



iSimangaliso
Wetland Park

THE iSIMANGALISO WETLAND PARK AUTHORITY

**REQUEST FOR PROPOSAL (RFP) APPOINTMENT OF TWO TRANSACTIONAL
ADVISORS TO iSIMANGALISO WETLAND PARK AUTHORITY**

[RFP NUMBER: [05/2022]]

Date Issued: [14 June 2022]

Closing date and time: [07 July 2022 at 12H00pm]

TENDER BOX ADDRESS:

ADDRESS: The iSimangaliso Wetland Park Authority
The Dredger Harbour
McKenzie Street
St Lucia Estuary
Dukuduku
3936
(Approximately 25km from the town of Mtubatuba)

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1. DEFINITIONS

Bid	a Bid submitted in terms of this RFP;
Bidder	a person or persons or a special-purpose entity formed to represent individuals, groups of individuals or organisations who submit(s) a Bid in terms of this RFP;
CPI	the indices for consumer prices published from time to time by Statistics South Africa applicable to each of the twelve-month periods commencing at the commencement date of the Service Agreement and on each subsequent anniversary of it;
IMP	the Integrated Management Plan prepared in terms of the Act applicable to the Park;
iSimangaliso	the iSimangaliso Wetland Park Authority established by the Minister in terms of Government Notice 4477 dated 24 November 2000;
ISWP	iSimangaliso Wetland Park
PPP	Public Private Partnership in terms of National Treasury regulations
RFP	this request for proposals;
Service	the service to be provided by the Service Provider as described;
Service Agreement	the contract to be entered between the iSimangaliso Authority and the Service Provider as set out in Annexure 10;
Service Fee	the fee payable by the iSimangaliso Authority to the Service Provider for performing the Services;

2. INTRODUCTION

The iSimangaliso Wetland Park was proclaimed a World Heritage Site by regulation published in the

Government Gazette under notice number 4477 on 24 November 2000. The Park stretches across open seas, reefs, beaches, forests, savannahs, lakes, rivers and mountains to include all the natural wonders that have drawn travellers and explorers to Africa for centuries. It is approximately 332 000 hectares in size. The Indian Ocean forms the eastern boundary of the Park, which extends from the Mozambican border in the north, to Maphelane in the south and includes the uMkhuze section in the west. The Park traverses approximately one third of the KwaZulu-Natal coastline.

On the 25th of March 2022 iSimangaliso hosted a successful and historic Tourism business investment summit at Sibaya Casino and Entertainment Kingdom. The aim of the summit was to showcase, present product offerings and tourism investment opportunities to prospective investors that are available within the iSimangaliso Wetland Park. This is aimed at contributing to the financial sustainability of the organization and reduce dependency on fiscal coffers.

At project inception, Treasury Regulation 16.3.1(d) requires that the accounting officer/authority must appoint a transaction advisor if the relevant treasury so requests. The transaction advisor is typically a consortium of professional consultants, from one or more firms, who work as a team. The transaction advisor contracts with the institution through the lead firm. All other members of the consortium participate either through subcontracts with the lead firm or via a joint venture arrangement who has or have appropriate skills and experience to assist and advise the institution in connection with a PPP, including the preparation and conclusion of a PPP agreement.

South Africa has established a firm regulatory framework for national and provincial institutions to enter into public private partnerships (PPPs). This is set out in Treasury Regulation 163 issued in terms of the Public Finance Management Act, 1999 (PFMA). Furthermore, National

Treasury's PPP Manual and Standardised PPP Provisions have been issued as PPP practice notes in terms of section 76(4)(g) of the PFMA to make the application of the PFMA and its regulations easier.

Section 76 of the PFMA provides that National Treasury must make regulations for a range of matters to do with the effective and efficient management and use of financial resources. Many of these matters are relevant to PPPs and Treasury Regulation 16 to the PFMA provides precise and detailed instructions for PPPs.

The entity thus intends to procure the services of an experienced transaction advisor to assist it through the phases of the PPP project cycle. These TOR invite proposals from a transaction advisor representing a team of suitably qualified and experienced financial, technical, environmental, and legal advisors to assist the Entity.

The scope of work is divided into two parts:

- Phase 1- undertake a comprehensive feasibility study for the projects
- Phase 2- provide advisory services for the procurement of the projects. Note: If required afterwards, the Advisors will provide Advisory services for the appropriate procurement of the project. The transaction advisor will assist the institution to prepare for and implement the PPP procurement process, including preparing all necessary documentation to enable the institution to obtain treasury approvals IIA (TA:IIA), IIB (TA:IIB) and III (TA:III), and complete a close-out report and case study.

The transaction advisor needs to submit a single bid, in the formats prescribed in these TOR. (Reference to 'the transaction advisor' includes the entire advisory team, or relevant members, under the management of a single lead advisor who shall sign an Agreement with the entity)

Legal, Regulatory & Institutional Framework

The Park is under the control of the iSimangaliso Authority. The iSimangaliso Authority reports to the Minister and is mandated to implement the policies and principles of the World Heritage Convention, the Act and the NEMPAA. The iSimangaliso Authority is listed as a Schedule 3a Public Entity under the PFMA and is the protected area manager in terms of the NEMPAA.

The iSimangaliso Authority has entered into a Management Agreement with Ezemvelo, its day-to-day conservation manager. There are some 93 pieces of national legislation,

regulations and policies, and international conventions regulating environment in the Park. Key legislation pertaining to this project is the National Environmental Management Act: Integrated Coastal Management Act, 2008 (Act No 24 of 2008), National Forest Act, 1998 (Act No 84 of 1998, National Water Act, 1998 (Act No 36 of 1998), National Environmental Management Act, 2008 (Act No 59 of 2008).

Integrated Management Plan

The iSimangaliso Authority manages the Park in accordance with an IMP. The IMP provides a framework for conservation, tourism and zonation of activities allowed in the Park. Specific Park Rules and directives are also issued from time to time by the iSimangaliso Authority.

3. PURPOSE OF THIS REQUEST FOR PROPOSAL (RFP)

The purpose is to request proposals from suitable panel of service providers to assist iSimangaliso in facilitation of various social programmes and any other ad hoc related programmes and projects that may arise within the three years period of implementation. Due to the scope of work, iSimangaliso is looking at appointing a maximum of four service providers who will be considered for assigning the work within the duration of the project implementation.

4. LEGISLATIVE FRAMEWORK OF THE BID

4.1. Tax Legislation

- 4.1.1. Bidder(s) must be compliant when submitting a proposal to iSimangaliso and remain compliant for the entire contract term with all applicable tax legislation, including but not limited to the Income Tax Act, 1962 (Act No. 58 of 1962) and Value Added Tax Act, 1991 (Act No. 89 of 1991). It is a condition of this bid that the tax matters of the successful bidder be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the bidder's tax obligations.
- 4.1.2. iSimangaliso reserves the right to cancel a contract with a successful bidder in the event that such bidder does not remain tax compliant for the full term of the contract
- 4.1.3. Bidders are required to be registered on the Central Supplier Database and the National Treasury shall verify the bidder's tax compliance status through the Central Supplier Database. iSimangaliso reserves the right to withdraw an award made, or cancel a contract concluded with a successful bidder in the event that it is established that such

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Activity	Due Date
Advertisement of bid on Government e-tender portal / website / Tender Bulletin	14 June 2022
Briefing Session	20 June 2022 at 10h00
Written questions of clarification – closing date	30 June 2022
Bid submission closing date	07 July 2022 at 12:00 precisely (Bidders will not be permitted to submit their proposal after the set time) Bidders are invited to attend a public opening of tender on 07 July 2022 at 12H00 pm.

4.1.4. bidder was in fact not tax compliant at the time of the award or has submitted a fraudulent Tax Clearance Certificate to iSimangaliso, or whose verification against the Central Supplier Database (CSD) proves non-compliant

4.2. Procurement Legislation

4.2.1. iSimangaliso has a detailed evaluation methodology premised on Treasury Regulation 16A3 promulgated under Section 76 of the Public Finance Management Act, 1999 (Act, No. 1 of 1999),

4.2.2. The Preferential Procurement Policy Framework Act 2000 (Act, No.5 of 2000) and the Broad-Based Black Economic Empowerment Act, 2003 (Act, No. 53 of 2003).

4.3. Technical Legislation/or Standards

4.3.1. Bidder(s) should be cognisant of the legislation and/or standards specifically applicable to the services. The tender will be conducted in accordance with the terms of this RFP and the laws of the Republic of South Africa.

5. TIMELINE OF THE BID PROCESS

5.1. The period of validity of tender and the withdrawal of offers, after the closing date and time is 120 days. The project timeframes of this bid are set out below:

All dates and times in this bid are South African standard time. Any time or date in this bid is subject to change at iSimangaliso's discretion. The establishment of a time or date in this bid does not create an obligation on the part of iSimangaliso to take any action or create any right in any way for any bidder to demand that any action be taken on the date established. The bidder accepts that, if iSimangaliso extends the deadline for bid submission (the Closing Date) for any reason, the requirements of this bid otherwise apply equally to the extended deadline

6. CONTACT AND COMMUNICATION

- 6.1 A nominated official of the bidder(s) can make enquiries via email: bids@iSimangaliso.com **No telephonic queries will be entertained.**
- 6.2 The delegated office of iSimangaliso may communicate with Bidder(s) where clarity is sought in the bid proposal.
- 6.3 Any communication to an official or a person acting in an advisory capacity for iSimangaliso in respect of the bid between the closing date and the award of the bid by the Bidder(s) is discouraged.
- 6.4 All communication between the Bidder(s) and iSimangaliso must be done in writing.
- 6.5 Whilst all due care has been taken in connection with the preparation of this bid, iSimangaliso makes no representations or warranties that the content of the bid or any information communicated to or provided to Bidder(s) during the bidding process is, or will be, accurate,
- 6.6 current or complete. iSimangaliso, and its employees and advisors will not be liable with respect to any information communicated which may not be accurate, current or complete.
- 6.7 If Bidder(s) finds or reasonably believes it has found any discrepancy, ambiguity, error or inconsistency in this bid or any other information provided by iSimangaliso (other than minor clerical matters), the Bidder(s) must promptly notify iSimangaliso in writing

of such discrepancy, ambiguity, error or inconsistency in order to afford iSimangaliso an opportunity to consider what corrective action is necessary (if any).

- 6.8 Any actual discrepancy, ambiguity, error or inconsistency in the bid or any other information provided by iSimangaliso will, if possible, be corrected and provided to all Bidder(s) without attribution to the Bidder(s) who provided the written notice.
- 6.9 All persons (including Bidder(s)) obtaining or receiving the bid and any other information in connection with the Bid or the Tendering process must keep the contents of the Bid and other
- 6.10 such information confidential, and not disclose or use the information except as required for the purpose of developing a proposal in response to this Bid.

7. LATE BIDS

- 7.1 Bids received after the closing date and time, at the address indicated in the bid documents, will not be accepted for consideration and where practicable, be returned unopened to the Bidder(s).

8. COUNTER CONDITIONS

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

9. INTELLECTUAL PROPERTY RIGHTS

- 9.1 All copyright and intellectual property rights that may result as consequences of the work to be performed will become the property of iSimangaliso
- 9.2 Service Providers must hand over all documents and information in any format, including copies thereof, that it received from iSimangaliso or that it had access to during the assignment immediately after completion of the assignments to iSimangaliso.
- 9.2.1 Service providers shall deliver to iSimangaliso, on completion of an assignment, any security devices, passwords or protective mechanisms to the soft versions of documents that were written and iSimangaliso will have the right to amend and change these without obligation whatsoever to the service provider upon completion of the

assignment.

- 9.3 A due diligence review may be conducted at the sole discretion of iSimangaliso at any time prior to the awarding of the contract which may include but is not limited to conducting site visits at bidder's offices.
- 9.4 iSimangaliso does not guarantee that bidders will receive instructions in the event that they are appointed as iSimangaliso service providers
- 9.5 All instructions to selected services provider shall be given, in writing, by a duly authorised representative of iSimangaliso
- 9.6 iSimangaliso promotes local production and content and for purposes of this RFP iSimangaliso reserves the right to only consider South African Based service providers for appointment under this RFP. .
- 9.7 The service provider may not cede or assign any part of its agreement with iSimangaliso nor subcontract any part of the work assigned to them without the prior written authorisation of iSimangaliso.
- 9.8 Failure to comply with any condition of this request for a proposal will invalidate respective tender proposal.
- 9.9 Regular monthly written feedback must be given to the Technical Manager: or his/her nominee on all matters, including employment law matters, received from the iSimangaliso with the

10. SUBMISSION OF PROPOSALS

- 10.1 Bid documents must be placed in the tender box. Bid documents will only be considered if received by iSimangaliso before the closing date and time, regardless of the method used to send or deliver such documents to iSimangaliso
- 10.2 The bidder(s) are required to submit four (4) copies of each file (one (1) **original and three (3)** duplicate) AND one (1) flash drive with the contents of each file by the Each file and flash drive must be marked correctly and sealed separately for ease of reference during the evaluation process. Furthermore, the file and information in the flash drive must be labelled and submitted in the following format:

FILE 1 (TECHNICAL FILE)	FILE 2 (PRICE & BBBEE)

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Exhibit 1: Pre-qualification documents <i>(Refer to Section 18a - Gate 0: Pre-qualification Criteria (Table 1))</i>	Exhibit 1: Pricing Schedule <i>(Refer to Section 18.3 – Pricing Model and Annexure A 3 – Pricing Submission)</i>
Exhibit 2: • Technical Responses and Bidder Compliance Checklist for Technical Evaluation • Supporting documents for technical responses. <i>(Refer to Section 18 b - Gate 1: Technical Evaluation Criteria table and Annexures A 1, A 2, A 3 and A 4)</i>	
Exhibit 3: • Service Provider Agreement • Draft Service Level Agreement <i>(Refer to Section 21 – Service Level Agreement)</i>	
Exhibit 4: • Company Profile • Any other supplementary information	

Note: Bidders are requested to initial each page of the tender document on the bottom righthand corner.

11. PRESENTATION / DEMONSTRATION

- 11.1 iSimangaliso reserves the right to request presentations/demonstrations from the short-listed Bidders as part of the bid evaluation process.

12. DURATION OF THE CONTRACT

- 12.1 The successful bidder will be appointed for a period of thirty six (36) months.

13. PURPOSE, MANDATE AND OBJECTIVES

- 13.1 iSimangaliso Wetland Park Authority was established by Regulation 1193 of 24 November 2000, under the World Heritage Convention Act 49 of 1999. The iSimangaliso Wetland Park Authority (iSimangaliso) is a Schedule 3A Public Entity, whereas its core business is to conserve and to present World Heritage values and also responsible for empowering the historically disadvantaged communities living in and adjacent to the Park, as well as promoting optimal tourism and related tourism development as part of its contribution to local community land scape of King Cetshwayo, uMkhanyakude Districts Municipalities and beyond
- 13.2 Protected areas and or nature reserves referred to above are managed under very difficult circumstances due to declining budgets, ageing personnel, lack of adequate infrastructure and mounting pressure from communities demanding tangible economic benefits, mainly from communal reserves.
- 13.3 The inherent socio-economic opportunities in most of these reserves are underutilize due to lack of business acumen, skills and financial resources, while on the other hand, there is a greater interest from private sector, seeking investment opportunities to invest in anticipation for attractive return on investment.
- 13.4 As an intervention to the above situation, the entity intends to conduct feasibility of PPP tourism projects in terms of Treasury regulations 16 to the Public Finance

Management Act, 1999 (PFMA) to procure competent private partners to invest, develop and manage commercial activities in certain on behalf of the entity.

- 13.5 In compliance to the prescripts of the Treasury Tourism PPP toolkit, the entity intends to procure the services of an experienced transaction advisor to undertake the detailed feasibility study as described in this Terms of Reference , and therefore, invite proposals from a suitable and qualified transaction advisor representing a team of suitably qualified and experienced financial, technical,eco-tourism, environmental and legal advisors to assist the entity.
- 13.6 Reference to ‘the transaction advisor’ includes the entire advisory team, or relevant members under the management of a single lead advisor who will enter into an Agreement with the ISWP
- 13.7 The purpose of commercialization through PPP is its potential to reduce the cost of service delivery, improve service levels and leveraging private capital and expertise to expand tourism products and generate additional revenue. The objectives include:
- Creation of capitalization opportunities
 - Revenue Generation;
 - Loss minimization or savings on existing operations;
 - Optimal use of under-performing assets;
 - Job creation;
 - Broad based Black Economic Empowerment;
 - Infrastructure upgrades and
 - Tourism promotion.

14. SCOPE OF WORK

14.1 PART 1: FEASIBILITY STUDY

The transaction advisor will be required to produce a comprehensive feasibility study for the project using PPP models. The feasibility study must enable the entity to determine:

- Full life cycle project costs;
- Affordability limits;
- Identification of all risks and their costs;
- Recommendations with regards to allocation of each risk; and
- Optimal value for money methods of delivery.
- Potential revenue to/and savings by the ISWP

Section 6 below sets out the deliverables required of the transaction advisor for the feasibility study.

14.2 PART 2: PPP PROCUREMENT

The transaction advisor will assist the institution to prepare for and implement the PPP procurement process, including preparing all necessary documentation to enable the institution to obtain treasury approvals IIA (TA:IIA), IIB (TA:IIB) and III (TA:III), and complete a close-out report and case study.

ISWP reserves the right to terminate the appointment of the transaction advisor or to require the lead advisor to terminate any member of the transaction advisory team at any stage either during Phase 1 or 2

14.3 PPP FEASIBILITY STUDY DELIVERABLES

The transaction advisor is required to produce, in close liaison with the entity, a comprehensive feasibility study for Project. The feasibility study needs to clearly demonstrate affordability for the full project cycle and propose the optimal value-for-money solution for the entity to achieve its desired outcomes.

The feasibility study is to be conducted in compliance with Treasury regulation 16.

14.3.1 COMPONENTS OF THE FEASIBILITY STUDY

The feasibility study must include the following:

Introduction

- Covering letter from the accounting officer/authority;
- Executive summary;
- Introduction;
- Project background and
- Approach and methodology to the feasibility study

Need analysis

The need analysis must include the following:

- Entity's strategic objectives for commercialization.
- Entity's capacity and deliverability including:
 - Project Team and Advisors;
 - Organisational factors;
 - Stakeholders interest and
 - Budget availability;
- Output specifications
- Scope of the project

Option Analysis

Solution option analysis including:

- Options considered/ identified;
- Evaluation and assessment of each option;
- Assessing entity role in the proposed PPP project, whether that role corresponds with the Entity's legal obligations, maintains sufficient power to protect the Entity's interests and corresponds to the proposed corporate structure of the project vehicle and how in practice the Entity role will be established in the project vehicle (e.g. voting rights, pre-emption rights, golden shares and the protection of minority shareholders)
- Developing and providing detail to the legal architecture and design of the transaction, identifying e.g. the (i) type of PPP Agreement to be used (e.g. concession, or management Agreement) (ii) investment commitments to be required, their nature and management, (iii) investment plan, how, where and when investments will be made (iii) type of public sector support required, including terms and conditions and (iv) corporate structure for the investment and commercial management including nature of the SPV holding the concession, etc.

- Summary of evaluation and assessment of all options considered
- Review of risk allocation assumptions to assess whether those risks can be allocated (e.g. legally) to the private sector (e.g. land acquisition, collection of tariffs from individual consumers and safety monitoring).
- Review of project assumptions and whether they are practically and legally viable, e.g. management of staff rights and benefits and whether there might be legal limitations to how staff can be treated.
- Assess the financial management and accounting structures proposed to identify efficiency gains available through other structural mechanisms, e.g. taxation of revenues and accounting methods for depreciation of assets.
- Identifying other contractual and commercial relationships in the sector or related to the sector and how those relationships will interface with the PPP project.
- Assess risk management structures for potential efficiency gains through alternative structures or modifications.
- Assess the financial feasibility and provide valuation of revenues according to the different options and based on various assumptions used in the forecasts including those of demand and pricing should be stated clearly.
- Advise on a financial (capital) structure for mobilizing debt.
- Confirming legality of budgeting assumptions and the management of revenue flows (e.g. are there restrictions on the use of monies collected for use with public services).
- Assessing risk allocation approaches to ensure that they correspond with private sector appetite and lender requirements. This should be done before bidding to avoid failure of the bidding process and the costly and reputationally damaging recommencement of the tendering process.
- Assessing chosen approach to PPP and whether any aspect of that approach will conflict with available or required procurement, Contracting and financing structures.
- Recommendation of a preferred option

Project due diligence

Project due diligence must include:

Legal Issues

It is important that legal issues are resolved during the feasibility study phase of the PPP project cycle. The legal issues must cover the following:

- Land access/rights
- Use rights
- Land claims
- Regulatory matters
- Labour legislation
- Environmental and heritage legislation
- Necessary Agreements
- Approvals required
- Key challenges to risk allocation as law
- Identify licensing, permitting and other legal risks that need to be addressed and allocated under the chosen approach.

Technical Aspect

Technical aspects including:

- Field surveys of the selected project site which may include, depending on the project, mapping, topographical and geotechnical surveys
- Consideration of zoning rights, town planning requirements and heritage matters.
- Consideration of environmental conditions that will impact the technical design; and
- A preliminary technical design of the facilities required to provide the project outputs. Alternative design options should also be developed in order to take into account certain site-related uncertainties and the variation in demand projections. Based on the technology solution and preliminary design a detailed estimate of the project cost should be developed.

Operational Issues

- Review the studies, reports, data and supporting documentation listed for use and inclusion in the feasibility study and any other relevant information provided by the Entity.

- Provide the overview of each option – location, capacity (no of beds), operational track record, etc.
- Status of all existing building structures if any, and estimates of planned refurbishment work and supporting budget.

Site enablement issues

- The study must identify infrastructure barriers to investment and other technical and heritage matters etc.

Socio-economic issues

- Assessment of the positive and negative impact that the various options for implementing the project will have on BBBEE, SMMEs, local job opportunities, industry etc. as compared with a situation where no project is implement.

Environmental issues

- Identify the necessary approvals and permits which will need to be obtained, or any other environmental issues which will need to be resolved;
- Determining the quantifiable direct and indirect social and environmental costs and benefits;
- Identifying the non-quantifiable direct and indirect social and environmental costs and benefits;
- Charactering options for mitigating adverse impacts and estimating the cost of mitigations;
- High level outline of how the proposed project contributes towards reducing carbon footprint (emissions) – in terms of design, materials to be used, technology to be installed,
- Indication of whether the proposed development will have a significant impact on, or be constrained by any of the following:
 - **Energy supply** - the demand for power and its effect on peak and base loads, planned provision of power in the area, the need for new transmission lines, etc.,

- **Water** - (water rights, wasteful or excessive water requirements, adequacy and reliability of water supply, etc.),
- **Waste management** - (efficiency and capacity of waste management facilities, risk associated with waste transport, etc.),
- **Transport networks** -generation of more private and public traffic.
- Site identification, suitability and environmental parameters on each receiving environment.
- Environmental and Social Impact Assessment scoping should an EIA be necessary including Heritage assessment.
- The feasibility studies should also take account of the impact of the project on climate change, explore usage of Innovative Building Technologies/CSIR standards and ensure that accessibility for people with physical disabilities is fully taken care of.
- Provide information regarding health and safety and other environmental/ standards that will inform the final output specifications to be included in tender documents
- Ensuring all necessary approvals and permissions are obtained for PPP processes before commencement of tender process, in particular to allow the Entity to sign the tender documents and the PPP Agreement.

Human Resource due diligence

- The Human Resource due diligence must give a legal review and options in respect of all existing staff who may be affected by commercialisation process.

Market testing

- Detailed evaluation of the market landscape for the different reserves options including the following:
 - Detailed specification of each reserve market landscape, including, a description of the industry, estimates of market size, breakdown of market players and their respective market share (per market segment) –in the targeted areas.
 - Detailed comparison of the service offering compared to competitors (i.e. including providers of similar accommodation and or tourism facilities).
 - Assessment of the strengths, weakness, opportunities and threats of the offering vis-à-vis that of competitors and an assessment of the offering's competitive advantage,

- Assessment of the demand for the chosen options in selected reserves, achievability of the expected occupancy levels, and the affordability and competitiveness of the proposed fees to be charged for the development option, in particular in the target area.

Value Assessment

- Value assessment is central in deciding the financial feasibility of a PPP, therefore it must include the following:

- **PPP reference**

- Technical definition of project
- Discussion on costs (direct and indirect) and assumptions made on cost estimates
- Discussion on revenue (if relevant) and assumptions made on revenue estimates
- Discussion on proposed PPP type
- Proposed PPP project structure and sources of funding
- Payment mechanism
- Discussion on all model assumptions made in the construction of the model, including inflation rate, discount rate, depreciation, tax and VAT
- Summary of results from the PPP-reference model: NPV

- **Risk Assessment**

- An independent risk assessment should be conducted with regard to the PPP reference model. The risk assessment should be undertaken by the transaction advisor and all material risks must be identified, evaluated and consequently allocated to either the investor or the Entity. The various risk identified should be presented in a comprehensive risk matrix to allow for the tracking of risk allocation.
- The following are some of the risks that need to be considered:
 - Availability risk;
 - Market Risk (i.e., demand, cost of alternate sources);
 - Planning risk;
 - Counterparty risk (especially payment risks);
 - Completion risk;
 - Operation Risk;

- Price and tariff risk;
 - Political risk;
 - Legal risks;
 - Fiscal/macroeconomic risks;
 - Regulatory risk;
 - Environmental risks;
 - Insolvency risk,
 - Force Majeure risks etc.
- Compile a summary of the entity's retained and transferable risks. The NPV of all retained risks to be added onto the PPP reference model.
- The review should contain recommendations on the mitigation mechanisms for each of the identified risks to be implemented by the party identified to bear that risk. In doing so, assessment and applicability and economy of various risk mitigation mechanisms should be carried out, including but not limited to:
 - private mechanisms such as commercial insurance;
 - specific developed country mechanisms such as export credit insurance and investment insurance available from national agencies (e.g. Overseas Private Investment Corporation OPIC of US);
 - risk mitigation and insurance mechanisms from IFIs, including partial risk and partial credit guarantee mechanisms;
 - the risk mitigation instruments available; and
 - any special mechanisms that have been developed/deployed in a high risk contexts and their applicability and adaptation for the current context.
- The feasibility study should indicate project affordability over the full period of the envisaged concession period, demonstrate value for money (VFM) through appropriate risk transfer by means of comparison with a reference financial model that is risk adjusted, and sets out a clear process to obtain the best value. The feasibility study must also present the proposed payment mechanism and the whole project life cycle costing
- **Risk – adjusted PPP reference**
- Risk adjusted PPP reference that includes:
 - Summary of results: NPV, key indicators
 - Sensitivity analyses

- Statement of affordability
- Statement of value for money
- Recommended procurement choice

- **Information verification**
 - Attach summary of documents as Annexures to verify information that is the baseline for the feasibility study report.

- **Economic Valuation**
 - The Economic valuation of the project must include the following:
 - Introduction and evaluation approach
 - Assumptions
 - Valuation results
 - Macroeconomic Impact - This should analyse entity the: (a)
 - revenues that would accrue to the entity through
 - * Value added taxes; (
 - * other taxes and levies as contributions to specific funds (e.g Social Fund);
 - * Corporate taxes;
 - * Local and provincial taxes;
 - * customs duties and excise levies on equipment and services imported/ purchased.
 - * guarantee/on-lending margins charged by entity;
 - impact on entity overall debt and debt service position; and
 - employment generation, regional development, betterment of people directly affected etc.

- Market Analysis - Economic aspects of the target markets: demand projections for the length of the project period (minimum [20] years); alternative options to meet the projected demand; the competitiveness of the Project vis-à-vis [COUNTRY]'s marginal cost of generation; the share of the Project in meeting the power capacity demand, and share of the Project in meeting energy demand; and

- Project Level Analysis - Project cost benefit analysis, including net present value (NPV), financial internal rate of return (FIRR) and economic internal rate of return (EIRR).

- **Procurement Plan**

- Annexure 1: Statements for information verification and sign off from each advisor to the project
- Annexure 2: Proposed Business model
- Annexure 3: Risk assessment and comprehensive risk matrix
- Annexure 4: Document list (list of all documents related to the project, where they are kept, and who is responsible for ensuring that they are updated)
- Annexure 5: Attach as annexure all other documents that have informed the feasibility study and that are of decision-making relevance to the project.

14.3.2 PRESENTATION OF FEASIBILITY STUDY

The feasibility study, comprising all the above deliverables, must be compiled in a single report in Word format (with relevant annexures), and delivered as both electronic and hard copy documents. All financial models must be in Excel format, and must clearly set out all assumptions made, sensitivity analyses carried out, and model outputs. The financial models must be sufficiently adaptable for use by others at later stages. The feasibility study must be presented with a thorough executive summary and must be accompanied by a PowerPoint presentation that encapsulates all the key features of the study. The executive summary and PowerPoint presentation must be compiled in such a manner that they can be used by the entity's management for decision-making purposes.

14.3.3 SUBMISSION REQUIREMENTS FOR THE FEASIBILITY STUDY REPORT

If the entity decides to pursue a PPP solution for the Project, the feasibility study must be of a standard that will be accepted by relevant authorities for the purposes of the entity obtaining approval. The transaction advisor is therefore advised to be fully familiar with the requirements of the relevant authorities.

14.4 PPP PROCUREMENT DELIVERABLES

If the entity decides on a PPP procurement solution, the transaction advisor is required to work with the entity to manage the procurement process for securing contracts with a private party. All this needs to be in accordance with the systems and standards set out for PPPs in relevant laws and regulations.

The transaction advisor will then have to deliver the following:

14.4.1 APPROVAL AND ADMINISTRATION OF THE BIDDING PROCESS

The transaction advisor must prepare a complete set of procurement documents, complying with public sector procurement law, policies and guidelines, and in accordance with the tendering systems of the ISWP. The documentation must be consistent with the results of the feasibility study and enable the entity to obtain relevant approvals.

The transaction advisor must also give the entity all the necessary drafting, bidder communication and administrative support necessary for the entire procurement process to be conducted in accordance with law and policy, and to the highest standards of efficiency, quality and integrity.

14.4.1.1 Detailed procurement plan

The transaction adviser will design a complete procurement plan and process based on applicable procurement requirements, including

- Advice on mechanisms to maximize competition while avoiding unrealistic bids and project vulnerability from overly aggressive bidding.
- Reviewing information to be provided by the entity to bidders to manage liabilities.
- Technical review, including
 - review of general functional/technical solutions;
 - assessment of the estimated capital and operating costs;
 - review the proposals and compare them with current best practice, highlighting areas where the proposed solutions will increase risk (and therefore price) and making suggestions for changes in current proposals.

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- Capacity of the site, and appropriateness for the technology and performance required of the Project,
 - weather conditions, status of land availability, status of permissions and permits, traffic
 - management and construction management constraints etc.
 - service levels and operating costs
 - preparation of all alignment drawings and specifications (to the extent not provided in the feasibility study)
 - review of project data, including ground conditions and geotechnics.
 - review of capital cost estimates from feasibility study, benchmarking against out turn costs /published cost estimate data on other projects.
 - review of operability of scheme in relation to technical specification, infrastructure, off-take demand and required levels of output, availability and safety.
 - commentary on integration with - and linkages to network
 - environmental impact assessments and proposed mitigation measures.
- Designing pre-qualification and bidding procedures
 - Designing key aspects of the tender procedure, for example deciding whether and to what extent to accept variant and non-conforming bids, how many bidders must bid before the process is valid, what rules to set in relation to the assessment of bids (scoring regimes, timing of bids and rejecting of excessively low bids) and how to maximize competition without sacrificing quality of bids.
 - Outlining tender documentation
 - Outlining the PPP Agreement (including all annexes) that implements the chosen PPP approach:
 - applying the risk matrix developed during the feasibility study, but updated to address all project issues and market context,
 - developing and implementing a detailed financial model and developing the contract to fit the requirements of the model,
 - explaining to the entity whether and to what extent certain provisions could be amended without disturbing the key risk allocation goals of the ISWP,
 - All advice should be compliant with applicable law and consider any constraints or opportunities associated with applicable law.

- A 2 day 'workshop' with the entity and the Project Team to discuss policy decisions and risk transfer issues, followed by 1 further more extensive 'workshop' to agree final project design.

15. COMPANY PROFILE

15.1 Submission of Company Profile- the company's profile shall inter alia include a short history of the similar work done, The Company profile confirming premises from which the firm conducts its business and must include information on the availability of e-mail access, telephone facilities, printing facilities, and information on support staff employed by the firm. The Company profile to also indicate: -

- the controls in place to ensure that conflict of interest will be managed effectively and to the best interest of iSimangaliso;
- any value-added services that the bidder may be in a position to offer iSimangaliso; and
- How the bidder will assist iSimangaliso in achieving the objective to promote participation of Black firms and Black professionals through its services.

16. EVALUATION AND SELECTION CRITERIA

16.1 iSimangaliso has set minimum standards (Gates) that a bidder needs to meet in order to be evaluated and selected as a successful bidder. The minimum standards consist of the following:

Pre-qualification Criteria (Stage 0)	Technical Evaluation Criteria (Stage 1)	Price and B-BBEE Evaluation (Stage 2)
Bidders must submit all documents as outlined in paragraph 14.1 (Table 1) below. Only bidders that comply with ALL these criteria will proceed to Stage 1.	Bidder(s) are required to achieve a minimum of 70 points out of 100 points to proceed to Stage 2 (Price and BEE).	Bidder(s) will be evaluated out of 100 points and Stage 2 will only apply to bidder(s) who have met and exceeded the threshold of 70 points.

16.1.1 Stage 0: Pre-qualification Criteria

Without limiting the generality of iSimangaliso other critical requirements for this Bid, bidder(s) must submit the documents listed in **Table 1** below. All documents must be completed and signed by the duly authorised representative of the prospective bidder(s). During this phase Bidders' responses will be evaluated based on compliance with the listed administration and mandatory bid requirements. The bidder(s) proposal may be disqualified for non-submission of any of the documents.

Table 1: Documents that must be submitted for Pre-qualification

Document that must be submitted	Non-submission may result in disqualification?	
Invitation to Bid – SBD 1		Complete and sign the supplied pro forma document
Tax Status Tax Clearance Certificate – SBD 2		i. Written confirmation that SARS may on an ongoing basis during the tenure of the contract disclose the bidder's tax compliance status. (Refer Section 4.1.4) ii. Proof of Registration on the Central Supplier Database (Refer Section 4.1.5) iii. Vendor number iv. In the event where the Bidder submits a hard copy of the Tax Clearance Certificate, the CSD verification outcome will take precedence.
Declaration of Interest – SBD 4		Complete and sign the supplied pro forma document
Preference Point Claim Form – SBD 6.1		Non-submission will lead to a zero (0) score on BBEE
Declaration of Bidder's Past Supply Chain Management Practices – SBD 8		Complete and sign the supplied pro forma document
Certificate of Independent Bid Determination – SBD 9		Complete and sign the supplied pro forma document

Registration on Central Supplier Database (CSD)		The Company must be registered as a service provider on the Central Supplier Database (CSD). If you are not registered proceed to complete the registration of your company prior to submitting your proposal. Visit https://secure.csd.gov.za/ to obtain your vendor number. Submit proof of registration.
BBBEE		Bidder must be BBBEE Level 1
Submission of Company Profile		Complete company profile as per requirements in Clause 15
Reference/Appointment letters		3 (three) contactable reference and appointment letter similar in nature
Financial Capacity		Audited financial statements and positive bank rating
Tourism Experience		Annexure 2 Returnable table A
Service Provider Agreement		Must be initialed by the authorized person
Four (4) hard copy and one original and three copies and one electronic on flash drive of proposal		Proposal document must be submitted
Pricing Schedule		Submit full details of the pricing proposal as per SBD 3.1

16.1.2 Stage 1: Technical Evaluation Criteria = 100 points

- All bidders are required to respond to the technical evaluation criteria scorecard and compliance checklist.
- Only Bidders that have met all the requirements in terms of compliance and completeness of the submitted proposal as per the above mandatory requirements in the Pre-Qualification Criteria in (Stage 0) will be evaluated in Stage 1 for functionality. Functionality will be evaluated as per the table below:

	EVALUATION CRITERIA	Verification method	Weighted Average
1.	Background of the bidding company: The bidder must have demonstrable and relevant experience in the PPP Procurement, Structuring, Implementation and Management Service Category. This experience must be demonstrated through the provision of the following information: - Previous tourism PPP projects experience - Type of the project similar to this opportunity - Number of projects implemented similar to this opportunity - Value of the project similar to the project - Previous relationship with government, parastatal or private institutions - Track record of advisory services - Company structure - CV of shareholders, directors, management and staff - Reference letters from 3 previous companies More than 8 years' demonstrable and relevant experience: 30 6 to 8 years' demonstrable and relevant experience: 25 4 – 5 year's demonstrable and relevant experience: 20 2 – 3 years' demonstrable and relevant experience: 10 Less than 2 years' demonstrable and relevant experience: 0	• Letter of Appointment • Certificate of Completion • Positive Reference Letter POINTS WILL ONLY BE ALLOCATED FOR EACH PROJECT WHERE THE TENDERER HAS SUBMITTED ALL THE REQUIRED DOCUMENTS	30

	Lead Advisor and / or Specialists' Experience: The bidder must demonstrate the lead advisor and / or specialists' specific experience in the following: -Bidder's innovation and understanding of the Entity's need; - Knowledge of tourism PPP projects; - Capacity to undertake feasibility studies and procurement processes; -Understanding of key projects demands; -Project options/ solution suggested More than 5 years' demonstrable and relevant experience: 20 4 to 5 years' demonstrable and relevant experience: 15 2 to 3 years' demonstrable and relevant experience: 10 1 years' demonstrable and relevant experience: 5 No information was presented or less than 1 years' demonstrable and relevant experience: 0	• Certified copies of academic qualification certificates. • Detailed CV clearly indicating all similar experience with the year of commencement and completion indicated. FAILURE TO SUBMIT A CERTIFIED QUALIFICATION CERTIFICATE CERTIFY WILL RESULT IN ZERO POINTS.	20
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	Number of years demonstrable and relevant experience: Experience as a Lead advisor in similar projects demonstrating the following: 1. Commercial law experience 2. Proven track record of lead advisory role in projects. 3. Project management experience and expertise; 4. Administrative support; 5. Project management specifically with reference to co-ordination of the interactions and deliverables within and between the various streams and the Institution, quality assurance and time management and; 6. Project management capability to oversee experts in the fields of planning and specification review for the facilities etc. More than 5 years' demonstrable and relevant experience: 20 3 to 4 years' demonstrable and relevant experience: 15 1 to 2 year's demonstrable and relevant experience: 10 1 year demonstrable and relevant experience: 5 Less than 1 years' demonstrable and relevant experience: 0		20
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	Methodology: Methodology / approach proposed by the Bidder in executing the project as outlined in this TOR including, Best Practices and information already available for Bidder to use		15
	Bidder's financial capacity to implement the project		15
	Total:		100

The minimum threshold is 70 points to qualify for the next stage of evaluation i.e Price and BBBEE

16.1.3 Stage 2: Price and BBBEE Evaluation (80+20) = 100 points

- i. Only Bidders that have met the 70-point threshold in Stage 1 will be evaluated in Stage 2 for price and BBBEE. Price and BBBEE will be evaluated as follows:
- ii. In terms of regulation 6 of the Preferential Procurement Regulations pertaining to the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000), responsive bids will be adjudicated on the 80/10-preference point system in terms of which points are awarded to bidders on the basis of:
 - The bid price (maximum 80 points)
 - B-BBEE status level of contributor (maximum 20 points)
 - Where circumstances justify it, ISWP may conduct interviews with shortlisted bidders for them to present further information or provide further proof to the evaluation committee. In these cases, ISWP may provide the areas of concern to the short-listed bidders to address in their presentations

16.1.3.1 Stage 1 – Price Evaluation (80 Points)

Criteria	Points
Price Evaluation $P_s = 90 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$	80

The following formula will be used to calculate the points for price:

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

16.1.3.2 Stage 2 – BBEE Evaluation (20 Points)

BBEE Points allocation

- A maximum of 20 points may be allocated to a bidder for attaining their B-BBEE status level of contributor in accordance with the table below:

B-BBEE Status Level of Contributor	Number of Points
1	20
2	18

NOTE: Bidder's with B-BBEE Level 1

B-BBEE points may be allocated to bidders on submission of the following documentation or evidence:

- A duly completed Preference Point Claim Form: Standard Bidding Document (SBD 6.1); and
- B-BBEE Certificate

16.2 Stage 1: Price Evaluation

16.2.1 Basis of competition:

16.2.2 iSimangaliso compares each bidder's pricing proposal on an equal and fair comparison basis that is equitable to all bidders taking into account all aspects of the bids pricing requirements.

16.2.3 iSimangaliso conducts fair market-related pricing tests to arrive at an opinion of reasonableness of the bid price offered.

16.2.4 Due diligence tests for reasonableness of price:

16.2.4.1 iSimangaliso conducts fair market-related pricing tests to arrive at an opinion of reasonableness of the bid price offered. Where these tests reflect defective pricing or pricing outside of the fair market-related price range, the evaluators will recommend price negotiation with the winning bidder to bring the price within **the fair market-related price range as tested**.

16.2.4.2 Where the winning bidder does not want to participate in the price negotiation or provide a fair market-related price, iSimangaliso cancels the award and commences price negotiations with the second bidder in the price/preference ranking.

16.2.5 Ranking of the bidders pricing:

16.2.6 iSimangaliso ranks the qualifying bids on price and preference points claimed in the following manner:

16.2.6.1 Price – for bids qualifying for this stage, the lowest priced Bid receives the highest price score as set out in the Preferential Procurement Regulations of 2017;

16.2.6.2 Preference - for bids qualifying for this stage, addition of the claimed preference points in the preference claim form (SBD6.1) where supported by a valid BBBEE certification to the price ranking scores

16.2.7 Award recommendation:

16.2.7.1 iSimangaliso nominates the bidder with the highest combined score for the contract award subject to the bidder having supplied the relevant administrative documentation.

17. SERVICE PROVIDER CONTRACT

- 17.1 Any award made to a bidder(s) under this bid is conditional, amongst others, upon –
- The bidder(s) accepting the terms and conditions contained in the Service Provider Contract as the minimum terms and conditions upon which iSimangaliso is prepared to enter into a contract with the successful Bidder(s).
 - The bidder submitting the Service Provider Contract to iSimangaliso together with its bid, duly signed by an authorised representative of the bidder.

18. CONTRACT PRICE ADJUSTMENT

- 18.1 Contract price adjustments will be done annually on the anniversary of the contract start date. The price adjustment will be based on the CPI inflation.

19. SERVICE LEVEL AGREEMENT

- 19.1 Upon award iSimangaliso and the successful bidder will conclude a Service Level Agreement regulating the specific terms and conditions applicable to the services being procured by iSimangaliso, in the format of the draft Service Level Indicators included in this tender pack.
- 19.2 iSimangaliso reserves the right to vary the proposed draft Service Level Indicators during negotiations with a bidder by amending or adding thereto.
- 19.3 **Bidder(s) are requested to:**
- i. Comment on draft Service Level Indicators and where necessary, make proposals to the indicators;
 - ii. Explain each comment and/or amendment; and
 - iii. Use an easily identifiable colour font or “track changes” for all changes and/or amendments to the Service Level Indicators for ease of reference.

19.4 iSimangaliso reserves the right to accept or reject any or all amendments or additions proposed by a bidder if such amendments or additions are unacceptable to iSimangaliso or pose a risk to the organisation.

20. SPECIAL CONDITIONS OF THIS BID

20.1 iSimangaliso reserves the right:

20.1.1 To award this tender to a bidder that did not score the highest total number of points, only in accordance with section 2(1)(f) of the PPPFA (Act 5 of 2000)

20.1.2 To negotiate with one or more preferred bidder(s) identified in the evaluation process, regarding any terms and conditions, including price without offering the same

opportunity to any other bidder(s) who has not been awarded the status of the preferred bidder(s).

20.1.3 To accept part of a tender rather than the whole tender.

20.1.4 To carry out site inspections, product evaluations or explanatory meetings to verify the nature and quality of the services offered by the bidder(s), whether before or after adjudication of the Bid.

20.1.5 To correct any mistakes at any stage of the tender that may have been in the Bid documents or occurred at any stage of the tender process.

20.1.6 To cancel and/or terminate the tender process at any stage, including after the Closing Date and/or after presentations have been made, and/or after tenders have been evaluated and/or after the preferred bidder(s) have been notified of their status as such.

20.1.7 Award to multiple bidders based either on size or geographic considerations.

20.1.8 All proposed consultancy rates may not exceed the applicable rates based on the National Treasury, DPSA fees guidelines and/or any remuneration guidelines issued by the professional service organisation or regulatory bodies as may be relevant.

20.1.9 Bidders to ensure that travelling costs are based on SARs rate and or any iSimangaliso policy

21. iSIMANGALISO REQUIRES BIDDER(S) TO DECLARE

21.1 In the Bidder's Technical response, bidder(s) are required to declare the following:

Confirm that the bidder(s) is to: –

21.1.1 Act honestly, fairly, and with due skill, care and diligence, in the interests of iSimangaliso;

21.1.2 Have and employ effectively the resources, procedures and appropriate technological systems for the proper performance of the services;

21.1.3 Act with circumspection and treat iSimangaliso fairly in a situation of conflicting interests;

21.1.4 Comply with all applicable statutory or common law requirements applicable to the conduct of business;

21.1.5 Make adequate disclosures of relevant material information including disclosures of actual or potential own interests, in relation to dealings with iSimangaliso;

21.1.6 Avoidance of fraudulent and misleading advertising, canvassing and marketing;

21.1.7 To conduct their business activities with transparency and consistently uphold the interests and needs of iSimangaliso as a client before any other consideration; and

21.1.8 To ensure that any information acquired by the bidder(s) from iSimangaliso will not be used or disclosed unless **the written consent of the client has been obtained to do so.**

22. CONFLICT OF INTEREST, CORRUPTION AND FRAUD

22.1 iSimangaliso reserves its right to disqualify any bidder who either itself or any of whose members (save for such members who hold a minority interest in the bidder through shares listed on any recognised stock exchange), indirect members (being any person or entity who indirectly holds at least a 15% interest in the bidder other than in the context of shares listed on a recognised stock exchange), directors or members of senior management, whether in respect of iSimangaliso or any other government organ or entity and whether from the Republic of South Africa or otherwise ("Government Entity"):

22.1.1 engages in any collusive tendering, anti-competitive conduct, or any other similar conduct, including but not limited to any collusion with any other bidder in respect of the subject matter of this bid;

22.1.2 seeks any assistance, other than assistance officially provided by a Government Entity, from any employee, advisor or other representative of a Government Entity in order to obtain any

22.1.3 unlawful advantage in relation to procurement or services provided or to be provided to a Government Entity;

22.1.4 makes or offers any gift, gratuity, anything of value or other inducement, whether lawful or unlawful, to any of iSimangaliso's officers, directors, employees, advisors or other representatives;

22.1.5 makes or offers any gift, gratuity, anything of any value or other inducement, to any Government Entity's officers, directors, employees, advisors or other representatives in

order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to a Government Entity;

22.1.6 accepts anything of value or an inducement that would or may provide financial gain, advantage or benefit in relation to procurement or services provided or to be provided to a Government Entity;

22.1.7 pays or agrees to pay to any person any fee, commission, percentage, brokerage fee, gift or any other consideration, that is contingent upon or results from, the award of any tender, contract, right or entitlement which is in any way related to procurement or the rendering of any services to a Government Entity;

22.1.8 has in the past engaged in any matter referred to above; or

22.1.9 has been found guilty in a court of law on charges of fraud and/or forgery, regardless of whether or not a prison term was imposed and despite such bidder, member or director's name not specifically appearing **on the List of Tender Defaulters kept at National Treasury.**

23. MISREPRESENTATION DURING THE LIFECYCLE OF THE CONTRACT

23.1 The bidder should note that the terms of its Tender will be incorporated in the proposed contract by reference and that iSimangaliso relies upon the bidder's Tender as a material representation in making an award to a successful bidder and in concluding an agreement with the bidder.

23.2 It follows therefore that misrepresentations in a Tender may give rise to service termination and a claim by iSimangaliso against the bidder notwithstanding the conclusion of the Service Level Agreement between iSimangaliso and the bidder for the provision of the Service in question. In the event of a conflict between the bidder's proposal and the Service Level Agreement concluded between the parties, the Service Level Agreement will prevail.

24. PREPARATION COSTS

24.1 The Bidder will bear all its costs in preparing, submitting and presenting any response or Tender to this bid and all other costs incurred by it throughout the bid process. Furthermore, no statement in this bid will be construed as placing iSimangaliso, its employees or agents under any obligation whatsoever, including in respect of costs,

expenses or losses incurred by the bidder(s) in the preparation of their response to this bid.

25. INDEMNITY

- 25.1 If a bidder breaches the conditions of this bid and, as a result of that breach, iSimangaliso incurs costs or damages (including, without limitation, the cost of any investigations, procedural impairment, repetition of all or part of the bid process and/or enforcement of intellectual property rights or confidentiality obligations), then the bidder
- 25.2 indemnifies and holds iSimangaliso harmless from any and all such costs which iSimangaliso may incur and for any damages or losses iSimangaliso may suffer.

26. PRECEDENCE

- 26.1 This document will prevail over any information provided during any briefing session whether oral or written, unless such written information provided, expressly amends this document by reference.

27. LIMITATION OF LIABILITY

- 27.1 A bidder participates in this bid process entirely at its own risk and cost. iSimangaliso shall not be liable to compensate a bidder on any grounds whatsoever for any costs incurred or any damages suffered because of the Bidder's participation in this Bid process.

28. TENDER DEFAULTERS AND RESTRICTED SUPPLIERS

- 28.1 No tender shall be awarded to a bidder whose name (or any of its members, directors, partners or trustees) appear on the Register of Tender Defaulters kept by National Treasury, or who have been placed on National Treasury's List of Restricted Suppliers. iSimangaliso reserves the right to withdraw an award, or cancel a contract concluded

with a Bidder should it be established, at any time, that a bidder has been blacklisted with National Treasury by another government institution.

29. GOVERNING LAW

29.1 South African law governs this bid and the bid response process. The bidder agrees to submit to the exclusive jurisdiction of the South African courts in any dispute of any kind that may arise

29.2 out of or in connection with the subject matter of this bid, the bid itself and all processes associated with the bid.

30. RESPONSIBILITY FOR SUB-CONTRACTORS AND BIDDER'S PERSONNEL

30.1 A bidder is responsible for ensuring that its personnel (including agents, officers, directors, employees, advisors and other representatives), its sub-contractors (if any) and personnel of its sub-contractors comply with all terms and conditions of this bid. In the event that iSimangaliso allows a bidder to make use of sub-contractors, such sub-contractors will at all times remain the responsibility of the bidder and iSimangaliso will not under any circumstances be liable for any losses or damages incurred by or caused by such sub-contractors.

31. CONFIDENTIALITY

31.1 Except as may be required by operation of law, by a court or by a regulatory authority having appropriate jurisdiction, no information contained in or relating to this bid or a bidder's tender(s) will be disclosed by any bidder or other person not officially involved with iSimangaliso's examination and evaluation of a Tender.

31.2 No part of the bid may be distributed, reproduced, stored or transmitted, in any form or by any means, electronic, photocopying, recording or otherwise, in whole or in part except for the purpose of preparing a Tender. This bid and any other documents supplied by iSimangaliso remain proprietary to iSimangaliso and must be promptly returned to iSimangaliso upon request together with all copies, electronic versions, excerpts or summaries thereof or work derived there from.

31.3 Throughout this bid process and thereafter, bidder(s) must secure iSimangaliso's written approval prior to the release of any information that pertains to (i) the potential work or activities to which this bid relates; or (ii) the process which follows this bid. Failure to adhere to this requirement may result in disqualification from the bid process

and civil action.

- 31.4 The firms of attorneys will be required to sign confidentiality and/or indemnity agreements with iSimangaliso
- 31.5 The bidder undertakes, at any time during the term of its appointment and after any termination or cancellation thereof, directly or indirectly disclose, or directly or indirectly use, whether for its
- 31.6 own benefit or that of any other person any confidential information of iSimangaliso including that of or any information relating to its clients, customers, suppliers, donors, sponsors or agents.

32. iSIMANGALISO PROPRIETARY INFORMATION

- 32.1 Bidder will on their bid cover letter make declaration that they did not have access to any iSimangaliso proprietary information or any other matter that may have unfairly placed that bidder in a preferential position in relation to any of the other bidder(s).

33. AVAILABILITY OF FUNDS

- 33.1 Should funds no longer be available to pay for the execution of the responsibilities of this bid, iSimangaliso may terminate the Agreement at its own discretion or temporarily suspend all or part of the services by notice to the successful bidder who shall immediately make arrangements to stop the performance of the services and minimize further expenditure: Provided that the successful bidder shall thereupon be entitled to payment in full for the services delivered, up to the date of cancellation or suspension.

34. SUPPLIER DUE DILIGENCE

- 34.1 iSimangaliso reserves the right to conduct supplier due diligence prior to final award or at any time during the contract period. This may include but is not limited to conducting site visits at the bidder's corporate offices and requests for additional information.
- 34.2 The Bidder is responsible for its own due diligence investigation in connection with the Service and all matters relating to this RFP. Neither iSimangaliso nor any of its officers,

employees, agents or advisers make any representation or warranty, express or implied, concerning any matter affecting.

34.3 the Service, other than the representations and undertakings of iSimangaliso Authority set out in the Service Agreement.

34.4 It is iSimangaliso objective to promote the participation of historically disadvantaged professionals through its service providers.

34.5 Bidders are requested to indicate in their proposals how they will assist iSimangaliso in achieving this objective.

35. **FRONTING**

35.1 Government supports the spirit of broad based black economic empowerment and recognizes that real empowerment can only be achieved through individuals and businesses conducting themselves in accordance with the Constitution and in an honest, fair, equitable, transparent and legally compliant manner. Against this background the Government condemn any form of fronting.

35.2 The Government, in ensuring that Bidders conduct themselves in an honest manner will, as part of the bid evaluation processes, conduct or initiate the necessary enquiries/investigations to determine the accuracy of the representation made in bid documents. Should any of the fronting indicators as contained in the Guidelines on Complex Structures and Transactions and Fronting, issued by the Department of Trade and Industry, be established during such enquiry / investigation, the onus will be on the Bidder / contractor to prove that fronting does not exist. Failure to do so within a period of 14 days from date of notification may invalidate the bid / contract and may also result in the restriction of the Bidder /contractor to conduct business with

35.3 the public sector for a period not exceeding ten years, in addition to any other remedies iSimangaliso may have against the Bidder / contractor concerned.

36. **GENERAL**

36.1 This RFP supersedes all other communications between the iSimangaliso Authority and the Bidder.

36.2 The iSimangaliso Authority reserves the right to change the timetable or otherwise amend, supplement or clarify this RFP at any time. The iSimangaliso Authority may

cancel the tender at any time without prior notice for any reason whatsoever and may disqualify any Bidder as provided

36.3 for in this RFP. The iSimangaliso Authority shall not incur any liability whatsoever in exercising any rights in terms of this RFP or the laws of the Republic of South Africa.

36.4 The iSimangaliso Authority reserves the right to enter into other or additional agreements for the same, similar or dissimilar services at any stage, at its sole discretion.

37. CORRESPONDENCE & COMMUNICATION

37.1 All correspondence and any communication must be directed to the Official Bid Representative, via email to: bids@iSimangaliso.com . No Bidder is permitted to correspond or communicate with any member of an evaluation panel, any technical advisor or consultant to the iSimangaliso Authority or board or staff member of the iSimangaliso Authority in relation to this tender, unless prior written permission therefore has been obtained from the Official Bid Representative. Failure to adhere to this stipulation may lead to disqualification.

37.2 No verbal agreement or conversation with, nor any verbal clarification from any officer or employee of the iSimangaliso Authority or any of its advisors shall affect or modify any of the terms and conditions contained in this RFP. Only written amendments, supplements or

37.3 clarifications to this RFP by the Official Bid Representative may be relied upon as authorised. Communications sent by the Official Bid Representative to the Bidder via electronic mail shall be deemed to be communication in writing.

37.4 Correspondence contemplated above may include questions for clarification by Bidders. Such questions and the responses thereto shall thereafter be circulated to all Bidders.

37.5 In special circumstances, the Bidder may request that a question and the response thereto be treated confidentially. In such an instance, the iSimangaliso Authority, in its sole discretion, may either respond to the Bidder only, or may circulate the question and the answer to all Bidders. The onus is on the Bidder to ensure that its correspondence is received by the iSimangaliso Authority.

38. PPP AGREEMENT NEGOTIATIONS, PPP AGREEMENT MANAGEMENT PLAN

The transaction advisor must assist the entity in final negotiations with the preferred bidder.

This will involve:

- preparing suitable negotiations teams,
- categorizing issues appropriately, developing timelines for completion,
- planning negotiation tactics,
- reviewing proposed sub-Agreements, in particular with the construction Contractor and operator, to the extent forms of these Agreements have not been included in the PPP Agreement or the tender documents,
- advising on proposed changes to the agreed form of sub-Agreements,
- review of preferred bidder satisfaction of the conditions precedent to the PPP Agreement, often including the validity of licenses and permissions obtained by the preferred bidder, formation of corporate vehicles in the form required, financial close of the project financing, and implementation of the commercial requirements for performance of the project,
- relationship with second and third place bidders, including managing bid bonds and on-going discussions to prepare for the eventual withdrawal of the preferred bidder,
- processes for reaching Agreement,
- the above will normally involve a second set of negotiations with the lenders arguing similar points as those raised by the preferred bidder during the tender process and new issues often focused on financial covenants and protections. This may involve extended discussions of entity financial participation to protect the lenders from specific risks. The legal service providers should be involved in these discussions,
- review and negotiation of the financial documentation which will often have a direct effect on the rights and obligations of the entity,
- legal opinion that transaction is binding on its terms,
- legal opinion on security and financial management structure, and
- legal opinion on revenue structure and current regulatory mechanism.

The transaction advisor must ensure that all Agreements reached are incorporated into all the financial, commercial and legal documentation, and must assist with drafting the necessary and related correspondence.

The final terms of the Agreement, each as negotiated with the preferred bidder, must be submitted by the Entity, along with the PPP Agreement management plan for the Project, for

approval. The transaction advisor is responsible for compiling the necessary submissions for the Entity to obtain this approval, including a comprehensive legal due diligence of the accounting officer/authority has been completed. This will relate to legal compliance, competence and capacity to enter into the PPP Agreement.

39. PPP AGREEMENT SIGNATURE, CLOSE-OUT REPORT AND CASE STUDY, AND FINANCIAL CLOSURE

- The transaction advisor must help the Entity with all functions related to signing the final Agreement through to financial close. The transaction advisor must also compile a comprehensive close-out report and case study, and must incorporate any additional factors that may be required by the Entity. The close-out report will be a confidential document of the Entity. The case study will become a public document, made available on various government websites.
- The transaction advisor must, in close liaison with the Entity, draft a comprehensive PPP management plan for the Entity, in accordance with the provisions of the PPP Agreement, to help the Entity in the management of the Project and its risks, rights and obligations after financial close. The management plan will be delivered no later than 20 days before financial close. This will be followed by a 5 day 'workshop' with Entity project team to discuss project implementation and management of Entity rights and obligations over the term of the Project, followed by 1 further 'workshop' as follow-up.
- Financial closure signifies that all the procurement deliverables have been successfully completed, and that the transaction advisor's work is finished, if applicable.

40. TRANSACTION ADVISOR SKILL, EXPERIENCE, REMUNERATION AND MANAGEMENT BY ENTITY NECESSARY TRANSACTION ADVISOR SKILLS AND EXPERIENCE

- The transaction advisor will comprise a team, managed by a single lead advisor, the members of which have both the skill and experience necessary to undertake the range of tasks set out in this Terms of Reference. Each individual on the team must

be personally available to do the work as and when required to do so. The lead adviser will be held accountable, in terms of the Agreement, for ensuring project deliverables, and the professional conduct and integrity of the team.

- The skills and experience required in the transaction advisor team are as follows:
 - Financial analysis, with relevant PPP and project finance experience through to financial close;
 - PPP procurement and structuring
 - Legal, with relevant law and experience in the drafting and negotiating of PPP Agreements
 - Technical due diligence and advice on PPP structuring and Agreements
 - Project planning management
 - Project facilities management
 - Expertise and experience in the design of environmentally friendly and energy efficient facilities;
 - Expertise and experience in environmental impact assessments and planning;
 - Expertise and experience of tourism, accommodation facilities' planning and management;
 - Negotiations
 - Contract management
 - Project management.
- The following remuneration schedule is set for each part of the Agreement. Bidders should adhere to these in their proposals. Deliverables completed per the remuneration schedule will be approved by the project officer, after which invoices may be submitted for payment as per the remuneration schedule. The Entity will pay within 30 days of receiving the approved invoice.
- All members of the transaction advisory team must be in good standing in all respects including ethically and professionally. They should also be able to provide proof of professional registration where required.

41. MANAGEMENT OF THE TRANSACTION ADVISOR

- The transaction advisor will be appointed by the Entity and will report directly to the Project Officer. A project officer has been appointed by the Entity to take full responsibility for managing the transaction advisor's work and for ensuring delivery on

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the project. The project officer is Mr. Basil Bafana, and can be contacted at 035 590 1531/ 084 085 5658.

- The project officer has established a project team to engage regularly with the transaction advisor for efficiently completing the various delivery items. The project team will meet at least monthly and the transaction advisor will report progress at these meetings, as instructed by the project officer.
- The project officer will confirm that the transaction advisor has satisfactorily completed each deliverable before invoices can be submitted to the Entity for payment.
- Within 20 working days of the signing of the Agreement, the transaction advisor shall submit an Inception Report giving a detailed work plan and assignments for each individual in the team.
- The transaction advisor shall submit Interim Reports each two weeks describing progress of work, updated work schedule, and any key constraints encountered by the transaction advisor in the performance of the activities.

Proposed Implementation Schedule (To be completed by the Bidder)

Task	Date
Feasibility study, draft delivered to the Entity	
Feasibility study, final version delivered to the Entity	
Commence pre-qualification	
Pre-qualification announced	
Bidding commenced	
Bid submitted	
Preferred bidders selected	
BAFO submission	
Award	

Task	Date
Financial close	

42. REMUNERATION SCHEDULE AND DISBURSEMENT ARRANGEMENTS

42.1 Remuneration of the transaction advisor will be payable in South African Rands, on a fixed price for each of Phases I and 2. The procurement portion of the work may or may not transpire at the end of the feasibility study phase, and should be costed accordingly. Costing should take account of the possibility of procurement taking place only at certain sites and not all, hence, remuneration schedule is proposed for each Part of the Agreement.

42.2 Remuneration schedule

Phase 1:

- Mobilisation fee: 10% of the Phase I fee, payable 1 calendar month from the date of the commencement of Phase I;
- 25% of the Phase 1 fee for the options analysis reports and generation of the outputs specifications and acceptance of the options analysis;
- 45% of the Phase 1 fee payable upon completion of the feasibility study report and approval by the Project Steering Committee.
- 20% Approval of Feasibility Study from National Treasury

Phase 2:

- 10% on completion and approval of RFQ procurement documents
- 25% on completion and approval of RFP procurement documents
- 35% on evaluation and selection of preferred bidder
- 15% on completion of high-level due diligence of preferred bidder proposal

- 15% on completion of PPP contract

Deliverables completed per remuneration schedule must be submitted to the Project Officer (see section 11, below) to whom the transaction advisor will report.

42.3 Disbursement arrangements

- Out-of-pocket expenses will be paid by the Entity at cost within an agreed ceiling. All claims for travel and other legitimate disbursement expenditure must be pre-approved by the project officer before they are incurred. An email system for these approvals will be set up when the transaction advisor Agreement is signed. Pre-approved project expenditure on international travel, related reasonable accommodation costs, expenditure on document reproduction, translation and interpreter services or any other legitimate pre-approved project disbursement expenditure will be reimbursed at cost.
- Other legitimate Project costs such as telephone, fax, photocopies and internet access will be reimbursed at cost. Payment will be made within 30 days of the Entity receiving approved and substantiated invoices, and does not form part of the remuneration schedule. Bidders are required to propose a ceiling for such disbursements. This ceiling will not be evaluated as part of the price proposal

ANNEXURE 1: REFERENCE LETTER

The bidder's references and experience for providing similar services

Request for Proposal No: _____

Name of Bidder: _____

Service Category: _____

BIDDER'S REFERENCE LETTER TEMPLATE

(CLIENT'S LETTERHEAD)

[Date]

To whom it may concern

[Bidder's name] has been rendering / rendered [service category] to [client's name] since [date] / during the period from [start date] to [end date] and [client's name] hereby gives [bidder's name] an overall assessment of [average/excellent] for services rendered.

[Insert any other relevant information]

Should you require any further information in this regard please do not hesitate to contact the writer hereof.

Sincerely,

Full name:

Designation:

Telephone Number:

Email address:

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ANNEXURE 2: RETURNABLE TABLE (A)

BIDDER'S TEAM EXPERIENCE:

Table (a) CVs outlining Transactional advisor competency

Name	Years of experience	Position / Designation	Qualifications & Accreditations	Relevant Experience	
				Industry worked on and relevant period	Description of services rendered and extent of the team's responsibility



PART A

ANNEXURE 3: INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)					
BID NUMBER:	05/2022	CLOSING DATE:	07 JULY 2022	CLOSING TIME:	12:00
DESCRIPTION	TRANSACTIONAL ADVISOR				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
The iSimangaliso Wetland Park Authority;					
The Dredger Harbour; St Lucia; 3939; KwaZulu Natal					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	Bid Representative		CONTACT PERSON	Technical Representative	
TELEPHONE NUMBER	035-5901633		TELEPHONE NUMBER	035-5901633	
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS	bids@iSimangaliso.com		E-MAIL ADDRESS	bids@iSimangaliso.com	
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION	TICK APPLICABLE BOX]		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX]



CERTIFICATE	☐ Yes ☐ No		☐ Yes ☐ No
-------------	--	--	--

[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]

1 ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED? ☐ Yes ☐ No [IF YES ENCLOSE PROOF]	2 ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED? ☐ Yes ☐ No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]
--	--

QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? ☐ YES ☐ NO

DOES THE ENTITY HAVE A BRANCH IN THE RSA? ☐ YES ☐ NO

DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? ☐ YES ☐ NO

DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? ☐ YES ☐ NO

IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? ☐ YES ☐ NO

IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.



PART B

TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:

- 1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
- 1.2. **ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.**
- 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
- 1.4. **THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).**

2. TAX COMPLIANCE REQUIREMENTS

- 2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
- 2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
- 2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
- 2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
- 2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
- 2.6 WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
- 2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

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

SIGNATURE OF BIDDER:

.....



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CAPACITY UNDER WHICH THIS BID IS SIGNED:

(Proof of authority must be submitted e.g. company resolution)

DATE:

ANNEXURE 4: PRICING SCHEDULE

All rates must be inclusive of VAT

PHASE ONE	Fixed Price
Mobilisation fee	
Option analysis report and generation of the outputs	
Feasibility study fee	
TOTAL PHASE ONE	
PHASE TWO	
Completion and approval of QFQ	
Completion of high level due diligence	
Completion of PPP contract	
TOTAL PHASE TWO	
TOTAL BIDDING PRICE	

The service provider must attached the detailed pricing rate for professional fees and Other expenses, for example accommodation, telephone cost, T reproduction cost, etc. On basis of these particulars, certified invoices will be checked for correctness. Proof of the expenses must accompany invoices.

ANNEXURE 3: SBD 3.3

SBD 3.3

PRICING SCHEDULE

(Professional Services)

NAME	OF	BIDDER:		BID	NO.:
.....					
CLOSING TIME 12:00			CLOSING		
DATE.....					

OFFER TO BE VALID FORDAYS FROM THE CLOSING DATE OF BID.

ITEM	DESCRIPTION	BID PRICE IN RSA CURRENCY		
NO INCLUDED)		**(ALL	APPLICABLE	TAXES

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	HOURLY RATE	DAILY RATE
-----	R-----	-----
-----	R-----	-----
-----	R-----	-----
-----	R-----	-----
-----	R-----	-----

5. PHASES ACCORDING TO WHICH THE PROJECT WILL BE

COMPLETED, COST PER PHASE AND MAN-DAYS TO BE
SPENT

days	_____	R-_____	_____
days	_____	R-_____	_____
days	_____	R-_____	_____
days	_____	R-_____	_____

5.1 Travel expenses (specify, for example rate/km and total km, class of airtravel, 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.....			
_____			
R.....			

R.....

TOTAL:

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

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

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT
R.....			
R.....			
R.....			
R.....			

R.....

TOTAL:

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.

.....

.....

.....

.....

*[DELETE IF NOT APPLICABLE]

Any enquiries regarding bidding procedures may be directed to the –

(INSERT NAME AND ADDRESS OF DEPARTMENT/ENTITY)

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PARK
AUTHORITY



Tel:

Or for technical information –

(INSERT NAME OF CONTACT PERSON)

Tel:

ANNEXURE 4: BIDDER'S DISCLOSURE

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

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

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

2. Bidder's declaration

2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest¹ in the enterprise,

employed by the state?

YES/NO

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

Full Name	Identity Number	Name of State institution

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

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

2.2.1 If so, furnish particulars:

.....
.....

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

2.3.1 If so, furnish particulars:

.....
.....

3 DECLARATION

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

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

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

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.

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

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

.....
Signature Date

.....
Position Name of bidder

Position Name of bidder

ANNEXURE 5: SBD 8

SBD 8

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 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 ☐	No ☐
4.1.1	If so, furnish particulars:		

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4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.	Yes ☐	No ☐
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 ☐	No ☐
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 ☐	No ☐
4.4.1	If so, furnish particulars:		

CERTIFICATION

I, THE UNDERSIGNED (FULL NAME).....

CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS TRUE AND CORRECT.

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**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

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ANNEXURE 6 :SBD 9

SBD 9

CERTIFICATE OF INDEPENDENT QUOTATION DETERMINATION

1 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 *per se* prohibition meaning that it cannot be justified under any grounds.

2 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 quotation 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.

3. This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when quotations are considered, reasonable steps are taken to prevent any form of quotation-rigging.

4 In order to give effect to the above, the attached Certificate of Quotation Determination (SBD 9) must be completed and submitted with the quotation:

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SBD 9

CERTIFICATE OF INDEPENDENT QUOTATION DETERMINATION

I, the undersigned, in submitting the accompanying quotation:

in response to the invitation for the quotation made by:

(Name of Institution)

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

I certify, on behalf of: _____ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying quotation 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 quotation, on behalf of the bidder;
4. Each person whose signature appears on the accompanying quotation has been authorized by the bidder to determine the terms of, and to sign the quotation, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying quotation, 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 quotation in response to this quotation invitation;
 - (b) could potentially submit a quotation in response to this quotation 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 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:

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- (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 quotation;
 - (e) the submission of a quotation which does not meet the specifications and conditions of the quotation; or
 - (f) bidding with the intention not to win the quotation.
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 quotation invitation relates.
9. The terms of the accompanying quotation 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

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ANNEXURE 7: SBD 7.2

SBD 7.2

CONTRACT FORM - RENDERING OF SERVICES

THIS FORM MUST BE FILLED IN DUPLICATE BY BOTH THE SERVICE PROVIDER (PART 1) AND THE PURCHASER (PART 2). BOTH FORMS MUST BE SIGNED IN THE ORIGINAL SO THAT THE SERVICE PROVIDER AND THE PURCHASER WOULD BE IN POSSESSION OF ORIGINALLY SIGNED CONTRACTS FOR THEIR RESPECTIVE RECORDS.

PART 1 (TO BE FILLED IN BY THE SERVICE PROVIDER)

1. I hereby undertake to render services described in the attached bidding documents to (name of the institution)..... in accordance with the requirements and task directives / proposals specifications stipulated in Bid Number..... at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the Purchaser during the validity period indicated and calculated from the closing date of the bid .
2. 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;
 - Tax clearance certificate;
 - Pricing schedule(s);
 - Filled in task directive/proposal;
 - Preference claims for Broad Based Black Economic Empowerment Status Level of Contribution in terms of the Preferential Procurement Regulations 2011;
 - Declaration of interest;
 - Declaration of bidder's past SCM practices;
 - Certificate of Independent Bid Determination;
 - Special Conditions of Contract;
 - (ii) General Conditions of Contract; and
 - (iii) Other (specify)
3. 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 services specified in the bidding documents; that the price(s) and rate(s)

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cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.

4. 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 fulfillment of this contract.

5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.

6. I confirm that I am duly authorised to sign this contract.

NAME (PRINT)

CAPACITY

SIGNATURE

NAME OF FIRM

DATE

WITNESSES

1

2

DATE:

CONTRACT FORM - RENDERING OF SERVICES

PART 2 (TO BE FILLED IN BY THE PURCHASER)

1. I..... in my capacity as

accept your bid under reference numberdated.....for the rendering of services indicated hereunder and/or further specified in the annexure(s).

2. An official order indicating service delivery instructions is forthcoming.

3. I undertake to make payment for the services rendered in accordance with the terms and conditions of the contract, within 30 (thirty) days after receipt of an invoice.

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DESCRIPTION OF SERVICE	PRICE (ALL APPLICABLE TAXES INCLUDED)	COMPLETION DATE	B-BBEE STATUS LEVEL OF CONTRIBUTION	MINIMUM THRESHOLD FOR LOCAL PRODUCTION AND CONTENT (if applicable)

4. I confirm that I am duly authorised to sign this contract.

SIGNED ATON.....

NAME (PRINT)

SIGNATURE

OFFICIAL STAMP

WITNESSES

1

2

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ANNEXURE 8: SBD 6.1

SBD 6.1

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

1.1.1.1

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

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

1. GENERAL CONDITIONS

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

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

1.2

- a) The value of this bid is estimated to **not exceed** R50 000 000 (all applicable taxes included) and therefore the **80/20** preference point system shall be applicable; or
- b) Either the 80/20 or 90/10 preference point system will be applicable to this tender (*delete whichever is not applicable for this tender*).

1.3 Points for this bid shall be awarded for:

- (a) Price; and

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(b) B-BBEE Status Level of Contributor.

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

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

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

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

2. DEFINITIONS

- (a) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (b) **“B-BBEE status level of contributor”** means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (c) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services, through price quotations, advertised competitive bidding processes or proposals;
- (d) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (e) **“EME”** means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (f) **“functionality”** means the ability of a tenderer to provide goods or services in accordance with

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specifications as set out in the tender documents.

- (g) **“prices”** includes all applicable taxes less all unconditional discounts;
- (h) **“proof of B-BBEE status level of contributor”** means:
 - 1) B-BBEE Status level certificate issued by an authorized body or person;
 - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
 - 3) Any other requirement prescribed in terms of the B-BBEE Act;
- (i) **“QSE”** means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (j) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

3. POINTS AWARDED FOR PRICE

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

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

80/20

or

90/10

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

Where

P_s = Points scored for price of bid under consideration

P_t = Price of bid under consideration

$P_{\min}$ = Price of lowest acceptable bid

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

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

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

5. BID DECLARATION

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

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

6.1 B-BBEE Status Level of Contributor: . =(maximum of 10 or 20 points)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

7. SUB-CONTRACTING

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

(Tick applicable box)

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

7.1.1 If yes, indicate:

- i) What percentage of the contract will be subcontracted.....%
- ii) The name of the sub-contractor.....
- iii) The B-BBEE status level of the sub-contractor.....

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

(Tick applicable box)

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

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

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

8. DECLARATION WITH REGARD TO COMPANY/FIRM

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

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

- ☐ Partnership/Joint Venture / Consortium
- ☐ One person business/sole propriety
- ☐ Close corporation

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☐ Company

☐ (Pty) Limited

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

.....

.....

.....

8.6 COMPANY CLASSIFICATION

☐ Manufacturer

☐ Supplier

☐ Professional service provider

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

[TICK APPLICABLE BOX]

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

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

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –

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

WITNESSES

1.
2.

.....

SIGNATURE(S) OF BIDDERS(S)

DATE:

ADDRESS

.....

.....

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ANNEXURE 9: SERVICE PROVIDER'S AGREEMENT

SERVICE PROVIDER'S AGREEMENT

between the

iSimangaliso Wetland Park Authority
(hereinafter referred to as "iSimangaliso")

And

(hereinafter referred to as "the Service Provider")

WHEREAS iSimangaliso has entered into a contract with the Service Provider on the terms and conditions set out in this Agreement;

AND WHEREAS the Service Provider has undertaken to perform certain services/provide certain goods on behalf of iSimangaliso in terms of this Agreement;

AND WHEREAS the parties are desirous of recording in writing the terms and conditions of their Agreement;

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS

Unless inconsistent with the context, the expressions set forth below shall bear the following meanings:

1.1 Expressions which denote:

1.1.1 any gender shall include the other genders;

1.1.2 a natural person shall include a juristic person and vice versa;

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1.1.3 the singular shall include the plural and vice versa;

1.2 "**Confidential Information**"- shall mean all information and data of any nature, whether tangible, intangible, oral or in writing and in any format or medium, that is obtained or learned by, disclosed to or comes to the knowledge of a party by or from the other party during the course or arising out of this Agreement, by whatsoever means and which information is not readily available in the ordinary course of business to a third party including but not limited to all internal control systems, contractual and financial arrangements with iSimangaliso's suppliers, customers, and marketing and is deemed to be the property of iSimangaliso;

1.3 "**the Services**" - shall mean the Services and/or Products to be provided and/or supplied by the Service Provider, and as set out in the Schedule

1.4 "**the Service Period**" – shall mean the timetable for the provision and/or supply of the Services as set out in the Schedule

1.5 "**the Schedule**" – shall mean the Schedule attached hereto, the content thereof being incorporated into the body of this Agreement

1.6 "**Delay**" means a delay of more than 30 days in the Project Timetable, demonstrably caused by persons or events beyond the control of the Transaction Advisor, not involving the Transaction Advisors' fault or negligence, nor possible to reasonably mitigate within the Project Timetable, and which has an adverse effect on the Project Timetable;

1.7 "**Parties**" means the Entity and the Transaction Advisor;

1.8 "**Payment Schedule**" is the schedule set out in clause 7 of the Agreement, in terms of which the Transaction Advisor fees are payable by the Entity;

1.9 "**Project**" means feasibility studies for the Projects of ISWP and support to the procurement process that may be required thereafter;

1.10 "**Project Officer**" means the person appointed by the Entity who is capable and appropriately qualified to manage the Project, and who shall manage the work of the Transaction Advisor;

1.11 "**Project Timetable**" means the timetable agreed between the Parties, as amended by Agreement from time to time, and attached hereto at Annexure B;

1.12 "**PPP**" shall mean Public Private Partnership as defined by Treasury Regulation 16 in terms of the Public Finance Management Act, Act 1 of 1999 as amended;

Transaction Advisor" means _____ representing all the persons listed herein as members of the Transaction Advisor team, whether in employment or sub-contractor relationship with the Transaction Advisor, appointed in terms of this Agreement,

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having the appropriate skills and experience to advise the Entity on the Project and to carry out the Services specified in the Terms of Reference according to the Project Timetable.

2. SERVICE PROVIDER UNDERTAKINGS

The Service Provider hereby undertakes to:

- 2.1 Provide and/or deliver the Services at the specified times to the stipulated specification;
- 2.2 Not make any representations on behalf of iSimangaliso;
- 2.3 Abide by Park rules and directives as amended from time to time;
- 2.4 Hold itself liable for any damage, as defined in the National Environmental Management Act, caused by the service provider, any invitees, collaborators, assistants or employees, and shall be liable for the cost of rehabilitation or restoration of such damage or for the mitigation measures required, as directed by iSimangaliso.
- 2.5 Obtain all necessary environmental and other permits and/or approvals in accordance with the Regulatory Provisions and shall comply with all conditions of any environmental or other permit or approval granted by any Relevant Authority and shall take all necessary action required under the Regulatory Provisions.
- 2.6 Hold itself liable to pay a penalty imposed by the Authority for failing to comply with the provisions of this contract. Penalties shall be calculated at 2% (two percent) of the fees payable within the month that the Service Provider failed to comply with the provision of this Agreement.
- 2.7 Not to poach any staff member of iSimangaliso during the term of this Agreement and for a period of two years after expiry or termination;
- 2.8 Shall ensure that no director, employee, or sub-contractor shall do anything to damage the name and reputation of iSimangaliso. If, in the reasonable opinion of iSimangaliso, the Service Provider, any director, employee or subcontractor provider has caused iSimangaliso harm or damaged its good name or reputation iSimangaliso shall be entitled to terminate this Agreement or require the Service Provider to remove the director, employee or subcontractor provider from any further participation arising from this Agreement;
- 2.9 Shall replace any person assigned to this Agreement if in its discretion iSimangaliso is dissatisfied with the performance or conduct of this person;

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3. Shall not remove or replace any person assigned to this Contract or make any changes to the scope of work or methodology or specification of the Services without the prior written permission of iSimangaliso, which may be withheld.

4. DURATION OF AGREEMENT

4.1 The agreement shall commence on the signature date and endure for a period of _____ months plus any further period at the sole discretion of iSimangaliso, but not exceeding 24 months, unless terminated in terms of the Agreement or as follows:

4.2 This Agreement, and the rights and obligation of the Parties herein, shall be deemed to have commenced on the Appointment Date;

4.3 Unless otherwise terminated in terms of this Agreement shall automatically terminate upon completion of the Feasibility Study Report,

4.4 Alternatively, if so instructed in writing by the Entity at the completion of the Feasibility Study Report, shall terminate at Financial Closure of any Agreements so procured and the delivery of a Close-out Report in respect of each such Agreement.

4.5 The cancellation or termination of this Agreement shall be in accordance with paragraph 4 below.

5. Transaction Advisor obligations for Services

5.1 The Transaction Advisor undertakes to:

5.1.1 Perform the Services specified in the Terms of Reference, and in accordance with the Project Timetable;

5.1.2 Perform the Services with the highest standards of professional and ethical competence and integrity;

5.1.3 Devote the necessary time and attention to the Project, as committed in the Project Timetable;

5.1.4 At all times, maintain the highest degree of good faith towards the Entity and ensure that no conflict of interest materialises;

5.2 In the event that any member of the Transaction Advisor becomes incapacitated and unable to carry out duties as a result of illness or injury, or whose performance in terms of this Agreement the Entity considers for any reason to be unsatisfactory, the Transaction Advisor will, at its cost, promptly replace the member with a member approved in advance by the Entity.

5.3 The Transaction Advisor shall not, without the prior written consent of the Project Officer, sub-Agreement or delegate the Services to any person other than those here listed as members of the Transaction Advisor in terms of this Agreement:

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.....

.....

..... (full list of all Transaction Advisor team members)

5.4 The Transaction Advisor shall not be relieved of any obligation, responsibility or liability under this Agreement by the appointment of any sub-contractor to carry out any part of the Services.

5.5 The Transaction Advisor shall be responsible for the payment, performance, acts, defaults, omissions, breaches and negligence of all sub-contractors appointed in terms of this Agreement.

All references in this Agreement to any performance, payment, act, default, omission, breach or negligence of the Transaction Advisor shall be deemed to include any of the same by a sub-contractor appointed in terms of this Agreement.

5. TERMINATION OR CANCELLATION

5.1 Either party wishing to terminate this Agreement, either in whole or in part, must provide the other Party with at least 90 (ninety) calendar days' prior written notice signed by a duly authorised signatory

5.2 Subject to clause 4.1 of this agreement, iSimangaliso may terminate this agreement in the event that the Service Provider fails to comply with, or fails to remedy non-compliance, notwithstanding iSimangaliso's notice to the Service Provider to remedy the failure, or the terms and conditions contained in clause 3.1

5.3 An aggrieved Party may only terminate this Agreement in terms of Clause 8 of this Agreement if the breach is material and is not capable of being remedied by payment or if it is capable of being remedied by payment, the other Party fails to make payment within 14 (fourteen) calendar days after the final determination of the amount.

5.4 At any time during the term of the Agreement, the Entity may give the Transaction Advisor immediate notice, terminating the Agreement, in event that the Transaction Advisor:

5.4.1 Is found to have breached confidentiality to the material detriment of the Entity;

5.4.2 Is found to have undertaken an action that creates a conflict of interest;

5.4.3 Failed to disclose to the Entity, information which in the reasonable opinion of the Entity is material to the performance of its duties and obligations under the Agreement.

5.5 In the event of such termination, the Entity will be obliged to pay outstanding amount for the Services.

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5.6 The Entity reserves the right to claim damages in the event of such termination

6. PAYMENT OF SERVICES

6.1 iSimangaliso shall pay the Service Provider as per the agreed Schedule on presentation of original invoices after the Services have been provided and/or delivered to the satisfaction of iSimangaliso within 30 days of presentation of invoice. Interest will not accrue on late payments.

6.2 The Entity will pay the Transaction Advisor for the Services in accordance with the following Schedule of deliverables, as elaborated in the Terms of Reference:

The transaction advisor will be remunerated as follows:

Phase 1:

- Mobilisation fee: 10% of the Phase I fee, payable 1 calendar month from the date of the commencement of Phase I;
- 45% of the Phase 1 fee for the options analysis reports and generation of the outputs specifications and acceptance of the options analysis;
- 45% of the Phase 1 fee payable upon completion of the feasibility study report and approval by the Project Steering Committee.

Phase 2:

- 25% on conclusion of the TOR process;
- 25% on concluding the preferred bidder process;
- 30% on obtaining financial close; and
- 10% on acceptance of the Close Out Report by the ISWP.

6.3 Payment of the mobilisation allowance in Phase I will be made by the Entity within 30 days of Appointment Date;

6.4 Invoices for all further instalments due as per the Payment Schedule, may be submitted by the Transaction Advisor to the Project Officer upon endorsement by the Project Steering Committee, and Payment of approved invoices will be made by the Entity within 30 days;

6.5 The Payment Schedule is exclusive of direct out-of-pocket expenses. Such expenses will be agreed in writing between the Transaction Advisor and the Project Officer prior to being incurred, and shall be reimbursed by the Entity at cost, on production of all supporting documentation, within 30 days of invoice.

6.6 VAT will be invoiced and payable pro-rata with each invoice submitted

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7. CESSION, ASSIGNMENT AND SUBCONTRACTING

7.1 The Transaction advisor shall not be entitled to cede, assign, subcontract or in any other manner whatsoever, transfer any of its rights or obligations under this Agreement to any third Party without the prior written consent of the iSimangaliso Authority.

8. LICENSES AND COPYRIGHT

8.1 The Service Provider shall be responsible for obtaining all the necessary approvals to use and publish any material owned or copyrighted by any third party in any form whether written, drawn, photographed or produced by any other means, for the purposes of the project as stipulated in this Agreement. The Service Provider shall ensure that all such approvals are maintained and renewed as and when appropriate and warrants that the use and publication of any material by it will not infringe the rights of any third person and accordingly indemnifies the Authority from any loss or damage, howsoever arising, in the event of any such infringement.

8.2 All work produced specifically for iSimangaliso under this Agreement remains the property of iSimangaliso and may not be released without prior written approval of iSimangaliso.

9. CONFIDENTIAL INFORMATION

9.1 Both parties undertake to keep all confidential information of either party confidential while this contract remains in force and for a period of 3 (three) years after it terminates for any reason;

9.2 Both parties shall not disclose any Confidential Information to any third party.

9.3 All documentation comprising Confidential Information shall be returned on expiry or termination of this Agreement.

10. FORCE MAJEURE

10.1 If either Party is prevented from, or delayed in performing any obligation under this Agreement, for any reason beyond the reasonable control of that Party, then that Party shall be excused from performing, or timeously performing that particular obligation for the duration of such prevention or delay.

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10.2 Any Party so prevented or delayed, shall inform the other in writing of such prevention or delay, as soon as reasonably possible, after the circumstances causing such prevention or delay have risen.

10.3 The Parties shall do everything reasonably possible to prevent, avoid, or limit the duration, or effects of any such prevention or delay.

10.4 While any such prevention or delay continues, the Parties shall continue to comply with their obligations under this Agreement that are not affected by it, to the extent that they are able lawfully to do so.

10.5 If any such suspension or delay continues for more than 60 consecutive days, then notwithstanding any other provision of this Agreement to the contrary, either Party shall be entitled to terminate this Agreement by written notice to the other.

11. DISPUTE RESOLUTION

11.1 Any dispute between the Parties in regard to the interpretation of this Agreement; the effect of this Agreement; the Parties' respective rights and obligations under this Agreement; or a breach of any matter arising out of this Agreement, shall in the first instance, be referred to the Parties' respective representatives, who shall attempt to resolve the dispute amicably between themselves within 5 days of the dispute arising, and if the dispute is still unresolved, then, in the second instance, be referred to the CEO who shall attempt to resolve the dispute with the chief executive officer of the Service Provider who shall make himself available in St Lucia, within 10 days of the dispute arising, and if it still remains unresolved, then as a last resort, be submitted to arbitration in the manner set out in this Clause 7

11.2 The arbitration shall be held, subject to the provisions of this clause at Durban; informally; in accordance with the provisions of the Arbitration Act, 1965 (Act No. 42 of 1965), as amended; held and concluded within 21 days after it has been demanded if possible.

11.3 The arbitrator shall be, if the question in issue is primarily an accounting matter, an independent accountant agreed upon between the Parties; primarily a legal matter, a practising senior counsel of no less than 10 years' standing to be agreed between the Parties; any other matter, a suitably qualified and experienced independent person, to be agreed between the Parties.

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11.4 If the Parties cannot agree upon a particular arbitrator pursuant to Clause 7.3 above, within 7 days after the arbitration has been demanded, the nomination shall be made by the president of the Attorneys Association of KwaZulu-Natal, within 7 days of the Parties having so failed to agree.

11.5 The Parties irrevocably agree that the decision in these arbitration proceedings shall be binding on them; shall be carried into effect; and may be made an order of any court of competent jurisdiction.

11.6 Pending any attempt at amicable settlement, or any award of an arbitral panel, both Parties shall continue to perform their obligations hereunder, unless agreed otherwise in writing.

11.7 The costs of arbitration shall be paid by the unsuccessful Party, irrespective of whether the iSimangaliso Authority or the Service Provider referred the matter to arbitration.

12. **BREACH**

12.1 Breach of this Agreement by the Service Provider shall include the following events:

12.2 if the Service Provider being an individual (or where the Service Provider is a firm, any partner in that firm) shall at any time become bankrupt, or subject to a receiving order, administration order or interim order made against him or her, or enters any composition, or scheme of arrangement with, or for the benefit of, his or her creditors, or make, any conveyance, or assignment, for the benefit of his or her creditors, or purports to do so, or any application is made for sequestration of his or her estate, or a trust deed is granted by him or her, for the benefits of his or her creditors;

12.3 if the Service Provider being a company or close corporation passes a resolution, or the courts shall make an order that the company or close corporation be wound up (except for the purposes of amalgamation or reconstruction), or if a business rescue practitioner on behalf of a creditor appointed, or if the courts shall make an business rescue order, or if circumstances shall arise that entitle the courts or a creditor to appoint a business rescue practitioner, or which entitle the courts to make a winding-up order;

12.4 if the Service Provider does not provide the Services in accordance with the standards specified in the Schedule;

12.5 if the Service Provider breaches any other provision of this Agreement.

12.6 iSimangaliso shall grant the Service Provider a remedy period with reference to the nature of the breach, during which the Service Provider must take the appropriate action to make

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good the damage or rectify the notified default or problem. In the absence of a notified remedy period, and should the Service Provider fail to remedy such breach within 30 days of receiving written notice from iSimangaliso requiring it to do so, then iSimangaliso shall be entitled, without prejudice to its other rights in law, to cancel this Agreement upon 30 days' written notice, or to claim immediate performance of all of the Service Provider's obligations, whether or not due for performance, in either event, without prejudice to iSimangaliso's right to claim damages. Any dispute about an environmental issue is resolved by the CEO.

13. PUBLIC LIABILITY INSURANCE

13.1 The Transaction advisor shall maintain, at its cost and expense appropriate public liability insurance.

13.2 The Transaction Advisor will be responsible, at his own expense, for taking out any appropriate insurance coverage against loss arising from negligence, malpractice or unprofessional conduct by any member of the Transaction Advisor.

14. LIMITATION OF LIABILITY

14.1 Should iSimangaliso incur any liability in respect of third parties and/or any claims be made against iSimangaliso by third parties as a result of any unlawful act on the part of the Service Provider in the performance of its duties in terms of this Agreement, then the Service Provider hereby indemnifies the iSimangaliso Authority against any, and all, such claims.

14.2 The Transaction Advisor will defend, indemnify, and hold the Entity harmless against all claims, proceedings, losses, or damages in respect of those liabilities to the extent caused or contributed to by any errors, omissions or negligent acts associated with or arising out of the Services performed by the Transaction Advisor, its agents, employees, or sub-contractors in terms of this Agreement.

15. GENERAL

15.1 This document constitutes the sole record of the Agreement between the Parties.

15.2 No Party shall be bound by any representation, warranty, promise, or the like not recorded herein.

15.3 No addition to, variation, or agreed cancellation of this Agreement shall be of any force or effect unless in writing and signed by, or on behalf of the Parties.

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15.4 No indulgence which either Party ("the Grantor") may grant to the other ("the Grantee") shall constitute a waiver of any of the rights of the Grantor, who shall not thereby be precluded from exercising any rights against the Grantee which may have arisen in the past or which might arise in the future.

15.5 This Agreement must be read in conjunction with the Terms of Reference and Project Timetable. In the event of any conflict between the Terms of Reference, the Project Timetable and the Agreement, the Agreement shall prevail, unless otherwise agreed in writing by the Parties;

15.6 The Terms of Reference and the Project Timetable may be amended from time to time, by written Agreement between the parties;

15.7 The Entity reserves the right to terminate this Agreement or temporarily defer the work, or any part thereof, at any stage, should the Entity at its sole discretion, decide not to proceed with the Project or any part thereof;

15.8 Pursuant to clause 4.3, the Transaction Advisor will be remunerated for that portion of work completed up to a maximum amount of not more than the total fee stipulated herein for the appropriate stage in the Payment Schedule during which the Agreement is terminated;

15.9 In the event of termination, all and any work performed, as well as all and any intellectual property created as a result of the work performed, will revert to the Entity.

16. DOMICILIUM AND NOTICES

16.1 Each Party chooses the address set out below as the address at which all notices and other communications must be delivered for the purposes of this Agreement.

The iSimangaliso Authority:

CEO

iSimangaliso Wetland Park Authority

Private Bag X05 St Lucia

3936

Telefax: (035)590-1601

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The Service Provider:

16.2 Any notice or communication required or permitted to be given in terms of this Agreement shall be valid and effective only if in writing but it shall be competent to give notice by telefax.

16.3 Any notice to a Party contained in a correctly addressed envelope and sent by prepaid registered post to it at its chosen address; or delivered by hand to a responsible person during ordinary business hours at its chosen address, shall be deemed to have been received on the 14th business day after posting (unless the contrary is proved) and, in the case of fax/hand delivery on the day of delivery except outside of normal hours in which case it shall be the first business day after transmission or hand delivery

16.4 Each Party chooses the physical address as the address in Clause 22.2 and 22.3 at which legal process must be delivered for the purposes of this Agreement.

16.5 The Parties shall be entitled at any time to change their addresses for the purposes of this Clause 12 to any other address

17. COSTS

17.1 Each Party shall bear its own costs of, and incidental to, the drawing up and preparation of this Agreement.

18. Consequences of failure to deliver Services

13.1 The Entity shall notify the Transaction Advisor of non-performance or poor performance by means of serving a “notice of default” on the Transaction Advisor, requiring the Transaction Advisor to:

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18.1.1 Remedy, to the satisfaction of the Entity, the default within 14 (fourteen) Business Days from date of such notice OR

18.1.2 To put forward within 3 (three) Business Days from date of such notice of default, a reasonable programme for the remedying of the said default. This programme shall specify in detail the manner in which, and latest date by which, such default will be remedied.

18.2 The Entity shall within 3 (three) Business Days from receiving such programme, advise the Transaction Advisor whether or not the programme is accepted, failing which the Entity shall be deemed to have accepted the programme.

19. In the event that the Entity does not accept the programme, the Transaction Advisor shall have 8 (eight) Business Days from date of the Entity informing the Transaction Advisor of its decision, to remedy the said default.

20. SIGNED

For the iSimangaliso Authority

Signature: _____

Full Name: _____

Designation: _____

Date: _____

Witness #1 : _____

Witness #2: _____

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for the Service Provider:

Signature: _____

Full Name: _____

Designation: _____

Date: _____

Witness #1: _____

Witness #2: _____

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ANNEXURE 10: AUTHORITY TO SIGN BID

AUTHORITY TO SIGN A BID/QUOTATION

A. COMPANIES

If a Bidder is a company, a certified copy of the resolution by the board of directors, personally signed by the chairperson of the board, authorising the person who signs this bid to do so, as well as to sign any contract resulting from this bid and any other documents and correspondence in connection with this bid and/or contract on behalf of the company must be submitted with this bid, that is before the closing time and date of the bid

AUTHORITY BY BOARD OF DIRECTORS

By resolution passed by the Board of Directors on..... 20.....

Mr/Mrs..... (whose
signature appears below) has been duly authorised to sign all documents in connection with this
bid on behalf of

.....

(Name of Company)

IN HIS/HER CAPACITY AS:

.....

SIGNED ON BEHALF OF COMPANY:



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.....

(PRINT NAME)

SIGNATURE OF SIGNATORY: DATE:

WITNESSES: 1

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B. SOLE PROPRIETOR (ONE - PERSON BUSINESS)

I, the undersigned..... hereby confirm that I am the
sole owner of the business trading as

.....

.....

SIGNATURE DATE

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C. PARTNERSHIP

The following particulars in respect of every partner must be furnished and signed by every partner:

Full name of partner	Residential address	Signature
.....		
.....		
.....		
.....		

We, the undersigned partners in the business trading ashereby
authorise.....to sign this bid as well as any contract resulting from
the bid and any other documents and correspondence in connection with this bid and /or contract
on behalf of

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.....

SIGNATURE

SIGNATURE

SIGNATURE

.....

DATE

DATE

DATE

D. CLOSE CORPORATION

In the case of a close corporation submitting a bid, a certified copy of the Founding Statement of such corporation shall be included with the bid, together with the resolution by its members authorising a member or other official of the corporation to sign the documents on their behalf.

By resolution of members at a meeting on 20.....

At.....Mr/Ms.....,

whose signature appears below, has been authorised to sign all documents in connection with this bid on behalf of

.....

(Name of Close Corporation)

SIGNED ON BEHALF OF CLOSE CORPORATION:

.....

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(PRINT NAME)

IN HIS/HER CAPACITY AS

DATE:

SIGNATURE OF SIGNATORY:

WITNESSES: 1

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