



SOUTH AFRICAN NATIONAL AIDS COUNCIL

2nd Floor, Block E, Hatfield Gardens

333 Grosvenor Street

HATFIELD, PRETORIA 0001

<b>BID/RFQ NUMBER:</b>	<b>RFQ 03/02/2017</b>
<b>CLOSING DATE:</b>	<b>28 February 2017</b>
<b>CLOSING TIME:</b>	<b>11:00 AM</b>
<b>BID VALIDITY PERIOD:</b>	<b>90 DAYS (COMMENCING FROM THE BID CLOSING</b>
<b>DESCRIPTION OF BID:</b>	<b>Appointment of Lead Writer/s for the Provincial Implementation Plan for HIV, TB and STIs- North West (2017 to 2022)</b>
NUMBER OF SERVICE PROVIDER REQUIRED : ONE (1)	
<b>QUOTATION CAN BE DELIVERED OR EMAIL TO THE FOLLOWING ADDRESS:</b> <b>2ND FLOOR, BLOCK E, HATFIELD GARDENS</b> <b>333 GROSVENOR STREET</b> <b>HATFIELD, PRETORIA</b> <b>0001</b> <b>EMAIL ADDRESS: <a href="mailto:BEULLAH@SANAC.ORG.ZA">BEULLAH@SANAC.ORG.ZA</a> or call 012 748 1009 for inquiries</b>	
<b>FOR ATTENTION: MS. BEULLAH MTHOMBENI</b>	

## Part 1.2: Returnable documents

### CHECKLIST OF RETURNABLE SCHEDULES AND DOCUMENTS

Please adhere to the following instructions

Tick in the relevant block below, the documents and schedules that form part of your response

- Ensure that the following documents are completed and signed where applicable:
- Use the prescribed sequence in attaching the annexes that complete the Bid Document
- Should all of these documents not be included, the bidder may be disqualified on the basis of non-compliance/ non-responsiveness

### ADMINISTRATIVE RESPONSIVENESS CRITERIA:

<input type="checkbox"/>	Bid form must be properly received on the bid closing date and time specified on the invitation, fully completed and signed in ink. Copies will not be acceptable.
<input type="checkbox"/>	Submission of applicable Resolution by the Legal Entity, or consortium / joint venture, authorising a dedicated person(s) to sign documents on behalf of the firm / consortium / joint venture.
<input type="checkbox"/>	Submission of an original valid Tax Clearance Certificate.
<input type="checkbox"/>	Copies of the Founding Statement – CIPC Document
<input type="checkbox"/>	Certified copies of South African Identity Documents or Valid Passports of Members. Directors / owner (In a case of a sole proprietor or Partnership)
<input type="checkbox"/>	Certified copies of all latest share certificates, in case of a Company
<input type="checkbox"/>	A Joint Venture Agreement in case of a Joint Venture
<input type="checkbox"/>	List of traceable references of previous and present clients, (Company name, department, branch, contact person with office telephone number, website and email address)
<input type="checkbox"/>	Company Profile
<input type="checkbox"/>	Completed SBD Documents, 1, 2, 3.3, 4, 8, 6.1, 9, and the General Condition of Contract
<input type="checkbox"/>	The use of correction fluid is strictly prohibited and will lead to disqualification, If any corrections are made on the bidding document, it needs to be initialled by the bidder
<input type="checkbox"/>	Supplier Database Application forms available at SANAC website

**TAX CLEARANCE CERTIFICATE / PIN REQUIREMENTS**

1. It is a condition of bid that the taxes of the successful bidder must be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the bidder's tax obligations.
  
2. In order to meet this requirement bidders are required to complete in full the attached form TCC 001 "Application for a Tax Clearance Certificate" and submit it to any SARS branch office nationally. The Tax Clearance Certificate requirements are also applicable to foreign bidders/individuals who wish to submit bids.
  
3. SARS shall then furnish the bidder with a Tax Clearance Certificate that shall be valid for a period of one (1) year from the date of approval.
  
4. The original Tax Clearance Certificate must be submitted together with the bid. Failure to submit the original and valid Tax Clearance Certificate shall result in the invalidation of the bid. Certified copies of the Tax Clearance Certificate shall not be acceptable.
  
5. In bids where Consortia / Joint Ventures / subcontractors are involved, each party must submit a separate Tax Clearance Certificate.
  
6. Copies of the TCC 001 "Application for a Tax Clearance Certificate" form are available from any SARS branch office nationally or on the website [www.sars.gov.za](http://www.sars.gov.za).

7. Applications for the Tax Clearance Certificates may also be made via eFiling. In order to use this provision, taxpayers shall need to register with SARS as eFilers through the website [www.sars.gov.za](http://www.sars.gov.za).

**ATTACH ORIGINAL AND VALID TAX CLEARANCE  
CERTIFICATE / TAX COMPLIANCE STATUS PIN ISSUED ON  
THIS PAGE**

**DECLARATION OF INTEREST**

**SBD 4**

1. Any legal person, including persons employed by the state<sup>1</sup>, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favoritism, 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 authorized representative declare his/her position in relation to the evaluating/adjudicating authority where-

1.1 the bidder is employed by the state; and/or

1.2 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: .....Identity

Number: .....

2.2 Position occupied in the Company (director, trustee, shareholder<sup>2</sup>): .....

2.3 Company Registration Number:.....

2.4 Tax Reference Number: .....

2.5 VAT Registration Number: .....

2.6 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.

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

2.7.1 If so, furnish the following particulars:

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

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

.....

Position occupied in the state institution:

..... Any other particulars:

.....

2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative

work outside employment in the public sector? **YES/N**

If yes, did you attached proof of such authority to the bid document? **YES/N**

(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 **YES / NO**  
or their spouses conduct business with the state in the previous twelve months?

2.8.1 If so, furnish particulars:

.....

<sup>1</sup>“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.

<sup>2</sup>“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.

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

.....

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

If so, furnish particulars.

.....

.....

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

2.11.1 If so, furnish particulars:

.....

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

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

**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 IN TERMS OF PARAGRAPH 23 OF THE GENERAL CONDITIONS OF CONTRACT SHOULD THIS DECLARATION PROVE TO BE FALSE.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Position

\_\_\_\_\_  
Name of bidder



**PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL  
PROCUREMENT REGULATIONS 2011**

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, 2011.**

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**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 R1 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R1 000 000 (all applicable taxes included).

1.2 The value of this bid is estimated to be less than R1 000 000 (all applicable taxes included) and therefore the **80/20** system shall be applicable.

1.3 Preference points for this bid shall be awarded for:

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

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

**POINTS**

1.3.1.1	<b>PRICE</b>	<b>80</b>
1.3.1.2	<b>B-BBEE STATUS LEVEL OF CONTRIBUTION</b>	<b>20</b>
	<b>Total points for Price and B-BBEE must not exceed</b>	<b>100</b>

- 1.4 Failure on the part of a bidder to fill in and/or to sign this form and submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System (SANAS) or a Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA), Affidavit from Police, an Accounting Officer as contemplated in the Close Corporation Act (CCA) together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.
- 1.5 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

- 2.1 **"all applicable taxes"** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- 2.2 **"B-BBEE"** means broad-based black economic empowerment as defined in section 1 of the Broad Based Black Economic Empowerment Act;
- 2.3 **"B-BBEE status level of contributor"** means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- 2.4 **"bid"** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
- 2.5 **"Broad-Based Black Economic Empowerment Act"** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- 2.6 **"comparative price"** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;
- 2.7 **"consortium or joint venture"** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;
- 2.8 **"contract"** not defined. means the agreement that results from the acceptance of a bid by an organ of state;  
**"EME"** means any enterprise with an annual total revenue of R5 million or less.
- 2.9 **"Firm price"** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- 2.10 **"functionality"** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account,

among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;

- 2.11 **"non-firm prices"** means all prices other than "firm" prices;
- 2.12 **"person"** includes a juristic person;
- 2.13 **"rand value"** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;
- 2.14 **"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;
- 2.15 **"total revenue"** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the Government Gazette on 9 February 2007;
- 2.16 **"trust"** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
- 2.17 **"trustee"** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

### 3. ADJUDICATION USING A POINT SYSTEM

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

#### 4. POINTS AWARDED FOR PRICE

##### 4.1 THE 80/20 PREFERENCE POINT SYSTEMS

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

#### 80/20

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

Where

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

#### Points awarded for B-BBEE Status Level of Contribution

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

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

- 5.2 Bidders who qualify as EMEs in terms of the B-BBEE Act must submit a certificate issued by an Accounting Officer as contemplated in the CCA or a Verification Agency accredited by SANAS or a Registered Auditor. Registered auditors do not need to meet the prerequisite for IRBA's approval for the purpose of conducting verification and issuing EMEs with B-BBEE Status Level Certificates.
- 5.3 Bidders other than EMEs must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.
- 5.4 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- 5.5 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- 5.6 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- 5.7 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub- contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub- contract.
- 5.8 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.

**6. BID DECLARATION**

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

**7. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.3.1.2 AND 5.1**

- 7.1 B-BBEE Status Level of Contribution: ..... = ..... (maximum of 20 points)

7.2

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or an Accounting Officer as contemplated in the CCA or Sworn Affidavit).

**8 SUB-CONTRACTING**

- 8.1 Will any portion of the contract be sub-contracted? YES / NO (delete which is not applicable)  
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? YES / NO (delete which is not applicable)

**9 DECLARATION WITH REGARD TO COMPANY/FIRM**

9.1 Name of company/firm \_\_\_\_\_

9.2 VAT registration number \_\_\_\_\_

9.3 Company registration number \_\_\_\_\_

9.4 TYPE OF COMPANY/ FIRM [TICK APPLICABLE BOX]

Partnership/Joint Venture / Consortium

One person business/sole propriety

Close corporation

Company

(Pty) Limited

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

\_\_\_\_\_  
\_\_\_\_\_

9.6 COMPANY CLASSIFICATION [TICK APPLICABLE BOX]

Manufacturer

Supplier

Professional service provider

Other service providers, e.g. transporter, etc.

9.7 Total number of years the company/firm has been in business? \_\_\_\_\_

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

(i) The information furnished is true and correct;

(ii) he preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form.

(iii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 7, the 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 contribution has been claimed or obtained on a fraudulent basis or any of the

conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –

- (a) disqualify the person from the bidding process;
- (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
- (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
- (d) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after the audi alteram partem (hear the other side) rule has been applied; and forward the matter for criminal prosecution

**WITNESSES:**

1. \_\_\_\_\_

.....  
SIGNATURE(S) OF BIDDER(S)

2. \_\_\_\_\_

DATE: \_\_\_\_\_

ADDRESS:

\_\_\_\_\_

***[The tenderers BEE Verification Certificate  
must be inserted here]***



**DECLARATION OF BIDDER’S PAST SCM 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.**

Item	Question	Yes	No
4.1	Is the bidder or any of its directors listed on the National Treasury’s Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?  (Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).	<input type="checkbox"/>	<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)?  <b>The Register for Tender Defaulters can be accessed on the National Treasury’s website</b>	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:		

**CERTIFICATION BY BIDDER:**

**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..... Bidders Name.....**

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

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

<sup>2</sup> **Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.**

**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

I, the undersigned, in submitting the accompanying bid:

**For a consultant/ service provider** hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: \_\_\_\_\_ that:  
(Name of Bidding Company)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
  - (a) has been requested to submit a bid in response to this bid invitation;
  - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
  - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder.
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium<sup>3</sup> will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
  - (a) prices;
  - (b) geographical area where product or service will be rendered (market allocation)
  - (c) methods, factors or formulas used to calculate prices;
  - (d) the intention or decision to submit or not to submit, a bid;
  - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or

(f) bidding with the intention not to win the bid.

8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (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

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

**PERFORMANCE RECORD**

**PLEASE FURNISH US WITH AT LEAST FIVE REFERENCES IN THE BELOW TABLE AS THERE ARE POINTS ALLOCATED FOR EACH REFERENCE**

<b>EMPLOYER: CONTACT PERSON AND TELEPHONE NUMBER</b>	<b>NATURE OF SERVICE</b>	<b>CONTRACT VALUE (INCLUSIVE of</b>	<b>DATE COMPLETED OR EXPECTED</b>

**SIGNATURE:** ..... **DATE:** .....

(of person authorized to sign on behalf of the Tenderer)

**CERTIFICATE OF INCORPORATION**

**REGISTRATION CERTIFICATE / AGREEMENT / ID DOCUMENT (in a case of a Sole Proprietor)**

*[Important note to Tenderer: Registration Certificates for Companies, Close Corporations and Partnerships, or Agreements and Powers of Attorney for Joint Ventures, or ID documents for Sole Proprietors, all as referred to in the List of Compulsory Returnable Schedules and Documents, must be inserted here]*

**CONSULTANT (PLEASE ATTACH YOUR PROFILE/  
CURRICULUM VITAE HERE)**

### **2.1.1 TERMS OF REFERENCE:**

#### **Appointment of Lead Writer for the Bokone Bophirima RHR Provincial Implementation Plan for HIV, TB and STIs –Northwest (2017 to 2022)**

##### **Background:**

The Bokone Bophirima RHR Provincial Implementation Plan on HIV, STIs and TB (PIP) is a strategic guide for the provincial response to HIV, STIs and TB in the North West. It is aligned to the National Strategic Plan on HIV, STIs and TB. This PIP is developed for 5 year period covering 1 April 2017 to 31 March 2022.

The PIP is aligned with the ideals of human dignity, non-racialism, non-sexism and the rule of law that underpin the Constitution of The Republic of South Africa and is also aligned with the broader development plans of government. These include the Medium Term Strategic Framework and Programme of Action, which commit to ensuring 'A long and healthy life for all South Africans' and the National Development Plan that calls for an AIDS free generation. The PIP is aligned with international and regional obligations, commitments and targets related to HIV, STIs and TB.

The PIP addresses the drivers of the HIV and TB epidemics and builds on the achievements of the previous Provincial strategic plans (PSP) to achieve its goals. Interventions that have worked well will be scaled up and the quality of service delivery will be improved, while at the same time proven new interventions will be implemented. Because it is intended to respond to the changes in the HIV and TB epidemics, the PIP is reviewed periodically for relevance and effectiveness and, when necessary, adjustments are made. The new PIP will hence be a strategic framework with a few more detailed strategies to change the key drivers of the epidemic.

The aims to inform provincial, district and community-level stakeholders on strategic directions to be taken into consideration when developing implementation plans. It will also be used by the Office of the Premier of the North West, in the Reconciliation, Healing and Renewal (RHR) Directorate, as a framework to co-ordinate and monitor implementation by sectors, districts and municipalities. International development partners will use the PIP to support the province in its efforts to turn the tide with respect to the twin HIV and TB epidemics.



## **Role of the Lead writer**

The role of the lead writer is to work closely with the technical writing team, to participate in the provincial consultation (as far as possible) and to participate in working groups to fully understand the direction and intention of consultations where evidence will be reviewed and priorities identified within what the evidence shows. This will enable the lead writer to write the whole PIP document based on the input from the consultations, the technical writing team who will be capturing the evidence and the prioritisation from consultations and the many different stakeholders that will be tasked with providing input.

## **Deliverables:**

The main deliverable is a timeously completed high quality Provincial Implementation Plan for HIV, TB and STIs (2017 to 2022) with all chapters as decided at the provincial summit and by the Steering Committee and further developed by the technical writing team after further consultation. The PIP has to be written in excellent English, with references as footnotes, all annexes labelled appropriately, must include an index, abbreviations list, executive summary and all relevant chapters (epi-analysis, thematic areas, Monitoring and Evaluation framework and plan, costing and finance section. The M&E Framework will be guided by the M&E Team and be based on the national framework and the costing will be based on the national costing plan and separate assistance will be provided for this.

This will include working with many stakeholders, attending and preparing for consultations, assisting with the development of presentations and communication pieces on progress, ongoing development and refinement of the PIP document.

## **Scope of work**

- Work with the Provincial RHR forum task team to understand and assist with the implementation of the plan for the development of the PIP.
- Work with the technical writing teams to review, guide and optimise the collection of data to inform the consultations and then to collate and sort information from the consultations.
- Participate in the provincial stakeholder consultations and smaller workshops (as far as possible) to understand the detail of discussions and the logical framework.
- Work with the technical writing team to be able to draw out all the necessary information to inform the writing of the chapters.
- Work with RHR, SANAC structures and other stakeholders to best incorporate comments.
- Develop draft of PIP to be shared with all stakeholders as per plan.

- Develop final version of PIP to be presented for approval.
- Complete final version of PIP by 21<sup>st</sup> of March 2017 or later date that will be determined by process made during planning of consultations, incorporating comments from approval committees .
- Prepare presentations and communication pieces to various stakeholders.
- Review of all relevant documents that will be used to inform the epi-analysis and the detail in the chapters.

### **Qualifications and experience**

- Post graduate degree in public health, development studies, social sciences or other relevant field. Preferably a PhD in an area relevant to HIV and TB.
- **Extensive knowledge of the HIV and TB epidemics in South Africa and of the North West.**
- Strong understanding of HIV and TB programming, planning, performance monitoring and evaluation
- At least five year experiences with the participatory strategic planning processes
- Experience in being a major contributor to the writing of major HIV and TB country documents e.g. Global Fund proposal, Provincial Strategic Plans, Investment Case, Prevention Strategies, preferably including work done in South Africa
- Proven track record of delivering similar projects timeously to a high standard under tight deadlines.
- Excellent organizational, analytical, strategic programming skills
- Outstanding communication and facilitation skills
- Highly proficient in Microsoft word and Excel with excellent attention to details.
- Excellent proficiency in oral and written English.
- Excellent command of English (written and verbal)
- Ability to work under pressure

### **Timelines and commitment:**

- The PIP will developed over a period from March 2017 to 30 April 2017.
- The final version of the PIP is expected to be launched in May 2017 following the launch of the National Strategic Plan on HIV, STIs and TB.
- The level of effort expected is approximately 40 days.

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## EVALUATION / SELECTION CRITERIA

### Criterion A– Compulsory Requirements/ Administrative Responsive Compliance

Bidders will first be evaluated on terms of the minimum requirements / gatekeepers. Bidders who do not fulfil all the requirements or do not submit the required documents will be disqualified. Those who fulfil all the minimum requirements or have submitted the required documents will be further evaluated on criterion B which is the functionality.

### Criterion B – Functionality

Below is the Functionality point’s breakdown

This form will be used to evaluate the most suitable Service Provider using the below Evaluation criteria. Bidders must obtain the Minimum point of 70 out of 100 to be evaluated on Price & BEE (refer to SBD 6.1 for Adjudication process on Price & BEE)

Description For Evaluation Functionality		Weight Score
	<b>Evaluation criteria to be used for Selection</b>	
<b>1</b>	<p><b>Experience</b></p> <ul style="list-style-type: none"> <li>•At least five year experiences with the participatory strategic planning processes; (20 points)</li> <li>•Experience in leading or a major contributor to the writing of major HIV and TB programme documents; (10 points)</li> <li>•Proven track record of delivering similar projects timeously to a high standard under tight deadlines; (20 points)</li> <li>• knowledge of the HIV and TB epidemics in S.A and Strong understanding of HIV and TB programming, planning, performance monitoring and evaluation; (10 Points)</li> </ul>	<b>60</b>
	<p><b>Qualifications</b></p> <p>Post graduate degree in public health, development studies, social sciences (30 Points) or other relevant field (10 Points);</p>	<b>40</b>
	<b>Total points</b>	<b>100</b>

## Part 2.2: PRICING DATA

### Pricing Instructions

- The Tenderer must price ALL items contained in the Pricing Schedule (inclusive of VAT) refer to SBD 3.3 and detailed price Breakdown on their company letter head.
- The bidder may, at their discretion, provide alternative pricing proposals. In doing so, the bidder must elaborate in detail and should limit alternative proposals to no more than 2.
- Rates are to include all costs with **no unspecified cost to arise.**
- Yearly price increases must be Included and clearly indicated in the pricing Schedule,
- The rate remains fixed but subject to price escalation on the anniversary of the contract of no more than CPI as released by Stats SA from time to time. This must be agreed and is not automatic (if applicable).
- Please complete SBD 3.3 for pricing

**PRICING SCHEDULE**  
**(Professional Services)**

NAME OF BIDDER: .....	BID NO.: .....
CLOSING TIME 11:00	CLOSING DATE.....

OFFER TO BE VALID FOR .....DAYS FROM THE CLOSING DATE OF BID.

ITEM NO	DESCRIPTION	BID PRICE IN RSA CURRENCY **(ALL APPLICABLE TAXES INCLUDED)
1.	The accompanying information must be used for the formulation of proposals.	
2.	Bidders are required to indicate a ceiling price based on the total estimated time for completion of all phases and including all expenses inclusive of all applicable taxes for the project.	R.....
3.	persons who will be involved in the project and rates applicable (certified invoices must be rendered in terms hereof)	
4.	person and position	DAILY RATE
	-----	R-----
	-	---
	-----	R-----
	-	---
	-----	R-----
	--	--
5.	phases according to which the project will be completed, cost per phase and man-days to be spent	
	-----	R-----
	---	---
	-----	R-----
	-----	---
	-----	R-----
	-----	---
	-----	R-----
	-----	---

5.1 Travel expenses (specify, for example rate/km and total km, class of air travel, etc.). Only actual costs are recoverable. Proof of the expenses incurred must accompany certified invoices.

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT
-----	.....	.....	R.....
-----	.....	.....	R.....R...
-----	.....	.....	.....
-----	.....	.....	.....
TOTAL:R.....			

\*\* "all applicable taxes" includes value-added tax, pay as you earn, income tax, unemployment insurance contributions and skills development levies

5.2 Other expenses, for example accommodation (specify, star hotel, bed and breakfast, telephone cost, etc.). On basis of these particulars, certified invoices will for correctness. Proof of the expenses must accompany invoices.

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT
-----	.....	.....	R.....
-----	.....	.....	R.....
-----	.....	.....	R.....
-----	.....	.....	R.....
TOTAL: R.....			

- 6. Period required for commencement with project after acceptance of bid .....
- 7. Estimated man-days for completion of project .....

8. Are the rates quoted firm for the full period of contract?  
\*YES/NO

9. If not firm for the full period, provide details of the basis on which  
adjustments will be applied for, for example consumer price index.

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

**NB: TERMS AND CONDITIONS WILL APPLY TO PRICING: VAT WILL BE PAID TO VAT VENDORS, AND  
CONTRACT WILL BE AWARDED TO COMPLIANT BIDDER.**

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# **GENERAL CONDITIONS OF CONTRACT (GCC)**

## **TABLE OF CLAUSES**

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## 1. Definitions

1. The following terms shall be interpreted as indicated:

- 1.1 **"Acceptable bid"** means any bid, which, in all respects, complies with the specifications and conditions of the bid as set out in the bid document.
- 1.2 **"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, works or services.
- 1.3 **"Black enterprise"** means an enterprise that is 50,1% owned by black persons and where there is substantial management control. Ownership refers to economic interest while management refers to the membership of any board or similar governing body of the enterprise.
- 1.4 **"Black empowered enterprise"** means an enterprise that is at least 25,1% owned by black persons and where there is substantial management control. Ownership refers to economic interests. Management refers to executive directors. This is whether the black enterprise has control or not.
- 1.5 **"Black people"** includes all African, Coloured or Indian persons who are South African citizens by birth or by descent or who were naturalised prior to the commencement of the constitution in 1993. In addition, the term also includes black people who became South African citizens after the constitution's commencement but who would have been able to be naturalised prior to this, were it not for the Apartheid laws which prohibited naturalisation of certain persons. This means that an African, Coloured or Indian person who was not a South African citizen before the commencement of the constitution in 1993 but who would have been entitled to apply to be naturalised prior to 1993, will also be considered a black person and therefore a beneficiary of BEE.
- 1.6 **"Black woman-owned enterprise"** means an enterprise with at least 25,1% representation of black women within the black equity and management portion.
- 1.7 **"Closing time"** means the date and hour specified in the bidding documents for the receipt of bids.
- 1.8 **"Comparative price"** means the price after the factors of a non-firm price and all unconditional discounts that can be utilised have been taken into consideration.
- 1.9 **"Community or broad-based enterprise"** means an enterprise that has an empowerment shareholder who represents a broad base of members such as a local community or where the benefits support a target group, for example black women, people living with disabilities, the youth and workers. Shares are held via direct equity, non-profit organisations and trusts.

Benefits from the shareholding should in a measurable sense be directed towards the uplifting of the community through job creation, welfare, skills development, entrepreneurship and human rights. At the same time, directors and management of groups should significantly comprise black persons.

These arrangements are appropriate in situations where the activities or operations of an enterprise or industry directly impact on a community or are located in a community, or may benefit a community. Notable examples are large industrial projects, mining and tourism. Other instances, which do assist in broadening the shareholder base, are employee share ownership schemes; these are a viable empowerment shareholder option. In this and other circumstances, these arrangements should not detract from the ability of the shareholder to exercise significant influence or control over the operations of the business.

1.10 "**Consortium or joint venture**" means an association of persons for the purpose of combining their expertise, property, capital, efforts, skills and knowledge in an activity for the execution of a contract.

1.11 "**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.

1.12 "**Contract price**" means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.

1.13 "**Control**" means the possession and exercise of legal authority and power to manage the assets, goodwill and daily operations of a business and the active and continuous exercise of appropriate managerial authority and power in determining the policies and directing the operations of the business.

1.14 "**Co-operative or collective enterprise**" is an autonomous association of persons who voluntarily join together to meet their economic, social and cultural needs and aspirations through the formation of a jointly-owned enterprise and democratically controlled enterprise.

1.15 "**Corrupt practice**" means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.

1.16 "**Countervailing duties**" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.

1.17 "**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.

1.18 "**Day**" means calendar day.

1.19 "**Delivery**" means delivery in compliance with the conditions of the contract or order.

1.20 "**Delivery ex stock**" means immediate delivery directly from stock actually on hand.

1.21 "**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.

1.22 "**Disability**" means, in respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of, ability to perform an activity in the manner, or within the range, considered normal for a human being.

1.23 "**Dumping**" occurs when a private enterprise abroad markets 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.

1.24 "**Equity Ownership**" means the percentage ownership and control, exercised by individuals within an enterprise.

1.25 "**Force majeure**" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.

1.26 "**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.

1.27 "**GCC**" means the General Conditions of Contract.

1.28 "**Goods**" means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.

1.29 "**Historically Disadvantaged Individual (HDI)**" means a South African citizen -

1.29.1 who, due to the Apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act 110 of 1983) or

the Constitution of the Republic of South Africa, 1993, (Act 200 of 1993) ("the interim Constitution); and/or

1.29.2 who is a female; and/or

1.29.3 who has a disability:

provided that a person who obtained South African citizenship on or after the coming to effect of the Interim Constitution, is deemed not to be a HDI.

1.30 **"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.

1.31 **"Local content"** means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.

1.32 **"Management"** means an activity inclusive of control and performed on a daily basis, by any person who is a principal executive officer of the company, by whatever name that person may be designated, and whether or not that person is a director.

1.33 **"Manufacture"** means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.

1.34 **"Order"** means an official written order issued for the supply of goods or works or the rendering of a service.

1.35 **"Owned"** means having all the customary elements of ownership, including the right of decision-making and sharing all the risks and profits commensurate with the degree of ownership interests as demonstrated by an examination of the substance, rather than the form of ownership arrangements.

1.36 **"Parliament"** means Parliament of the Republic of South Africa as set out in Chapter Four of the Constitution.

1.37 **"Person"** includes reference to a juristic person.

1.38 **"Project site"** where applicable, means the place indicated in bidding documents.

1.39 **"Purchaser"** means the organization purchasing the goods.

1.40 **"Rand value"** means the total estimated value of a contract in Rand denomination that is calculated at the time of the bid invitations, and includes all applicable taxes and excise duties.

1.41 **"Republic"** or **"RSA"** means the Republic of South Africa.

1.42 "**RFP**" means Request for Proposal.

1.43 "**RFT**" means Request for Tender.

1.44 "**RFQ**" means Request for Quotation.

1.45 "**SCC**" means the Special Conditions of Contract.

1.46 "**Secretary**" means the Secretary to Parliament.

1.47 "**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.

1.48 "**Specific contract participation goals**" means the goals as stipulated in the Preferential Procurement Regulations, 2001. In addition to above-mentioned goals, the Regulations [12. (1)] also make provision for organs of State to give particular consideration to procuring locally manufactured products.

1.49 "**Small, Medium and Micro Enterprises (SMMEs)**" bears the same meaning assigned to this expression in the National Small Business Act, 1996 (Act 102 of 1996).

1.50 "**Sub-contracting**" means the primary contractor's assigning or leasing or making out work to, or employing another person to support such a primary contractor in the execution of part of a project in terms of the contract.

1.51 "**Trust**" means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person.

1.52 "**Trustee**" means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

1.53 "**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.

### **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 as far as may be necessary for purposes of such performance.

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

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

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

### **6. Patent rights**

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

### **7. Performance security**

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

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

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

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

(b) a cashier's or certified cheque

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

## **8. Inspections, tests and analyses**

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

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

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

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

8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.

8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.

8.7 Any contract supplies may on or after delivery be inspected, tested or analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.

8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of GCC.

## **9. Packing**

9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in SCC, and in any subsequent instructions ordered by the purchaser.

## **10. Delivery and documents**

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

10.2 Documents to be submitted by the supplier are specified in SCC.

## **11. Insurance**

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

## **12. Transportation**



12.1 Should a price other than an all-inclusive delivered price be required, this shall be specified in the SCC.

### **13. Incidental services**

13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:

- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
- (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
- (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
- (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
- (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.

13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.

### **14. Spare parts**

14.1 As specified in SCC, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:

- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and
- (b) in the event of termination of production of the spare parts:
  - (i) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
  - (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

## **15. Warranty**

15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.

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

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

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

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

## **16. Payment**

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

16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment 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 canceling 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.

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

24.1 When, after the date of bid, provisional payments are required, or antidumping 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 willful 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.

## **32. Taxes and duties**

32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.

32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.

32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid, Parliament 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 (SARS).

### **33. Ownership and Copyright**

33.1.1 Ownership of all products produced in terms of this agreement, of whatever nature, vest in Parliament.

33.1.2 The copyright of products, of whatever nature, commissioned and produced in terms of this agreement, and that have been paid for by the Secretary are owned exclusively by Parliament.

#### **GCC DECLARATION**

I, THE UNDERSIGNED \_\_\_\_\_ HEREBY CERTIFY THAT I UNDERSTAND THE INFORMATION IN THE GCC AND ACCEPT THE TERMS AND CONDITIONS STATED THERE IN.

I ACCEPT THAT THE SANAC TRUST MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 23 OF THE GENERAL CONDITIONS OF CONTRACT SHOULD THIS DECLARATION PROVE TO BE FALSE.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Position \_\_\_\_\_ Name of bidder \_\_\_\_\_