



National Research Foundation

INVITATION TO BID (SBD 1)

YOU ARE HEREBY INVITED TO BID FOR THE FOLLOWING SPECIFIED SUPPLY REQUIREMENTS

BID NUMBER:	NRF/SAEON/03/ 2016	CLOSING DATE:	19 May 2015	CLOSING TIME	11:00
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BID DESCRIPTION

HEAVY DUTY ACOUSTIC RELEASES

SAEON ELWANDLE NEEDS TO PURCHASE 4 HEAVY DUTY (2200KG LOAD CAPACITY) ACOUSTIC RELEASE UNITS AND 1 DECK UNIT FOR THE OPERATION OF THE RELEASE UNITS.

Preferential Procurement System Applicable (points for price: points for procurement preference): **80 :20**

BID DOCUMENTS ARE TO BE DEPOSITED IN THE BID BOX SITUATED AT:

EITHER PHYSICALLY OR BY COURIER		
SAEON office, Reception Desk		
Persequor Technopark,		
41 The Woods, Ground Floor		
De Havilland Crescent		
Brummeria, Pretoria		
RSA		

Bidders should timeously deliver bids to the correct address. If the bid is late at the NRF/ SAEON address, it will not be considered.

The bid box is open from 08h00 to 16h30 South African time, 5 days a week (Monday to Friday).

ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS IN THIS INVITATION (NOT TO BE RE-TYPED) WITH ADDITIONAL INFORMATION ON ATTACHED SUPPORTING SCHEDULES

THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS - 2011, THE GENERAL CONDITIONS OF CONTRACT (NRF WEBSITE www.nrf.ac.za) AND

SPECIAL CONDITIONS OF CONTRACT AS STIPULATED IN THIS INVITATION.

THE FOLLOWING PARTICULARS MUST BE FURNISHED AS LEAD PAGE OF THE BID RESPONSE

BID NUMBER: NRF/SAEON/03 /2016	CLOSING DATE: 19 May 2015	CLOSING TIME	11:00
NAME OF BIDDER			
REPRESENTED BY			
POSTAL ADDRESS			
PHYSICAL ADDRESS			
TELEPHONE NUMBER	CODE	NUMBER	
CELL PHONE NUMBER	CODE	NUMBER	
FACSIMILE NUMBER	CODE	NUMBER	
E-MAIL ADDRESS			
VAT REGISTRATION NUMBER			
HAS AN ORIGINAL AND VALID TAX CLEARANCE CERTIFICATE BEEN SUBMITTED?			YES or NO
HAS A PREFERENCE CLAIM FORM BEEN SUBMITTED FOR YOUR PREFERENCE POINTS? (SBD 6.1)			YES or NO
(A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE MUST SUPPORT PREFERENCE POINTS CLAIMED			
<u>IF YES, WHO WAS THE B-BBEE CERTIFICATE ISSUED BY</u>			
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); OR			<input type="checkbox"/>
A REGISTERED AUDITOR			<input type="checkbox"/>
[Tick Applicable Box]			

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS/SERVICES/WORKS OFFERED? IF YES ENCLOSE PROOF YES or NO

SIGNATURE OF BIDDER _____

NAME of BIDDER _____

DATE _____

CAPACITY UNDER WHICH THIS BID IS SIGNED

ANY ENQUIRIES REGARDING THE BIDDING PROCEDURE DIRECTED TO:

**Contact Person
(Processes):**

Cindy Hlanze

Tel: 012 349 7720

Email: Cindy@saeon.ac.za

**Contact Person
(Technical):**

Sean Bailey

Tel: 046 6229899

Email: sean@saeon.ac.za

No of originals	1	Number of bid pack copies	4
Pack split into "Technical" and "Awarding" Sections	Yes/No	Two envelope system required	Yes/No
Proposal – Bidder's B-BBEE Transformation Program			Yes/ No

SUPPLIER ACCREDITATION

(Provide evidence of being an Accredited Supplier registered in the NRF Supplier Database or Provide documentation to be registered in the NRF Supplier Database)

Completed Supplier Accreditation Pack (available at WWW.NRF.AC.ZA/BIDS)	Yes/ No
Certified copies of certificate of incorporation (as per entity type)	Yes/ No

1. Background to the National Research Foundation and its business units

The National Research Foundation (“NRF”) is a juristic person established in terms of section 2 of the National Research Foundation Act, Act 23 of 1998. The NRF is the government’s national agency responsible for promoting and supporting research and human capital development through funding, the provision of National Research Facilities and science outreach platforms and programs to the broader community in all fields of science and technology, including natural science, engineering, social science and humanities.

The South African Environmental Observation Network (“SAEON”), a business unit within the NRF, is mandated with Long Term Environmental Observation to detect and understand the impacts of Global Change in South Africa. Six SAEON nodes are strategically situated across geographic regions representing the country’s major biomes. SAEON coordinates an array of multi-disciplinary observation platforms and research programs that are designed to monitor and understand Earth system dynamics and human induced changes to these over multiple scales. These initiatives are currently being advanced through the development of a coordinated sophisticated instrument network that must contribute quality, long-term environmental data for research that will ultimately guide evidence-based policy and decision-making. SAEON is committed to scientific excellence.

2. Scope of Work

SAEON requests a suitable service provider to supply and provide maintenance for 4 heavy-duty acoustic releases and suitable deck box interrogator.

3. Selection and Awarding of Bid

3.1 Stage 1 – Selection of Qualified Bidders

- Bidders bid response / submission is evaluated against the technical specifications ([See Section 4](#)) as well as the bidder’s capacity ([See Section 5&6](#)).
- Bidders that cannot offer an approved service centre in any particular urban centres should clearly indicate such limitations in their bid responses. Inability to deliver to or service at a specific urban centre will only disqualify a bidder with respect to the particular urban centre.
- Evaluation is made in accordance to published evaluation criteria and the scoring set for each criterion.
- All qualifying bidders are shortlisted for the awarding stage but proportional bid awards may be made on the basis of disqualification per particular urban centre.

3.2 Stage 2 – Awarding of the Bid

- Bidders are compared on a fair and equal basis taking into account all aspects of the proposals
- The award criteria are:
 - **Price** – with the lowest priced bid on an equal and fair comparison basis receiving the highest price score as set out in the 2011 Preference Regulations. Pricing must detail the charges for accessories and delivery. The basis on which and by when price increases will become effective over the 5-year contract period must be detailed for comparative purposes.
 - **Preference** – preference points as claimed in the preference claim form are added to the price ranking scores and the highest combined score is nominated for the bid award
 - **Administration** - Bids are awarded where bidders have supplied the relevant administrative documentation, including the tax certificate.

4. Technical specifications and Evaluation Criteria

Bidders will qualify for further evaluation on Price and BEE if they score "GO" on all specified requirements

TECHNICAL SPECIFICATIONS	WEIGHT	
The release units must have a load capacity of 2200kg	Go / No Go	
The release units must have two-way transponding capabilities.	Go / No Go	
The release units must have a battery life of 2 years minimum.	Go / No Go	

5. Performance levels for services required

Only bids from authorised dealers will be accepted and proof of this should be provided with the bid submission.

6. Maintenance and Support/After Sales Service

The supplier needs to be able to provide continued aftersales support for the servicing and maintenance of the equipment.

7. Delivery Logistics

Delivery to SAEON offices in Grahamstown within four weeks of date of issuing of an official NRF Purchase Order

8. Performance Level Management

The service provider performance is measured against the levels specified in Sections 4, 5 and 6 of this document.

The NRF's Business Unit issues an official Purchase Order for the specified quantity and required delivery date at the predetermined unit price set out in the contract to the contracted service provider.

All such purchase orders issued are in terms of this master contract.

9. Product/Service Delivery Validation

Invoices that are submitted to NRF representatives validate that delivery of goods/works/services has been made, at the required quality and time.

10. Payment Intervals

The NRF undertakes to pay **validated** invoices in full within thirty (30) days from the date of invoice.

The NRF does not accept predated invoices.

**11. Pricing Schedule for the Duration of the Contract
(Standard Bidding Document 3.1)**

NOTES

Price quoted is fully inclusive of all costs including delivery charges and value-added tax.

No changes or extensions or additional ad hoc costs are accepted once the contract has been awarded.

Bid price in South African currency.

Pricing is subject to the addition of Preference Points as stipulated in Section 21 below - Standard Bidding Document 6.1 Preference claim form.

OFFER TO BE VALID FOR **150 DAYS** FROM THE CLOSING DATE OF BID.

List of items for which bids are invited

<u>ITEM NO</u>	<u>QUANTITY</u>	<u>DESCRIPTION OF WORKS/GOODS/SERVICES</u>	<u>BID/QUOTE PRICE</u>
Item 1	2	Two way transponding acoustic release units	
Item 2	1	Appropriate deck unit, transducers and cables for full operation of the release units	
Item 3	1	Delivery to SAEON in Grahamstown	

ADDITIONAL PRICE ITEMS OR DETAIL PRICE SCHEDULES ATTACHED	YES	NO	
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Brand and model Attach information as additional schedules

Country of origin _____

Does the offer comply with the specification(s)? (Refer to Sections 4, 5 & 6)

*YES/NO

If not to specification, indicate deviation(s) in a separate attached schedule

Period required for delivery _____

*Delivery:

Firm/Not Firm

Delivery basis _____

12. General Conditions of Contract

General Conditions of Contract, as issued by National Treasury, are part of this contractual agreement and are made available on the NRF Website (www.nrf.ac.za/bids).

13. Explanatory Notes to the Declarations in the SBD Documents

The explanatory notes for the SBD (SBD6.1 – Preference Points Claim form, SBD4 – Declaration of Interest, SBD8 – Past Supply Chain Practices and SBD9 – Competitive Bidding) declarations in this bid are made available on the NRF Website (www.nrf.ac.za/bids) as separate documents as published by National Treasury.

14. Special Conditions applying to this Procurement

a) EVIDENCE OF INTEREST

If you are not interested or cannot meet the specifications of the bid, it is required that you respond by email stating this.

b) COMPLIANCE WITH SCOPE OF THE BID INVITATION

Only bidders who can comply with the full scope of work and specification will be considered. .

c) VALIDATION OF SUBMITTED DOCUMENTATION

The NRF has the right to have any documentation submitted by the bidders inspected by another technical body or organisation.

d) NOT LIABLE FOR BID RESPONSE PREPARATION COSTS

The NRF is not be liable for any cost incurred by a service provider in the process of responding to this bid, including on-site presentations and the proposal a service provider may make and/or submit.

e) CANCELLATION PRIOR TO AWARDING

The NRF has the right to withdraw and cancel the bid.

f) LATE BIDS.

Bids submitted after the stipulated closing date (and time) will not be considered.

g) COLLUSION, FRAUD AND CORRUPTION

Any effort by a bidder to influence bid evaluation, bid comparisons or bid award decisions in any manner, may result in rejection of the bid concerned.

h) LETTER OF AWARD

Once the delegated bid approver(s) has reached the decision, the successful bidder is informed through a written letter of acceptance, which in conjunction with elements detailed in the Standard Bidding Document 7 forms the contract between the NRF and the Bidder.

i) CONFIDENTIALITY

The successful bidder signs a general confidentiality agreement with the NRF.

j) VALIDITY PERIOD

The bid has a validity period of 150 days from date of closure of the call/bid.

k) INTELLECTUAL PROPERTY PROVIDED IN THE BID INVITATION

All the information contained in this document is intended solely for the purposes of assisting bidders to prepare their bids. Any use of the information contained herein for other purpose than those stated in this document is prohibited.

The ownership and intellectual property rights of all designs, specifications, programming code and all other documentation provided by the NRF to the bidder, both successful and unsuccessful, remains the property of the NRF

l) INTELLECTUAL PROPERTY CONTAINED IN THE DELIVERABLES

The ownership and intellectual property rights of all designs, specifications, programming code and all other documentation required as part of the delivery to the NRF resides with the NRF.

15. SUPPLIER DUE DILIGENCE

15.1. DECLARATION OF INTEREST (STANDARD BIDDING DOCUMENT 4)

24.1.1 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.

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

24.1.2.1 Full Name of bidder or his or her representative:

24.1.2.2 Identity Number:

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

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

24.1.2.5 Tax Reference Number:

24.1.2.6 VAT Registration Number:

24.1.2.6.1 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.

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

24.1.2.7.1 If so, furnish the following particulars in an attached schedule:

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:

24.1.2.7.2 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**

24.1.2.7.2.1 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.)

24.1.2.7.2.2 If no, furnish reasons for non-submission of such proof as an attached schedule

24.1.2.8 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**

24.1.2.8.1 If so, furnish particulars as an attached schedule:

24.1.2.9 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

24.1.2.9.1 If so, furnish particulars as an attached schedule.

24.1.2.10 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

24.1.2.10.1 If so, furnish particulars as an attached schedule:

24.1.2.11 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

24.1.2.11.1 If so, furnish particulars as an attached schedule:

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

Full Name	Identity Number	Personal Income Tax Reference Number	State Employee Number/ Payroll (Persal) Number
Schedule attached with the above details for all directors/members/shareholders			YES NO

15.2. DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES (STANDARD BIDDING DOCUMENT 8)

Item	Question	Yes	No
24.2.1	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?	Yes	No
	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.		
	If so, furnish particulars as an attached schedule:		
24.2.2	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)?	Yes	No
	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.		
	If so, furnish particulars as an attached schedule:		
24.2.3	Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes	No
	If so, furnish particulars as an attached schedule:		
24.2.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes	No
	If so, furnish particulars as an attached schedule:		

15.3. CERTIFICATE OF INDEPENDENT BID DETERMINATION (STANDARD BIDDING DOCUMENT 9)

I, the undersigned, in submitting this bid in response to the invitation for the bid made by **NATIONAL RESEARCH FOUNDATION** do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: _____ (Name of Bidder) that:

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 consortium³ will not be construed as collusive bidding.

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.
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

16. PREFERENCE POINTS CLAIM FORM (STANDARD BIDDING DOCUMENT 6.1)

POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTION

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

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

BID DECLARATION

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

B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF THE ABOVE TABLE

B-BBEE Status Level of Contribution: =(maximum of 10 or 20 points)

(Points claimed must be in accordance with the table reflected above 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).

SUB-CONTRACTING

Will any portion of the contract be sub-contracted? YES/NO

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

DECLARATION WITH REGARD TO COMPANY/FIRM

Name of company/firm

VAT registration number:

Company registration number

TYPE OF COMPANY/ FIRM

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

[Tick applicable box]

DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

COMPANY CLASSIFICATION

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

[Tick applicable box]

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

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 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I/we acknowledge that:

- (i) The information furnished is true and correct;
- (ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form.
- (iii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 7, the 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
- (e) forward the matter for criminal prosecution

1. The following documents shall be deemed to form and be read and construed as part of this agreement:

(i) Bidding documents, viz

Invitation to bid (SBD1);	Technical Specification(s);
Bidder's responses to technical specifications, capability requirements and capacity	
Pricing schedule(s) (SBD3);	Tax clearance certificate
Preference claims for Broad Based Black Economic Empowerment Status Level of Contribution in terms of the Preferential Procurement Regulations 2011 (SBD6.1);	
Declaration of interest (SBD4);	Declaration of bidder's past SCM practices (SBD8);
Certificate of Independent Bid Determination (SBD9)	Special Conditions of Contract; and
General Conditions of Contract	

2. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the goods and/or works specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
3. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfilment of this contract.
4. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
5. I certify that the information furnished in these declarations (SBD4, SBD6.1, SBD8, SBD9) is correct and I accept that the state including the NRF may reject the bid or act against me should these declarations prove to be false.
6. I confirm that I am duly authorised to sign this Bid Document.

NAME (PRINT)

CAPACITY

SIGNATURE

NAME OF FIRM

DATE

<p>WITNESSES</p> <p>1</p>
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17. Definitions

“**all applicable taxes**” includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;

“**B-BBEE**” means broad-based black economic empowerment as defined in section 1 of the Broad -Based Black Economic Empowerment Act;

“**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;

“**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, written price quotations, advertised competitive bidding processes or proposals;

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

“**Broad-Based Black Economic Empowerment Act**” means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

“**Closing time**” means the date and hour specified in the bidding documents for the receipt of bids.

“**Collusion**” means 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).

Collusive bidding is a pe se prohibition meaning that it cannot be justified under any grounds. 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.

“**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;

“**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;

“**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.

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

“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.

“Countervailing duties” are imposed in cases where an enterprise abroad is subsidised by its government and encouraged to market its products internationally.

“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 recognised new product results that is substantially different in basic characteristics or in purpose or utility from its components.

“Day” means calendar day.

“Delivery” means delivery in compliance of the conditions of the contract or order.

“Delivery ex stock” means immediate delivery directly from stock actually on hand.

“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.

“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;

“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).

“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.

“EME” means any enterprise with an annual total revenue of R5 million or less.

“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;

“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.

“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.

“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;

“GCC” means the General Conditions of Contract.

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

“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.

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

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

“non-firm prices” means all prices other than “firm” prices;

“Order” means an official written order issued for the supply of goods or works or the rendering of a service.

“person” includes a juristic person;

“Project site,” where applicable, means the place indicated in bidding documents.

“Purchaser” means the organization purchasing the goods.

“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;

“Republic” means the Republic of South Africa.

“SCC” means the Special Conditions of Contract.

“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.

“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.

“State” means –

- (i) 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);
- (ii) any municipality or municipal entity;
- (iii) Provincial Legislature;
- (iv) National Assembly or the National Council of Provinces; or
- (v) Parliament.

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

“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;

“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;

“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;

“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.

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