



11th Floor, The Marine, Gardiner Street, Durban, 4001
Private Bag X54322, Durban, 4000
Tel: +27 31 365 7800 Fax: +27 31 365 7858

TERMS OF REFERENCE
PROCUREMENT OF COURIER SERVICES

1. PURPOSE

The purpose of the Terms of Reference is to allow suitably qualified firms to submit proposals to the Ports Regulator of South Africa. The Regulator requires a service provider to provide courier and delivery services to the Ports Regulator of South Africa.

2. BACKGROUND

The Ports Regulator is a Regulatory Body established in terms of Section 29 of the National Ports Act, 2005 (Act No 12 of 2005), to regulate the ports in line with government objectives.

The Ports Regulator of South Africa seeks proposals from qualified firms to provide courier and delivery services to the Ports Regulator of South Africa. These services include collection and delivery of documents and other items from the Regulator's office or other locations as instructed and delivery to the designated destination timeously.

3. SPECIFICATIONS

The Ports Regulator of South Africa requires a service provider to perform the following services:

- Enter into a three year contract with the Regulator
- Collect and deliver documents and other items.
- Over-night delivery capability is essential.
- Package tracking facilities and reports.

4. EVALUATION CRITERIA

An evaluation process will be conducted with all applicants that are compliant with the minimum requirements. The total score that suppliers can obtain for functionality will be 100%. The minimum threshold for functionality will be 75%. All suppliers that meet the minimum threshold for functionality will be further evaluated on price and preference points.

Phase One:

Evaluation of the bidder’s functionality will be determined according to the following criteria:

Criteria: Functionality	Max. Score
<u>Track Record</u> Bidder to supply references of similar services rendered; <ul style="list-style-type: none"> ▪ 5 > References = 10 ▪ 4 References = 8 ▪ 3 References = 6 ▪ 2 References = 4 ▪ 1 References = 2 	10
<u>Experience</u> Number of years of applicable experience of organisation <ul style="list-style-type: none"> ▪ 8 yrs > = 10 ▪ 6 – 8 yrs = 8 ▪ 4 – 6 yrs = 6 ▪ 2 – 4 yrs = 4 ▪ 1 – 2 yrs = 2 	10
<u>Credit Rating</u> <ul style="list-style-type: none"> • Bidder to submit Bank Letter of Goodstanding 	5
Quality of Project Proposal, response to Terms of Reference and Project Plan	15
Total	40

Phase 2:

Adjudication of the tender will be based on the 80/20 principle where 80 refers to price and 20 refers to BBBEE status.

5. PRICING CONDITIONS

For comparative purposes, bidders quotes will be assessed on the unit price of the services, based on service fees as well as the total fixed fee for the project.

Service Fees:

Courier and delivery bidders must submit their detailed fixed service fee per delivery and any other variable costs for each delivery. *(please indicate whether VAT will be payable on these fees)*. Fees are to be fixed for a period of one year.

Prices in terms of this tender will be regarded as firm for a period of 6 (SIX) months after the closing date of the tender. (“Firm price” is 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 a law or regulation is binding on the contractor and demonstrably have an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract.)

6. MINIMUM REQUIREMENTS

Suppliers must comply with the minimum conditions below for their bids to be considered. Failure to submit documents or comply with any requirement in this section will render your bid non-compliant. Any bid document or component that is illegible in part or completely shall render the bid non-compliant and shall be excluded from adjudication.

Bidders are required to submit an Original, Valid Tax Clearance Certificate

If suppliers would want to claim BBBEE preference points then a copy of a BBBEE certificate must be submitted prior to the closing time and date for bid submissions. Only a valid BEE certificate from a South African National Accreditation System (SANAS) Company or by registered auditors approved by the Independent Regulatory Board for Auditors (IRBA) will be acceptable.

The following documents are mandatory requirements:

- SBD 1 – Invitation to Bid
- SBD 4 – Declaration of Interest
- SBD 6.1 – Preference Points Claim Form
- SBD 8 – Declaration of Bidders Past SCM Practices
- SBD 9 – Certificate of Independent Bid Determination

Bidders are requested to complete the attached checklist before submission

7. CONFLICT OF INTEREST

The appointed service provider(s) may not in any way act in a manner that is inconsistent with his/her duties; expose him/herself to any situation involving the risk of a conflict of interest between the official responsibilities and fiduciary duty required as a service provider to the Ports Regulator of South Africa, and that of any other interest

8. SUBMISSION

Bidders are to ensure that a **two envelope system** is utilized – functionality and price are to be submitted SEPERATELY

All bids are to be submitted as an Original plus 2 Copies.

Please note, NO emailed submissions will be accepted.

Two Envelope System:

Part 1 is the functionality component of the submission and will set out the approach and response to the technical requirements of the Terms of Reference. The proposal will also include the proposed team members and proposed project plan. All supporting documents are to be submitted in Part 1.

Part 2 is the price component of the submission, and will be required to have fixed and variable components set out clearly. The price component must be clearly marked and submitted separately. No price bid shall be opened with respect to a submission that fails to comply with the minimum functionality requirements, or fails to meet the minimum 75% functionality requirement.

9. BID DEADLINE

The closing date of the bid is **31 October 2013 at 11h00**.

Any submission received after the closing time will be considered late and will be returned unopened.

Submissions are to be addressed to

Ms. Atiyah Bhabha
 11th Floor, The Marine Building
 22 Dorothy Nyembe Street
 Durban
 Kwa - Zulu Natal
 4001

Nr.	Item:	For Bidder Use	
		Yes	No
1.	Did you take note that bids submitted per mail must be sent per registered mail and reach the Ports Regulator in time to be deposited in the Tender Box before the closing date and time? Please note that late bids will not be considered.		
2.	Is your bid/proposal complete and responsive in all respects to the terms of reference?		
	OFFICIAL FORMS		
3.	SBD 1 – Completed and Signed		
4.	SBD 4 – Completed and Signed		
5.	SBD 6.1 – Completed and Signed In bids where consortia /joint ventures sub-contractors are involved, all parties must submit separate B-BBEE Status Level Verification Certificate.		
6.	Is the SBD 8 Form completed and signed?		
7.	Is the SBD 9 Form completed and signed?		
	OTHER		
8.	Original and Valid Tax Clearance Certificate - In bids where consortia/joint ventures/sub-contractors are involved, each party must submit a separate Tax Clearance Certificate (paragraph 4 of the SBD 2 Form)		
9.	Income Tax Certificate		
10.	Audited Financial Statements		
11.	Company Profile		
12.	CV's of proposed personnel		
13.	ID Copies of Directors/ Shareholders / Members		
14.	Company Certificate / Shareholder's register		
15.	Vat Registration Certificate		
16.	Bank Letter		

SBD 1

INVITATION TO BID

BID NUMBER: PRSA 005-2013-PROCUREMENT - 002
CLOSING DATE: 31 October 2013 **CLOSING TIME:** 11:00 am

DESCRIPTION: **REQUEST FOR PROPOSAL FROM BIDDERS TO SUPPLY COURIER SERVICES TO THE PORTS
 REGULATOR OF SOUTH AFRICA**

The successful bidder will be required to fill in and sign a written Contract Form

BID DOCUMENTS MAY BE POSTED TO OR DEPOSITED AT THE PORTS REGULATORS OFFICE SITUATED AT:
 11TH FLOOR, THE MARINE BUILDING
 22 DOROTHY NYEMBE STREET,
 DURBAN 4001.

Bidders should ensure that bids are delivered timeously to the correct address. If the bid is late, it will not be accepted for consideration.

The office is open weekdays, 07h30 to 16h00.

ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS – (NOT TO BE RE-TYPED)

THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2011, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT AND WILL BE EVALUATED ON FUNCTIONALITY.

*THE FOLLOWING PARTICULARS MUST BE FURNISHED
 (FAILURE TO DO SO WILL RESULT IN YOUR BID BEING DISQUALIFIED)*

NAME OF BIDDER:

POSTAL ADDRESS:

STREET ADDRESS:

TELEPHONE NUMBER: CODE.....NUMBER.....

CELLPHONE NUMBER:

FACSIMILE NUMBER: CODENUMBER.....

VAT REGISTRATION NUMBER:

HAS A TAX CLEARANCE CERTIFICATE BEEN SUBMITTED (SBD 2)? **YES / NO**

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS/SERVICES OFFERED BY YOU? **YES / NO**

(IF YES ENCLOSE PROOF)

SIGNATURE OF BIDDER:

DATE:

CAPACITY UNDER WHICH THIS BID IS SIGNED:

TOTAL BID PRICE: TOTAL NUMBER OF ITEMS OFFERED:

DECLARATION OF INTEREST

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 a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the party, parties, employees, agents or related parties be persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-

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

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

- 2.1. Full Name of bidder or his or her representative:
- 2.2. Identity Number:
- 2.3. Position occupied in the Company (director, trustee, shareholder²):.....
- 2.4. Company Registration Number:
- 2.5. Tax Reference Number:
- 2.6. VAT Registration Number:

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

¹“State” means –

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

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

2.7. Are you or any person connected with the bidder 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 / NO**

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

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

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

.....

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

2.8.1. If so, furnish particulars:

.....

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

2.9.1. If so, furnish particulars:

.....

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

2.10.1. If so, furnish particulars:

.....

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

2.11.1. If so, furnish particulars:

.....

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

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

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.

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 ~~exceed~~/not exceed 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 PRICE	80
1.3.1.2 B-BBEE STATUS LEVEL OF CONTRIBUTION	20
1.3.1.3 Total points for Price and B-BBEE must not exceed	100

1.3.2 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) or 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.

1.3.3 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 The Ports Regulator of South Africa 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”** means the agreement that results from the acceptance of a bid by The Ports Regulator of South Africa;
- 2.9 **“EME”** means any enterprise with an annual total revenue of R5 million or less .
- 2.10 **“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;
- 2.11 **“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 service and the technical capacity and ability of a bidder;
- 2.12 **“non-firm prices”** means all prices other than “firm” prices;
- 2.13 **“person”** includes a juristic person;
- 2.14 **“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;
- 2.15 **“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;
- 2.16 **“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;
- 2.17 **“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
- 2.18 **“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 OR 90/10 PREFERENCE POINT SYSTEMS

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

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

Where

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

5. 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-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

- 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 ~~10~~ or 20 points)
 (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).

8. SUB-CONTRACTING

- 8.1 Will any portion of the contract be sub-contracted? YES / NO (delete which is not applicable)
- 8.2 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

- Partnership/Joint Venture / Consortium
- One person business/sole propriety
- Close corporation
- Company
- (Pty) Limited
- [TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

9.6 COMPANY CLASSIFICATION

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

[TICK APPLICABLE BOX]

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

11. 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) 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

WITNESSES:

- i.
- ii.

.....

SIGNATURE OF BIDDER

Date:

Address:

.....

.....

DECLARATION OF BIDDER’S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

- 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 or shareholders listed on the National Treasury’s Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector? (Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied). The Database of Restricted Suppliers now resides on the National Treasury’s website(www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	Is the bidder or any of its directors or shareholders listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? The Register for Tender Defaulters can be accessed on the National Treasury’s website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors or shareholders 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:
-------	-----------------------------

SBD 8

CERTIFICATION

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

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

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

SBD 9

CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1) This Standard Bidding Document (SBD) must form part of all bids¹ invited.
- 2) Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).² Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3) Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
 - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system
 - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
- 4) This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging. In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

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

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

SBD 9

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

PRSA 005 – 2013: PROCUREMENT – 002; PROCUREMENT OF COURIER SERVICES

(Bid Number and Description)

in response to the invitation for the bid made by:

THE PORTS REGULATOR OF SOUTH AFRICA

(Name of Institution)

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

I certify, on behalf of: _____ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word “competitor” shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium³ submitting a single bid will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;

- (d) the intention or decision to submit or not to submit, a bid;
- (e) the submission of a bid which does not meet the specifications and conditions of the bid;

or

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

- 8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

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

- 10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation

.....

Signature

.....

Date

.....

Position

.....

Name of Bidder