



**BID NO: PICPROP004/11/2020 REQUEST FOR PROPOSAL**

**TO APPOINT SUITABLY QUALIFIED SERVICE PROVIDERS TO CONDUCT INVESTMENT VALUATIONS FOR A PERIOD OF THREE YEARS FOR THE INDIRECTLY HELD PORTFOLIO**

Bid Number : PICPROP004/11/2020  
Closing Date : 07 December 2020  
Closing Time : 11:00 am Central Africa Time (CAT)  
Submission : tenders1@pic.gov.za

Compulsory Virtual Briefing Session:

A compulsory virtual briefing session will be held on 16 November 2020, 10:00-12:00 (CAT). Service Providers must be connected at 09:45 (CAT). The session will start at exactly 10:00 (CAT). Bidders are requested to forward their email address and complete Non-Disclosure Agreement to: tenders1@pic.gov.za, before 12 November 2020, with the Bid number (PICPROP004/11/2020) as the subject line.

Public Investment Corporation

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1. **Table of Contents**

2.	Definitions and Abbreviations .....	3
3.	Enquiries.....	3
4.	Bid Validity Period .....	3
5.	Instructions on submission of Bids .....	4
6.	Preparation of Bid Response.....	4
7.	Enterprise and Supplier Development.....	4
8.	Bid and Standard Terms and Conditions of Appointment.....	4
9.	Response Format (Returnable Schedules) .....	6
10.	Evaluation Criteria and Weightings .....	9
11.	Price and BEE Level.....	11
13.	Background .....	14
14.	Objective.....	14
15.	Overview of the Indirectly held properties .....	14
16.	List of Instruments .....	15
17.	Special Covid-19 Note .....	15
18.	Property Investments awaiting transfer / legal.....	16
19.	Scope of work.....	16
20.	Deliverables .....	19
21.	SBD 1: INVITATION TO BID .....	22

## 2. Definitions and Abbreviations

- 2.1. **B-BBEE** status level of contributor means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of good practice on Black Economic Empowerment, issues in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- 2.2. **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;
- 2.3. **BBBEE Act** means the Broad Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- 2.4. **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;
- 2.5. **Function** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account among other factors, the quality, reliability, viability and durability of service and the technical capacity and ability of a bidder;
- 2.6. **Ownership** means the percentage ownership and control, exercised by individuals within an enterprise;
- 2.7. **PIC** means The Public Investment Corporation on behalf of its clients
- 2.8. **POPIA** means the Protection of Personal Information Act, 2013 (Act No 4 of 2013);
- 2.9. **SANAS** means the South African National Accreditation System;
- 2.10. 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 eighty) days;

## 3. Enquiries

- 3.1. All communication and attempts to solicit information of any kind relative to this RFP should be channelled in writing to:

Email : Tenders1@pic.gov.za

- 3.2. Enquiries in relation to this RFP will not be entertained after **11h00 (CAT) Date: 23 November 2020**

## 4. Bid Validity Period

- 4.1. Responses to this RFP received from bidders will be valid for a period of 90days counted from the bid closing date.

## 5. Instructions on submission of Bids

- 5.1. Bids should be submitted electronic copy in PDF format. The bid documents must be email to [tenders1@pic.gov.za](mailto:tenders1@pic.gov.za) with the subject line RFP: PROP006/11/2020 no later than 11:00 am Central Africa Time (CAT) on **07 December 2020**
- 5.2. Bids must be submitted in the prescribed response format, herein reflected as Response Format.
- 5.3. Where a bid response is not received by the closing date and time, such a bid document will be regarded as a late bid. It is the PICs policy not to consider late bids for tender evaluation.
- 5.4. Amended bids may be sent marked "Amendment to bid **RFP PICPROP004/11/2020** and should be emailed before the closing date and time.

## 6. Preparation of Bid Response

- 6.1. All the documentation submitted in response to this RFP must be in English.
- 6.2. The bidder is responsible for all the costs that it shall incur related to the preparation and submission of the bid document.
- 6.3. The bidder should check the numbers of the pages of its bid to satisfy itself that none are missing or duplicated. No liability will be accepted by PIC regarding missing or duplicated pages.
- 6.4. Bidder's tax affairs with South African Revenue Service or the relevant jurisdiction of the bidder's domicile must be in order (tax compliant status) and bidders must provide proof as part of their tender response.

## 7. Enterprise and Supplier Development

- 7.1. The PIC promotes enterprise development. In this regard, successful bidders may be required to mentor SMMEs and/ or Youth-Owned businesses. The implications of such arrangement will be subject to negotiations between the PIC and the successful bidder.

## 8. Bid and Standard Terms and Conditions of Appointment

- 8.1. The PIC reserves the right not to accept the lowest priced bid or any bid in part or in whole. It normally awards the contract to the bidder who proves to be fully capable of handling the

contract and whose bid is functionally acceptable and/or financially advantageous to the PIC's Clients.

- 8.2. The PIC reserves the right to award this bid as a whole or in part.
- 8.3. The PIC reserves the right to withdraw or amend these terms of reference by notice in writing to all parties who have received the terms of reference prior to the closing date.
- 8.4. The cost of preparing of bids will not be reimbursed.
- 8.5. PIC reserves the right to reject bids that are not according to specification/Terms of Reference. Bidders must clearly indicate compliance or non-compliance with specification/Terms of Reference.
- 8.6. Bidders shall not contact PIC on any matter pertaining to their bid from the time the bids are closed to the time the bid has been adjudicated. Any effort by a bidder to influence the bid evaluation, bid comparisons or bid award decisions in any matter, may result in rejection of the bid concerned.
- 8.7. PIC shall reject a submission if the bidder has committed a proven corrupt or fraudulent act in competing for a particular contract
- 8.8. PIC may disregard any submission if that bidder, or any of its directors:
  - 8.8.1. Have abused the Supply Chain Management (SCM) system of any Government Department/ institution.
  - 8.8.2. Have committed proven fraud or any other improper conduct in relation to such system.
  - 8.8.3. Have failed to perform on any previous contract and the proof thereof exists.
  - 8.8.4. 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.
- 8.9. PIC may prior to the award of a bid, cancel a bid if:
  - 8.9.1. Due to changed circumstances, there is no longer a need for the goods or services requested;
  - 8.9.2. Funds are no longer available to cover the total envisaged expenditure
  - 8.9.3. No acceptable bids are received.
- 8.10. Bids received late shall not be considered. A bid will be considered late if arrived only one second after 11:00 (CAT) or any time thereafter
- 8.11. The successful bidder accepts full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on him/her under the supply agreement and SLA to be concluded with the PIC, as the principal(s) liable for the due fulfilment of such contract.
- 8.12. PIC reserves the right to consider the guidelines and prescribed hourly remuneration rates for consultants as provided in the National Treasury Instruction 01 of 2013/2014: Cost Containment Measures, and/or SACPVP Professional fees for 2020/2021 where relevant.
- 8.13. PIC reserves the right to request all relevant information, agreements and other documents to verify information supplied in the bid response. The bidder hereby gives consent to the PIC to

conduct background checks, including FICA verification, on the bidding entity and any of its directors / trustees / shareholders / members.

- 8.14. PIC reserves the right, at its sole discretion, to appoint any number of vendors to be part of this panel of service providers
- 8.15. This appointment is considered to have come into force only after the necessary signatures have been appended by the delegated officials of both parties to a Service Level Agreement.
- 8.16. The appointed service provider(s) shall not without prior consent of PIC cede or assign any of the benefits and obligations under this appointment.
- 8.17. PIC may give written notice to the Service Provider at any time of its intention to abandon the services, in whole or in part, or to terminate this appointment. The effective termination date of this appointment shall be agreed between the parties.
- 8.18. The appointed service providers shall comply strictly with every applicable law, by-law and ordinance including every regulation, code of conduct or other directive to which the Service Provider may be subject to in its professional capacity.
- 8.19. All copyright arising in and to all documents, plans, designs and other material of whatever nature prepared or produced by the Service Provider in the course and scope of its appointment shall be and remain vested in PIC for which purpose the Service Provider cedes to PIC all such copyright.
- 8.20. Should circumstances arise which call for modifications of the appointment, these may be made by mutual consent given in writing. Proposals in this respect from one party shall be given due consideration by the other party.
- 8.21. PIC may respond to any enquiry in its absolute discretion and the bidder acknowledges that it will have no claim against the PIC on the basis that its bid was disadvantaged by lack of information, or inability to resolve ambiguities
- 8.22. By submitting a bid in response to the RFP, the bidder will be taken to offer to render all or any of the services described in the bid response submitted by it to the PIC on the terms and conditions and in accordance with the specifications stipulated in this RFP document.

## 9. **Response Format (Returnable Schedules)**

- 9.1. Bidders shall submit their bid responses in accordance with the response format specified below (each schedule must be clearly marked):
- 9.2. Schedule 1:
  - Executive Summary of the company,
  - Understanding of the RFP and proposed solution including sample reports and other documentation that will assist PIC in Phase 2 of the evaluation.

9.3. Schedule 2:

- Completed Standard Bidding Documents (SBD)
- Proof of Registration of the entity
- JV agreement, Sub contracting agreement or partnership agreement if applicable
- Certified copies of Identification documents for the Directors
- SANAS accredited B-BBEE certificates for South African entities.
- CSD report
- Valid and certified registration with the relevant Professional valuers' institution. In South Africa this will be South Africa Council of Property Valuers Profession (SACPVP).
- Registration certificates of all practicing valuers in the company including specialist to be utilized. A professional valuer with no restrictions who will sign off on all PIC report will be a minimum requirement.
- Valid tax Clearance (SARS Pin)
- Resolution or Power of Attorney authorizing signature of the document on behalf of the bidder
- Professional Indemnity insurance

9.4. Schedule 3:

- Pricing schedule

9.4.1. Certified copy of ID document for the Company Directors.

9.4.2. B-BBEE verification certificate for South African companies indicating the contribution level of the bidding entity.

An Exempted Micro Enterprises (EME) with an annual turnover less than

R10 million, is only required to obtain a sworn affidavit confirming the annual total

revenue and level of black ownership. A Qualifying Small Enterprise (QSE) that has 51% or more black beneficiaries may obtain a sworn affidavit confirming the annual total revenue and level of black ownership. 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. Any misrepresentation in terms of the declaration constitutes a criminal offence as set out in the B-BBEE Act as amended.

- 9.4.3. Completed SBD forms
- 9.4.4. Non-Disclosure agreement
- 9.4.5. Copy of Joint Venture/ Consortium/ Subcontracting Agreement duly signed by all parties (if applicable)  
parties (if applicable)



## 10. Evaluation Criteria and Weightings

Bids shall be evaluated in terms of the following process:

10.1. **Phase 1: Compliance Phase – Please not that all references to BEE, HDI or any other transformational requirements only apply to local bidders.**

10.2. During this phase, bid responses will be reviewed for purposes of assessing compliance with RFP requirements including the general bid conditions and also the Specific Conditions of Bid, which requirements include the following

- Submission of a National Treasury Central Supplier Database (CSD) report as referenced
- Submission of ID copy for the Company Directors
- Proof of Registration of the entity (CIPC Document) – applicable to SA registered companies only
- SANAS accredited B-BBEE certificate for South African companies. indicating the contribution level of the bidding entity or Sworn affidavit.

**Notes:** An entity Exempted Micro Enterprises (EME) with an annual turnover less than

R10 million, is only required to obtain a sworn affidavit confirming the annual total revenue and level of black ownership. A Qualifying Small Enterprise (QSE) that has 51% or more black beneficiaries may obtain a sworn affidavit confirming the annual total revenue and level of black ownership. 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. Any misrepresentation in terms of the declaration constitutes a criminal offence as set out in the B-BBEE Act as amended.

- Consolidated SANAS accredited B-BBEE certificate in case of Joint Venture.
- Submission of Standard Bidding Documents
- Submission of NDA
- Submission of a JV agreement/Subcontracting agreement duly signed by all parties (only if applicable)
- Submission of professional registration with the South African Council for the Property Valuers Profession (SACPVP) or equivalent.
- Confirmation of attendance at briefing session

Failure to comply with the requirements in Phase 1 (compliance), may lead to disqualification of bids.

## 10.2 Phase 2: Technical/ Functionality Evaluation

Bidder, who scores below 70 points, will not go through to the next level of evaluations. presentations will form part of the evaluation. (Bidder who scores 70 or more points out of 100 points be evaluated on Price and B-BBEE.

Criteria	Functionality Requirements for Service providers	Weighting	Mandatory Requirement <sup>1</sup>
<b>A Experience</b>			
1.	List of top five largest properties valued within the past 24 months in terms of GLA;	20	Yes
2.	List of top two portfolios valued within the past 24 months in terms of GLA;		
3.	One or more (up to three) reference letters from clients for valuation of investment grade properties was undertaken in the past 24 months (preferably institutional investors / or asset manager clients).		
<b>B Methodology</b>			
4.	Explanation of the valuation methodology to be used for tenanted commercial property, residential property & land valuations.	10	Yes
5.	One sample report showing scope and detail to be included in the proposed property valuations.		
<b>C Resources</b>			
6.	Organogram of team allocated to the engagement as well as the name and HDI status of each valuer appointed to each property. <i>(if bidding on more than one portfolio / segment please provide for each bid and indicate if bids are mutually exclusive or not. If not then clarify resource allocation for the maximum number of portfolios / segments per the organogram).</i>	35	Yes
7.	CV's with detailed prior experience of team members to be deployed for the assignment.		
8.	State the valuation software being used. If MRI or Argus are not being used the service provider should provide a description of the software with references for third party checking of the software provider.		

<sup>1</sup> Where a category is marked mandatory (even is scoring is zero), non-compliance to submit information in the submission or failure to meet standards may result in disqualification by the evaluation committee.

<b>D Timeframes</b>			
9.	Project plan which details the resources and scope of work to be undertaken to fulfill the scope of work within the prescribed timeframe. <i>(if bidding on more than one portfolio / segment please provide for each bid and indicate if bids are mutually exclusive or not. If not then clarify resource allocation for the maximum number of portfolios / segments per the organogram).</i>	0	Yes
<b>E Transformation</b>			
10.	Clearly detail the HDI / women / disabled compliment part of the working team that will be allocated to this engagement and specify the individual properties being valued by HDI and non-HDI valuers.	35	Yes
11.	Outline future transformational plan or initiatives for the team and business. Make specific reference to the HDI valuers appointed to this assignment at a property level.		Yes
12.	Outline the skills transfer element that is being undertaken in your business and for this assignment at a property level for the valuation and the presentation of the valuation at the approval committees.		Yes
<b>Total Score</b>			<b>100</b>
<b>Minimum Score for Functionality</b>			<b>70</b>

### 10.3 Phase 3: Price and BEE Level

This is the final stage of the evaluation process and will be based on 80/20 preference points system.

Points will also be awarded based to a bidder for attaining their B-BBEE status level of contributor in accordance with the table below:

<b>1</b>	10
<b>2</b>	9
<b>3</b>	8
<b>4</b>	7
<b>5</b>	5
<b>6</b>	3
<b>7</b>	2

<b>8</b>	<b>1</b>
<b>Non-compliant Contributor</b>	<b>0</b>

10.4 Points to be allocated for Black Ownership

10.5 The following point system will be utilised to allocate an additional 10 or 5 points, in accordance with 80/20 preference point system, respectively for 51% or more Black Ownership:

<b>Preference point system</b>	<b>80/20</b>
<b>Percentage %</b>	<b>5 Points Allocated</b>
<b>0-50</b>	<b>0</b>
<b>51-59</b>	<b>1</b>
<b>60-69</b>	<b>2</b>
<b>70-79</b>	<b>3</b>
<b>80-89</b>	<b>4</b>
<b>90-100</b>	<b>5</b>

10.6 Points to be allocated for Black Executive Management and Women & Disabled Ownership

10.7 The following point system will be utilised to allocate the additional 5 points in accordance with the 80/20 preference point system, respectively for Black Executive Management and Women & Disabled Ownership:

<b>Preference point system</b>	<b>80/20</b>
<b>Percentage %</b>	<b>2.5 Points</b>
<b>10-25</b>	<b>0.5</b>
<b>26-45</b>	<b>1</b>
<b>46-65</b>	<b>1.5</b>
<b>66-85</b>	<b>2</b>
<b>86-100</b>	<b>2.5</b>

<b>Preference point system</b>	80/20
<b>Percentage %</b>	2.5 Points
<b>25-45</b>	0.5
<b>46-65</b>	1
<b>66-75</b>	1.5
<b>76-85</b>	2
<b>86-100</b>	2.5

## 11 Pricing schedule

- 11.5 Prices must be quoted in South African Rand excluding of VAT and must be submitted separately.
- 11.6 Bidders not domiciled in South Africa may quote in US Dollars or Euros for European portfolio.
- 11.7 It is recommended that any price escalation does not exceed CPI which will be assumed at 5% per annum. Final pricing will negotiated and recorded in the SLA).
- 11.8 Special Notice for submission of pricing:
- 11.8.1 Pareto & BVI Segment:
- 11.8.2 The outsourced valuations for the properties in Europe for the Pareto / BVI Segment may be quoted in Euros – the PIC will convert all the amounts to Rand for bid evaluation purposes are the time of evaluations (the quotation should include all valuations for three years in Euros at a fixed price).
- 11.8.3 The PIC will only be contracting with the bidder and not the outsourced service providers.
- 11.9 All bids must indicate the “disbursement costs” for travel and accommodation.
- 11.10 For non-domestic property valuations (Rest of Africa & Europe (Pareto / BVI)) these prices / cost may be incorporated as USD for Rest of Africa and Euros for Europe – they will be converted at the time of evaluation for adjudication purposes and amounts should be quoted in full for the period as CPI will not be applied.
- 11.11 A detailed price breakdown for per annum must be attached in a separate price schedule (This schedule will be provide to attendees at the briefing session).
- 11.12 A maximum of 80 points is allocated for price on the following basis:
- 11.13 Where
- P = Points scored for price of bid under consideration
  - Pt = Rand value of bid under consideration
  - Pmin = Rand value of lowest acceptable bid

## **SECTION 2: FUNCTIONAL REQUIREMENTS SPECIFICATION**

### **12 Background**

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.

Established in 1911, the PIC ranks amongst the best and most successful asset management firms in the world and is by far the biggest in Africa. The PIC runs one of the most diversified portfolios, which is made up of multiple asset classes. these asset classes include listed equities, real estate, capital market, private equity and impact investing. Through listed investments, the PIC controls over 10% of the Johannesburg stock exchange and has direct and indirect exposure to almost all sectors of the South African economy.

The PIC manages assets exceeding R2 trillion; and as the leader in the asset management industry, it thrives to meet and exceed its clients' expectations.

### **13 Objective**

To appoint services of independent valuer to provide the market value of Indirectly held investment properties for the next 3 years.

The primary objectives underlying the appointment of external independent valuers are

Improve Transparency and effective reporting;  
Provide an unbiased opinion on the valuation of property investments;  
Serve as a reasonability test for the valuations computed by PIC; &  
Serve as a reliable independent basis on value of property investments

### **14 Overview of the Indirectly held properties**

#### **14.5 Pareto and BVI**

Pareto and BVI own South Africa's premier Super-Regional and Regional shopping centres. There are also retail assets held indirectly in Europe in Cyprus, Croatia & Romania – note bidders outsourcing to European valuers will be allowed to quote in Euros (please provide details in the bid submission).

#### 14.6 V&A Waterfront

The V&A Waterfront is a mixed-use property development located around the historic Victoria and Alfred basins in Cape Town. The investment is contained within Lexshell 44 General Trading (Pty) Ltd of which the GEPPF owns 50%.

#### 14.7 Menlyn Maine Investment Holdings

Menlyn Maine is an investment holding that owns 50% undivided share of Central Square mixed-use development in Pretoria as well as interests in Ballito Junction and Pegasus 1 and 2 (Menlyn Maine Precinct).

#### 14.8 Arch Property Fund

The Arch Property Fund holds investments in premium precincts in Johannesburg and Cape Town, South Africa including Melrose Arch.

#### 14.9 Emerging Africa Property Partners (EAPP)

EAPP is a new property fund investing in industrial properties in South Africa.

Rest of Africa Portfolio

14.10 **Aradei Capital** (<https://aradeicapital.com/en/>) – retail portfolio in Morocco comprising approximately 15 assets with a GLA of 312,000 m<sup>2</sup>.

14.11 **Gateway Delta** (<https://greafrica.group/>) – multi-sector pan-African property development vehicle.

Property Valuation should be quoted in USD for Rest of Africa property valuations (exclusive of disbursements) and Financial and Accounting Services to be quoted in ZAR.

### 15 List of Instruments

A detailed list of assets / liabilities (“Instruments”) will be provided at the briefing session – the list of Instruments is indicative and not exhaustive and is considered granular enough for final bids.

### 16 Special Covid-19 Note

The mobility of service providers required to undertake property inspections may be impacted by the ongoing Covid-19 pandemic. In the event of restrictions on mobility due to Covid-19, client requests or any other reason, the PIC will reserve the right (in the Service Level Agreement) to change the full year end valuations (which require site inspections) to year end desk top valuations

(not requiring site inspections) – the price will be negotiated at the time to be between the quoted price for half year desk top valuations and the full valuations (on the basis that year end Desk Top Valuations would require a full report and not an executive summary as set out for Half-year Desk Top Valuations).

**17 Property Investments awaiting transfer / legal**

17.5 There may be property investments that require valuations domestically, in the Rest of Africa (excluding South Africa) and in Europe which cannot yet be included in the current list of assets to be valued because the information is not yet able to be shared in this tender.

17.6 Additional assets added to the portfolio during the tenure of the three-year appointment will be allocated to appointed service providers at the discretion of the PIC;

**18 Scope of work**

The scope of work includes inter alia;

18.1 Valuation of the property investment assets managed as at the financial year end i.e. 31 March (“the date of valuation”) for a period of 3 (three years) ending with financial year 31 March 2023. Half-year desktop valuations may be required.

18.2 Subject to Covid-19 restrictions, full year valuations may be subject to desk-top valuations for safety reasons – but will be subject to agreement between the PIC, PIC’s clients and the service providers.

18.3 In undertaking the “full” valuations site inspections will be required to be carried out and service providers are required to prepare a detailed valuation report of each property as well as an executive summary of the portfolio of properties being valued by the service provider.

18.4 It is not a requirement that measured surveys be carried out at any of the properties and reliance on the floor areas provided by the PIC, property manager or Investee company is required. It is to be assumed that these are correct unless the floor areas provided on a specific property is grossly incorrect.

18.5 In undertaking the “Desk Top” valuations of the service provider will not be required to carry out site inspections and the report will be limited to an executive summary of the most important factors influencing the valuation as well as an executive summary of the portfolio being valued by the service provider (note: in all cases a full year end valuation would have been undertaken already unless the property was acquired after the end of the year valuation cycle).

18.6 The valuations are required for financial statements prepared under International Financial Reporting Standards (“IFRS”) and are to be reported at Market Value as at 31st March (“the date of valuation”) annually.



- 18.7 For the Indirectly Held Portfolio the valuer will be required provide the value for the Enterprise Value of the company which will include some accounting and financial consulting capability which may be outsourced by the valuer to suitably qualified and experienced consultants.
- 18.8 In preparing the valuations, cognizance must be taken of the standards as set out in the RICS Valuation – Professional Standards January 2020 (Royal Institution of Chartered Surveyors Global Standards Practice Statement VPS 1 Minimum Terms of Engagement and known as the “the Red Book”) which, although differing in certain respects from, also recognizes the standards published in the International Valuation Standards January 2020 (“IVS”).
- 18.9 Confirmation that the valuation will be undertaken in accordance with the latest IVS is required but Service Providers will not be required to be RICS qualified Chartered Surveyors as prescribed in RICS Red Book valuation standards as this requirement is not mandatory.
- 18.10 Market Value, as accepted by IVSC, and defined in the Red Book is the estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm’s length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion.
- 18.11 Market Values must be (except for all residential properties and land parcels) derived primarily by adopting the discounted cash flow method of valuation in terms of which properties are valued by discounting the expected future net income for a specific cash flow period at an appropriate discount rate (or total rate of return) to give the present value of the expected net income cash flow.
- 18.12 Valuation of developments or re-developments will also require a discounted cash flow methodology with care taken to ensure reasonable assumptions to determine the residual value of the asset if it were to trade in the open market in an as is condition.
- 18.13 In the absence of current prices in an active market, an entity considers information from a variety of sources, including:
- current prices in an active market for properties of different natures, condition or location (or subject to different lease or other contracts), adjusted to reflect those differences;
  - recent prices of similar properties on less active markets, with adjustments to reflect any changes in economic conditions since the date of the transactions that occurred at those prices; and
  - discounted cash flow projections based on reliable estimates of future cash flows, supported by the terms of any existing lease and other contracts and (when possible) by external evidence such as current market rents for similar properties in the same location and condition, and using discount rates that reflect current market assessments of the uncertainty in the amount and timing of the cash flows.

- 18.14 Valuation software which is acceptable is MRI and Argus; should the Service Provider not wish to use the two default valuation software applications then detailed information and references for the software is required to ensure it is compatible requirements of the scope of work.
- 18.15 Leases will not be required to be inspected unless discrepancies or inconsistent information in the Tenancy Schedule is detected (Property Managers will provide copies of the leases timeously). Site inspections should ensure that tenants are in occupation as per the rent roll provided
- 18.16 Registered Property details per the Deeds Office and Company details will be provided to the service provider; however, service providers will be required to independently access and confirm the title deeds from the Deeds Office as part of their valuation. Copies of Zoning certificates will not be provided.
- 18.17 Appointed bidders will be required to prepare a valuation presentation report and to present the report to the relevant committees of the PIC and the PIC's clients in person (or via the required virtual platform). The report format to be agreed once the successful service provider(s) are appointed. The presentations will take place in Pretoria, Gauteng (virtually).
- 18.17.1 Bidders are required to state the names of the valuers who will be valuing each property in their bid submission as provided for in the schedules in annexure 1:
- name,
  - the qualification level &
  - experience &
  - HDI status
- 18.18 This will be recorded in the Service Level Agreement (SLA) and changes to the representation should be made in before the start of each valuation cycle – the PIC will ensure compliance with the SLA in this regard.
- 18.19 MSCI real Estate / (formerly IPD) Reporting Requirements:
- Due to the large number of property valuations which need to be analysed in a short amount of time the PIC requires all valuers to adhere to the MSCI Real Estate reporting requirements.
  - A report will be required which will conform to the MSCI Real Estate (formerly IPD) reporting requirements for valuations. This report will be required to be delivered in 'electronic' format (Excel Spreadsheet Template will be provided post appointment).
  - This information will include, inter alia:
    - Capitalisation Rate
    - Normalised Net
    - DCF Term
    - Discount Rate
    - Assumed Operating Cost Growth

- Assumed Rental Growth - Retail
- Assumed Rental Growth - Office
- Assumed Rental Growth - Industrial
- Assumed Rental Growth – Other
- Cash Flow (Year 1 to end of DCF Term)
- Capital Expenditure (Year 1 to end of DCF Term)
- Capitalisation Rate for Exit Value
- Exit Value
- Open Market Rental Value/s (OMRV)
- Etc
- This will also be required for the half year Desk Top valuations.

Submission of the data to be included with the first draft valuations, with changes to data submission on each re-submission of valuations drafts until valuations until finalised – this is to allow better analysis of draft valuations (via standardisation of reporting) before final valuations are presented to the valuation committees.

18.20 Preparation and submission of a formal valuation report by no later than the 10th April 2018 (1st Draft). This will include the full draft valuation and the data for the MSCI Valuation (above).

## 19 Deliverables

Year End Valuations: Full report detailing each valuation, including but not limited to the following minimum, requirements;

- Identification and status of the valuer
- Identification of the client and any other intended users
- Purpose of the valuation
- Identification of the asset or liability to be valued
- Basis of value
- Valuation date
- Extent of investigation
- Nature and source of the information relied upon
- List of comparable sales used
- Assumptions and special assumptions
- Restrictions on use, distribution or publication
- Confirmation that the assignment has been undertaken in accordance with the most recent IVS
- Valuation approach and reasoning
- Amount of the valuation or valuations
- Date of the valuation report

- Valuation Certificate
- Where the asset is partially owned (i.e. at the title deed level) the investment structure needs to be presented in diagram format to show what is being valued (e.g. for undivided share in title only the portion by the PIC Client is to be valued).
- An executive summary of the valuation performed and executive summary of the portfolio of properties valued.
- Preparation of a formal valuation report and present to the relevant committees of the PIC's clients and the PIC in a report format to be agreed once the successful service provider is appointed.
- MSCI Valuation Reporting Requirements in electronic format.

10.3. Half Year Valuations: Desk Top report detailing each valuation, including but not limited to the following minimum, requirements: Identification and status of the valuer

- Identification of the client and any other intended users
- Purpose of the valuation
- Identification of the asset or liability to be valued
- Basis of value
- Valuation date
- Extent of investigation
- Nature and source of the information relied upon
- List of comparable sales used
- Assumptions and special assumptions
- Restrictions on use, distribution or publication
- Confirmation that the assignment has been undertaken in accordance with the most recent IVS
- Valuation approach and reasoning
- Amount of the valuation or valuations
- Date of the valuation report
- Valuation Certificate
- Where the asset is partially owned (i.e. at the title deed level) the investment structure needs to be presented in diagram format to show what is being valued (e.g. for undivided share in title only the portion by the PIC Client is to be valued).

- An executive summary of the valuation performed and executive summary of the portfolio of properties valued.
- MSCI Valuation Reporting Requirements in electronic format.
- Preparation of a summarised (desktop) valuation report for the PIC in a report format to be agreed once the successful service provider is appointed

19.1 Other deliverables include:

- Supply market values for the various investments.
- Compare consistency in the valuation methodology for the previous year; by performing a value bridge between current year and prior valuation.

Perform a sensitivity analysis on each investment valuation.

- Preparation of a detailed valuation report of each underlying investment.
- Rigorously perform impairment tests in consideration of the legal terms and instrument performance (repayment, covenants etc.) using the applicable accounting standard.
- For the debt instruments, an amortisation table must be included in the report

19.2 General Notices regarding the Deliverables

PIC reserves the right to:

- a. Request ad hoc services within or related to the scope of the Deliverables.
- b. Exclude elements of scope from the scope of Deliverables.
- c. Include additional properties, in the scope of Deliverables and require that the pricing of any new methodology proposed by the Preferred Service Provider in response to new requirement arising during the term be aligned with the pricing already provided by the Preferred Service Provider under this agreement.
- d. Direct that Deliverables be delivered to the client directly.
- e. Request that reports be furnished in a standardized format (a standard format will be agreed upon once the service providers are appointed).

**20 SBD 1: INVITATION TO BID**

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)					
BID NUMBER:		CLOSING DATE:		CLOSING TIME:	
DESCRIPTION					
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
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]				
<i>ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No  [IF YES ENCLOSE PROOF]	<i>ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?</i>	<input type="checkbox"/> Yes <input type="checkbox"/> 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.

SBD 4

#### 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.

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

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

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 **YES / NO**  
the appropriate authority to undertake remunerative  
work outside employment in the public sector?

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

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

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

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

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

2.8.1 If so, furnish particulars:

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

2.9 Do you, or any person connected with the bidder, have **YES / NO**  
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?

2.9.1 If so, furnish particulars.

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

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

2.10.1 If so, furnish particulars.  
.....  
.....  
.....

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

2.11.1 If so, furnish particulars:  
.....  
.....  
.....

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

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


**4 DECLARATION**

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

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

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

.....

Signature

Date

.....

Position

Name of bidder

**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 %


ANNEXURE A

**21 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

34

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.

\_\_\_\_\_  
Signed at                      on this the                      day of                      2020

\_\_\_\_\_  
Witness signature.

\_\_\_\_\_  
Signature

Duly authorised representative of  
Public Investment Corporation SOC Limited

\_\_\_\_\_  
Print name.

\_\_\_\_\_  
Print Name.

\_\_\_\_\_  
Date.

\_\_\_\_\_  
Date.

Signed at                    on this the                    day of                    2020

\_\_\_\_\_  
Witness signature.

\_\_\_\_\_  
Duly authorised representative of  
\_\_\_\_\_

\_\_\_\_\_  
Print name.

\_\_\_\_\_  
Print Name.

\_\_\_\_\_  
Date.

\_\_\_\_\_  
Date.



**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

---

Witness signature.

---

Signature

Duly authorised representative of

Public Investment Corporation SOC Limited

---

Print name.

---

Print Name.

---

Date.

---

Date.

Signed at                      on this the                      day of                      2020

---

Witness signature.

---

Duly authorised representative of

---

---

Print name.

---

Print Name.

---

Date.

---

Date.

## **ANNEXURE B**

### Contracting terms and conditions

- Bidder are advised that a valid contract will only come into existence between the PIC and the successful bidder after conclusion of successful negotiations and signature of the Contract by both parties' respective delegated authorities.

Key contractual principles that successful Bidder must note for the final contract are as follows:

- Duration

Contracts will be for a fixed period. There will be no auto-renewals renewals.

- Limitation of Liability

The limitation of liability is subject to negotiation and will be informed by the contract value and risk associated with the contract.

### Ownership of Data

The PIC shall retain ownership of the Data and all Intellectual Property Rights in and to all the Data.

### Termination of Convenience

PIC requires a clause addressing termination of convenience

### Governing Law

The PIC preferred Governing Law of the Contract between the parties is the law of the Republic of South Africa. In the event that the parties cannot agree on South African law, the PIC will accept the law of England.

### Warranty

The Successful Bidder warrants that it:

- is authorised to enter into an Agreement and able to perform each of its duties in terms of the Agreement;
- is suitably qualified to provide the Services;
- is registered with the relevant industry body and its employees have the required certification and licences; and
- has public liability insurance cover commensurate with the risks to which it is exposed for the Term of the Agreement. Documentary proof of such insurance cover is to be provided to on or before the Date of Signature.

The Bidder shall provide the Services:

- with due care and skill;
- in accordance with the terms and conditions of this Agreement; and
- in compliance with all applicable laws and regulations.

The Bidder further warrants and guarantees that:

- the Services shall be rendered and executed in a professional manner in accordance with the standards agreed between the Parties and expected in the relevant industry; and
- the personnel tasked with rendering the Services have completed the requisite formal training and have the expertise to execute their functions properly, regarding but not limited to:
- the execution of their Services, having regard for the legal aspects thereof;

#### Data Storage

The Successful Bidder must disclose where the data is stored. PIC requires data to be stored in the Republic of South Africa or an EU jurisdiction.

#### Exit Management

If this Agreement is terminated in whole or in part for any reason whatsoever the provisions of the exit management plan agreed (if any) between the Parties shall come into effect and in any event, including where no agreed exit management plan exists, the Supplier shall co-operate fully with the PIC to ensure an orderly migration of the Services to the PIC or, at the PIC's request, a new supplier (an **Orderly Migration**). Without limiting the foregoing, the PIC shall be entitled to require the Supplier to continue to provide the Services for up to **[6 (six)]** months after the effective date of the termination of this Agreement on the same payment terms if, in the opinion of the PIC, such continuation is required in order to allow for an Orderly Migration. Co-operation by the Supplier shall include (without limitation), at the PIC's

election, the provision by the Supplier of such personnel, equipment, resources, software, documentation, training and consultancy as may reasonably be required to enable an Orderly Migration and the return of the PIC's data in the manner, timeframes and a form and format specified by the PIC.