



NATIONAL NUCLEAR REGULATOR

For the protection of persons, property and the environment
against nuclear damage

INVITATION TO BID

BID NO.	NNRSCM-04-2021
CLOSING DATE AND TIME	03 SEPTEMBER 2021 : 11H00am
DESCRIPTION	APPOINTMENT OF A PANEL OF ATTORNEYS TO PROVIDE LEGAL SERVICES AND SUPPORT TO THE NATIONAL NUCLEAR REGULATOR FOR A PERIOD OF FIVE (5) YEARS
BID VALIDITY PERIOD	90 DAYS (FROM CLOSING DATE)

SCM Enquiries :

Sanelisiwe Mavundla / Lindiwe Nkosi
012 674-7100
Email : Smavundla@nnr.co.za / LNkosi@nnr.co.za

Technical Enquires:

Contact : Mr Siphon Mokwana
012 674-7100



caring



excellence



integrity



openness &
transparency



teamwork



safety & security

DETAILS OF THE BIDDER

Name of bidder	
Registration number	
Tax Reference number *	
SARS Tax Clearance Pin Number *	
National Treasury Central Supplier Database (CSD) Supplier number *	
BBBEE Level contribution	
Contact person	
Telephone number	
Fax number	
E-mail address	
Postal address	
Physical address	
SIGNATURE OF BIDDER: _____	
DATE: _____	

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Bidders are to ensure that they received all pages of this document, which consists of the following:

- Section 1 : Invitation to Bid (SBD1)
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- Section 4 : Evaluation Methodology and Selection Process
- Section 5 : Pricing Proposal
- Section 6 : Annexures
- Annexure 1 : Preference Point Claim Form for BBBEE (SBD 6.1)
- Annexure 2 : Declaration certificate for local production and content for designated sectors.
- Annexure 3 : Declaration of Interest (SBD 4)
- Annexure 4 : Declaration of Bidders Past SCM Practices (SBD 8)
- Annexure 5 : Certificate of independent bid determination (SBD 9) Checklist
- Annexure 6 : General Conditions of Contract (GCC)

**SECTION 1
INVITATION TO BID**

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE NATIONAL NUCLEAR REGULATOR

BID NUMBER:	NNRSCM-04-2021	CLOSING DATE: 03 September 2021	CLOSING TIME:	11H00am
DESCRIPTION	APPOINTMENT OF A PANEL OF ATTORNEYS TO PROVIDE LEGAL SERVICES AND SUPPORT TO THE NATIONAL NUCLEAR REGULATOR FOR A PERIOD OF FIVE (5) YEARS			

THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).

BID RESPONSE DOCUMENTS MUST BE DEPOSITED IN THE BID BOX SITUATED AT :

NATIONAL NUCLEAR REGULATOR
BLOCK G, ECO GLADES OFFICE PARK
420 WITCH HAZEL AVENUE
ECO PARK, CENTURION.

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				
	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, WHOM 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)		
		A REGISTERED AUDITOR		

Non-Restricted

		<input checked="" type="checkbox"/>	NAME:	
[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	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	[IF YES ENCLOSE PROOF]			[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)		
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:			TECHNICAL INFORMATION MAY BE DIRECTED TO:	
DEPARTMENT/ PUBLIC ENTITY	NATIONAL NUCLEAR REGULATOR			
CONTACT PERSON	Lindiwe Nkosi/ Sanelisiwe Mavundla		CONTACT PERSON	Mr. Siphon Mokwana
TELEPHONE NUMBER	012 674-7100		TELEPHONE NUMBER	012 674-7100
E-MAIL ADDRESS	LNkosi@nnr.co.za / Smavundla@nnr.co.za			

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.
 - 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. 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.

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 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 MUST ALSO SUBMIT A PRINTED TCC 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.

3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

- 3.1. IS THE BIDDER A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? YES
 NO
- 3.2. DOES THE BIDDER HAVE A BRANCH IN THE RSA? YES NO
- 3.3. DOES THE BIDDER HAVE A PERMANENT ESTABLISHMENT IN THE RSA? YES
 NO
- 3.4. DOES THE BIDDER HAVE ANY SOURCE OF INCOME IN THE RSA? YES
 NO

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.

SECTION 2

1. SUBMISSION REQUIREMENTS

1.1 Screening of responses are reviewed to check if bidders have responded according to NNR RFQ document. The following documents are required:

Document that must be submitted	Non-submission of documents listed below MAY result in disqualification
Invitation to Bid – SBD 1	Complete and sign the supplied pro forma document
Tax Status Tax Clearance Certificate Tax Pin number Registration on Central Supplier Database (CSD)	Bidders are required to provide tax compliance STATUS PIN and the Central Supplier Database Master Registration Number (MAAA Number) to enable the NNR to view their tax profile and verify the bidder's tax compliance status A bidder submitting an offer must be registered on the Central Suppliers Database. A bidder who has submitted an offer and is not registered on the CSD will not be considered. Each party to a Joint Venture/Consortium must be registered on the Central Suppliers Database at the time of submitting the bid. In the event where the Bidder submits a hard copy of the Tax Clearance Certificate, the CSD verification outcome will take precedence.
Pricing Schedule: SBD 3.1	Complete and sign the supplied pro-forma document, and submit a separate detailed pricing schedule.
Declaration of Interest: SBD 4	Complete and sign the supplied pro forma document
Preference Point Claim Form: SBD 6.1	Complete and sign the supplied pro forma document
Certified BBB-EE Certificate	In a case of a Trust, consortium or joint-venture must obtain and submit a consolidated B-BBEE Status ,Certificate / Sworn Affidavit. Failure to submit a valid B-BBEE certificate/ Sworn Affidavit will result in zero preference points being awarded for B-BBEE.
Declaration certificate for local production and content for designated sectors : SBD 6.2 (where applicable)	Complete and sign the supplied pro-forma document and all the relevant Annexures. Only bids with locally manufactured goods, services, works with the stipulated minimum threshold percentage for local production and local content, will be considered, if not local, an exemption letter from the Department of Trade and Industry (DTI) should be attached to the bid document.
Declaration of Bidder's Past Supply Chain Management Practices: SBD 8	Complete and sign the supplied pro forma document

Certificate of Independent Bid Determination: SBD 9	Complete and sign the supplied pro forma document
Banking details	Bidder must provide a bank confirmation letter from the bank
Signed General Conditions of Contract	Bidders must submit the signed General Conditions of the contract. The General Conditions of the Contract attached will apply to this bid.
Pricing Schedule	Submit full details of the pricing proposal.
Legal Practice Council membership	Bidder must provide proof of Legal Practice Council membership (failure to provide the certificate/letter will lead to disqualification of the bid)

SECTION 3

1. SPECIAL INSTRUCTIONS AND GENERAL CONDITIONS OF THIS BID

PLEASE NOTE THAT THIS BID IS SUBJECT TO AND GENERAL CONDITIONS OF CONTRACT.NATIONAL TREASURY REGULATIONS 16A ISSUED IN TERMS OF THE PUBLIC FINANCE MANAGEMENT ACT, 1999, THE NNR POLICY, PREFERENTIAL PROCUREMENT REGULATIONS 2017.

- 1.1 Under no circumstances whatsoever may the bid forms be retyped or redrafted. Photocopies of the original bid documentation may be used, but an original signature must appear on such photocopies.
- 1.2 The bidder is advised to check the number of pages and to satisfy himself that none are missing or duplicated.
- 1.3 Bids submitted must be complete in all aspects of the bid. Bids will only be considered if correctly completed and accompanied by all relevant and /or necessary applicable information.
- 1.4 Bids shall be lodged at the address indicated not later than the closing date and time specified for their receipt, and in accordance with the directives in the bid documents.
- 1.5 Each bid shall be addressed in accordance with the directives in the bid documents and shall be lodged in a sealed envelope, with the name and address of the bidder, the bid number and closing date indicated on the envelope. The envelope shall not contain documents relating to any bid other than that shown on the envelope. If this provision is not complied with, such bids may be rejected.
- 1.6 A specific box is provided (at the NNR reception) for the receipt of bids, and no bid found in any other box or elsewhere subsequent to the closing date and time of bid will be considered.
- 1.7 If a courier service company is being used for delivery of the bid document, the bid description must be endorsed on the delivery note/courier packaging and the courier company must ensure that documents are placed / deposited into the bid box. **The NNR will not be held responsible for any delays where bid documents are handed to the NNR Receptionist or postal address, or any documents which gets lost.**
- 1.8 No bid submitted by telefax, telegraphic or other electronic means will be considered.
- 1.9 Use of correcting fluid or erasable pencil is prohibited.
- 1.10 There shall be **no public opening** of the Bids received; however, the list of bids received may be published on the NNR website. There shall be no discussions with any enterprise

until evaluation process has been complete. Any subsequent discussions shall be at the discretion of the NNR.

- 1.11 NNR reserves the right to reject all responses submitted by bidders and to embark on a new bid process.
- 1.12 A Service Level Agreement will be signed with the successfully bidder.
- 1.13 The bidder may be a single entity/consortium represented by a single entity and be able to demonstrate experience and performance in the relevant fields in responding to the requirements of the tasks outlined in the terms of reference.
- 1.14 In case of a consortium or JV bidders are required to provide copies of signed agreement stipulating the work split. Each party to a consortium/ subcontractor must submit a separate valid tax clearance certificate.
- 1.15 The NNR at its own discretion may vary this instruction to include or exclude more scope/work. In this case of the latter the bidder will not be entitled to claim work for work not required.
- 1.16 Commencement of work shall be subject to receipt of an official purchase order and conclusion of the contract.
- 1.17 The NNR will only commence payment process after receipt of a bill of costs and/or invoice from the bidder and after such has been approved by the client division as representing the services rendered for the project.
- 1.18 Payments of invoices will be settled within 30 days from receipt of a correct and original invoice. No upfront payments will be made, successful bidder will only be paid after the services have been rendered. All payments will be made by the NNR ONLY through electronic bank transfer into a banking account of the successful bidder.
- 1.19 The NNR will not be liable for any expenses incurred by the bidder(s) during the bidding process.
- 1.20 Under no circumstance will the NNR return proposals received and /or submitted in any format. These proposals shall be kept confidential for internal consideration.
- 1.21 The NNR reserves the right to:**
 - 1.21.1 To amend any bid conditions, specifications, terms of reference, extend the validity period or extend the closing date of the bid.

- 1.21.2 Not to accept the lowest bid or any bid part or in whole. The NNR may award the bid to the bidder who proves to be capable of handling the services and whose bid is technically acceptable and/or financially advantageous to the NNR.
- 1.21.3 To award this bid as a whole or in part without furnishing reasons.
- 1.21.4 To extend/decrease the scope of work relating to this bid to include any of its affiliates if required. The implication of such scope changes will be subject to negotiations between the NNR and the successful bidder.
- 1.22. The NNR may request written clarification or further information regarding any aspect of this proposal. The bidders must supply the requested information in writing within two (2) working days after the request has been made, otherwise the proposal may be cancelled.
- 1.23 Should the parties at any time before and/or after the award of the bid and prior to, and /or after issuing an appointment letter fail to agree on any significant service, price, change in terms of reference or change in services etc, the NNR shall be entitled to recall the letter of appointment and cancel the award by giving the bidder a written notice of such.
- 1.24 Such cancellation shall mean that the NNR reserves the right to award the same proposal to the next best bidder as it deems fit.
- 1.25 The successful bidder must ensure that all personnel working under this contract are suitably experienced prior to the commencement of services and remain in the project for the duration of the contract.
- 1.26 The General Conditions of Contract will apply to this bid.

2. IMPROPER ASSISTANCE, FRAUD AND CORRUPTION

- 2.1 Bidders may not seek or obtain the assistance of employees, contractors or advisors of the NNR in the preparation of their responses.
- 2.2 The NNR may in its absolute discretion, immediately disqualify a Bidder that it believes has sought or obtained such improper assistance.
- 2.3 Bidders are to be familiar with the implications of contravening the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004 and any other relevant legislation.

3. NOTICE TO BIDDERS

- 3.1 The NNR calls on all service providers/ bidders not to be lured into tender fraud scam which requires upfront payment in doing business with the NNR.

- 3.2 The NNR would like to clearly state that service providers are not expected to pay any fee upfront to be awarded a tender.
- 3.3 Service providers / bidders are urged to remain vigilant to the tender scam and any other scams. On suspicions of such service providers/ bidders are advised to report such to law enforcement agencies and /or the NNR SCM officials.

4. UNDERTAKING AND OBLIGATION OF THE BIDDER

- 4.1 The successful bidder may, upon receipt of written notification of an award, be required to conclude a Service Level Agreement (SLA) with the NNR, which will form an integral part of the service provider's agreement. The SLA will serve as a tool to measure, monitor and assess the service provider's performance level and ensure effective delivery of service, quality and value-add business for the NNR.
- 4.2 The successful bidder shall render all or any of the services described in the attached documents on NNR terms and conditions and in accordance with the terms of reference stipulated in the bid document (which shall be taken as part of, and incorporated into bid proposal).
- 4.3 The bidder shall prepare possible presentation should the NNR require such and the bidder shall be notified thereof in time before the actual presentation date.
- 4.4 The bidder hereby agrees that the offer herein shall remain binding upon receipt of acceptance by the NNR during the validity period indicated and calculated from the closing date of the bid; this offer and its acceptance shall be subject to the terms and conditions in this bid document.
- 4.5 The bidder shall confirm their satisfaction to the correctness and validity of the bid response that the price/s quoted cover all the work/items(s) specified in the bid response document and that the price(s) cover all obligations under a resulting contract and he/she accept that any mistake regarding price(s) and calculations will be at their own risk.
- 4.6 The bidder accept full responsibility for the proper execution and fulfillment of all obligations and conditions arising under this agreement as the main fulfillment liable due to this contract.

5. LEGISLATIVE FRAMEWORK OF THE BID

5.1 Tax Legislation

- 5.1.1 Bidder(s) must be compliant when submitting a proposal to the National Nuclear Regulator and remain compliant for the entire contract term with all applicable tax legislation, including but not limited to the Income Tax Act, 1962 (Act No. 58 of 1962) and Value Added Tax Act, 1991 (Act No. 89 of 1991).
- 5.1.2 It is a condition of this bid that the tax matters of the successful bidder are in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the bidder's tax obligations.
- 5.1.3 The Tax Compliance status requirements are also applicable to foreign bidders / individuals who wish to submit bids.
- 5.1.4 It is a requirement that bidders grant a written confirmation when submitting this bid that SARS may on an on-going basis during the tenure of the contract disclose the bidder's tax compliance status and by submitting this bid such confirmation is deemed to have been granted.
- 5.1.5 Bidders are required to be registered on the Central Supplier Database and the National Treasury shall verify the bidder's tax compliance status through the Central Supplier Database.
- 5.1.6 Where Consortia / Joint Ventures / Sub-contractors are involved, each party must be registered on the Central Supplier Database and their tax compliance status will be verified through the Central Supplier Database.

5.2 Procurement Legislation

- 5.2.1 The National Nuclear Regulator has a detailed evaluation methodology premised on Treasury Regulation 16A3 promulgated under Section 76 of the Public Finance Management Act, 1999 (Act, No. 1 of 1999), the Preferential Procurement Policy Framework Act 2000 (Act, No.5 of 2000) and the Broad-Based Black Economic Empowerment Act, 2003 (Act, No. 53 of 2003).

5.3 Technical Legislation and/or Standards

- 5.3.1 Bidder(s) should be cognisant of the legislation and/or standards specifically applicable to the services.

6. TIMELINE OF THE BID PROCESS

- 6.1 All dates and times in this bid are South African standard time.
- 6.2 Any time or date in this bid is subject to change at NNR's discretion. The establishment of a time or date in this bid does not create an obligation on the part of NNR to take any action, or create any right in any way for any bidder to demand that any action be taken on the date established. The bidder accepts that, if NNR extends the deadline for bid

submission (the Closing Date) for any reason, the requirements of this bid otherwise apply equally to the extended deadline.

7. CONTACT AND COMMUNICATION

- 7.1 A nominated official of the bidder(s) can make enquiries in writing, to the specified person, **Lindiwe Nkosi/ Sanelisiwe Mavundla** for bid enquiries via email [**Lnkosi@nnr.co.za/ SMavundla@nnr.co.za**]. Bidder(s) must reduce all telephonic enquiries to writing and send to the above email address.
- 7.2 The delegated office of [NNR SCM office] may communicate with Bidder(s) where clarity is sought in the bid proposal.
- 7.3 Any communication to an official or a person acting in an advisory capacity for NNR in respect of the bid between the closing date and the award of the bid by the Bidder(s) is discouraged.
- 7.4 All communication between the Bidder(s) and NNR must be done in writing.
- 7.5 Whilst all due care has been taken in connection with the preparation of this bid, NNR makes no representations or warranties that the content of the bid or any information communicated to or provided to Bidder(s) during the bidding process is, or will be, accurate, current or complete. NNR and its employees and advisors will not be liable with respect to any information communicated which may not be accurate, current or complete.
- 7.6 All persons (including Bidder(s)) obtaining or receiving the bid and any other information in connection with the bid or the tendering process must keep the contents of the bid and other such information confidential, and not disclose or use the information except as required for the purpose of developing a proposal in response to this bid.

8. LATE BIDS

- 8.1 Bids received after the closing date and time, at the address indicated in the bid documents, will not be accepted for consideration.

9. COUNTER CONDITIONS

- 9.1 Bidders' attention is drawn to the fact that amendments to any of the Bid Conditions or setting of counter conditions by Bidders or qualifying any Bid Conditions will result in the invalidation of such bids.

10. FRONTING

- 10.1 The NNR supports the spirit of broad based black economic empowerment 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. Against this background the NNR condemn any form of fronting.
- 10.2 The NNR, 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 Industry and Competition, 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 NNR may have against the Bidder / contractor concerned.

11. SUPPLIER DUE DILIGENCE

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

12. SUBMISSION OF PROPOSALS

- 12.1 Bid documents must be delivered or couriered and placed into the tender box National Nuclear Regulator, Eco Glades 2, Block G, Eco Glades Office Park, 420 Witch-hazel Avenue, Centurion 0157 on or before the closing date and time.
- 12.2 Bid documents will only be considered if received by NNR before the closing date and time, regardless of the method used deliver such documents to NNR. **E-mailed documents will not be considered.**
- 12.3 The bidder(s) are required to submit a file comprising of:
- One (1) original,
 - Two (2) duplicates) and;
 - One (1) CD-ROM or memory stick/flash drive/usb with the information of the original file
 - Each file and CD-ROM/flash drive/usb must be marked correctly and sealed separately for ease of reference during the evaluation process. Furthermore, the file and information in the CD-ROM/ flash drive/usb must be labelled and submitted in the following format:

FILE 1 (Proposal)
Exhibit 1: Pre-qualification documents
Exhibit 2: <ul style="list-style-type: none">• Technical Responses and Bidder Compliance Checklist for Technical Evaluation• Supporting documents for technical responses.
Exhibit 4: <ul style="list-style-type: none">• Company Profile• Any other supplementary information
Exhibit 5: <ul style="list-style-type: none">• Pricing Schedule
Exhibit 3: General Conditions of Contract (GCC)

12.4 Bidders are requested to initial each page of the bid document on the bottom right hand corner.

SECTION 4: TERMS OF REFERENCE

1. INTRODUCTION

- 1.1. The National Nuclear Regulator (NNR) is a public entity which is established and governed in terms of Section 3 of the National Nuclear Regulator Act, (Act No 47 of 1999) to provide for the protection of persons, property and the environment against nuclear damage through the establishment of safety standards and regulatory practices.
- 1.2. The offices of the NNR are located at:
- 1.2.1. Centurion Offices at 420 Witch Hazel Street, Centurion
 - 1.2.2. Cape Town Offices at 12 Raats Street, Tableview, Cape Town
 - 1.2.3. NNR Lab at ARC Offices in Belverdere Street, Pretoria
 - 1.2.4. NNR CNSS Offices at University of Pretoria, Main Campus

2. PURPOSE

- 2.1. The NNR requires the services of competent service providers (law firms) to provide legal services and support to the NNR, as requested.

3. SCOPE OF WORK

- 3.1 The successful service provider will be required to provide legal services and support to the NNR in, but not limited to, the following:
- Litigation
 - Corporate & Commercial Law
 - Labour Law
 - Constitutional, Administrative and International Law
 - Legislative drafting done in terms of the NNR Act
 - Debt Collection

3.2 Specifications

Area of work	Scope of Work	Skills Required
1. Litigation	<ul style="list-style-type: none"> • Conduct litigation on behalf of National Nuclear Regulator. • Provide oral and written legal advice throughout litigation process. 	<ul style="list-style-type: none"> • Proven knowledge and experience in litigation processes and procedures in various fora including, but not limited to, the High Court, SCA, Constitutional Court, CCMA and Magistrates Court.
2. Corporate & Commercial Law	<ul style="list-style-type: none"> • Advice on projects / transactions such as restructuring, reorganization of public entities. 	<ul style="list-style-type: none"> • Proven experience in research and drafting skills, for purposes of preparing legal opinions of a corporate law nature.

	<ul style="list-style-type: none"> • Draft, review and advise on broad range of complex contracts. • Provide legal opinions of corporate law / corporate governance, etc. • Company law advisory work pertaining to public entities. 	<ul style="list-style-type: none"> • Proven experience in providing advice in general commercial and corporate law. • Understanding public sector debt management. • Proven knowledge and experience in legal and regulatory framework governing financial and fiscal affairs i.e. PFMA, Treasury regulations, etc. • Knowledge of public sector procurement law. • Proven knowledge and experience in the application of Intellectual Property Act and applicable international law.
3. Labour Law	<ul style="list-style-type: none"> • Provide legal opinions on labour, employment benefits and employment law related matters. • Assist in disciplinary hearings, arbitrations and other labour dispute resolutions. 	<ul style="list-style-type: none"> • Proven experience in labour litigation. • Understand the regulatory framework governing employment in public entities. • An understanding of labour law jurisprudence for purposes of providing legal opinions. • Proven Knowledge and experience in labour dispute resolution forums.
4. Constitutional Administrative and International Law	<ul style="list-style-type: none"> • Provide legal opinions in respect of constitutional and administrative law matters . • Provide legal opinions in respect of international law matters. 	<ul style="list-style-type: none"> • Proven experience in providing opinion in constitutional, administrative and international law matters. • Understand regulatory framework governing international dispute resolution.
5. Legislative drafting done in terms of the NNR Act	<ul style="list-style-type: none"> • Draft and review of original and subordinate legislation. • Ensure the technical quality adherence to the best practice and consistency with the constitution and other legislation. 	<ul style="list-style-type: none"> • Advanced legislative drafting skills and experience through drafting and scrutiny of draft legislation, advising during drafting process and working in multi-disciplinary or institutional teams responsible for the development of draft legislation.
6. Debt Collection	<ul style="list-style-type: none"> • Handling of debt collection matters. 	<ul style="list-style-type: none"> • Proven experience in debt collection matters.

3.3 Proposal requirements

- 3.3.1 It is important that the bidder's proposal addresses all the items included in the scope of work, evaluation criteria and other relevant information outlined in the bid document.

- 3.3.2 **Company Profile:** submit a detailed profile of the firm, including proof of qualification, admission as attorney and experience of the personnel that will be involved. Letter of good standing with the Legal Practice Council. Provide information of premises from which the firm conducts its business.
- 3.3.3 Proposal/s must include the **specialist fields of law of the firm**. If a firm of attorneys has expertise in more than one field of law, all relevant fields must be indicated in the proposal together with demonstrated experience in the specified areas of law.
- 3.3.4 **Litigation strategy or methodology:** The NNR is mandated with providing protection of persons, property and the environment against nuclear damage through the establishment of safety standards and regulatory practices suited for South Africa. As a result the NNR regulates the nuclear industry and as part of exercising this regulatory function, the NNR is faced with claims made by different stakeholders including civil society. There is therefore a need to defend some of these actions when either the merits or claims are in dispute, or the NNR wishes to litigate where there is some form of wrongdoing on the part of authorisation holders and/or third parties. The prospective bidders should provide and demonstrate a litigation strategy or methodology that may assist the NNR in managing and handling its court cases in a cost-effective, pragmatic and efficient manner. The bidders are consequently expected to demonstrate their capability to provide professional legal advice to a regulatory authority involved in a specialised/technical discipline.
- 3.3.5 The potential bidders are expected to demonstrate their capability to provide legal services and support to the NNR in, but not limited to, the following;
- Litigation
 - Corporate & Commercial Law
 - Labour Law
 - Constitutional, Administrative and International Law
 - Legislative drafting done in terms of the NNR Act
 - Debt Collection
- 3.3.6 **Curriculum vitae of team members that will be assigned:** Bidders should provide a detailed profile of each team member that will be assigned to the NNR. The profiles should give a good sense of the calibre and areas of expertise of individual team members. Emphasis must be placed on the experience, skills-base, prominent matters handled by the member of staff as well as the academic or professional qualifications.
- 3.3.7 Bidders are allowed to subcontract certain expert skills, however, a detailed profile, academic or professional qualifications and experience must be provided for each expert. A subcontractor's agreement, that illustrates the immediate availability of such experts, when required, must be submitted with this bid.

3.4 Reporting Requirements

- 3.4.1 Appointed service providers will be required to provide detailed reports in line with the services rendered

SECTION 4: EVALUATION CRITERIA, METHODOLOGY AND SELECTION PROCESS

1. FUNCTIONAL EVALUATION

- 1.1. Functional requirements will be evaluated in accordance with the evaluation criteria stipulated in the bid document bidders who score **65 out of 100** will be considered for next phase of evaluation.
- 1.2. Price and BBB-EE will be evaluated in accordance with the **80/20** points system as outlined in the PPR of 2017.
- 1.3. Bidders must as part of their bid document submit supportive documentation for all the functional requirements as indicated hereunder. The bids will be evaluated and scored based on the submission and information provided.
- 1.4. The functional bid proposal will be evaluated on a scale of **0-5** in accordance with the criteria below. The rating will be as follows; 0= very poor, 1=poor; 2= Average; 3= Good; 4= Very Good and 5= Excellent.

$$\frac{\text{Total points scored by bidder for functionality= Weighted value score}}{\text{Percentage allocated for functionality (100)}} \times \text{Maximum Potential Score (500)}$$

No.	Functional Criteria	Evaluation Criteria	Score	Weight
1	The bidder should provide/demonstrate a written legal approach of consultation with the NNR on their area of work that is in line with the scope of work.	Fully satisfactory	5	35
		Partially satisfactory	3	
		No information	0	
2	Bidder must have public sector experience NB: Key personnel assigned to the NNR must have proper understanding of and experience in the public sector.	7 years and more experience in providing legal services to the public sector.	5	25
		5 - 6 years experience in providing legal services to the public sector.	4	
		3 - 4 years experience in providing legal services to the public sector.	3	
		6 months - 2 years experience in providing legal services to the public sector.	2	
		5 months experience in providing legal services to the public sector.	1	

		0 - 4 months experience in providing legal services to the public sector.	0	
3	The bidder must provide detailed CV's of members who will be involved in providing the required services, setting out relevant qualifications and necessary skills suitable for services listed in the scope of work. NB: The team members must at least have a minimum of 3 years post admission experience in the scope of work required.	Fully satisfactory	5	30
		Partially satisfactory	3	
		No information	0	
4	Track record in providing legal services to the public sector. Reference letters: the bidder must provide signed reference letters, the letters must be in client's letterhead, service rendered, contact person and contact number.	More than 5 reference letters attached	5	10
		4 reference letters attached	4	
		3 reference letters attached	3	
		2 reference letters attached	2	
		List references but no testimonial letters	1	
		No contactable references or letters	0	
Total functional points				100

Note: The minimum qualifying score for functionality is 65 points. All bids that fail to achieve the minimum qualifying score on functionality shall not be considered for further evaluation on Price and BBB-EE.

PHASE 3: PRICE AND BBEE PREFERENCE POINT SYSTEM

All bids that achieve the minimum qualifying score (acceptable bids) will be evaluated further in terms of preference points system as follows:

Criteria Applicable	Weight
Price	80
BBEE	20
Total	100 points

SECTION 6: PRICE PROPOSAL

PRICING SCHEDULE (Professional Services- FIRM PRICES)

NAME OF BIDDER	
BID NUMBER: NNRSCM-04-2021	
CLOSING TIME: 11:00am	CLOSING DATE: 03-September-2021
BID DESCRIPTION:	APPOINTMENT OF A PANEL OF ATTORNEYS TO PROVIDE LEGAL SERVICES AND SUPPORT TO THE NATIONAL NUCLEAR REGULATOR FOR A PERIOD OF FIVE (5) YEARS.

PERIOD	Service to be provided	Rate per hour (inclusive of VAT)	Pricing Proposal (%)
Year one (1)	Litigation	R	Debt Collection
	Corporate & Commercial Law	R	
	Labour Law	R	
	Constitutional, Administrative & International Law	R	
	Legislative drafting done in terms of the NNR Act	R	
Year two (2)	Litigation	R	Debt Collection
	Corporate & Commercial Law	R	
	Labour Law	R	
	Constitutional, Administrative & International Law	R	
	Legislative drafting done in terms of the NNR Act	R	
Year three (3)	Litigation	R	Debt Collection
	Corporate & Commercial Law	R	
	Labour Law	R	
	Constitutional, Administrative & International Law	R	
	Legislative drafting done in terms of the NNR Act	R	
Year four (4)	Litigation	R	Debt Collection
	Corporate & Commercial Law	R	
	Labour Law	R	
	Constitutional, Administrative & International Law	R	
	Legislative drafting done in terms of the NNR Act	R	
Year five (5)	Litigation	R	Debt Collection
	Corporate & Commercial Law	R	
	Labour Law	R	

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	Constitutional, Administrative & International Law	R	
	Legislative drafting done in terms of the NNR Act	R	

CONDITIONS AND REQUIREMENTS APPLICABLE TO THE PRICING PROPOSAL

1. Bidder's **MAY** submit a separate Price schedule other than completing the table above however the Pricing schedule must reflect all the services required, listing all the items as per the scope of work. (IF a separate pricing schedule is submitted with the proposal it must be clearly referenced) Failure to complete the table above or provision of separate pricing schedule will lead to disqualification. **(different price options with different or amended scope of work will not be considered only one price proposal must be submitted as per the bid requirements)**
2. It is mandatory to indicate your total price on the price declaration form below. This price must be the same as the total price submitted on the bidders pricing schedule/table above. Should the total price differ (i.e. have discrepancies), the price indicated on the price declaration form below shall be considered and used for evaluation. Omission and /or errors will not be considered.
3. Fees must be quoted in South African Rands and must be vat inclusive (Value Added Tax at 15%), inclusive of any escalation or any potential future alteration required. Prices are to remain fixed and valid for the period of the project.
4. **Bidders must ensure that all rates/amounts include all costs, disbursements, and escalations deemed necessary. No additional costs will be allowed.**
5. **Only fixed prices will be accepted.** Non-fixed (including prices subject to rates of exchange variations) will not be considered. Failure to provide fixed prices may result in disqualification.
6. The bidder is responsible for any costs associated with the preparation of this bid.

PRICE DECLARATION FORM

- 1. Having read through and examined the Request for Bid (RFB Document, General Conditions, The requirement and all other Annexures to the RFB Document, we offer to provide services to NNR at the total bid amount of:

R..... (Including VAT)

In words

.....(Including VAT)

- 2. We confirm that this price covers all costs associated with the scope of work as required for the project. We confirm that NNR will incur no additional costs whatsoever over and above this amount in connection with the provision of this service.
- 3. We undertake to hold this offer open for acceptance for a period of 90 days from the date of submission of offers. We further undertake that upon final acceptance of our offer, we will commence with the provision of services when required to do so by the NNR.
- 4. We understand that you are not bound to accept the lowest or any offer and that we must bear all costs which we have incurred in connection with preparing and submitting this bid.
- 5. We hereby undertake for the period during which this bid remains open for acceptance not to divulge to any persons, other than the persons to which the bid is submitted, any information relating to the submission of this bid or the details therein except where such is necessary for the submission of this bid.

SIGNEDDATE:.....

ANNEXURE 1

SBD 6.1

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

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

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

1. GENERAL CONDITIONS

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

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

1.2 The 80/20 preference point system will be applicable to this tender.

1.3 Points for this bid shall be awarded for:

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

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

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

1.5 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

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

2. DEFINITIONS

- (a) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (b) **“B-BBEE status level of contributor”** means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (c) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services, through price quotations, advertised competitive bidding processes or proposals;
- (d) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (e) **“EME”** means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (f) **“functionality”** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.
- (g) **“prices”** includes all applicable taxes less all unconditional discounts;
- (h) **“proof of B-BBEE status level of contributor”** means:
- 1) B-BBEE Status level certificate issued by an authorized body or person;
 - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
 - 3) Any other requirement prescribed in terms of the B-BBEE Act;
- (i) **“QSE”** means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (j) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

3. POINTS AWARDED FOR PRICE

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

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

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

Where

P_s = Points scored for price of bid under consideration

P_t = Price of bid under consideration

P_{\min} = Price of lowest acceptable bid

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4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

4.1 In terms of Regulation 6 (2) and 7 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

5. BID DECLARATION

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

6. B-BBEE STATUS LEVEL OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1

6.1 B-BBEE Status Level of Contributor: . =(maximum of 10 or 20 points)
 (Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

7. SUB-CONTRACTING

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

(Tick applicable box)

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

7.1.1 If yes, indicate:

- i) What percentage of the contract will be subcontracted.....%
- ii) The name of the sub-contractor.....

iii) The B-BBEE status level of the sub-contractor.....

iv) Whether the sub-contractor is an EME or QSE

(Tick applicable box)

YES		NO	
-----	--	----	--

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

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

8. DECLARATION WITH REGARD TO COMPANY/FIRM

8.1 Name of company/firm:.....

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

8.6 COMPANY CLASSIFICATION

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

[TICK APPLICABLE BOX]

Non-Restricted

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

8.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
 - (a) disqualify the person from the bidding process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person’s conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution.

WITNESSES
1.
2.

.....
SIGNATURE(S) OF BIDDERS(S)
DATE:
ADDRESS
.....
.....

SBD 6.2

ANNEXURE 2: DECLARATION CERTIFICATE FOR LOCAL PRODUCTION AND CONTENT FOR DESIGNATED SECTORS

This Standard Bidding Document (SBD) must form part of all bids invited. It contains general information and serves as a declaration form for local content (local production and local content are used interchangeably).

Before completing this declaration, bidders must study the General Conditions, Definitions, Directives applicable in respect of Local Content as prescribed in the Preferential Procurement Regulations, 2011, the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:2011 (Edition 1) and the Guidance on the Calculation of Local Content together with the Local Content Declaration Templates [Annex C (Local Content Declaration: Summary Schedule), D (Imported Content Declaration: Supporting Schedule to Annex C) and E (Local Content Declaration: Supporting Schedule to Annex C)].

1. General Conditions

- 1.1. Preferential Procurement Regulations, 2011 (Regulation 9) makes provision for the promotion of local production and content.
- 1.2. Regulation 9.(1) prescribes that in the case of designated sectors, where in the award of bids local production and content is of critical importance, such bids must be advertised with the specific bidding condition that only locally produced goods, services or works or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered.
- 1.3. Where necessary, for bids referred to in paragraph 1.2 above, a two stage bidding process may be followed, where the first stage involves a minimum threshold for local production and content and the second stage price and B-BBEE.
- 1.4. A person awarded a contract in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- 1.5. The local content (LC) expressed as a percentage of the bid price must be calculated in accordance with the SABS approved technical specification number SATS 1286: 2011 as follows:

$$LC = [1 - x / y] * 100$$

Where

- x is the imported content in Rand
- y is the bid price in Rand excluding value added tax (VAT)

Prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by South African Reserve Bank (SARB) at 12:00 on the date of advertisement of the bid as indicated in paragraph 4.1 below.

The SABS approved technical specification number SATS 1286:2011 is accessible on http://www.thedti.gov.za/industrial_development/ip.jsp at no cost.

Non-Restricted

1.6 A bid may be disqualified if –

- (a) this Declaration Certificate and the Annex C (Local Content Declaration: Summary Schedule) are not submitted as part of the bid documentation; and
- (b) the bidder fails to declare that the Local Content Declaration Templates (Annex C, D and E) have been audited and certified as correct.

2. Definitions

2.1. **“bid”** includes written price quotations, advertised competitive bids or proposals;

2.2. **“bid price”** price offered by the bidder, excluding value added tax (VAT);

2.3. **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;

2.4. **“designated sector”** means a sector, sub-sector or industry that has been designated by the Department of Trade and Industry in line with national development and industrial policies for local production, where only locally produced services, works or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content;

2.5. **“duly sign”** means a Declaration Certificate for Local Content that has been signed by the Chief Financial Officer or other legally responsible person nominated in writing by the Chief Executive, or senior member / person with management responsibility (close corporation, partnership or individual).

2.6. **“imported content”** means that portion of the bid price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its subcontractors) and which costs are inclusive of the costs abroad (this includes labour or intellectual property costs), plus freight and other direct importation costs, such as landing costs, dock duties, import duty, sales duty or other similar tax or duty at the South African port of entry;

2.7. **“local content”** means that portion of the bid price which is not included in the imported content, provided that local manufacture does take place;

2.8. **“stipulated minimum threshold”** means that portion of local production and content as determined by the Department of Trade and Industry; and

2.9. **“sub-contract”** means the primary contractor’s assigning, leasing, making out work to, or employing another person to support such primary contractor in the execution of part of a project in terms of the contract.

3. The stipulated minimum threshold(s) for local production and content (refer to Annex A of SATS 1286:2011) for this bid is/are as follows:

LOCAL CONTENT DECLARATION
(REFER TO ANNEX B OF SATS 1286:2011)

LOCAL CONTENT DECLARATION BY CHIEF FINANCIAL OFFICER OR OTHER LEGALLY RESPONSIBLE PERSON NOMINATED IN WRITING BY THE CHIEF EXECUTIVE OR SENIOR MEMBER/PERSON WITH MANAGEMENT RESPONSIBILITY (CLOSE CORPORATION, PARTNERSHIP OR INDIVIDUAL)

IN RESPECT OF BID NO.

ISSUED BY: (Procurement Authority / Name of Institution):

NB

1 The obligation to complete, duly sign and submit this declaration cannot be transferred to an external authorized representative, auditor or any other third party acting on behalf of the bidder.

2 Guidance on the Calculation of Local Content together with Local Content Declaration Templates (Annex C, D and E) is accessible on <http://www.thdti.gov.za/industrial-development/ip.jsp>. Bidders should first complete Declaration D. After completing Declaration D, bidders should complete Declaration E and then consolidate the information on Declaration C. **Declaration C should be submitted with the bid documentation at the closing date and time of the bid in order to substantiate the declaration made in paragraph (c) below.** Declarations D and E should be kept by the bidders for verification purposes for a period of at least 5 years. The successful bidder is required to continuously update Declarations C, D and E with the actual values for the duration of the contract.

I, the undersigned, (full names), do hereby declare, in my capacity as of(name of bidder entity), the following:

- (a) The facts contained herein are within my own personal knowledge.
- (b) I have satisfied myself that:
 - (i) the goods/services/works to be delivered in terms of the above-specified bid comply with the minimum local content requirements as specified in the bid, and as measured in terms of SATS 1286:2011; and
 - (ii) the declaration templates have been audited and certified to be correct.
- (c) The local content percentage (%) indicated below has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E which has been consolidated in Declaration C:

Bid price, excluding VAT (y)	R
Imported content (x), as calculated in terms of SATS 1286:2011	R
Stipulated minimum threshold for local content (paragraph 3 above)	
Local content %, as calculated in terms of SATS 1286:2011	

If the bid is for more than one product, the local content percentages for each product contained in Declaration C shall be used instead of the table above.

The local content percentages for each product has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E.

(d) I accept that the Procurement Authority / Institution has the right to request that the local content be verified in terms of the requirements of SATS 1286:2011.

(e) I understand that the awarding of the bid is dependent on the accuracy of the information furnished in this application. I also understand that the submission of incorrect data, or data that are not verifiable as described in SATS 1286:2011, may result in the Procurement Authority / Institution imposing any or all of the remedies as provided for in Regulation 13 of the Preferential Procurement Regulations, 2011 promulgated under the Preferential Policy Framework Act (PPFA), 2000 (Act No. 5 of 2000).

SIGNATURE: _____

DATE: _____

WITNESS No. 1 _____

DATE: _____

WITNESS No. 2 _____

DATE: _____

ANNEXURE 3: DECLARATION OF INTEREST

SBD 4

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

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

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

2.1 Full Name of bidder or his or her representative:

2.1 Identity Number:.....

2.2 Position occupied in the Company (director, trustee, shareholder², member):.....

2.3 Registration number of company, enterprise, close corporation, partnership agreement or trust:

2.4 Tax Reference Number:

2.5 VAT Registration Number:

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

¹“State” means –

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

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

2.7 Are you or any person connected with the bidder **YES / NO**
presently employed by the state?

2.7.1 If so, furnish the following particulars:

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

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

.....

Position occupied in the state institution

Any other particulars:

.....

2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector? **YES / NO**

2.7.2.1 If yes, did you attach proof of such authority to the bid document? **YES / NO**

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

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

.....
.....

2.8 Did you or your spouse, or any of the company's directors / trustees / shareholders / members or their spouses conduct business with the state in the previous twelve months? **YES / NO**

2.8.1 If so, furnish particulars:

.....
.....

2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

2.9.1 If so, furnish particulars.

.....
.....

2.10 Are you, or any person connected with the bidder, aware of any relationship (family, friend, other) between any other bidder and any person employed by the state who may be involved with the evaluation and or adjudication of this bid? **YES/NO**

2.10.1 If so, furnish particulars.

.....
.....

Non-Restricted

.....

2.11 Do you or any of the directors / trustees / shareholders / members of the company have any interest in any other related companies whether or not they are bidding for this contract? **YES/NO**

2.11.1 If so, furnish particulars:

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

Full Name	Identity Number	Personal Income Tax Reference Number	State Number / Number	Employee Pernal

4 DECLARATION

I, THE UNDERSIGNED (NAME).....CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 3 ABOVE IS CORRECT. I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
 Signature Date

.....
 Position Name of bidder

ANNEXURE 4 DECLARATION OF BIDDER’S PAST SUPPLY CHAIN MANAGEMENT PRACTICES
SBD 8

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

4.1	Is the bidder or any of its directors listed on the National Treasury’s Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector? (Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied). The Database of Restricted Suppliers now resides on the National Treasury’s website (www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	Is the bidder 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)? The Register for Tender Defaulters can be accessed on the National Treasury’s website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
4.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		

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SBD 8

CERTIFICATION

I, THE UNDERSIGNED (FULL NAME).....CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS TRUE AND CORRECT.

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

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

ANNEXURE 5 CERTIFICATE OF INDEPENDENT BID DETERMINATION

SBD 9

1. This Standard Bidding Document (SBD) must form part of all bids¹ 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).² Collusive bidding is a *per se* prohibition meaning that it cannot be justified under any grounds.
3. Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
 - a. Disregard the bid of any bidder if that bidder or any of its directors have abused the institution’s supply chain management system and or committed fraud or any other improper conduct in relation to such system.
 - b. Cancels 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:

¹ Includes price quotations, advertised competitive bids, limited bids and proposals.

² 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.

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:
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- (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 consortium³ will not be construed as collusive bidding.
- 7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
 - (f) bidding with the intention not to win the bid.
- 8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

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

- 10. 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

ANNEXURE 6 THE GENERAL CONDITIONS OF THE CONTRACT WILL FORM PART OF ALL BID DOCUMENTS AND MAY NOT BE AMENDED

THE NATIONAL TREASURY
Republic of South Africa



- 1. Definitions**
- 1 The following terms shall be interpreted as indicated:
- 1.1 "Closing time" means the date and hour specified in the bidding documents for the receipt of bids.
- 1.2 "Contract" means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- 1.3 "Contract price" means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
- 1.4 "Corrupt practice" means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.
- 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
- 1.6 "Country of origin" means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
- 1.7 "Day" means calendar day
- 1.8 "Delivery" means delivery in compliance of the conditions of the contract or order.
- 1.9 "Delivery ex stock" means immediate delivery directly from stock actually on hand.
- 1.10 "Delivery into consignees store or to his site" means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
- 1.11 "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.
- 1.12 "Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts

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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

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or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department.

- 8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
- 8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.
- 8.7 Any contract supplies may on or after delivery be inspected, tested or analysed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier
- 8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of GCC.

9. Packing

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

10. Delivery and documents

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

- 11. Insurance** 11.1 The goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the SCC
- 12. Transportation** 12.1 Should a price other than an all-inclusive delivered price be required, this shall be specified in the SCC.
- 13. Incidental services** 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:
- (a) Performance or supervision of on-site assembly and/or commissioning of the supplied goods;
 - (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
 - (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
 - (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
 - (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly start-up, operation, maintenance, and/or repair of the supplied goods.
- 13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.
- 14. Spare parts** 14.1 As specified in SCC, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:
- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and
 - (b) in the event of termination of production of the spare parts:
 - (i) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
 - (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.
- 15. Warranty** 15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.
- 15.2 This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from

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- the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in SCC.
- 15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.
 - 15.4 Upon receipt of such notice, the supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.
 - 15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.
- 16. Payment**
- 16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.
 - 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfilment of other obligations stipulated in the contract.
 - 16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.
 - 16.4 Payment will be made in Rand unless otherwise stipulated in SCC
- 17. Prices**
- 17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized in SCC or in the purchaser's request for bid validity extension, as the case may be.
- 18. Contract amendments**
- 18.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.
- 19. Assignment**
- 19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.
- 20. Subcontracts**
- 20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contract if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.
- 21. Delays in the supplier's performance**
- 21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.
 - 21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.
 - 21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.
 - 21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or

near the place where the supplies are required, or the supplier's services are not readily available.

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

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

22. Penalties

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

23. Termination for default

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

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

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

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

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

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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 of Disputes** 27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.
- 27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.
- 27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.
- 27.5 Notwithstanding any reference to mediation and/or court proceedings herein
- (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
- (b) the purchaser shall pay the supplier any monies due the supplier.
- 28. Limitation of liability** 28.1 Except in cases of criminal negligence or wilful misconduct, and in the case of infringement pursuant to Clause 6;
- (a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and
- (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.
- 29. Governing language** 29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.
- 30. Applicable law** 30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.
- 31. Notices** 31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice.
- 31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

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| 32. Taxes and duties | and | <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 | of | <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> |

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Signature

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Date

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Position

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Name of Bidder

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