria
2.9.3	<p>Security of premises- with the following requirements:</p> <ul style="list-style-type: none"> Secure office park / office block Access control system Security controls with guard/s 	15	<p>a) Secure office park / office block accessed through secured and controlled gate/ entrance = 5 points</p> <p>b) Electronic access controls system with Access to the premises via biometric access /tag/ disc= 5 points</p> <p>c) Landlord security controls at the entrance with guard/s- Entrance mend by security guards and controlling access for visitors = 5 points</p>
2.9.4	<p>Building Capacity and OHS Compliance</p>	50	<p>a) HVAC installed = 10 points</p> <p>b) Building with alternative vertical accessibility (stairs and lifts) = 5 points</p> <p>c) Alternative natural ventilation = 5 points</p> <p>d) Natural lighting via windows/glass panels =5 points</p> <p>e) Ablution facilities with a minimum compliance of 1: 20 employees' ratio = 5 points</p> <p>f) A minimum of 20 covered parking bays = 5 points</p> <p>g) Disability friendly building (parking and ablution facilities and ramp) = 5 points</p> <p>h) Proposed office fit-out design and office layout = 5 points</p> <p>i) Fire detection system = 5 points</p>

2.9.5	<p>Power Supply</p> <p>Building fitted with alternative automatic power supply that powers lights and electrical plugs at a minimum.</p>	20	<p>a) In addition to powering office lights and plugs, it can power HVAC and lifts = 20 points</p> <p>b) In addition to powering office lights and plugs, it can power lifts = 10 points</p> <p>c) In addition to powering office lights and plugs, it can power HVAC = 10 points</p>
2.9.6	<p>Reference letters</p> <p>Submit signed letters of completed projects that indicate the experience in managing building/s, not older than 10 years, on the referee's letterhead with traceable contact details. (No appointment letters will be considered)</p> <p>The letter should include the following info:</p> <ul style="list-style-type: none"> • The precise role the bidder played • Contract duration • Contract outcomes • Contactable references <p>*RSR reserves the right to contact the references to confirm the validity of the information</p>	15	<p>a) 3 letters = 15 points</p> <p>b) 2 letters = 10 points</p> <p>c) 1 letter = 5 points</p>
	TOTAL	100	

2.9.7 **NB: Zero points are allocated when minimum requirements are not met.**

2.9.8 Bidders that scored a minimum of **70 points** and above of the total points at the functionality phase will proceed to Phase 04, Physical Evaluation.

2.10. PHYSICAL EVALUATION OF THE PROPOSED PREMISES PHASE 04

2.10.1 Only bidders who scored 70 points and above in phase 04 will be considered for the preference point system evaluation.

2.10.2 The purpose of the on-site analysis is to confirm scores given for the functionality evaluation. Thus, only those bidders that have received the minimum threshold of 70 points will be considered for preference point system evaluation.

Table 4- Physical Evaluation Criteria

ON SITE ANALYSIS	Points
<p>Security of Premises</p> <p>a) Secure office park / office block accessed through secured and controlled gate/ entrance = 5 points b) Electronic access controls system with Access to the premises via biometric access /tag/ disc= 5 points c) Landlord security controls at the entrance with guard/s- Entrance mend by security guards and controlling access for visitors = 5 points</p>	15
<p>Building and OHS compliance.</p> <p>a) HVAC installed = 10 points b) Building with alternative vertical accessibility (stairs and lifts) = 5 points c) Alternative natural ventilation = 5 points d) Natural lighting via windows/glass panels =5 points e) Ablution facilities with a minimum compliance of 1: 20 employees' ratio = 5 points f) A minimum of 20 covered parking bays = 5 points g) Disability friendly building (parking and ablution facilities and ramp) = 5 points h) Proposed office fit-out design and office layout = 5 points</p>	50
<p>Power Supply</p> <p>Alternative Power supply that powers lights and plugs at a minimum.</p> <p>a) In addition to powering office light and plugs, it can power HVAC and lifts = 20 points b) In addition to powering office light and plugs, it can power lifts = 10 points c) In addition to powering office lights and plugs, it can power HVAC = 10 points</p>	20
<p>ICT Requirements</p> <p>Fibre optic installed.</p>	15
Total	100

2.10.3 **NB: Zero points are allocated when minimum requirements are not met.**

2.10.4 Bidders that scored a minimum of 70 points and above of the total points at the functionality phase will proceed to Phase 05, Price and Specific Goals Evaluation.

2.11. PRICE AND SPECIFIC GOALS POINTS EVALUATION PHASE-05)

2.11.1 Only bidders who scored 70 points and above in phase 04 will be considered for the preference point system evaluation.

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

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

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

Table 5- Specific goals

NO	SPECIFIC GOALS	PREFERENCE POINT (OUT OF 20)	PROOF OF CLAIM
1	An Exempt Micro Enterprises (EME) or Qualifying Small Enterprise (QSE) which is at least 51% owned by black people	10	<ul style="list-style-type: none"> • Copy of the identity document of the owner(s) • A valid SANAS accredited BBBEE certificate or a valid BBEEE sworn affidavit (whichever is applicable) • Central Supplier Database (CSD) report • Valid company registration documentation that are issued by Companies & Intellectual Property Commission (CIPC)
2	An Exempt Micro Enterprises (EME) or Qualifying Small Enterprise (QSE) which is at least 51% owned by black women	5	<ul style="list-style-type: none"> • Copy of the identity document of the owner(s) • A valid SANAS accredited BBBEE certificate or a valid BBEEE sworn affidavit (whichever is applicable) • Central Supplier Database (CSD) report • Valid company registration documentation that are issued by Companies & Intellectual Property Commission (CIPC)
3	An Exempt Micro Enterprises (EME) or Qualifying Small Enterprise (QSE) which is at least 51% owned by youth	3	<ul style="list-style-type: none"> • Copy of the identity document of the owner(s) • A valid SANAS accredited BBBEE certificate or a valid BBEEE sworn affidavit (whichever is applicable) • Central Supplier Database (CSD) report • Valid company registration documentation that are issued by Companies & Intellectual Property Commission (CIPC)
4	An Exempt Micro Enterprises (EME) or Qualifying Small Enterprise (QSE) which is at least 51% owned by person(s) with disabilities	2	<ul style="list-style-type: none"> • Copy of the identity document of the owner(s) • A valid SANAS accredited BBBEE certificate or a valid BBEEE sworn affidavit (whichever is applicable) • Central Supplier Database (CSD) report • Valid company registration documentation that are issued by Companies & Intellectual Property Commission (CIPC)

			<ul style="list-style-type: none"> • Valid Medical Certificate • Valid South African Social Security Agency (SASSA) registration (where applicable) • Valid National Council for Persons with Physical Disability in South Africa registration (NCPDPSA)
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2.12. THE FINANCIAL PROPOSAL

2.12.1 The service providers are required to submit a detailed financial proposal costing the services per deliverables as set out in the scope work

2.12.2 A schedule of office rental cost for sixty (60) months.

2.12.3 Cost of office installations

2.12.4 The overall figures must be VAT inclusive

2.13. SUB-CONTRACTING

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

2.14. JOINT VENTURES, CONSORTIUMS AND TRUSTS

2.14.1 Bidders must submit concrete proof of the existence of joint ventures and/or consortium arrangements. RSR will accept signed agreements as acceptable proof of the existence of a joint venture and/or consortium arrangement.

2.14.2 The joint venture and/or consortium agreements must clearly set out the roles and responsibilities of the Lead Partner and the joint venture and/or consortium party. The agreement must also clearly identify the Lead Partner, with the power of attorney/resolution letter to bind the other party/parties in respect of matters pertaining to the joint venture and/or consortium arrangement.

2.15. LEGAL IMPLICATIONS

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

2.16. COMMUNICATION

2.16.1 The communication between RSR and bidders is permitted prior to the closing date of the tender, such communication is limited to instances where bid clarity is sought,

to obtain information or to extend the validity period. Any communication either by letter or electronic mail or any other form of correspondence to any government official, department or representative of a testing institution or a person acting in an advisory capacity for the RSR in respect of this bid between the closing date and the award of the bid by the bidder is prohibited.

2.17. LATE BIDS

2.17.1 Bids received at the address indicated in the bid documents, after the closing date and time will not be accepted and where applicable, be returned unopened to the bidder.

2.18. PROHIBITION OF RESTRICTIVE PRACTICES

2.18.1 In terms of section 4(1) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder(s) is/ are or a contractor(s) was/were involved in:

- 2.18.1.1 directly or indirectly fixing a purchase or selling price or any other trading condition;
- 2.18.1.2 dividing markets by allocating customers, suppliers, territories or specific types of goods or services; or collusive bidding.
- 2.18.1.3 If a bidder(s) or contractor(s), in the judgment of the purchaser, has/have engaged in any of the restrictive practices referred to above, the purchaser may, without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered or terminate the contract in whole or in part and refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.

2.19. FRONTING

2.19.1 The RSR supports the spirit of broad based black economic empowerment (B-BBEE) and recognizes that real empowerment can only be achieved through individuals and businesses conducting themselves in accordance with the Constitution and in an honest, fair, equitable, transparent and legally compliant manner. It is therefore against this background the RSR condemns any form of fronting.

2.19.2 The RSR, in ensuring that bidders conduct themselves in an honest manner will, as part of the bid evaluation processes, conduct or initiate the necessary enquiries/investigations to determine the accuracy of the representation made in bid documents. Should any of the fronting indicators as contained in the Guidelines on Complex Structures and Transactions and Fronting, issued by the Department of Trade and Industry be established during such enquiry/investigation, the onus will be on the bidder / contractor to prove that fronting does not exist. Failure to do so within a period of 14 days from date of notification may invalidate the bid/contract and may also result in the restriction of the bidder/contractor to conduct business with the public sector for a period not exceeding ten years, in addition to any other remedies the RSR may have against the bidder/contractor concerned.

2.20. RSR'S RIGHTS

2.20.1 RSR reserves the right to cancel this solicitation in whole or in part, at its sole discretion, at any time before the Agreement is fully executed. This RFP does not commit RSR to award an Agreement, to pay any costs incurred by bidders in the preparation of their proposals submitted in response to this RFP, or to procure or contract for services.

2.20.2 The RSR reserves the right to modify or cancel in whole or in part this RFP; to reject any and all proposals; to accept the proposal it considers most favourable to the RSR's interests and at its sole discretion to waive irregularities or informalities in any proposal or the proposal's procedures.

2.20.3 The RSR further reserves the right to reject all proposals and seek new proposals when such is considers to be in the best interest of RSR. If there is any evidence indicating that two or more bidders are in collusion to restrict competition or are otherwise engaged in anti-competitive practices, the proposals of all such bidders shall be rejected, and such evidence may be a cause for disqualification of the participants in any future solicitations issued by the RSR.

2.20.4 The RSR reserves the right to hold discussions and/or negotiations with any individual or qualified company, to interview or not, to request additional information or revise the proposal, or to request the best and final offers if it is in the best interest of the RSR to do so. However, the RSR may make an award without conducting any interview or negotiations; therefore, proposers/bidders are encouraged to submit their best proposal at the outset.

PART A

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE RAILWAY SAFETY REGULATOR					
BID NUMBER:	RSR/RFP/FFSM/OAER/24/05/04	CLOSING DATE:	05 June 2024	CLOSING TIME:	12:00
DESCRIPTION	Appointment of a service provider to provide office accommodation for the Railway Safety regulator for the eastern region				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
Railway Safety Regulator Head Office					
Waterfall Point Office Park, Building 4					
Cnr Woodmead Drive and Waterfall Drive					
Waterfall City, Midrand, 1685					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	Goitseone Kgwadibana		CONTACT PERSON	Mathiba Nyama	
TELEPHONE NUMBER	087 284 6666		TELEPHONE NUMBER	087 284 6666	
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS	goitseonek@rsr.org.za		E-MAIL ADDRESS	mathiban@rsr.org.za	
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	[TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No	
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]	
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)	<input type="checkbox"/> YES <input type="checkbox"/> NO				
DOES THE ENTITY HAVE A BRANCH IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO				
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO				
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO				
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?	<input type="checkbox"/> YES <input type="checkbox"/> NO				
IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.					

INVITATION TO BID

PART B TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:
1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED- (NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.
1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
1.4. THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).
2. TAX COMPLIANCE REQUIREMENTS
2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
2.6 WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

NB: FAILURE TO PROVIDE / OR COMPLY WITH ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.

SIGNATURE OF BIDDER:.....

CAPACITY UNDER WHICH THIS BID IS SIGNED:
(Proof of authority must be submitted e.g. company resolution)

DATE:

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

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

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

2. Bidder's declaration

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

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

Full Name	Identity Number	Name of State institution

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

2.2.1 If so, furnish particulars:

.....

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

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

2.3.1 If so, furnish particulars:

.....
.....

3 DECLARATION

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

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

² Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

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.

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

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

..... Signature Date
..... Position Name of bidder

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

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

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

1. GENERAL CONDITIONS

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

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

1.2 To be completed by the organ of state

(delete whichever is not applicable for this tender).

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

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

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

1.4 To be completed by the organ of state:

The maximum points for this tender are allocated as follows:

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

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

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

2. DEFINITIONS

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

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

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

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

$$P_s = 80 \left(1 - \frac{P_t - P_{min}}{P_{min}} \right) \quad \text{or} \quad P_s = 90 \left(1 - \frac{P_t - P_{min}}{P_{min}} \right)$$

Where

- P_s = Points scored for price of tender under consideration
- P_t = Price of tender under consideration
- P_{min} = Price of lowest acceptable tender

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

3.2.1. POINTS AWARDED FOR PRICE

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

$$P_s = 80 \left(1 + \frac{P_t - P_{max}}{P_{max}} \right) \quad \text{or} \quad P_s = 90 \left(1 + \frac{P_t - P_{max}}{P_{max}} \right)$$

Where

- P_s = Points scored for price of tender under consideration
- P_t = Price of tender under consideration
- P_{max} = Price of highest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

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

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

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

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

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

DECLARATION WITH REGARD TO COMPANY/FIRM

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

4.4. Company registration number:

4.5. TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

4.6. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
 - (a) disqualify the person from the tendering process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person’s conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution, if deemed necessary.

<p>.....</p> <p>SIGNATURE(S) OF TENDERER(S)</p>	
SURNAME AND NAME:
DATE:
ADDRESS:

GENERAL CONDITIONS OF CONTRACT

NOTES

The purpose of this document is to:

- (i) Draw special attention to certain general conditions applicable to government bids, contracts and orders; and
- (ii) To ensure that clients be familiar with regard to the rights and obligations of all parties involved in doing business with government.

In this document words in the singular also mean in the plural and vice versa and words in the masculine also mean in the feminine and neuter.

- The General Conditions of Contract will form part of all bid documents and may not be amended.
- Special Conditions of Contract (SCC) relevant to a specific bid, should be compiled separately for every bid (if applicable) and will supplement the General Conditions of Contract. Whenever there is a conflict, the provisions in the SCC shall prevail.

GOVERNMENT PROCUREMENT

TABLE OF CLAUSES

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 2. Application
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General Conditions of Contract

1. Definitions

1. The following terms shall be interpreted as indicated:
 - 1.1 “Closing time” means the date and hour specified in the bidding documents for the receipt of bids.
 - 1.2 “Contract” means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
 - 1.3 “Contract price” means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
 - 1.4 “Corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.
 - 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
 - 1.6 “Country of origin” means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
 - 1.7 “Day” means calendar day.
 - 1.8 “Delivery” means delivery in compliance of the conditions of the contract or order.
 - 1.9 “Delivery ex stock” means immediate delivery directly from stock actually on hand.
 - 1.10 “Delivery into consignees store or to his site” means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
 - 1.11 "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.

- 1.12 "Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- 1.13 "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.
- 1.14 "GCC" means the General Conditions of Contract.
- 1.15 "Goods" means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.16 "Imported content" means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.
- 1.17 "Local content" means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- 1.18 "Manufacture" means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.19 "Order" means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20 "Project site," where applicable, means the place indicated in bidding documents.
- 1.21 "Purchaser" means the organization purchasing the goods.
- 1.22 "Republic" means the Republic of South Africa.
- 1.23 "SCC" means the Special Conditions of Contract.
- 1.24 "Services" means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as

installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.

1.25 “Written” or “in writing” means handwritten in ink or any form of electronic or mechanical writing.

2. Application

2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.

2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.

2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

3. General

3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.

3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from www.treasury.gov.za

4. Standards

4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.

5. Use of contract documents and information; inspection.

5.1 The supplier shall not, without the purchaser’s prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.

5.2 The supplier shall not, without the purchaser’s prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.

5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier’s performance under the contract if so required by the purchaser.

5.4 The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

6. Patent rights

6.1 The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof by the purchaser.

7. Performance Security

7.1 Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.

7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.

7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:

- (a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or
- (b) a cashier's or certified cheque

7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified in SCC.

8. Inspections, tests and analyses

8.1 All pre-bidding testing will be for the account of the bidder.

8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department.

8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.

8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.

- 8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.
- 8.7 Any contract supplies may on or after delivery be inspected, tested or analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.
- 8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of GCC.

9. Packing

- 9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.
- 9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in SCC, and in any subsequent instructions ordered by the purchaser.

10. Delivery and documents

- 10.1 Delivery of the goods shall be made by the supplier in accordance with the terms specified in the contract. The details of shipping and/or other documents to be furnished by the supplier are specified in SCC.
- 10.2 Documents to be submitted by the supplier are specified in SCC.

11. Insurance

- 11.1 The goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the SCC.

- 12. Transportation** 12.1 Should a price other than an all-inclusive delivered price be required, this shall be specified in the SCC.
- 13. Incidental Services** 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:
- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
 - (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
 - (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
 - (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
 - (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.
- 13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.
- 14. Spare parts** 14.1 As specified in SCC, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:
- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and
 - (b) in the event of termination of production of the spare parts:
 - (i) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
 - (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.
- 15. Warranty** 15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that

may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.

15.2 This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in SCC.

15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.

15.4 Upon receipt of such notice, the supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.

15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

16. Payment

16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.

16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfilment of other obligations stipulated in the contract.

16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.

16.4 Payment will be made in Rand unless otherwise stipulated in SCC.

17. Prices

17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized in SCC or in the purchaser's request for bid validity extension, as the case may be.

18. Contract amendments

18.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.

19. Assignment

19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.

20. Subcontracts

20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contracts if not already specified in the bid. Such notification, in

the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.

21. Delays in the supplier's performance

21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.

21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.

21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.

21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.

21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.

21.6 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without cancelling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.

22. Penalties

22.1 Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.

23. Termination for default

23.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:

- (a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
- (b) if the Supplier fails to perform any other obligation(s) under the contract; or
- (c) if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.

23.3 Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.

23.4 If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the intended penalty as not objected against and may impose it on the supplier.

23.5 Any restriction imposed on any person by the Accounting Officer / Authority will, at the discretion of the Accounting Officer / Authority, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Accounting Officer / Authority actively associated.

23.6 If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:

- (i) the name and address of the supplier and / or person restricted by the purchaser;
- (ii) the date of commencement of the restriction
- (iii) the period of restriction; and
- (iv) the reasons for the restriction.

These details will be loaded in the National Treasury's central database of suppliers or persons prohibited from doing business with the public sector.

- 23.7 If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.

**24. Anti- dumping
and
countervailing
duties and
rights**

- 24.1 When, after the date of bid, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference shall on demand be paid forthwith by the contractor to the State or the State may deduct such amounts from moneys (if any) which may otherwise be due to the contractor in regard to supplies or services which he delivered or rendered, or is to deliver or render in terms of the contract or any other contract or any other amount which may be due to him

**25. Force
Majeure**

- 25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.
- 25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

**26. Termination
for insolvency**

- 26.1 The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right

of action or remedy which has accrued or will accrue thereafter to the purchaser.

**27. Settlement
Disputes**

of 27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.

27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.

27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.

27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.

27.5 Notwithstanding any reference to mediation and/or court proceedings herein,

(a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and

(b) the purchaser shall pay the supplier any monies due the supplier.

**28. Limitation of
Liability**

28.1 Except in cases of criminal negligence or wilful misconduct, and in the case of infringement pursuant to Clause 6;

(a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and

(b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

**29. Governing
Language**

29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.

**30. Applicable
Law**

30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.

31. Notices

31.1 Every written acceptance of a bid shall be posted to the supplier concerned

by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice

The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

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| 32. Taxes and Duties | <p>32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.</p> <p>32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.</p> <p>32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.</p> |
| 33. National Industrial Participation (NIP) Programme | <p>33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.</p> |
| 34. Prohibition of Restrictive Practices | <p>34.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).</p> <p>34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.</p> <p>34.3 If a bidder(s) or contractor(s), has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.</p> |