

<p>THE SUCCESSFUL BIDDER IS REQUIRED TO MEET REQUIREMENTS OF THE PUBLIC INVESTMENT CORPORATION</p>	
BID REFERENCE NUMBER:	<b>PIC024/ 2020</b>
BID DESCRIPTION:	<b>APPOINTMENT OF A SERVICE PROVIDER TO PROVIDE ORGANISATIONAL DESIGN AND DEVELOPMENT</b>
PIC WEBSITE:	<a href="http://www.pic.gov.za">www.pic.gov.za</a>
CLOSING DATE:	12-April-2021
CLOSING TIME:	11h00
VALIDITY PERIOD:	180 days
BRIEFING SESSION DETAILS:	Bidders are required to forward their email address to <a href="mailto:tenders4@pic.gov.za">tenders4@pic.gov.za</a> to receive a link to onedrive for submission.
SUBMISSION REQUIREMENTS	Bidders who attended the Compulsory Briefing session will be supplied with a link to submit their proposal.
BRIEFING SESSION:	A compulsory virtual briefing session will be held on 12 March 2021 at 11:00. Bidders are required to be logged in by 10:45.
COMPANY NAME:	
CONTACT PERSON:	
CONTACT DETAILS:	
EMAIL ADDRESS:	
BIDDERS ADDRESS:	

**TABLE OF CONTENTS**

<b>1</b>	<b>DEFINITIONS AND ABBREVIATIONS.....</b>	<b>3</b>
<b>2</b>	<b>INTRODUCTION.....</b>	<b>4</b>
<b>3</b>	<b>OBJECTIVE.....</b>	<b>4</b>
<b>4</b>	<b>SCOPE OF WORK.....</b>	<b>4</b>
<b>5</b>	<b>CONTRACT TERM.....</b>	<b>5</b>
<b>6</b>	<b>VALIDITY PERIOD.....</b>	<b>5</b>
<b>7</b>	<b>PRICING MODEL.....</b>	<b>5</b>
<b>8</b>	<b>QUERIES AND CLARIFICATIONS.....</b>	<b>5</b>
<b>9</b>	<b>EVALUATION CRITERIA.....</b>	<b>5</b>
<b>10</b>	<b>ADMINISTRATIVE REQUIREMENTS.....</b>	<b>6</b>
<b>11</b>	<b>TECHNICAL / FUNCTIONAL SCORING CRITERIA.....</b>	<b>9</b>
<b>12</b>	<b>TERMS AND CONDITION.....</b>	<b>11</b>
<b>13</b>	<b>PART A SBD 1 INVITATION TO BID.....</b>	<b>13</b>
<b>14</b>	<b>LIST OF SHAREHOLDERS.....</b>	<b>17</b>
<b>15</b>	<b>DECLARATION OF INTEREST.....</b>	<b>19</b>
<b>17</b>	<b>COMPANY INFORMATION.....</b>	<b>24</b>
<b>18</b>	<b>DECLARATION.....</b>	<b>27</b>

## 1 DEFINITIONS AND ABBREVIATIONS

- 1.1 **B-BBEE** means black broad-based economic empowerment
- 1.2 **Bid** means a written offer in a prescribed or stipulated form in response to an invitation by PIC for the provision of goods and services, through price quotations, advertised competitive tendering processes or proposals;
- 1.3 **BBBEE Act** means the Broad Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- 1.4 **Consortium or joint venture** means an association of persons for the purpose of combining their expertise, property, capital, skill and knowledge in an activity for the execution of a contract;
- 1.5 **Contract** means the agreement that results from the written acceptance of a bid by the PIC and successful negotiation and signature of same by both parties delegated authorities;
- 1.6 **Functionality** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account among other factors, the quality, reliability, viability and durability of service and the technical capacity and ability of a bidder;
- 1.7 **Ownership** means the percentage ownership and control, exercised by individuals within an enterprise;
- 1.8 **PPPFA** means the Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2017);
- 1.9 **SANAS** means the South African National Accreditation System;
- 1.10 **POPIA** means the Protection of Personal Information Act, 2013 (Act No 4 of 2013);
- 1.11 **Validity Period** means the time period for which price quotation for the provision of goods and services shall remain valid, in this case, being a period of 180 (one hundred and twenty) days;

## **2**     **INTRODUCTION**

The Public Investment Corporation (PIC) is an asset management company wholly owned by the government of the Republic of South Africa duly represented by the Minister of Finance. The PIC manages investments on behalf of public sector funds which include Government Employees Pension Fund (GEPF), Unemployment Insurance Fund (UIF) and Compensation Fund.

## **3**     **OBJECTIVE**

To appoint a service provider for Organisational design and development

## **4**     **SCOPE OF WORK**

The appointed service provider will be required to provide services as outlines below;

- 4.1    4.1 Investigate the current PIC's Organizational design and to propose potential opportunities for review.
- 4.2    4.2 Confirm the efficiencies and span of control of the proposed structure and align the appropriate functions to the respective divisions.
- 4.3    4.3 Reduce the concentration of power in one role, propose a shared responsibility and accountability in line with the respective functions.
- 4.4    4.4 Recommend the appropriate structure based on the PIC model and align Tier 1 roles (Executive Roles) to appropriate functions.
- 4.5    4.5 Review of the current senior management roles and evaluate the jobs as well as propose appropriate job descriptions that meet the requisite delegation of authority
- 4.6    4.6 Ensure decision making is allocated at the appropriate level in order to increase accountability, flexibility and align with delegation of authority

## **5 CONTRACT TERM**

The contract will be for an initial three years renewable annually.

## **6 VALIDITY PERIOD**

Bids must remain valid and available for (180) days calculating from the closing date as advertised for the bid, for acceptance, or non-acceptance by PIC. The bidder undertakes not to withdraw, or alter, the Bid during this period. Should no response is received within validity period, bidders should consider the bid unsuccessful

## **7 PRICING MODEL**

Pricing should be vat inclusive and submitted separately from the main proposal.

## **8 QUERIES AND CLARIFICATIONS**

Any additional information required which is not clarified in the specifications must be addressed in writing to [tenders4@pic.gov.za](mailto:tenders4@pic.gov.za)) by. All correspondence must state the bidreference number.

## **9 EVALUATION CRITERIA**

The evaluation criteria will be based on the following three phases :

- Phase 1: Administrative requirements
- Phase 2: Functionality Evaluation (minimum threshold= 70/100)
- Phase 3: Price and BEE Evaluations (80/20 points)/(90/10 points)

## 10 ADMINISTRATIVE REQUIREMENTS

All bid responses that do not meet the administrative requirements will be disqualified, and will not be considered for further evaluation on the Functional Requirements. The Mandatory Administrative Requirements are stated below, bidders that meet all administrative requirements will proceed to the next stage.

Requirement	Appendix Number	Tick if included ✓
A Valid Tax Pin Number.		
BBBEE status level certificate –Accredited by SANAS (If no BEE certificate is submitted/or BEE certificate submitted is not valid, no points will be allocated for BEE). EME's and QSE's –sworn Affidavit		
Requirement	Appendix Number	Tick if included ✓
Signed and completed declaration of interest document		
Signed and completed SBD 1 – Invitation to Bid document		

Signed and completed Company Information document		
Audited or independently reviewed financial statements (Management account) not older than 18 months.		
Completed and signed Company Information document and submission of all the required documentation as stipulated in the company profile document		
Acceptance of the conditions as stipulated in the bid document		
All documents should be clearly indexed,		
Proposal to be submitted electronically to <a href="mailto:tenders4@pic.gov.za">tenders4@pic.gov.za</a>		
Kindly enclose your Central Supplier Database (CSD) Registration Document.		
Requirement	Appendix Number	Tick if included ✓
If a bidder is a Joint Venture or Consortium, the bidder must submit a consolidated B-BBEE scorecard as if they were a group structure.		

<p>Note: If a bidder is a Consortium, Joint Venture or Prime Contractor with Subcontractor(s), the documents listed above must be submitted for each Consortium/ JV member or Prime Contractor and Subcontractor(s). Copy of Joint Venture/ Consortium/ Subcontracting agreement duly signed by all parties (if applicable).</p>		
<p>Bidder has numbered proposal e.g. functional &amp; Pricing proposal</p>		



## 11 TECHNICAL / FUNCTIONAL SCORING CRITERIA

Bidder, who scores below 70 points, will not go through to the next level of evaluations. Presentations and site visits **may** form part of the evaluation. (Bidder who scores 70 or more points out of 100 points allocated at technical evaluation will be subjected to site visits and further evaluated on price and B-BBEE.

**The criteria may be adjusted by Bid Specification Committee (BSC) . Weights to be agreed on by BSC**

Criteria	Requirements from service providers	Weighting	Total
<b>Company Competency and Capacity</b>	1. A list of current relevant works and projects at financial institutions or similar organisations in the last 5 years.	15	<b>35</b>
	2. Bidder must provide evidence that they have carried out organisational structure design for corporates with more that 400 employees in the financial industry.	10	
	3. Latest audited financial report	10	
<b>Team Competency</b>	4. Experience and expertise of lead personnel proposed on project (CV of lead personnel who will be responsible for the PIC <b>must</b> be included).	15	<b>25</b>
	5. The supporting team must have a minimum of ten (10) years in organisational structure design and implementation.	10	
<b>Methodology</b>	6. Bidder <b>must</b> provide proposed methodology.	5	<b>25</b>

Criteria	Requirements from service providers	Weighting	Total
	7. Bidder <b>must</b> include proposed time-lines to conclude the project.	10	
	8. Bidder will be required to provide methodology <b>relevant</b> to PIC business requirements.	10	
<b>References</b>	9. Provide contactable references that include: <ul style="list-style-type: none"> <li>- Organization where work was carried out.</li> <li>- Contact details (Telephone, E-mail and Physical Address)</li> </ul>	15	<b>15</b>
<b>Total</b>			<b>100</b>
	<i>Minimum Threshold</i>		<b>70</b>

### PRICE & BEE

All bids that achieve the minimum qualifying score of 70% for Functionality (acceptable bids) will be evaluated further in terms of the preference point system below.

CRITERIA	POINTS
Price	80/90
B-BBEE	20/10
<b>TOTAL</b>	<b>100 points</b>

In accordance with the Preferential Procurement Regulations, 2017 pertaining to the Preferential Procurement Policy Framework Act (No. 5 of 2000), the 80/20 point system will be applied in evaluating proposals that qualify for further consideration, where price constitutes

80 points and a maximum of 20 points will be awarded based on the bidder's B-BBEE Status Level Certificate. 90 points and a maximum of 10 points will be awarded based on the bidder's B-BBEE Status Level Certificate.

B-BBEE Status Level of Contributor	Number of points /20
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non- compliant Contributor	0

Points scored will be rounded off to the nearest two decimal places.

- a) The Bidder who scored the highest point will be awarded the bid.
- b) In the event where two or more Bidder scored equal points, the successful bidder must be the one scoring the highest preference points for BBEE.
- c) However, when functionality is part of the evaluation process and two or more Bidder have scored equal points including equal preference points for BBEE, the successful bidder must be the one scoring the highest for functionality.
- d) Should two or more Bidder be equal in all respects; the award shall be decided by the drawing of lots.

## **12 TERMS AND CONDITIONS**

12.1 The PIC may amend any bid conditions, bid validity period, RFP specifications, or extend the bid closing date, all before the bid closing date.

12.2 PIC may negotiate with all or some of the shortlisted bidders.

12.3 PIC may request any relevant information and/ or documents to verify or clarify information supplied in the bid response.

12.4 The PIC reserves the right not to accept the lowest priced bid or any bid in part or in whole.

12.5 Submission must be on PDF and emailed to [tenders4@pic.gov.za](mailto:tenders4@pic.gov.za) and quote the reference of the RFP. Should you not receive feedback within 90 business days after the closing date, you must consider your quotation unsuccessful.

**12.1.1 Reasons for Rejection**

PIC may disregard any submission if that bidder, or any of its directors:

- a) Have abused the Supply Chain Management (SCM) system of any Government Department/ institution.
- b) Have committed proven fraud or any other improper conduct in relation to such system.
- c) Have failed to perform on any previous contract and the proof thereof exists.
- d) Is restricted from doing business with the public sector if such a supplier obtained preferences fraudulently or if such supplier failed to perform on a contract based on the specific goals

**12.1.2 Cancellation of a Bid**

PIC may prior to the award of a bid, cancel a bid if

- a) Due to changed circumstances, there is no longer a need for the goods or services requested.
- b) Funds are no longer available to cover the total envisaged expenditure.
- c) No acceptable bids are received.

**12.1.3 Service Level Agreement (SLA)**

The SLA will set out the administration processes, service levels and timelines. The award of a tender shall always be subject to successful negotiation and conclusion of an SLA / contract. There will be no binding agreement between the parties if a contract has not been concluded

### 13 PART A SBD 1 INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE PUBLIC INVESTMENT CORPORATION					
BID NUMBER:	PIC024 2020	CLOSING DATE:	12 April 2021	CLOSING TIME:	11:00 AM
DESCRIPTION	APPOINTMENT OF A SERVICE PROVIDER TO PROVIDE ORGANISATIONAL DESIGN AND DEVELOPMENT				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
One drive link will be emailed					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON		CONTACT PERSON			
TELEPHONE NUMBER		TELEPHONE NUMBER			
FACSIMILE NUMBER		FACSIMILE NUMBER			
E-MAIL ADDRESS		E-MAIL ADDRESS			
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 CERTIFICATE	TICK APPLICABLE BOX]  <input type="checkbox"/> Yes <input type="checkbox"/> No	B-BBEE STATUS LEVEL SWORN AFFIDAVIT	[TICK APPLICABLE BOX]  <input type="checkbox"/> Yes  <input type="checkbox"/> 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]**

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No  [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No  [IF YES, ANSWER PART B:3]
---	--	--	---

**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 SIGN A SERVICE LEVEL AGREEMENT.**

#### 2. TAX COMPLIANCE REQUIREMENTS

- 2.1 BIDDER MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
- 2.2 BIDDER 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](http://WWW.SARS.GOV.ZA).
- 2.4 BIDDER 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 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: .....

CAPACITY UNDER WHICH THIS BID IS SIGNED: .....

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

DATE: .....



## 16 LIST OF SHAREHOLDERS

**[Note to the bidder:** the bidder must complete the information set out below. If the bidder requires more space than is provided below it must prepare a document in substantially the same format setting out all the information

Name	ID No	SA Citizen	Race	Gender	Shareholding %

### **Black Shareholders/ Members as per the B-BBEE Certificate**

Name	Identity	Race	Gender	Shareholding %



PUBLIC INVESTMENT  
CORPORATION®  
Est. 1911


## 14 DECLARATION OF INTEREST

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

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

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

2.1 Full Name of bidder or his or her representative:

.....

2.2 Identity Number:

.....

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

.....

2.4 Company Registration Number:  
.....

2.5 Tax Reference Number:  
.....

2.6 VAT Registration Number:  
.....

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

<sup>1</sup> "State" means –

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

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

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

2.7.1 If so, furnish the following particulars:  
Name of person / director / trustee / shareholder/ member:  
.....  
Name of state institution at which you or the person connected to the bidder is employed:  
.....

Position occupied in the state institution: .....

Any other particulars:

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

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

2.7.2.1 If yes, did you attach proof of such authority to the bid document? **YES / NO**  
(Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.

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

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

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

2.8.1 If so, furnish particulars:

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

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

2.9.1 If so, furnish particulars:

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

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

2.10.1 If so, furnish particulars:

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

2.11 Do you or any of the directors / trustees / shareholders / members of the company have any interest in any other related companies whether they are bidding for this contract? **YES/NO**

2.11.1 If so, furnish particulars:

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

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

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



## 17 COMPANY INFORMATION

Please complete the following questionnaire:

**1. Company Name:**

**2. Other Trading Names:**

**3. Type of Organization: (Public Company ('Limited'), Private Company ('(Pty) Ltd'), Close Corporations ('cc'))**

**4. Physical and Postal Address of the Company:**

<b>Postal Code:</b>	<b>Postal Code:</b>

**5. Contact Details**

<b>Contact Name</b>	
<b>Contact Number</b>	
<b>Cell Number</b>	
<b>Email Address</b>	



<b>Alternative Contact</b>	
<b>Email Address</b>	
<b>Contact Number</b>	

**6. Company Information**

Average no. of employees:	
Average annual turnover:	
Type of Enterprise: (e.g. Generic, qualifying small enterprise, Exempted Micro Enterprise)	
Industry in which the entity operates:	

**7. Banking Details**

Banker:	
Auditor:	
Year of Establishment:	
Registration number of entity:	
Sector:	

**\*A letter from your bank with a bank stamp or cancelled cheque must be submitted.**

**8. Tax Registration Details:**

Income Tax Reference Number:	
VAT Registration Number:	
PAYE Registration Number:	

**9. List of Shareholders:**

**\*ID Documents of the Board of directors/members, owners, shareholders or executive committee must be submitted.**

**\* CIPC Documents must be attached.**

**10. B-BBEE (Broad-based Black Economic Empowerment) Status Details:**

*Please tick the relevant box(es):*

<b>BEE Status Level</b>	Indicate EME/QSE/Generic Status	Expiry Date of BBBEE Certificate/ Sworn Affidavit

## 18 DECLARATION

Bidder Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Designation: \_\_\_\_\_

I declare that:

- All information provided is true and correct
- The signatory of the bid document is duly authorized
- Documentary proof regarding any bid issue, will, when required be submitted to the satisfaction of the PIC  
PIC will upon detecting that:
  - The BBEE status level of contribution has been claimed or obtained on a fraudulent basis;
  - Any of the conditions have not been fulfilled act against the bidder.

I understand that:

PIC may:

- Disqualify the bidder from the bidding process;
- Recover all costs, losses or damages it has incurred or suffered as a result of the bidder's conduct;
- Cancel the contract and claim any damages which has suffered as a result of having less favorable arrangements due to cancellation;
- Restrict the bidder, its shareholders and directors or only shareholders and directors who acted on fraudulent basis, from obtaining business from any organ or state for a period not exceeding 10 years after audi alteram partem (hear the other side) rule has been applied; and
- Forward the matter for criminal prosecution

Thus signed and accepted on this \_\_\_\_\_<sup>st / nd / rd / th</sup> day of \_\_\_\_\_ ,  
20\_\_\_\_ at \_\_\_\_\_:

Who warrants his / her authority hereto

For and on behalf of:

\_\_\_\_\_

**ANNEXURE A**

**CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT**

Between

**PUBLIC INVESTMENT CORPORATION SOC LIMITED**

**(Registration Number 2005/009094/06) (“PIC”)**

AND

---

(Identity Number / Registration Number: \_\_\_\_\_)

(Hereinafter referred to as the parties.)

**Introduction**

1. The parties wish to record the terms and conditions upon which each shall disclose confidential information to the other, which terms and conditions shall constitute a binding and enforceable agreement between the parties and their agents.
2. This agreement shall also bind the parties, notwithstanding the date of signature hereof, in the event that either party shall have disclosed any confidential information to the other party prior to date of signature hereof.
3. For the purposes of this agreement the party which discloses confidential information shall be referred to as “the disclosing party” and the party which receives the confidential information shall be referred to as “the receiving party”.

#### **The Confidential Information**

4. "Confidential Information" shall, for the purpose of this agreement include, without limitation, any technical, commercial or scientific information, know-how, trade secrets, processes, machinery, designs, drawings, technical specifications, terms of agreements, details of investment strategies, organisational strategies or structure of either party, products or services offered by either party or any other matter which relates to the business of either party in respect of which information is not readily available in the normal course of business which may come to the knowledge of the other party in whatever form, disclosed to or assessed by either party during the course of his relationship with the other party.

#### **Disclosure of confidential information**

5. The disclosing party shall only disclose the confidential information to the receiving party to the extent deemed necessary or desirable by the disclosing party in its discretion.
6. The receiving party acknowledges that the confidential information is a valuable, special and unique proprietary asset to the disclosing party.

7. The receiving party agrees that it will not, during or after the course of their relationship and/or the term of this agreement as described in Clause 17, disclose the information to any third party for any reason or purpose whatsoever without the prior written consent of the disclosing party, save in accordance with the provisions of this agreement. In this agreement “third party” means any party other than the parties.
8. Notwithstanding anything to the contrary contained in this agreement the parties agree that the confidential information may be disclosed by the receiving party to other related parties on a need-to-know basis; provided that that party takes whatever steps are necessary to procure that such other related parties agree to abide by the terms of this agreement to prevent the unauthorised disclosure of the confidential information to third parties. For purposes of this clause, the receiving party’s other related parties and employees, directors or managers shall be deemed to be acting, in the event of a breach, as that party’s duly authorised agents.
9. The receiving party agrees:
  - 9.1 not to utilise, exploit or in any other manner whatsoever use the confidential information disclosed pursuant to the provisions of this agreement for any purpose whatsoever without the prior written consent of the disclosing party;
  - 9.2 that the unauthorized disclosure of the confidential information to a third party may cause irreparable loss, harm and damage to the disclosing party. Accordingly, the receiving party indemnifies and holds the disclosing party harmless against any loss, claim, harm or damage, of whatever nature,

suffered or sustained by the disclosing party pursuant to a breach by the receiving party of the provisions of this agreement.

**Title**

10. All confidential information disclosed by the disclosing party to the receiving party is acknowledged by the receiving party:
  - 10.1 to be proprietary to the disclosing party; and
  - 10.2 not to confer any rights to the receiving party of whatever nature in the confidential information.

#### **Restrictions on disclosure and use of the confidential information**

11. The receiving party undertakes not to use the confidential information for any purpose other than:
  - 11.1 that for which it is disclosed; and
  - 11.2 in accordance with the provisions of this agreement.

#### **Standard of care**

12. The receiving party agrees that it shall protect the confidential information disclosed pursuant to the provisions of this agreement using the same standard of care that the receiving party applies to safeguard its own proprietary, secret or confidential information and that the information shall be stored and handled in such a way as to prevent any unauthorised disclosure thereof.

#### **Return of material containing or pertaining to the confidential information**

13. The disclosing party may, at any time, request the receiving party to return any material containing, pertaining to or relating to confidential information disclosed pursuant to the terms of this agreement and may, in addition request the receiving party to furnish a written



statement to the effect that, upon such return, the receiving party has not retained in its possession, or under its control, either directly or indirectly, any such material.

14. As an alternative to the return of the material contemplated in clause 13 above, the receiving party shall, at the instance of the disclosing party, destroy such material and furnish the disclosing party with a written statement to the effect that all such material has been destroyed. Notwithstanding the aforesaid, the receiving party will be entitled to retain such documents as they are reasonably required to retain in order to fulfil their professional obligation with regard to document retention, imposed on them by the professional body of which they are a member.
15. The receiving party shall comply with a request in terms of this clause, within 7 (seven) days of receipt of such a request.

**Excluded confidential information**

16. The obligations of the receiving party pursuant to the provisions of this agreement shall not apply to any confidential information that:
  - 16.1 is known to, or in the possession of the receiving party prior to disclosure thereof by the disclosing party;
  - 16.2 is or becomes publicly known, otherwise than as a result of a breach of this agreement by the receiving party;
  - 16.3 is developed independently of the disclosing party by the receiving party in circumstances that do not amount to a breach of the provisions of this agreement;
  - 16.4 is disclosed by the receiving party to satisfy an order of a court of competent jurisdiction or to comply with the provisions of any law or regulation in force from time to time; provided that in these circumstances, the receiving party shall advise the disclosing party to take whatever steps it deems necessary to protect its interests in this regard and provided further that the receiving party will disclose only that portion of the information which it is legally

required to disclose and the receiving party will use its reasonable endeavours to protect the confidentiality of such information to the greatest extent possible in the circumstances;

16.5 is disclosed to a third party pursuant to the prior written authorisation of the disclosing party;

16.6 is received from a third party in circumstances that do not result in a breach of the provisions of this agreement.

### **Term**

17. Subject to clause 2 this agreement shall commence upon the date of signature of the last signing party hereto ("the effective date") and shall endure for a period of 12 (twelve) months ("the term") thereafter, or for a period of one year from the date of the last disclosure of confidential information to the receiving party, whichever is the longer period, whether or not the parties continue to have any relationship for that period of time. In the event that the parties extend the term by mutual and written agreement, then the provisions hereof shall endure for a further minimum period of 12 (twelve) months *mutatis mutandis*.

### **No Solicit**

18. Both parties agree that they will not solicit, interfere with, or entice or endeavour to solicit, interfere with or entice away from the other party, any employee or consultant of the other party, or of either parties consultant(s) or sub-contractor, for the duration of this agreement.

### **Additional Action**

19. Each party to this agreement shall execute and deliver such other documents and do such other acts and things as may be necessary or desirable to give effect to the terms and provisions of this agreement.

### **Breach**

20. In the event that the receiving party should breach the provisions of this agreement and fail to remedy such breach within 7 (seven) days from date of a written notice to do so, then the disclosing party shall be entitled to invoke all remedies available to it in law including the institution of urgent interim proceedings and/or an action for damages.

### **Amendments**

21. No amendment, interpretation or waiver of any of the provisions of this agreement shall be effective unless reduced in writing and signed by both parties.

### **Enforcement**

22. The failure by the disclosing party to enforce or to require the performance at any time of any of the provisions of this agreement shall not be construed to be a waiver of such provision, and shall not affect either the validity of this agreement or any part hereof or the right of the disclosing party to enforce the provisions of this agreement.

### **Headings**

23. The headings of the clauses of this agreement are used for convenience only and shall not affect the meaning or construction of the contents of this agreement.

### **Representations & Warranties**

24. Each party represents that it has authority to enter into this agreement and to do all things necessary to procure the fulfilment of its obligations in terms of this agreement.

### **Entire agreement**

25. This agreement contains the entire agreement of the parties with respect to the subject matter of this agreement and supersedes all prior agreements between the parties, whether written or oral, with respect to the subject matter of this agreement.

**Governing law**

26. This agreement and the relationship of the parties in connection with the subject matter of this agreement and each other shall be governed and determined in accordance with the laws of the Republic of South Africa.

**Submission**

27. The parties hereby submit to the non-exclusive jurisdiction of the Northern - Gauteng High Court.

**Domicile (Physical Address)**

28. Any written notice in connection with this agreement may be addressed:

- 29.1 in the case of PIC to

MENLYN MAINE CENTRAL SQUARE

CORNER ARAMIST AVENUE & COROBAY AVENUE

WATERKLOOF GLEN EXTENSION 2

0181

and shall be marked for the attention of.....;

29.2 in the case of \_\_\_\_\_ to

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

and shall be marked for the attention of

\_\_\_\_\_.

30. A party may change that party's address, by prior notice in writing to the other party.
31. If any notice is to be sent by mail, it shall be sent by prepaid registered mail and shall then be deemed until and unless the contrary is proved, to have been received 10 (ten) days after the date of posting.
32. If any notice is sent by telefax, it will be deemed, until and unless the contrary is proved, to have been received on the date recorded on the transmission slip.
33. If any notice is delivered by hand, it will be deemed to have been received on proof of the date of delivery.

**Severability**

34. In the event of any one or more of the provisions of this agreement being held for any reason to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or

unenforceability shall not affect any other provision of this agreement, and this agreement shall be construed as if such invalid, illegal or unenforceable provision was not a part of this agreement, and the agreement shall be carried out as nearly as possible in accordance with its original terms and intent.

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Signed at                      on this the                      day of                      2020

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Witness signature.

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Signature

Duly authorised representative of

Public Investment Corporation SOC Limited

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Print name.

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Print Name.

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Date.

Date.

Signed at                      on this the                      day of                      2020

\_\_\_\_\_

Witness signature.

\_\_\_\_\_

Duly authorised representative of

\_\_\_\_\_

\_\_\_\_\_

Print name.

\_\_\_\_\_

Print Name.

\_\_\_\_\_

Date.

\_\_\_\_\_

Date.