



## REQUEST FOR QUOTATION

Terms of Reference

### **INVITATION TO BID FOR THE APPOINTMENT OF A:**

**TRANSACTION ADVISOR TO UNDERTAKE A WAREHOUSING OUTSOURCING FEASIBILITY  
STUDY AND BUSINESS CASE DEVELOPMENT**

RFQ NO.: 029312/SK/2026

|                                                                                                                                                                                                           |                                                                                                                                                                                                    |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>REQUEST FOR QUOTATION</b>                                                                                                                                                                              |                                                                                                                                                                                                    |
| <p>You are hereby invited to submit quotations for:</p> <p><b>THE APPOINTMENT OF A TRANSACTION ADVISOR TO UNDERTAKE A WAREHOUSING<br/>OUTSOURCING FEASIBILITY STUDY AND BUSINESS CASE DEVELOPMENT</b></p> |                                                                                                                                                                                                    |
| <b>RFQ NUMBER:</b>                                                                                                                                                                                        | <b>RFQ No.: 029312/SK/2026</b>                                                                                                                                                                     |
| <b>ADVERTISEMENT DATE:</b>                                                                                                                                                                                | <b>30 September 2026</b>                                                                                                                                                                           |
| <b>CLOSING DATE:</b>                                                                                                                                                                                      | <b>15 October 2026</b>                                                                                                                                                                             |
| <b>CLOSING TIME:</b>                                                                                                                                                                                      | <b>16h00</b>                                                                                                                                                                                       |
| <b>BID DOCUMENT SUBMISSION<br/>EMAIL:</b>                                                                                                                                                                 | <a href="mailto:Sithembile.Maseko@sanparks.org">Sithembile.Maseko@sanparks.org</a> (Please note that any submissions made to any other email other than the designated email will not be accepted) |
| <b>BID VALIDITY PERIOD:</b>                                                                                                                                                                               | <b>90 days (commencing from the RFQ Closing Date)</b>                                                                                                                                              |
| <b>TECHNICAL RELATED QUERIES</b>                                                                                                                                                                          | Sithembile Maseko at <a href="mailto:Sithembile.Maseko@sanparks.org">Sithembile.Maseko@sanparks.org</a>                                                                                            |
| <b>SCM RELATED QUERIES</b>                                                                                                                                                                                | Sithembile Maseko at <a href="mailto:Sithembile.Maseko@sanparks.org">Sithembile.Maseko@sanparks.org</a>                                                                                            |

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

Bidders must submit proposal responses in accordance with the prescribed manner of submissions as specified above. Bids received after the time stipulated must not be considered.

Where applicable, the successful bidder will be required to fill in and sign a written Contract Form (SBD 7) or Service Level Agreement (SLA).

Bidders are not allowed to contact any other SANParks staff in the context of this RFQ other than the indicated officials under SBD 1 or as indicated above.

**NB: No proposal must be accepted by SANPARKS if submitted in any manner other than as prescribed above.**

THIS RFQ IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT; THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT

**PART A**  
**INVITATION TO BID**

**YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE SOUTH AFRICAN NATIONAL PARKS**

|             |                       |               |                 |               |       |
|-------------|-----------------------|---------------|-----------------|---------------|-------|
| BID NUMBER: | RFQ NO.029312/SK/2026 | CLOSING DATE: | 15 October 2026 | CLOSING TIME: | 16h00 |
|-------------|-----------------------|---------------|-----------------|---------------|-------|

|             |                                                                                                                                 |
|-------------|---------------------------------------------------------------------------------------------------------------------------------|
| DESCRIPTION | THE APPOINTMENT OF A TRANSACTION ADVISOR TO UNDERTAKE A WAREHOUSING OUTSOURCING FEASIBILITY STUDY AND BUSINESS CASE DEVELOPMENT |
|-------------|---------------------------------------------------------------------------------------------------------------------------------|

**BID RESPONSE DOCUMENTS MUST BE SENT TO THE DESIGNATED EMAIL ADDRESS**

[Sithembile.Maseko@sanparks.org](mailto:Sithembile.Maseko@sanparks.org) (Please note that any submissions made to any other email other than the designated email will not be accepted)

|                                                        |                                                                                    |                                                |                                                                                    |
|--------------------------------------------------------|------------------------------------------------------------------------------------|------------------------------------------------|------------------------------------------------------------------------------------|
| <b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:</b> |                                                                                    | <b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b> |                                                                                    |
| CONTACT PERSON                                         | Sithembile Maseko                                                                  | CONTACT PERSON                                 | Sithembile Maseko                                                                  |
| TELEPHONE NUMBER                                       | 013 735 4209                                                                       | TELEPHONE NUMBER                               | 013 735 4209                                                                       |
| E-MAIL ADDRESS                                         | <a href="mailto:Sithembile.Maseko@sanparks.org">Sithembile.Maseko@sanparks.org</a> | E-MAIL ADDRESS                                 | <a href="mailto:Sithembile.Maseko@sanparks.org">Sithembile.Maseko@sanparks.org</a> |

**SUPPLIER INFORMATION**

|                         |      |                  |  |
|-------------------------|------|------------------|--|
| NAME OF BIDDER          |      |                  |  |
| POSTAL ADDRESS          |      |                  |  |
| STREET ADDRESS          |      |                  |  |
| CONTACT NUMBER          | CODE | TELEPHONE NUMBER |  |
| CELLPHONE NUMBER        |      |                  |  |
| E-MAIL ADDRESS          |      |                  |  |
| VAT REGISTRATION NUMBER |      |                  |  |

|                                   |           |                                  |
|-----------------------------------|-----------|----------------------------------|
| <b>SUPPLIER COMPLIANCE STATUS</b> | <b>OR</b> | <b>CENTRAL SUPPLIER DATABASE</b> |
| TAX COMPLIANCE PIN                |           | SUPPLIER NUMBER MAAA             |

|                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?</b><br/>(TICK APPLICABLE BOX)</p> <p style="text-align: center;"> <input type="checkbox"/> YES      <input type="checkbox"/> NO<br/>         [IF YES ENCLOSE PROOF]       </p> | <p><b>ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED</b><br/>(TICK APPLICABLE BOX)</p> <p style="text-align: center;"> <input type="checkbox"/> YES      <input type="checkbox"/> NO<br/>         [IF YES, ANSWER THE QUESTIONNAIRE BELOW]       </p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS**

|                                                                                                                                                                                                                                   |                          |     |                          |    |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|-----|--------------------------|----|
| IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?                                                                                                                                                                   | <input type="checkbox"/> | YES | <input type="checkbox"/> | NO |
| DOES THE ENTITY HAVE A BRANCH IN THE RSA?                                                                                                                                                                                         | <input type="checkbox"/> | YES | <input type="checkbox"/> | NO |
| DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA                                                                                                                                                                         | <input type="checkbox"/> | YES | <input type="checkbox"/> | NO |
| DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?                                                                                                                                                                             | <input type="checkbox"/> | YES | <input type="checkbox"/> | NO |
| IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?                                                                                                                                                                         | <input type="checkbox"/> | YES | <input type="checkbox"/> | NO |
| <p><b>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.</b></p> |                          |     |                          |    |

**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, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
- 1.4. **THE SUCCESSFUL BIDDER MAY BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).**

**2. TAX COMPLIANCE REQUIREMENTS**

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

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

SIGNATURE OF BIDDER: \_\_\_\_\_

CAPACITY UNDER WHICH THIS BID IS SIGNED: \_\_\_\_\_  
(Proof of authority must be submitted e.g. company resolution)

DATE: \_\_\_\_\_

## **1. PURPOSE**

The purpose of this RFQ is to appoint a suitably qualified and experienced Transaction Advisor to undertake a detailed technical, financial, commercial, operational, legal, human resources, and strategic assessment of the Skukuza warehousing function and provide a comprehensive business case and implementation strategy for the preferred warehousing model for South African National Parks (SANParks).

## **2. BACKGROUND**

South African National Parks (SANParks) is a public entity functioning under National Environmental Management: Protected Areas Act 57 of 2003 (Act 57 of 2003); with the mandate to conserve; protect; control; and manage national parks and other defined protected areas and their biological diversity (Biodiversity). As a public entity, SANParks is also governed by the Public Finance Management Act, Act 1 of 1999 (as amended by Act 29 of 1999), and it is listed as Schedule 3 Part A: public entities.

SANParks currently operates warehousing and inventory management functions at Kruger National Park that support service delivery across the park operational footprint covering approximately 2 million hectares. In pursuit of operational efficiency, cost optimisation, improved service delivery, and enhanced inventory management, the SANParks intends to investigate the viability of outsourcing its warehousing operations.

SANParks seeks to appoint a suitably qualified and experienced Transaction Advisor to undertake a comprehensive feasibility assessment and provide an evidence-based recommendation regarding the most appropriate warehousing model for the organisation.

The assignment must evaluate whether the warehousing function should continue to be operated internally, be outsourced fully or partially, or be delivered through alternative warehousing models.

## **3. SCOPE OF WORK**

The Transaction Advisor must undertake, but not be limited to, the following activities:

### **3.1. Current State Assessment**

- The Transaction Advisor must conduct a comprehensive assessment of SANParks' current warehousing and distribution environment to establish a clear understanding of existing operations, capabilities, and constraints. The assessment must include an evaluation of warehouse infrastructure and facilities, operational capacity and utilization levels, inventory holding patterns, stock classifications, storage requirements, and the effectiveness of transportation, distribution, and logistics processes. In addition, the review must consider current warehousing costs, organizational structures, staffing levels, workforce competencies, and the systems and technologies supporting warehouse operations.
- The assessment must identify operational strengths, gaps, inefficiencies, and opportunities for improvement, providing a baseline against which alternative warehousing models can be evaluated.

### **3.2. Demand and Service Delivery Analysis**

The Transaction Advisor must assess current and future warehousing and distribution requirements to determine the most effective and sustainable warehousing solution for SANParks. The analysis must consider current and projected demand, future operational requirements, geographic service coverage, required response times, and the impact of warehouse locations on service delivery performance, accessibility, and cost. The assessment must also evaluate the risks and implications associated with warehouse consolidation and changing service delivery arrangements.

Based on this analysis, the Transaction Advisor must identify the warehousing configuration that best balances service levels, operational efficiency, cost-effectiveness, flexibility, and risk management while supporting SANParks' long-term operational objectives.

### 3.2.1. Feasibility of a Single Warehouse Model

- The Transaction Advisor must assess the feasibility of operating a single central warehouse to support the Kruger National Park's area of responsibility, covering approximately 2 million hectares, and where applicable, broader SANParks operations. The assessment must evaluate factors such as distribution distances, transport accessibility, delivery lead times, service responsiveness, emergency support requirements, stock availability risks, fleet requirements, access to remote locations, and business continuity considerations.
- The analysis must compare the single warehouse option against alternative configurations, including regional and multi-site warehouse networks, to determine the most appropriate model. The recommended solution should provide the optimum balance between service delivery, operational efficiency, cost, resilience, and risk mitigation.

### 3.3. Evaluation of Alternative Warehouse Management Models

The Transaction Advisor must

- Identify, evaluate, and compare a range of alternative warehouse management and operating models to determine the most suitable solution for SANParks' current and future operational requirements. The assessment must consider models including full in-house warehousing, fully outsourced warehousing, hybrid arrangements combining internal strategic oversight with outsourced operations, regional warehouse networks, Third-Party Logistics (3PL) services, Lead Logistics Provider (LLP) arrangements, shared services warehousing, and Public-Private Partnership (PPP) or other strategic partnership models. The analysis should assess the suitability of each model in supporting the SANParks' operational footprint, service delivery requirements, and long-term strategic objectives.
- For each model, undertake a comparative assessment of the total cost of ownership, operational effectiveness, scalability, service delivery performance, governance requirements, risk exposure, human resource implications, procurement considerations, and impact on business continuity and organizational resilience. Based on the findings, the Transaction Advisor must recommend the preferred warehouse management model that delivers the optimal balance of cost efficiency, service excellence, operational flexibility, risk management, and long-term sustainability for SANParks.

### 3.4. Financial Feasibility Assessment

The Transaction Advisor must:

- Undertake a comprehensive financial feasibility assessment to determine the affordability, value for money, and long-term sustainability of the proposed warehousing model(s). The assessment must establish a baseline of current warehousing costs, including operating and administrative expenses, staffing costs, property and facility-related costs, utilities, security, fleet and distribution costs, inventory carrying costs, warehouse management systems, and current and future capital expenditure requirements. This analysis will provide a clear understanding of the total cost of the existing warehousing environment.
- Compare the financial implications of alternative warehousing models, including retaining the current operating model, outsourcing warehousing and logistics services, and other viable warehouse management options. The comparison must consider implementation and transition costs, contract management and oversight requirements, as well as the long-term affordability and sustainability of each option to determine the most cost-effective solution.
- To support decision-making, develop robust financial and economic models for the shortlisted options, including five-year and ten-year financial projections, Net Present Value (NPV), Internal Rate of Return (IRR), payback period, sensitivity analysis, and scenario analysis. The assessment must quantify the anticipated costs, benefits, and risks associated with each model and determine whether outsourcing or alternative warehousing arrangements offer a measurable and sustainable financial and operational improvement over the current operating environment.

### 3.5. **Human Resources and Staff Absorption Assessment**

The Transaction Advisor must:

- conduct a comprehensive Human Resources Impact Assessment to evaluate the implications of the proposed warehousing model(s) on affected employees and ensure compliance with applicable labour legislation, collective agreements, and organisational policies. The assessment must profile the current workforce associated with warehousing operations, including the number and categories of employees affected, their roles and responsibilities, reporting structures, skills and competencies, employment conditions, and labour relations considerations.
- Evaluate workforce transition and staff absorption arrangements under the alternative warehousing models. This must include assessing the feasibility of transferring employees to an outsourced service provider, skills matching and suitability, employee transfer arrangements, training and reskilling requirements, retention strategies, and the potential labour relations implications of the proposed operating model. The analysis should determine the extent to which existing staff can be effectively integrated into future warehousing arrangements while maintaining operational continuity.
- Identify change management requirements and measures to mitigate workforce-related risks. This must include evaluating redeployment opportunities, skills development initiatives, stakeholder engagement strategies, business continuity considerations during the transition period, and mitigation measures to address potential human resource risks. The Transaction Advisor must provide practical recommendations that minimise employee disruption, protect critical skills and institutional knowledge, support operational continuity, and ensure compliance with all applicable labour and employment requirements.

### 3.6. **Cost Benefit Analysis**

The Transaction Advisor must:

- Undertake a comprehensive Cost-Benefit Analysis (CBA) to evaluate the financial, operational, and strategic benefits of the proposed warehousing model(s) relative to the current operating environment. The assessment must identify and quantify measurable benefits, including reductions in operating, logistics, inventory holding, transportation, and capital costs, as well as improvements in productivity, efficiency, inventory management, stock control, service delivery performance, and utilisation of warehousing assets and resources.
- Assess qualitative benefits that contribute to overall organisational effectiveness, including strengthened governance, accountability, and compliance; enhanced technology and systems integration; improved reporting, visibility, and decision-making capabilities; greater operational flexibility and scalability; improved customer service; enhanced business resilience and risk management; and access to specialised warehousing and logistics expertise. In addition, the assessment should consider the extent to which alternative warehousing arrangements enable the Organisation to focus on its core business activities.
- Based on the findings, compare the costs, benefits, risks, and strategic implications of each warehousing model to determine whether the anticipated benefits justify the required investment and implementation costs. The analysis must provide a clear value-for-money assessment and support the recommendation of the most suitable warehousing solution.

### 3.7. **Risk Assessment**

The Transaction Advisor must:

- Undertake a comprehensive risk assessment of the proposed warehousing model(s), identifying potential risks, their impact on operations, and appropriate mitigation measures. The assessment must evaluate operational risks, including stock shortages, inventory inaccuracies, service delivery disruptions, supplier dependency, and distribution or logistics failures that may affect operational performance and service levels.
- Consider financial risks such as cost escalation, hidden or unforeseen costs, and contractual or commercial obligations that may affect affordability and value for money. Human resources risks, including labour disputes, loss of critical skills and institutional knowledge, and employee resistance to change, must also be evaluated to determine their potential impact on operational continuity and workforce stability.

- Assess strategic risks associated with reduced organisational control, increased reliance on third-party service providers, and potential reputational impacts. Business continuity risks, including disaster recovery preparedness, the availability of critical and strategic stock, and inventory security, must also be examined to ensure the resilience of warehousing operations.
- Based on the findings, develop a comprehensive risk mitigation framework that includes risk ratings, mitigation strategies, assigned responsibilities, and monitoring mechanisms to support informed decision-making, operational resilience, and business continuity

### 3.8. Development of Detailed Business Case

- The Transaction Advisor must develop a comprehensive business case to support decision-making on the preferred warehousing model. The business case must provide a clear strategic, operational, commercial, and financial justification for the recommended solution and demonstrate its alignment with SANParks' long-term service delivery, operational efficiency, and organisational objectives.
  - The **Strategic Case** must articulate the need for change, define the rationale for the proposed warehousing model, and demonstrate alignment with SANParks' strategic priorities, operational requirements, and future growth needs.
  - The **Economic Case** must assess the value-for-money proposition of the preferred option through a comparative evaluation of feasible alternatives, considering costs, benefits, risks, and overall organisational impact.
  - The **Commercial Case** must evaluate market capability and capacity to deliver the required warehousing and logistics services and recommend an appropriate procurement, contracting, and service delivery approach.
  - The **Financial Case** must assess the affordability and financial sustainability of the preferred option, including funding requirements, budget implications, lifecycle costs, and long-term financial commitments.
  - The **Management Case** must define the governance framework, implementation strategy, stakeholder roles and responsibilities, change management requirements, risk management measures, and key milestones necessary for successful implementation.
- The business case must provide a practical roadmap for implementation and clearly demonstrate how the recommended warehousing model will deliver improved service delivery, operational efficiency, value for money, and sustainable outcomes for SANParks.

### 3.9. Outsourcing Strategy

- The Transaction Advisor must develop a comprehensive outsourcing strategy to guide the procurement, implementation, management, and oversight of outsourced warehousing and logistics services. The strategy must provide a clear framework for achieving the desired operational, financial, and service delivery outcomes while ensuring effective governance, risk management, and business continuity.
- The strategy must include a Procurement Strategy that recommends the most appropriate procurement approach, defines the packaging and scope of services, establishes bid evaluation methodologies, and sets out market engagement activities to ensure a competitive and transparent procurement process. It must also include a Contracting Strategy that outlines the recommended contract structure, contract duration, pricing mechanisms, performance management arrangements, Service Level Agreements (SLAs), and Key Performance Indicators (KPIs) to ensure accountability and service excellence throughout the contract period.
- In addition, the Transaction Advisor must develop a Transition Strategy setting out the roadmap for implementing the outsourced arrangement. This must include key milestones, resource requirements, change management activities, staff transfer arrangements where applicable, and knowledge transfer mechanisms to ensure a seamless transition with minimal disruption to operations. A Governance Framework must also be developed, defining contract management responsibilities, monitoring and reporting requirements, performance oversight mechanisms, risk management processes, and escalation procedures to support effective contract administration and continuous improvement.

- The outsourcing strategy must further include a comprehensive Exit Strategy to ensure the orderly conclusion, renewal, or transfer of services at the end of the contract term or in the event of early termination. The strategy must address contract termination provisions, handover requirements, business continuity arrangements, re-insourcing options, and the transfer of systems, assets, information, and operational knowledge. The overall strategy must provide SANParks with a practical and sustainable framework for the successful procurement, implementation, management, and eventual exit of outsourced warehousing services.

#### **4. DELIVERABLES**

- The Transaction Advisor must produce a suite of reports and recommendations that provide SANParks with a comprehensive assessment of its current warehousing environment and a clear roadmap for future warehousing and logistics operations. The deliverables must collectively address the key strategic questions relating to the financial viability of outsourcing, the costs and benefits of alternative warehousing arrangements, workforce implications, the feasibility of a single central warehouse, preferred operating models, associated risks, implementation requirements, procurement approaches, governance arrangements, and the recommended solution.
- The assignment must commence with an Inception Report, detailing the project methodology, work plan, stakeholder engagement approach, and project governance arrangements. This must be followed by a Current State Assessment Report, documenting the existing warehousing, inventory, distribution, systems, cost, and organisational environment, together with a Demand and Service Delivery Analysis Report, including the assessment of future service requirements and the feasibility of a single warehouse model.
- The Transaction Advisor must further provide a Financial Feasibility Assessment Report, Human Resources and Staff Absorption Assessment Report, Alternative Warehouse Management Models Assessment Report, Cost-Benefit Analysis Report, and Risk Assessment Report. These reports must evaluate the viability, affordability, workforce implications, operational effectiveness, risks, and value-for-money of the various warehousing options under consideration, including outsourcing and alternative operating models.
- Based on the outcomes of these assessments, the Transaction Advisor must prepare a Draft Business Case and subsequently a Final Business Case incorporating the Strategic, Economic, Commercial, Financial, and Management Cases. Where outsourcing is recommended, the Transaction Advisor must also develop an Outsourcing Strategy and Implementation Roadmap detailing the procurement approach, contracting model, governance framework, transition arrangements, performance management mechanisms, and exit strategy.
- The final deliverables must include a consolidated set of recommendations identifying the preferred warehousing model and implementation approach, supported by a presentation of findings and recommendations to SANParks Management to facilitate informed decision-making and approval.

#### **5. REPORTING**

The Transaction Advisor must provide regular progress reports to the Senior Manager SCM, in Kruger National Park.

#### **6. SPECIAL CONDITIONS**

##### **6.1. Ownership of Information**

All working papers, reports, evidence collected, electronic records, and supporting documentation generated during the engagement must remain the sole property of SANParks.

##### **6.2. SANParks reserves the right to:**

- Expand or reduce the scope.
- Terminate the assignment if performance is unsatisfactory.
- Refer findings to law enforcement agencies.
- Conduct independent verification of information submitted

## 7. EVALUATION CRITERIA

- Bids will be evaluated in accordance with the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) (PPPFA), the applicable Preferential Procurement Regulations, and SANParks' Supply Chain Management policy.
- The 80/20 Preference Point System will apply to this procurement, as the estimated value of the services to be procured does not exceed R50 million (inclusive of all applicable taxes).

| Criteria                                         | Points     |
|--------------------------------------------------|------------|
| Price                                            | 80         |
| Specific Goals                                   | 20         |
| <b>Total points for Price and Specific Goals</b> | <b>100</b> |

- A maximum of 80 points will be allocated for price and will be calculated using the following formula:

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

Where:

- Ps = Points scored for price of the bid under consideration  
 Pt = Rand value of bid under consideration  
 Pmin = Rand value of lowest acceptable bid

- A maximum of 20 points will be allocated for Specific Goals in accordance with SANParks' Supply Chain Management policy. Bidders must submit the prescribed supporting documentation to claim points for Specific Goals. Failure to submit the required supporting documentation will result in points not being allocated for Specific Goals.

| The specific goals allocated points in terms of this tender                                             | Number of points allocated (80/20 system)<br>To be completed by the organ of state) |
|---------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|
| Enterprises with B-BBEE Procurement Recognition Level 1                                                 | 20                                                                                  |
| Enterprises with B-BBEE Procurement Recognition Level 2                                                 | 18                                                                                  |
| Enterprises with B-BBEE Procurement Recognition Level 3                                                 | 14                                                                                  |
| Enterprises with B-BBEE Procurement Recognition Level 4                                                 | 12                                                                                  |
| Enterprises with B-BBEE Procurement Recognition Level 5 and above                                       | 0                                                                                   |
| <b>NB: Bidders with BEE level 5 to 8 can still tender but will not claim points for specific goals.</b> |                                                                                     |

- Responses to this RFQ will be evaluated in two phases, namely:
  - Stage 1:** Functionality/Technical Evaluation, and
  - Stage 2:** Price and Preference Evaluation.

Only bidders that achieve the minimum functionality threshold will proceed to the Price and Preference evaluation stage.

### 7.1. Stage 1: Functionality/Technical Evaluation

- The objective of the functionality evaluation is to assess whether the bidder has the required capacity, expertise, independence, and resources to provide Transaction Advisory Services, including the evaluation of warehousing models, financial and operational viability, business case development, risk assessments, implementation planning, and the provision of independent recommendations to support the selection and implementation of the optimal warehousing solution.
- Bidders must obtain a minimum score of **55 out of 100 points** for functionality to be considered further. Only bidders meeting or exceeding this threshold will proceed to the evaluation of Price and Specific Goals/Preference Points. Bidders scoring below the minimum threshold will be deemed non-responsive and will not be considered for further evaluation

## 7.1.1.1. Functionality/Technical Evaluation Matrix

| Item No. | Technical Requirements                               | Evidence Required                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Scoring Points | Scoring Methodology |                                                                                                                                                                                                |
|----------|------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1        | Experience in transaction advisory services          | <ul style="list-style-type: none"> <li>Bidders must demonstrate relevant experience in transaction advisory services, including procurement support, commercial advisory, outsourcing transactions, strategic sourcing, business case development, feasibility assessments, supply chain transformation, or related advisory assignments.</li> </ul> <p><b>Evidence Required:</b></p> <ul style="list-style-type: none"> <li>Signed client reference letter(s) indicating the scope of work and appointment period; or</li> <li>Signed contracts or appointment letters indicating the appointment period; or</li> <li>Completion certificates demonstrating successful participation in transaction advisory assignments.</li> </ul> <p><b>Note:</b> Overlapping periods of experience will not be counted more than once. Where multiple assignments were performed concurrently, only the actual calendar period of experience will be considered. SANParks reserves the right to verify all references and supporting documentation.</p>                                                                                                  | 40             | 0 Points =          | No evidence submitted, or experience cannot be verified, or the bidder demonstrates less than 3 years' relevant transaction advisory experience                                                |
|          |                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                | 10 Points =         | Demonstrates <b>3 to 5 years'</b> relevant transaction advisory experience supported by the required evidence.                                                                                 |
|          |                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                | 20 Points =         | Demonstrates <b>5 to 7 years'</b> relevant transaction advisory experience supported by the required evidence.                                                                                 |
|          |                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                | 30 Points =         | Demonstrates <b>7 to 10 years'</b> relevant transaction advisory experience supported by the required evidence.                                                                                |
|          |                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                | 40 Points =         | Demonstrates <b>more than 10 years'</b> relevant transaction advisory experience supported by the required evidence.                                                                           |
| 2        | Experience in logistics and warehousing optimization | <ul style="list-style-type: none"> <li>Bidders must demonstrate experience on logistics and warehousing optimization.</li> </ul> <p><b>Evidence Required:</b> Company profile detailing logistics and warehousing optimization projects completed in the last 10 years. The company profile must be supported by contactable client reference letter(s) or case studies for similar projects involving warehouse network optimization, distribution center optimization, inventory management, transport planning or supply chain redesign. Reference letter(s) must indicate the project description, scope of work, contract value, duration, client name, bidder's role, and outcomes achieved.</p> <p><b>Note:</b> Only projects that are similar in scope and complexity to this assignment will be considered. Relevant projects include logistics and warehousing optimisation, warehouse outsourcing, supply chain improvement, distribution centre optimisation, inventory management, transport planning, and related advisory services. SANParks reserves the right to verify all references and project information provided.</p> | 35             | 0 Points =          | <b>Less than 3 years'</b> relevant experience, insufficient relevant project experience, or failure to submit the required supporting evidence                                                 |
|          |                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                | 10 Points =         | <b>3-5 years'</b> experience in logistics and warehousing optimization and evidence of one (1) to two (2) relevant completed projects supported by reference letter(s) or case studies.        |
|          |                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                | 20 Points =         | <b>5-10 years'</b> experience in logistics and warehousing optimization and evidence of three (3) to four (4) relevant completed projects supported by reference letter(s) or case studies.    |
|          |                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                | 35 Points =         | <b>More than 10 years'</b> experience in logistics and warehousing optimization and evidence of five (5) or more relevant completed projects supported by reference letter(s) or case studies. |

| Item No. | Technical Requirements                                                | Evidence Required                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Scoring Points | Scoring Methodology |                                                                                                                                                                |
|----------|-----------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|---------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3        | <b>Availability of suitably qualified multidisciplinary resources</b> | The bidder must demonstrate the availability of key personnel with the qualifications, skills, and experience necessary to undertake the assignment.<br><b>Evidence Required:</b> <ul style="list-style-type: none"> <li>Detailed CVs of all proposed key personnel.</li> <li>Certified copies of qualifications (not older than six months).</li> <li>The CVs must clearly indicate the individual's role, qualifications, years of relevant experience, and experience on similar assignments.</li> </ul> | 25             |                     |                                                                                                                                                                |
| 3.1      |                                                                       | <b>Transaction Advisory Specialist:</b> NQF Level 7 qualification and 10 years of transaction advisory experience.                                                                                                                                                                                                                                                                                                                                                                                          | 5              | 0 Points =          | Less than 10 years' relevant experience, does not possess the required qualification or fails to submit the required supporting evidence.                      |
|          |                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                | 5 Points =          | NQF Level 7 qualification and 10 years or more relevant transaction advisory experience                                                                        |
| 3.2      |                                                                       | <b>Logistics and Warehousing Specialist:</b> NQF Level 6 qualification and 8years logistics optimisation experience                                                                                                                                                                                                                                                                                                                                                                                         | 5              | 0 Points =          | Less than 8 years' relevant experience, does not possess the required qualification or fails to submit the required supporting evidence.                       |
|          |                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                | 5 Points =          | NQF Level 6 qualification and 8 years or more relevant logistics and warehousing optimization experience                                                       |
| 3.3      |                                                                       | <b>Financial Modelling Specialist:</b> NQF 7 qualification and 5years experience in financial modelling.                                                                                                                                                                                                                                                                                                                                                                                                    | 5              | 0 Points =          | Less than 5 years' relevant experience, does not possess the required qualification or fails to submit the required supporting evidence.                       |
|          |                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                | 5 Points =          | NQF Level 7 qualification and 5 years or more relevant financial modeling experience                                                                           |
| 3.4      |                                                                       | <b>HR/Labour Transition Specialist:</b> NQF 6 qualification and 5years experience in HR/Labour Transition                                                                                                                                                                                                                                                                                                                                                                                                   | 5              | 0 Points =          | Less than 5 years' relevant experience, does not possess the required qualification or fails to submit the required supporting evidence.                       |
|          |                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                | 5 Points =          | NQF Level 6 qualification and 5 years or more relevant human resources or labour relations or organizational change management or labour transition experience |

| Item No.               | Technical Requirements | Evidence Required                                                                            | Scoring Points | Scoring Methodology |                                                                                                                                          |
|------------------------|------------------------|----------------------------------------------------------------------------------------------|----------------|---------------------|------------------------------------------------------------------------------------------------------------------------------------------|
| 3.5                    |                        | Legal and Commercial Expert: NQF 7 qualification and 5years legal and commercial experience. | 5              | 0 Points =          | Less than 5 years' relevant experience, does not possess the required qualification or fails to submit the required supporting evidence. |
|                        |                        |                                                                                              |                | 5 Points =          | NQF Level 6 qualification and 5 years or more relevant legal and commercial advisory experience                                          |
| Minimum Score Required |                        |                                                                                              | 55             |                     |                                                                                                                                          |
|                        |                        |                                                                                              | Total Score    |                     |                                                                                                                                          |

## 7.2. Stage 2: Price and Preference Evaluation

- Only bids that met achieved the minimum functionality threshold of **55 out of 100** points will proceed to the evaluation of Price and Specific Goals.

### 7.2.1. DETAILED PRICING SCHEDULE: SBD 3.1 (Firm Prices)

| Description of Service / Deliverable                        | Unit of Measure | Unit Price (Excl. VAT) |
|-------------------------------------------------------------|-----------------|------------------------|
| Transaction Advisory Specialist (Team Leader)               | Per Hour        |                        |
| Logistics and Warehousing Specialist                        | Per Hour        |                        |
| Financial Modelling Specialist                              | Per Hour        |                        |
| Human Resources and Labour Relations Expert                 | Per Hour        |                        |
| Legal and Commercial Expert                                 | Per Hour        |                        |
| Travel by motor vehicle                                     | AA rates Per km |                        |
| <b>SUB-TOTAL</b>                                            |                 | <b>R</b>               |
| <b>VAT (15%)</b>                                            |                 | <b>R</b>               |
| <b>(For Evaluation Purposes Only) TOTAL BASKET OF GOODS</b> |                 | <b>R</b>               |

#### NB:

- Bidders are required to submit unit prices as specified above in their written quotation. The total expenditure for this appointment must not exceed R999,000.00, including all taxes. The duration of the appointment cannot be specified in advance and will be dependent on the cumulative expenditure against the approved cap.
- The bidder's pricing must remain firm for a period of ninety (90) days from the day following the closing date of this RFQ
- All prices quoted must be inclusive of all costs associated with the delivery of the services and must be quoted in **South African Rand (ZAR)**. **Value Added Tax (VAT)** may only be charged by vendors that are registered for VAT, and where applicable. VAT must be reflected separately or included in the total quoted price. Prices must account for any anticipated price fluctuations and remain valid for the full duration of the contract, with the exception of travel kilometre rates and accommodation costs where specifically provided for.
- SANParks reserves the right to enter negotiations with the recommended bidder prior to the signing of the contract.
- The appointment of the service provider will be based on the agreed unit rates.
- Where travel is required for the execution of the assignment, the Service Provider must obtain prior written approval from SANParks before incurring any travel-related expenses. SANParks will arrange and/or provide accommodation, where necessary, in accordance with its applicable policies and procedures.

## 8. COMPLIANCE AND GOVERNANCE VERIFICATION DOCUMENTS (Standard Bidding Documents)

The verification during this phase is to assess the bid responses for purposes of verifying compliance with RFQ requirements, whereby a bidder may be disqualified if they do not fully comply which requirements as stipulated below:

- Submission of fully completed SBD1 (Invitation to Bid),
- Submission of a quotation on the company letterhead
- Submission of fully completed SBD 4 (Declaration of Interest),
- Submission of fully completed SBD 6.1 (Preference Claim Certificate),
- Submission of fully completed SBD 7.2 (Part 1) (Contract Form)

## 9. OTHER RETURNABLE DOCUMENTS

- Original or certified B-BBEE Status Level Verification Certificate or B-BBEE Sworn Affidavit, this is only for the allocation of preference points in terms of specific goals.

### **NB: Completing a Sworn Affidavit for BBBEE**

The following information needs to be completed properly, if not the Sworn Affidavit will be rejected as invalid.

- Full name, surname, and identity number to be completed.
- Block to be drawn around "Member/Director/Owner".
- Enterprise name needs to be written in full as well as the trading name (if applicable) otherwise "Not applicable".
- The Company Registration and VAT number to be completed (if not registered for VAT please again write in full "not applicable")
- The Companies physical address including the postal code to be inserted.
- Entity of the company correctly stated i.e., (Pty) Ltd, CC and Sole Prop Etc.
- All places that have the percentage sign – the percentage needs to be completed
- "Based on the Audited Financial Statements/ Financial Statements" your choice needs have a block around the correct reply, AND the date needs to be written in full indicating (DD/MM/YYYY) i.e.: 3rd January 2021.
- The Levels 1/Level, 2/Level or Level/ 4 need to be ticked in the corresponding box,
- Last but very important at the bottom of the page "Deponent Signature" and "Commissioner of Oaths" must both be full signatures and dated on the same day at the same time in front of the Commissioner with the Commissioners stamp as well.

## 10. CENTRAL SUPPLIER DATABASE INFORMATION

Bidders are required to be registered on the Central Supplier Database (CSD) of National Treasury. Failure to submit the requested information may lead to disqualification. (Please provide proof of registration on the Central Supplier Database).

## 11. PROTECTION OF PERSONAL INFORMATION ACT, 4 OF 2013 (POPIA)

SANParks complies with the Protection of Personal Information Act, 2013 (Act No. 4 of 2013) (POPIA). All personal information submitted in response to this RFQ will be processed in accordance with POPIA and will be used solely for purposes related to the procurement process. By submitting a bid, bidders acknowledge and consent to the processing of their personal information by SANParks for procurement, evaluation, verification, contract management, and related lawful purposes

## 12. TIMELINES

Upon appointment, the Service Provider is required to deliver the requested deliverables within seven (7) calendar days or make alternative arrangements acceptable to SANParks. Failure to deliver within the stipulated timeframe may result in SANParks cancelling the Purchase Order and/or terminating the appointment

## 13. FINANCIAL PAYMENT

Upon appointment the recommended service provider is expected to confirm that they will provide the service on the stipulated dates upon receiving a Purchase Order, failure to adhere to the above, SANParks reserve the right to cancel the issued Purchase Order and/or terminate the appointment.

Payment will be made in accordance with the PFMA (within 30 days of receipt of invoice) after delivery of service rendered or goods delivered.

## 14. FINAL AWARD

SANParks recommends the bidder who has quoted on all the items as required in terms of the RFQ for the contract award subject to the bidder having supplied the relevant administrative documentation and complied in all aspects with the terms and conditions as requirements of the RFQ.



## SOUTH AFRICAN NATIONAL PARKS

### BIDDER'S DISCLOSURE

**SBD 4**

#### 1. PURPOSE OF THE FORM

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

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

#### 2. BIDDER'S DECLARATION

|     |                                                                                                                                                                                          |            |           |
|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|-----------|
| 2.1 | Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest <sup>1</sup> in the enterprise, employed by the state? | <b>YES</b> | <b>NO</b> |
|     |                                                                                                                                                                                          |            |           |

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

| Full Name | Identity Number | Name of State Institution |
|-----------|-----------------|---------------------------|
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |

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

2.2.1 If so, furnish particulars: \_\_\_\_\_

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

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                           |     |    |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|----|
| 2.3                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract? | YES | NO |
| 2.3.1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | If so, furnish particulars                                                                                                                                                                                                                                |     |    |
| <b>3. DECLARATION</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                           |     |    |
| <p>I, the undersigned (Name) _____</p> <p>in submitting the accompanying bid, do hereby make the following statements that I certify to be true and complete in every respect:</p> <p>3.1 I have read and I understand the contents of this disclosure;</p> <p>3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;</p> <p>3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium<sup>2</sup> will not be construed as collusive bidding.</p> <p>3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.</p> <p>3.5 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.</p> <p>3.6 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.</p> |                                                                                                                                                                                                                                                           |     |    |

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

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

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

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Position

\_\_\_\_\_  
Name of the Bidder

This preference form must form part of all bids invited. It contains general information and serves as a claim form for preference points for specific goals.

**NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022.**

## 1. GENERAL CONDITIONS

- 1.1 The following preference point systems are applicable to invitations to tender:
- 1.1.1 the 80/20 system for requirements with a Rand value of up to R50,000,000.00 (all applicable taxes included); and
- 1.1.2 the 90/10 system for requirements with a Rand value above R50,000,000.00 (all applicable taxes included).
- 1.2 **To be completed by the organ of state**
- a) The applicable preference point system for this tender is the 80/20 preference point system.
- 1.3 Points for this tender (even in the case of a tender for income-generating contracts) must be awarded for:
- (a) Price; and
- (b) Specific Goals
- 1.4 **To be completed by the organ of state:**
- The maximum points for this tender are allocated as follows:
- |                                           | POINTS     |
|-------------------------------------------|------------|
| PRICE                                     | 80         |
| SPECIFIC GOALS                            | 20         |
| Total points for Price and Specific Goals | <b>100</b> |
- 1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.
- 1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

## 2. DEFINITIONS

- (a) **“tender”** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- (b) **“price”** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (c) **rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

|                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-----------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (d)                                                             | <p><b>“tender for income-generating contracts”</b> means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and</p>                                                                                                                                                                                                                                             |
| (e)                                                             | <p><b>“the Act”</b> means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <p><b>3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES</b></p> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 3.1                                                             | <p><b>POINTS AWARDED FOR PRICE</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 3.1.1                                                           | <p><b>THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS</b></p> <p>A maximum of 80 or 90 points is allocated for price on the following basis:</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;"> <p>80/20</p> <math display="block">P_s = 80 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)</math> </div> <div style="text-align: center;"> <p>Or</p> </div> <div style="text-align: center;"> <p>90/10</p> <math display="block">P_s = 90 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)</math> </div> </div> <p>Where:</p> <p><math>P_s</math> = Points scored for price of bid under consideration</p> <p><math>P_t</math> = Price of bid under consideration</p> <p><math>P_{\min}</math> = Price of lowest acceptable bid</p>  |
| 3.2                                                             | <p><b>FORMULAE FOR DISPOSAL OR LEASING OF STATTE ASSETS AND INCOME GENERATING PROCUREMENT</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|                                                                 | <p><b>THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS</b></p> <p>A maximum of 80 or 90 points is allocated for price on the following basis:</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;"> <p>80/20</p> <math display="block">P_s = 80 \left( 1 + \frac{P_t - P_{\max}}{P_{\max}} \right)</math> </div> <div style="text-align: center;"> <p>Or</p> </div> <div style="text-align: center;"> <p>90/10</p> <math display="block">P_s = 90 \left( 1 + \frac{P_t - P_{\max}}{P_{\max}} \right)</math> </div> </div> <p>Where:</p> <p><math>P_s</math> = Points scored for price of bid under consideration</p> <p><math>P_t</math> = Price of bid under consideration</p> <p><math>P_{\max}</math> = Price of highest acceptable bid</p> |
| <p><b>4. POINTS AWARDED FOR SPECIFIC GOALS</b></p>              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 4.1                                                             | <p>In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:</p>                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 4.2                                                             | <p>In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

- a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
- b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,

then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

**Table 1: Specific goals for the tender and points claimed are indicated per the table below.**

**(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.**

**Note to tenderers: The tenderer must indicate how they claim points for each preference point system.)**

| The specific goals allocated points in terms of this tender       |  | Number of points allocated (80/20 system)<br>To be completed by the organ of state) | Number of points claimed (80/20 system) |
|-------------------------------------------------------------------|--|-------------------------------------------------------------------------------------|-----------------------------------------|
| Enterprises with B-BBEE Procurement Recognition Level 1           |  | 20                                                                                  |                                         |
| Enterprises with B-BBEE Procurement Recognition Level 2           |  | 18                                                                                  |                                         |
| Enterprises with B-BBEE Procurement Recognition Level 3           |  | 14                                                                                  |                                         |
| Enterprises with B-BBEE Procurement Recognition Level 4           |  | 12                                                                                  |                                         |
| Enterprises with B-BBEE Procurement Recognition Level 5 and above |  | 0                                                                                   |                                         |

#### DECLARATION WITH REGARD TO COMPANY/FIRM

4.3 Name of Company / Firm:

4.4 Company Registration Number:

4.5 Type of Company / Firm (Tick applicable box)

Partnership / Joint Venture / Consortium

☐

Personal Liability Company

☐

One-person business / sole propriety

☐

(Pty) Limited

☐

Close corporation

☐

Non-Profit Company

☐

Public Company

☐

State Owned Company

☐

4.6 I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I acknowledge that:

(i) The information furnished is true and correct;

(ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form.

(iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;

(iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have :-

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

\_\_\_\_\_  
SIGNATURE(S) OF TENDERER(S)

**SURNAME AND NAME** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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

- 1 I hereby undertake to render services described in the attached bidding documents to (name of the institution) ..... in accordance with the requirements and task directives / proposals specifications stipulated in **RFQ NO. 029312/SK/2026** at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the Purchaser during the validity period indicated and calculated from the closing date of the bid .
- 2 The following documents must be deemed to form and be read and construed as part of this agreement:
  - (i) Bidding documents, viz
    - Invitation to bid;
    - Proof of tax compliance status;
    - Pricing schedule(s);
    - Filled in task directive/proposal;
    - Preference claim form for Preferential Procurement in terms of the Preferential Procurement Regulations;
    - Bidder's Disclosure form;
    - Special Conditions of Contract;
    - Standard Terms and Conditions of Contract for Services
  - (ii) General Conditions of Contract; and
  - (iii) Other (specify)
- 3 I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the services specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
- 4 I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfillment of this contract.
- 5 I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
- 6 I confirm that I am duly authorised to sign this contract.

NAME (PRINT): \_\_\_\_\_

CAPACITY: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

WITNESSES

1. \_\_\_\_\_

2. \_\_\_\_\_

DATE: \_\_\_\_\_

**CONTRACT FORM - RENDERING OF SERVICES (PART 2)**

**PART 2 (TO BE FILLED IN BY THE PURCHASER)**

1. I..... in my capacity as.....  
accept your bid under reference number **RFQ NO. 029312/SK/2026** dated .....for the rendering of services indicated hereunder and/or further specified in the annexure(s).
2. An official order indicating service delivery instructions is forthcoming.
3. I undertake to make payment for the services rendered in accordance with the terms and conditions of the contract, within 30 (thirty) days after receipt of an invoice.

| DESCRIPTION OF SERVICE | PRICE (ALL APPLICABLE TAXES INCLUDED) | COMPLETION DATE | TOTAL PREFERENCE POINTS CLAIMED | POINTS CLAIMED FOR SPECIFIC GOALS |
|------------------------|---------------------------------------|-----------------|---------------------------------|-----------------------------------|
|                        |                                       |                 |                                 |                                   |

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

SIGNED AT ..... ON  
.....

NAME (PRINT): \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

OFFICIAL  
STAMP

|  |
|--|
|  |
|--|

WITNESSES

|    |       |
|----|-------|
| 1. | _____ |
| 2. | _____ |

## GENERAL CONDITIONS OF CONTRACT

In this document words in the singular also mean in the plural and vice versa, words in the masculine mean in the feminine and neuter, words "department" means organs of state inclusive of public entities and vice versa, and the words "will/should" mean "must".

**South African National Parks (SANParks) cannot amend the National Treasury's General Conditions of Contract (GCC). SANParks appends Special Conditions of Contract (SCC) providing specific information relevant to a GCC clause that requires the addition of Special Conditions and Special Conditions specific to this bid contract is not part of the General Conditions of Contract. No clause in this document must be in conflict with another clause. Whenever there is a conflict, the provisions of the Special Conditions of Contract must prevail.**

|      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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| GCC1 | <b>1. Definitions - The following terms must be interpreted as indicated:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|      | <p>1.1. <b>"Closing time"</b> means the date and hour specified in the bidding documents for the receipt of bids.</p> <p>1.2. <b>"Contract"</b> means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.</p> <p>1.3. <b>"Contract price"</b> means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.</p> <p>1.4. <b>"Corrupt practice"</b> means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.</p> <p>1.5. <b>"Countervailing duties"</b> imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.</p> <p>1.6. <b>"Country of origin"</b> means the place where the goods were mined, grown, or produced, or from which the services are supplied. Goods produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.</p> <p>1.7. <b>"Day"</b> means calendar day.</p> <p>1.8. <b>"Delivery"</b> means delivery in compliance of the conditions of the contract or order.</p> <p>1.9. <b>"Delivery ex stock"</b> means immediate delivery directly from stock actually on hand.</p> <p>1.10. <b>"Delivery into consignees store or to his site"</b> means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.</p> <p>1.11. <b>"Dumping"</b> occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.</p> <p>1.12. <b>"Force majeure"</b> means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars, or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.</p> <p>1.13. <b>"Fraudulent practice"</b> means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.</p> <p>1.14. <b>"GCC"</b> mean the General Conditions of Contract.</p> |

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|      | <p>1.15. <b>“Goods”</b> means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.</p> <p>1.16. <b>“Imported content”</b> means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.</p> <p>1.17. <b>“Local content”</b> means that portion of the bidding price, which is not included in the imported content if local manufacture does take place.</p> <p>1.18. <b>“Manufacture”</b> means the production of products in a factory using labour, materials, components, and machinery and includes other related value-adding activities.</p> <p>1.19. <b>“Order”</b> means an official written order issued for the supply of goods or works or the rendering of a service.</p> <p>1.20. <b>“Project site”</b>, where applicable, means the place indicated in bidding documents.</p> <p>1.21. <b>“Purchaser”</b> means the organization purchasing the goods.</p> <p>1.22. <b>“Republic”</b> means the Republic of South Africa.</p> <p>1.23. <b>“SCC”</b> means the Special Conditions of Contract.</p> <p>1.24. <b>“Services”</b> means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.</p> <p>1.25. <b>“Written”</b> or <b>“in writing”</b> means handwritten in ink or any form of electronic or mechanical writing.</p> |
| GCC2 | <b>2. Application</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|      | <p>2.1. These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.</p> <p>2.2. Where applicable, special conditions of contract laid down to, cover specific supplies, services or works.</p> <p>2.3. Where such special conditions of contract are in conflict with these general conditions, the special conditions must apply.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| GCC3 | <b>3. General</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|      | <p>3.1. Unless otherwise indicated in the bidding documents, the purchaser must not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.</p> <p>3.2. With certain exceptions (National Treasury’s eTender website), invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from <a href="http://www.treasury.gov.za">www.treasury.gov.za</a></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

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| GCC4 | <b>4. Standards</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|      | 4.1. The goods supplied must conform to the standards mentioned in the bidding documents and specifications.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| GCC5 | <b>5. Use of contract documents and information</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|      | <p>5.1. The supplier must not disclose, without the purchaser's prior written consent, the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure made to any such employed person is in confidence and must extend only as far as may be necessary for purposes of such performance.</p> <p>5.2. The supplier must not make, without the purchaser's prior written consent, use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.</p> <p>5.3. Any document, other than the contract itself mentioned in GCC clause 5.1 must remain the property of the purchaser and must be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so required by the purchaser.</p> <p>5.4. The supplier must permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.</p> |
| GCC6 | <b>6. Patent rights</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|      | 6.1. The supplier must indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof by the purchaser.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| GCC7 | <b>7. Performance security</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|      | <p>7.1. Within thirty days (30) of receipt of the notification of contract award, the successful bidder must furnish to the purchaser the performance security of the amount specified in SCC.</p> <p>7.2. The proceeds of the performance security must be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.</p> <p>7.3. The performance security must be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and must be in one of the following forms:</p> <p>7.3.1. bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or</p> <p>7.3.2. a cashier's or certified cheque</p> <p>7.4. The performance security will be discharged by the purchaser and returned to the supplier within thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified in SCC.</p>               |
| GCC8 | <b>8. Inspections, tests and analyses</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|      | <p>8.1. All pre-bidding testing will be for the account of the bidder.</p> <p>8.2. If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor must be open, at all reasonable hours, for inspection by a representative of the purchaser or an organization acting on behalf of the purchaser.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

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|       | <p>8.3. If there are no inspection requirements indicated in the bidding documents and contract makes no mention, but during the contract period, it is decided that inspections must be carried out, the purchaser must itself make the necessary arrangements, including payment arrangements with the testing authority concerned.</p> <p>8.4. If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses must be defrayed by the purchaser.</p> <p>8.5. Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the supplier must defray the cost in connection with these inspections, tests, or analyses.</p> <p>8.6. Supplies and services referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.</p> <p>8.7. Any contract supplies may on or after delivery be inspected, tested or analysed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies are held at the cost and risk of the supplier who must, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies, which do comply with the requirements of the contract. Failing such removal the rejected supplies must be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.</p> <p>8.8. The provisions of clauses 8.4 to 8.7 must not prejudice the right of the purchaser to cancel the contract because of a breach of the conditions thereof, or to act in terms of Clause 23 of GCC.</p> |
| GCC9  | <b>9. Packing</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|       | <p>9.1. The supplier must provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing must be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt, and precipitation during transit, and open storage. Packing, case size and weights must take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.</p> <p>9.2. The packing, marking, and documentation within and outside the packages must comply strictly with such special requirements as must be expressly provided for in the contract, including additional requirements, if any, specified in SCC, and in any subsequent instructions ordered by the purchaser.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| GCC10 | <b>10. Delivery and Documentation</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|       | <p>10.1. The supplier in accordance with the terms specified in the contract must make delivery of the goods/services. The SCC specifies the details of shipping and/or other documents furnished by the supplier.</p> <p>10.2. Documents submitted by the supplier are specified in SCC.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| GCC11 | <b>11. Insurance</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|       | <p>11.1. The goods supplied under the contract are fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the SCC.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

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| GCC12 | <b>12. Transportation</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|       | 12.1. Should a price other than an all-inclusive delivered price be required, this must be specified in the SCC.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| GCC13 | <b>13. Incidental services</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|       | <p>13.1. The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:</p> <p>13.1.1. Performance or supervision of on-site assembly and/or commissioning of the supplied goods;</p> <p>13.1.2. Furnishing of tools required for assembly and/or maintenance of the supplied goods;</p> <p>13.1.3. Furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;</p> <p>13.1.4. Performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service must not relieve the supplier of any warranty obligations under this contract; and</p> <p>13.1.5. Training of the purchaser's personnel, at the supplier's plant and/or on-site, conducted in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.</p> <p>13.2. Prices charged by the supplier for incidental services, if not included in the contract price for the goods, must be agreed upon in advance by the parties and must not exceed the prevailing rates charged to other parties by the supplier for similar services.</p> |
| GCC14 | <b>14. Spare parts</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|       | <p>14.1. As specified in SCC, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:</p> <p>14.1.1. Such spare parts as the purchaser may elect to purchase from the supplier, provided that this election must not relieve the supplier of any warranty obligations under the contract; and</p> <p>14.1.2. In the event of termination of production of the spare parts:</p> <p>14.1.2.1. Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and</p> <p>14.1.2.2. Following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.</p>                                                                                                                                                                                                                                                                                                                                                                               |
| GCC15 | <b>15. Warranty</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|       | <p>15.1. The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models and those they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract must have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.</p> <p>15.2. This warranty must remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in SCC.</p>                                                                                                                                            |

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|       | <p>15.3. The purchaser must promptly notify the supplier in writing of any claims arising under this warranty.</p> <p>15.4. Upon receipt of such notice, the supplier must, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.</p> <p>15.5. If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights, which the purchaser may have against the supplier under the contract.</p>                                                                                                                                 |
| GCC16 | <b>16. Payment</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|       | <p>16.1. The method and conditions of payment to be made to the supplier under this contract must be specified in SCC.</p> <p>16.2. The supplier must furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfilment of other obligations stipulated in the contract.</p> <p>16.3. Payments must be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.</p> <p>16.4. Payment will be made in Rand unless otherwise stipulated in SCC</p>                                                                                                                                                                                                                                                                  |
| GCC17 | <b>17. Prices</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|       | <p>17.1. Prices charged by the supplier for goods delivered and services performed under the contract must not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized in SCC or in the purchaser's request for bid validity extension, as the case may be.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| GCC18 | <b>18. Contract amendment</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|       | <p>18.1. No variation in or modification of the terms of the contract must be made except by written amendment signed by the parties concerned.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| GCC19 | <b>19. Assignment</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|       | <p>19.1. The supplier must not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| GCC20 | <b>20. Subcontract</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|       | <p>20.1. The supplier must notify the purchaser in writing of all subcontracts awarded under this contract if not already specified in the bid. Such notification, in the original bid or later, must not relieve the supplier from any liability or obligation under the contract</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| GCC21 | <b>21. Delays in supplier's performance</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|       | <p>21.1. Delivery of the goods and performance of services must be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.</p> <p>21.2. If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier must promptly notify the purchaser in writing of the fact of the delay, its likely duration, and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser must evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension must be ratified by the parties by amendment of contract.</p> |

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|       | <p>21.3. No provision in a contract must be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.</p> <p>21.4. The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.</p> <p>21.5. Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations must render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.</p> <p>21.6. Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser must, without cancelling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| GCC22 | <b>22. Penalties</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|       | <p>22.1. Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser must, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| GCC23 | <b>23. Termination for default</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|       | <p>23.1. The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:</p> <p>23.1.1. If the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;</p> <p>23.1.2. If the Supplier fails to perform any other obligation(s) under the contract; or</p> <p>23.1.3. If the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.</p> <p>23.2. In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner as it deems appropriate, goods, works or services similar to those undelivered, and the supplier must be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier must continue performance of the contract to the extent not terminated.</p> <p>23.3. Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.</p> <p>23.4. If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the intended penalty as not objected against and may impose it on the supplier.</p> <p>23.5. Any restriction imposed on any person by the Accounting Officer / Authority will, at the discretion of the Accounting Officer / Authority, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise</p> |

|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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|       | <p>control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Accounting Officer / Authority actively associated.</p> <p>23.6. If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:</p> <p>23.6.1. The name and address of the supplier and / or person restricted by the purchaser;</p> <p>23.6.2. The date of commencement of the restriction</p> <p>23.6.3. The period of restriction; and</p> <p>23.6.4. The reasons for the restriction.<br/>These details will be loaded in the National Treasury's central database of suppliers or persons prohibited from doing business with the public sector.</p> <p>23.7. If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.</p> |
| GCC24 | <b>24. Anti-dumping and countervailing duties and rights</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|       | <p>24.1. When, after the date of bid, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference must on demand be paid forthwith by the contractor to the State or the State may deduct such amounts from moneys (if any) which may otherwise be due to the contractor in regard to supplies or services which he delivered or rendered, or is to deliver or render in terms of the contract or any other contract or any other amount which may be due to him</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| GCC25 | <b>25. Force Majeure</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|       | <p>25.1. Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier must not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.</p> <p>25.2. If a force majeure situation arises, the supplier must promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier must continue to perform its obligations under the contract as far as is reasonably practical, and must seek all reasonable alternative means for performance not prevented by the force majeure event.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| GCC26 | <b>26. Termination for insolvency</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|       | <p>26.1. The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the purchaser.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

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| GCC27 | <b>27. Settlement of disputes</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|       | <p>27.1. If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties must make every effort to resolve amicably such dispute or difference by mutual consultation.</p> <p>27.2. If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.</p> <p>27.3. Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.</p> <p>27.4. Mediation proceedings must be conducted in accordance with the rules of procedure specified in the SCC.</p> <p>27.5. Notwithstanding any reference to mediation and/or court proceedings herein,</p> <p>27.5.1. The parties must continue to perform their respective obligations under the contract unless they otherwise agree; and</p> <p>27.5.2. The purchaser must pay the supplier any monies due the supplier.</p> |
| GCC28 | <b>28. Limitation of liability</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|       | <p>28.1. Except in cases of criminal negligence or wilful misconduct, and in the case of infringement pursuant to Clause 6;</p> <p>28.1.1. The supplier must not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion must not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and</p> <p>28.1.2. The aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, must not exceed the total contract price, provided that this limitation must not apply to the cost of repairing or replacing defective equipment.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| GCC29 | <b>29. Governing language</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|       | <p>29.1. The contract must be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties must also be written in English.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| GCC30 | <b>30. Applicable law</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|       | <p>30.1. The contract must be interpreted in accordance with South African laws, unless otherwise specified in SCC.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| GCC31 | <b>31. Notices</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|       | <p>31.1. Every written acceptance of a bid must be posted to the supplier concerned by registered or certified mail and any other notice to him must be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting must be deemed to be proper service of such notice</p> <p>31.2. The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, must be reckoned from the date of posting of such notice</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

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| GCC32 | <b>32. Taxes and duties</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|       | <p>32.1. A foreign supplier must be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.</p> <p>32.2. A local supplier must be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.</p> <p>32.3. No contract must be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid, the SANParks must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| GCC33 | <b>33. National Industrial Participation Programme</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|       | <p>33.1. The NIP Programme administered by the Department of Trade and Industry must be applicable to all contracts that are subject to the NIP obligation.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| GCC34 | <b>34. Prohibition of restrictive practices</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|       | <p>34.1. In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).</p> <p>34.2. If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has/have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.</p> <p>34.3. If a bidder(s) or contractor(s), has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.</p> |



## STANDARD TERMS AND CONDITIONS OF CONTRACT FOR SERVICES

1. These standard terms and conditions of contract:-
  - are or form part of the special conditions of contract referred to in the General Conditions of Contracts; and
  - will form part of the service agreement to be concluded between SANParks and the preferred bidder, upon bid award, and at which time Annexure A (Contract Schedule) and B (Pricing Schedule) will be concluded.
2. Bidders are required to indicate their acceptance of these standard terms and conditions by initialling (through its authorised representative) each page of these standard terms and conditions including Annexure C.
3. If a bidder does not accept any term or condition contained in these standard terms and conditions, they must clearly indicate such non-acceptance by either:
  - marking up the relevant provisions in these standard terms and conditions; or
  - submitting, as part of their bid response, a separate document detailing their proposed amendments or comments.
4. Failure by a bidder to initial each page of these standard terms and conditions, and to indicate any objections either through mark-ups or a separate submission, shall be deemed by SANParks as the bidder's full acceptance of all terms and conditions set out in these standard terms and conditions.
5. The bidder acknowledges, by initialling these terms and conditions or submitting its comments thereto, that it:-
  - has fully read and understands the provisions contained in these standard terms and conditions;
  - has no expectation of award; and
  - does not deem the initialling of these standard terms and conditions as creating any binding contract between it and SANParks.
6. SANParks reserves the right to amend these standard terms and conditions at its sole discretion as it deems fit and appropriate.

Agreement

RFQ NO. 029312/SK/2026

**AGREEMENT**  
(standard terms and conditions)

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Agreement

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## 1 DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement clause headings are for convenience and will not be used in its interpretation.
- 1.2 Unless the context clearly indicates a contrary intention, an expression which denotes:
- 1.2.1 any gender includes the other genders;
- 1.2.2 a natural person includes a juristic person and *vice versa*; and
- 1.2.3 the singular includes the plural and *vice versa*.
- 1.3 Any reference to any legislation is to such legislation as at the Signature Date and as amended, re-enacted or substituted from time to time thereafter.
- 1.4 If any provision in a definition is a substantive provision conferring any right or imposing any obligation on a Party, then notwithstanding that it is only in the interpretation clause, effect will be given to it as if it were a substantive provision in the body of this Agreement.
- 1.5 Where any term is defined within the context of any particular clause in this Agreement, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, will bear the same meaning as ascribed to it for all purposes in terms of this Agreement, notwithstanding that that term has not been defined in a particular clause.
- 1.6 When any number of days is prescribed, such number will exclude the first and include the last day unless the last day falls on a day which is not a Business Day, in which case the last day will be the next succeeding day which is a Business Day.
- 1.7 Any reference to days (other than a reference to Business Days) or to months or years, will be a reference to calendar days, months or years, as the case may be.
- 1.8 The use of the word "including" followed by a specific example/s will not be construed as limiting the meaning of the general wording preceding it and the rule of interpretation to the contrary will not be applied in the interpretation of such general wording or such specific example/s.
- 1.9 The rule of construction that the contract shall be interpreted against or to the disadvantage of the party responsible for the drafting or preparation of the agreement (ie the *contra proferentem* rule), shall not apply.
- 1.10 Unless otherwise expressly stated, no provision of this Agreement constitutes a stipulation for the benefit of any Person who is not a Party to this Agreement.
- 1.11 The termination of this Agreement will not affect the provisions of this Agreement which operate after any such termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.
- 1.12 Unless otherwise stated in any particular clause of this Agreement, any terms and conditions stipulated by the Service Provider, will not apply to the appointment or rendering of the Services by the Service Provider, and accordingly, such terms and conditions of the Service Provider will be of no force and effect.
- 1.13 Unless the meaning is inconsistent with the context, the following expressions will bear the following meanings, and related expressions will have corresponding meanings:
- 1.13.1 **"Agreement"** means collectively, these Terms and Conditions of Contract together with all of its schedules and/or Annexures, as may be amended by the Parties in writing from time to time, and as set out in clause 3.2;
- 1.13.2 **"Annexures"** means the annexures to this Agreement;
- 1.13.3 **"B-BBEE"** means broad-based black economic empowerment as defined in the B-BBEE Act;
- 1.13.4 **"B-BBEE Act"** means the Broad-Based Black Economic Empowerment Act 53 of 2003;
- 1.13.5 **"B-BBEE Codes"** means the codes of good practice on B-BBEE published by the responsible/relevant department, pursuant to the B-BBEE Act;
- 1.13.6 **"B-BBEE Credentials"** mean the B-BBEE profile (including gender and race) of an entity that scores B-BBEE points in terms of the B-BBEE Codes;
- 1.13.7 **"B-BBEE Score"** means the B-BBEE score of an entity calculated in accordance with the B-BBEE Act and the B-

BBEE Codes as such score is reflected in a valid and up to date Verification Certificate (as defined in the B-BBEE Codes) issued by a Verification Agency (as defined in the B-BBEE Codes); or in the case of a Qualifying Small Enterprise (QSE) or Exempted Micro Enterprise (EME) the score which such QSE or EME is entitled to upon submission of a sworn affidavit to this effect, to the extent allowed by procurement laws and BBEE codes;

- 1.13.8 **"Bid Documents"** means, collectively, the RFP and Bid Response;
- 1.13.9 **"Bid Response"** means the documents submitted by the Service Provider as their bid proposal in response to the RFP incorporated into this Agreement by reference and which forms an integral part hereof;
- 1.13.10 **"Business Day"** means any day which is not a Saturday, Sunday or official public holiday in the RSA in terms of the Public Holidays Act 36 of 1994;
- 1.13.11 **"Change Event"** means any sale, acquisition, merger, or other change of control of the Service Provider, whether occurring directly or indirectly, in a single transaction or a series of related transactions, including any sale of all or substantially all of the assets of the Service Provider;
- 1.13.12 **"Commencement Date"** means the date as set out in the Contract Schedule;
- 1.13.13 **"Confidential Information"** means any information relating to either of the Parties or this Agreement or to such Party's assets and affairs, including all communications (whether written, oral or in any other form) and all reports, statements, schedules and other data concerning any financial, technical, labour, marketing, administrative, accounting or other matter;
- 1.13.14 **"Contract Period"** means the duration of this Agreement as specified in the Contract Schedule, calculated from the Commencement Date;
- 1.13.15 **"Contract Price"** means the amount specified in the Contract Schedule, payable by SANParks to the Service Provider for the Services;
- 1.13.16 **"Contract Schedule"** means the schedule which sets out the specific commercial and operational terms applicable to this Agreement and, attached to this Agreement as Annexure A;
- 1.13.17 **"Data"** means any data, including personal data as defined in the Electronic Communications and Transactions Act 25 of 2002, the Protection of Personal Information Act 4 of 2013 and any other legislation related to the protection of data, supplied by one Party ("the Disclosing Party") to the other Party ("the Receiving Party") or stored, collected, collated, accessed or processed on behalf of the Disclosing Party by the Receiving Party, if applicable;
- 1.13.18 **"Data Subject"** means the person to whom or which the Personal Information relates;
- 1.13.19 **"Deliverables"** means any deliverable or work product that the Service Provider creates or delivers relating to the Services, including advice, a document, or other material, and will include all Intellectual Property comprised in or in any way relating to or associated with such deliverables;
- 1.13.20 **"Disclosing Party"** means the Party disclosing Confidential Information pursuant to clause 7;
- 1.13.21 **"Equipment"** means all vehicles, tools, materials, apparatus and machinery (excluding SANParks Equipment) the Service Provider must and intends to use in connection with the delivery of the Services including at a minimum the items in name and quantity as specified in the Bid Documents;
- 1.13.22 **"Existing Material"** means any work or materials developed by or for either Party independently and outside of the Agreement and provided during the course of the Agreement;
- 1.13.23 **"Expiry Date"** means the date falling on expiry of the Contract Period as specified out in the Contract Schedule;
- 1.13.24 **"Force Majeure"** means acts of God, war, civil war, insurrection, earthquake, storm, flood, epidemic, Government sanction, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalisation, changes in laws, rules or regulations, blockage, embargo, labour dispute, strike, lock out or interruption or failure of electricity or telephone service, unavailability of equipment and materials or any event which

- the other Party invoking vis major could not reasonably be expected to prevent or control (including but without any limitations to any illegal strike or action/s by employees or servants of any Party to this Agreement) but shall exclude any event caused by the negligence and/or wilful misconduct of such Party or any of its employees or agents by any failure to observe the standard of care, diligence and skill reasonably expected of appropriately qualified and skilled persons in similar circumstances;
- 1.13.25 **"GCC/General Conditions of Contract"** means the document containing the National Treasury general conditions applicable to government bids, contracts and orders of contract, incorporated into this Agreement by reference and which forms an integral part hereof;
- 1.13.26 **"Good Industry Practice"** means the exercise of the highest degree of skill, diligence, prudence, judgment, care and foresight and the use of practices, equipment and materials which would reasonably be expected from appropriately qualified, experienced and skilled leading professionals with experience in carrying out work of a similar scope, type, nature and complexity as to the Services;
- 1.13.27 **"Intellectual Property"** means all intellectual property of any nature or form, where-ever situated (and whether registered or unregistered), including any copyright, name, trading style, mark, logo, trademark, brand, drawing, design, pattern, registered design, patent, invention, discovery, process, formula, know-how, computer software, customer lists, rights to domain names, goodwill or any application in respect of any of the foregoing;
- 1.13.28 **"Internal Rules"** mean SANParks' internal requirements and procedures, as may be amended by SANParks from time to time and include but is not limited to inter alia Security Rules;
- 1.13.29 **"Key Account Manager"** means the person designated by the Service Provider as its representative who is appropriately qualified and skilled with sufficient seniority, who will act as its primary day-to-day representative for purposes of managing its obligations in terms of the Agreement and to whom all communications from SANParks will be addressed pursuant to clause 8;
- 1.13.30 **"Key Personnel"** means those Personnel listed in the Bid Response and dedicated by the Service Provider to the provision of the Services;
- 1.13.31 **"Law"** means the laws of the RSA and will be construed as any law (including common or customary law), or statute, constitution, decree, judgment, treaty, regulation, directive, by-law, order or any other legislative measure of any government, local government, statutory or regulatory body or court;
- 1.13.32 **"Letter of Intent"** means the letter by SANParks to the Service Provider wherein the Service Provider was notified of SANParks' acceptance of its Bid Response and any terms applicable to such acceptance and which letter was accepted by the Service Provider;
- 1.13.33 **"Loss/es"** means all direct, indirect and consequential losses, liabilities, costs, expenses, fines, penalties, damages, claims as well as related costs and expenses, unless specifically excluded in terms of this Agreement;
- 1.13.34 **"OHS"** means occupational health and safety;
- 1.13.35 **"OHS Act"** means Occupational Health and Safety Act, Act No. 85 of 1993;
- 1.13.36 **"Parties"** mean SANParks and the Service Provider (as indicated in the Contract Schedule), collectively and "Party" will mean any one of them as the context may indicate;
- 1.13.37 **"Person"** means any person, firm, company, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the foregoing;
- 1.13.38 **"Personnel"** mean employees, approved contractors, sub-contractors and/or independent contractors of the Service Provider to be utilised by the Service Provider to render the Services and includes Key Personnel;
- 1.13.39 **"Premises"** means the locations at which the Services will be rendered by the Service Provider as specified in the Contract Schedule, and shall include the Sites;
- 1.13.40 **"Pricing Schedule"** means the schedule detailing the rates and manner of the payment of the Contract Price by SANParks to the Service Provider attached to the Agreement as Annexure "B";
- 1.13.41 **"Purchase Order"** means an official purchase order with a purchase reference number issued by SANParks to the Service Provider for purposes of ordering the Services;
- 1.13.42 **"RFP"** means the request for proposals issued by SANParks under the reference number set out in the Contract Schedule to interested parties to submit proposals to SANParks for the Services, including all annexures thereto;
- 1.13.43 **"RSA"** means the Republic of South Africa;
- 1.13.44 **"SANParks"** means South African National Parks, a statutory body with juristic personality established in terms of section 5 of the now repealed National Parks Act 57 of 1976 and which continues to exist in terms of Section 54 of the National Environmental Management: Protected Areas Act 57 of 2003, as amended;
- 1.13.45 **"SANParks Equipment"** means any equipment, tools, materials, apparatus and machinery leased to, on loan to, owned, controlled, operated or in possession of SANParks;
- 1.13.46 **"SANParks Visitors"** means visitors to SANParks Premises;
- 1.13.47 **"Security Rules"** mean SANParks' security requirements, regulations and procedures, as may be amended by SANParks from time to time and include but is not limited to inter alia, (i) the right to search the Personnel and any container in the possession of a Personnel or Service Provider and any motor vehicle driven by a Personnel or Service Provider whilst at the Premises or (ii) the conducting of security screening on any Personnel;
- 1.13.48 **"Service Hours"** means the hours specified in the Contract Schedule in terms of which the Service Provider is expected to render the Services;
- 1.13.49 **"Service Levels"** means the levels and standards of performance against which the Services will be measured from time to time as set out in the RFP;
- 1.13.50 **"Service Provider"** means the provider of the Services in this Agreement, as indicated in the Contract Schedule;
- 1.13.51 **"Services"** means the provision of services as described in the Contract Schedule;
- 1.13.52 **"Signature Date"** means the date of signature of this Agreement by the last of its signatories;
- 1.13.53 **"Site"** means the sites at the Premises where the Services will be rendered, as set out in the Contract Schedule;
- 1.13.54 **"Site Handover Date"** means the date specified as such in the Contract Schedule;
- 1.13.55 **"Terms and Conditions of Agreement/TCA"** means these terms and conditions;
- 1.13.56 **"Third Party Agreement"** means a contract between SANParks and a third party on matters that may be related to the Equipment; and
- 1.13.57 **"VAT"** means Value-Added Tax as levied in terms of the VAT Act 89 of 1991.
- 2 **RECORDAL**  
SANParks has appointed the Service Provider to render the Services. The Service Provider has accepted such appointment and therefore the Parties agree to bind themselves to the terms and conditions contained in this Agreement.
- 3 **STRUCTURE OF THE AGREEMENT**
- 3.1 This Agreement, alongside the GCC, are the terms of the relationship between the Parties.
- 3.2 This Agreement is composed of the documents listed below: -
- 3.2.1 RFP;
- 3.2.2 these Terms and Conditions of Contract;
- 3.2.3 Annexures;
- 3.2.4 Bid Response, including all applicable annexures;
- 3.2.5 Letter of Intent; and
- 3.2.6 Purchase Order.
- 3.3 The general conditions of contract are in the GCC / General Conditions of Contract.
- 3.4 In the event of a conflict between the documents comprising this Agreement, such conflict will be resolved in accordance with the order of precedence, in descending order of priority, as provided in clause 3.2 above. In the event of a conflict between the Special Conditions of Contract listed in 3.2 and the GCC, the Special Conditions of Contract will take precedence.
- 3.5 Where Annexures include provisions in respect of which the Terms and Conditions of Agreement is silent, then the provisions

contained in such Annexure will apply.

#### **DURATION**

This Agreement shall be deemed to have commenced on the Commencement Date and will endure until the Expiry Date, unless terminated earlier in terms of the Agreement.

#### **NATURE OF RELATIONSHIP**

The Service Provider will deliver the Services to SANParks as an independent contractor and nothing in this Agreement will be construed as creating any relationship of agency, employment, partnership or joint venture between SANParks and the Service Provider.

The Service Provider will accordingly not be entitled to (i) hold itself out as being an agent or partner of SANParks, or as being in a joint venture with SANParks; (ii) to make any false or misleading representations concerning the Service Provider's appointment as independent contractor of SANParks; or (iii) to do anything on behalf of SANParks without SANParks prior written consent, or that purports to bind SANParks in any manner whatsoever.

#### **GOOD FAITH**

The Parties undertake at all times to do all such things, to perform all such acts and to take all such steps and to procure the doing of all such things, the performance of all such actions and the taking of all such steps as may be open to them and necessary for, or incidental to, the putting into effect or maintenance of the terms, conditions and import of this Agreement.

The Parties undertake to act towards one another in good faith in all respects relating to this Agreement.

#### **CONFIDENTIALITY**

Either Party will not, at any time after the Signature Date, notwithstanding any termination or expiry of this Agreement, directly or indirectly disclose or use, whether for its own benefit or that of any other Person any Confidential Information.

Either Party may disclose the Confidential Information if and to the extent:

disclosed to any expert appointed in terms of this Agreement;

the prior written consent for such disclosure has been obtained from the other Party;

to which disclosure is required by Law;

to which disclosure is required by the rules of any stock exchange or regulatory or government body to which either Party is subject, wherever situated, whether or not the requirement for information has the force of law in which event the Disclosing Party will, unless prohibited from doing so, obtain the other Party's consent, not to be withheld unreasonably, for the manner of such disclosure, provided that the Disclosing Party will not be obliged to obtain the consent of the other Party if such disclosure is required before the approval can reasonably be obtained, but the Disclosing Party will in these circumstances promptly notify the other Party of the full details of such disclosure, including the reasons why time did not permit such consent to be obtained;

the information has come into the public domain through no fault of that Party;

to which the Confidential Information corresponds in substance to information disclosed and/or made available by a third party to the Disclosing Party at any time without any obligation not to disclose same, unless the Disclosing Party knows that the third party from whom it received that information is prohibited from transmitting the information to the Disclosing Party by a contractual, legal or fiduciary obligation to any other party;

required to vest the full benefit of this Agreement in either of the Parties; and

that it is information which was already in the possession of the Disclosing Party prior to its disclosure by the other Party to the Disclosing Party or is independently developed by the Disclosing Party without reference to the Confidential Information.

Any information so disclosed shall be disclosed only after notification to the other Party.

Notwithstanding this clause, SANParks will be entitled to

disclose and use any Confidential Information for the purposes of conducting its business.

Subject to clause 17.1, upon termination or expiry of this Agreement, the Parties will deliver to each other or, at each Party's option, destroy all originals and copies of Confidential Information in their possession.

Without prejudice to any other rights or remedies which either Party may have, each Party acknowledges and agrees that damages are not an adequate remedy for any breach by either Party of the provisions of this clause and either Party shall accordingly be entitled to the remedies of interdict, specific performance and other equitable relief for any threatened or actual breach of any such provision of this clause by the other Party or by any other relevant Person.

Each Party shall impose the same confidentiality obligations set out in this clause upon its employees, sub-contractors, vendors and other third parties who are in association with it and who may have access to any Confidential Information.

Neither Party shall make any public announcement (save for any announcement required under applicable law or the rules of any securities exchange or regulatory body to which such Party or its affiliates are subject) regarding the subject matter of this Agreement unless such announcement has been approved by the other Party, provided that such approval shall not be unreasonably withheld or delayed.

#### **KEY ACCOUNT MANAGER**

The Service Provider will appoint a Key Account Manager whose details are as set out in the Contract Schedule.

The Key Account Manager will co-operate fully and comply with all instructions issued by SANParks' representative in relation to this Agreement and will report to SANParks on the basis and in the format to be determined by SANParks.

The Service Provider will appoint a substitute Key Account Manager and promptly notify SANParks accordingly whenever such Key Account Manager takes leave or is not available for an extended period of time during any normal working day.

The Key Account Manager will have no authority to amend the Agreement and may only exercise the authority attributable to the Key Account Manager as set out or implied in this Agreement.

#### **INTERNAL RULES**

The Service Provider shall, in the performance of this Agreement, comply with and ensure that the Personnel comply with the Internal Rules and with all security related instructions issued by or on behalf of SANParks while such Personnel are at the Premises. The Service Provider must immediately replace any Personnel that fail or refuse to comply with SANParks' aforementioned Internal Rules.

The Service Provider acknowledges and accepts the right of SANParks and its personnel to search the Personnel and their baggage and motor vehicle at any time while such Personnel are at the Premises and the Service Provider hereby irrevocably agrees to ensure that its Personnel submit to and cooperate with such searches.

The Service Provider shall be liable for any damages caused by the Service Provider and/or its Personnel whilst at the Premises and whilst rendering Services and hereby indemnifies and holds SANParks harmless in that regard.

SANParks will screen all equipment brought onto the Premises by the Service Provider or the Personnel.

No photographic or electronic records or images of the interior and/or exterior of the Premises may be taken without the prior written consent of SANParks, unless provided otherwise in this Agreement, or otherwise required by law. If such consent is granted, all photographs and other images will be taken under the direct supervision of an authorised representative of SANParks.

The Internal Rules may be amended from time to time at SANParks' sole option and/or discretion, and such amendment will be communicated by SANParks to the Service Provider.

#### **SCOPE**

The scope and details of the Services to be rendered by the Service Provider to SANParks are specified in the Bid

Documents and the Contract Schedule.

- 10.2 The Service Provider will render the Services such that the Services will in all material respects conform to the following: -
- 10.2.1 Bid Documents;
  - 10.2.2 the provisions of this Agreement;
  - 10.2.3 Good Industry Practices; and
  - 10.2.4 Service Levels.

#### 11 SANPARKS RESPONSIBILITY

- 11.1 SANParks shall give the Service Provider access to the Premises as well as SANParks' Equipment to the extent necessary during this Agreement, which access shall be solely for purposes of rendering the Services.
- 11.2 SANParks shall monitor the Services that it receives from the Service Provider.
- 11.3 SANParks shall provide notice of unsatisfactory performance to the attention of the Service Provider for improvement and the Service Provider shall submit to SANParks a remedial plan within 5 (five) days of receipt of such notice by the Service Provider.
- 11.4 SANParks shall review the reports submitted by the Service Provider in terms of this Agreement and shall provide feedback if SANParks deems it necessary.

#### 12 SECRECY

The Services are provided on the understanding that all the Service Provider's and its Personnel's contact with SANParks Visitors and employees is confidential. The Service Provider shall not, and shall ensure that its Personnel do not, disclose to any third party any information relating to SANParks Visitors and employees, unless such disclosure is with the prior written consent of SANParks and strictly in accordance with such consent, or is otherwise required by and in compliance with the Law.

#### 13 RESPONSIBILITIES OF THE SERVICE PROVIDER

- 13.1 The Service Provider's responsibilities in respect of the Services are fully set out in the RFP and include but are not limited to those as described in the Contract Schedule.
- 13.2 The Service Provider will be responsible for timeously arranging for, and for the costs associated with, the repair of damage and/or necessary replacement to the Premises and/or SANParks Equipment caused due to its and/or its Personnel's negligence and/or wilful default and hereby indemnifies and holds SANParks harmless in respect thereof.
- 13.3 The Service Provider shall be deemed to have inspected the Premises and SANParks Equipment, to which it has access and/or use, and to be thoroughly acquainted with the conditions under which the Services are to be executed, and generally of all matters which influence the rendering of the Services and shall comply therewith in all respects.

#### 14 DELIVERY OF SERVICES

- 14.1 If a date or time for delivery of any aspect of the Services is specified in the Bid Documents, the Service Provider will deliver the Services on or before the specified date or time of delivery. It is recorded and agreed that time is of the essence in respect of the supply and delivery of the Services.
- 14.2 All Services delivered by the Service Provider are subject to review by SANParks and SANParks may, after delivery thereof and by written notification to the Service Provider, reject any Services which do not comply with the Agreement, any partial delivery or late delivery of the Services.
- 14.3 SANParks shall have the right to claim any damages suffered by SANParks from the Service Provider pursuant to the Service Provider's delivery of Services that do not comply with any other provision of the Agreement, partial or late delivery of the Services alternatively demand that the Services be performed in accordance with Good Industry Practices.
- 14.4 All costs incurred by the Service Provider resulting from the unacceptable Services will be for the Service Provider's account and the Service Provider hereby indemnifies and holds SANParks harmless in respect thereof.
- 14.5 Any payment by SANParks under this Agreement will not be construed as acceptance by SANParks of any Services delivered.

#### 15 CONSIDERATION AND PAYMENT

- 15.1 SANParks will, in consideration for the Services duly rendered, pay the Service Provider the Contract Price in accordance with the Pricing Schedule.
- 15.2 In the event that the Contract Price is subject to annual price adjustment (as provided in the RFP), the Service Provider shall in accordance with the period specified in the Contract Schedule, prior to each anniversary of the Commencement Date, submit to SANParks for consideration a proposed pricing schedule in the format similar to Annexure B.
- 15.3 All payments will be made by way of electronic funds transfer into the bank account nominated by the Service Provider the details of which are reflected in the central registry of suppliers that wish to supply goods and services to the government of RSA currently being central supplier database or any government supplier registration system in effect at the time of payment.

#### 16 INVOICES AND PAYMENT DISPUTES

- 16.1 SANParks will not be liable for payment of invoices submitted by the Service Provider in respect of any fees, rates, expenses and/or prices that are not reflected in the Contract Schedule or Pricing Schedule, unless agreed to in writing by a duly authorised representative of SANParks.
- 16.2 Each invoice issued by the Service Provider will specify in sufficient detail the Deliverables rendered to which the invoice relates, the fee payable in respect thereof, the actual time spent (if applicable), the relevant Personnel who rendered the Services together with the title, rates, accompanying substantiating documents including the, monthly incident/occurrence report and attendance register, (and other documents that may be relevant) and the total fees payable.
- 16.3 SANParks will pay the invoice only if satisfied that the Services comply with clause 10. Undisputed invoices will be paid by SANParks within 30 (thirty) days after receipt of the invoices and supporting documents as provided in 16.2 and provided that the invoices are accurate and meet all relevant legislative and operational requirements. In the event that SANParks disputes any invoice, SANParks will do so by giving the Service Provider written notice of the nature of the dispute within a period not exceeding 14 (fourteen) days of receipt of the invoice.
- 16.4 The Parties shall endeavour to resolve the dispute as soon as possible but within 14 (fourteen) days from receipt of the dispute notice by the Service Provider failing which the dispute shall be dealt with in terms of clause 33.
- 16.5 SANParks may set off any amounts due to it in terms of the Agreement against any amounts payable by SANParks to the Service Provider.
- 16.6 The Service Provider indemnifies SANParks against any and all Losses arising from any breach of this Agreement, including but not limited to the submission of incorrect invoice/s, supporting documentation and bank details.

#### 17 AUDITS

- 17.1 The Service Provider shall for the duration of this Agreement and for a period of 5 (five) years after the expiry or termination of this Agreement maintain complete and accurate records of and supporting documentation for the amounts invoiced to and payments made by SANParks and the Services rendered under this Agreement. The Service Provider must, maintain a complete audit trail, sufficient to permit a complete audit thereof.
- 17.2 SANParks acting through its duly authorised representatives, including without any limitation, its external auditors or legal advisors, shall at its own costs and on reasonable notice to the Service Provider, be entitled to inspect during business hours and at the premises of the Service Provider or such other premises where the Services are rendered from, all books, records, and supporting documentation related to the rendering of the Services and to make copies of and take extracts from such books, records, and supporting documentation for audit purposes.

#### 18 RISK OF LOSS

- 18.1 Subject to the conditions as set out in the Agreement and in this clause 18, the Service Provider shall bear the risk of theft and loss of or any damage to Premises, property, material, equipment at the Premises from Site Handover Date provided that such theft, loss or damage occurs during the Service Hours

and is as a result of the Service Provider's negligence and/or wilful default or the negligence and/or wilful default of any of its Personnel or the Service Provider's breach of this Agreement.

- 18.2 Ownership in or to the Site, Premises, material, equipment at the Premises will at all times during the Contract Period vest with SANParks. Ownership of the Site or immovable property shall remain with the registered owner where SANParks occupies the Premises as the lessee.

## 19 SERVICE LEVELS

- 19.1 The Service Provider's failure to meet agreed Service Levels may have a material and adverse impact on the operations of SANParks, which impact may result in SANParks suffering damages. Accordingly, in the event that the Service Provider fails to meet the prescribed Service Levels, then in addition to all other remedies available to SANParks in Law, SANParks may report the Service Provider to National Treasury and request that such Service Provider be placed on National Treasury's List of Restricted Suppliers.

- 19.2 In the event that the Service Provider's failure to perform or to render the Services within any prescribed Service Levels is as a result of Force Majeure or is solely due to the acts or omissions directly attributable to SANParks, then the provisions of clause 19.1 shall not apply in that regard only.

## 20 PENALTIES

Subject to GCC Clause 25, SANParks may, without prejudice to its other remedies in law and/or under this contract, deduct from the Contract Price, as a penalty, a sum calculated on any unperformed services at the rate as determined in the Contract Schedule. To the extent allowed by law, SANParks may claim damages and/or this penalty. SANParks may also claim termination of the contract in accordance with the provisions for breach in this contract and/or pursuant to clause 23 of the GCC or as otherwise allowed by law.

## 21 SERVICE PROVIDER WARRANTIES AND UNDERTAKINGS

- 21.1 The Service Provider warrants and represents to SANParks that:

- 21.1.1 Its Personnel have the necessary expertise, skills, experience, resources, equipment and infrastructure to render the Services in a professional manner and in accordance with Good Industry Practices;
- 21.1.2 it is a member of all professional and other bodies as required in terms of the RFP and as may be required by applicable legislation and/or relevant industry regulations pertaining to its business and that such membership is current and valid and will be maintained for the duration of the Agreement;
- 21.1.3 it holds, and will hold throughout this Agreement, all licences, certificates, permits, consents and authorities required to perform its obligations pursuant to this Agreement;
- 21.1.4 its Personnel have been subjected to a credit and criminal vetting process and the relevant reports are favourable;
- 21.1.5 all Personnel have undergone the necessary occupational medical assessments and hold valid certificates of fitness to perform the Services allocated to them, where such assessments are required by applicable law or industry practice;
- 21.1.6 it has not committed an act of insolvency as contemplated in section 8 of the Insolvency Act 24 of 1936;
- 21.1.7 by fulfilling its obligations pursuant to the Agreement, it will not be in breach of or default under any other agreement to which it is a party or any obligation it otherwise owed to a third party;
- 21.1.8 all information and documents given to SANParks by the Service Provider prior to Signature Date, was, at the time it was so given, and is, as at the Signature Date, true, accurate and complete; and
- 21.1.9 the Service Provider is in no way compromising any rights or trust relationship between any other party and the Service Provider or creating a conflict of interest for the Service Provider or for SANParks.

- 21.2 The Service Provider further warrants and guarantees that any faults in the Services discovered by SANParks and rendering the Services unsuitable for the purpose for which it was acquired shall be corrected by the Service Provider at no charge to SANParks within a reasonable time and as quickly as possible, provided that the faults are not solely directly attributable to the

actions of SANParks. This clause will apply, despite the fact that payment in respect of the Services may already have been effected by SANParks.

- 21.3 The Service Provider undertakes in favour of SANParks at all times to:

- 21.3.1 act in accordance with the lawful instructions of SANParks;
- 21.3.2 use its knowledge and skills to the best advantage of SANParks;
- 21.3.3 not exceed the express or implied limits of the authority attendant to its appointment in terms of this Agreement;
- 21.3.4 not engage in activities which would detract from the proper performance of its duties in terms of this Agreement;
- 21.3.5 comply with all applicable Laws in performing its obligations pursuant to this Agreement and shall indemnify SANParks its employees and other agents against all Losses incurred by SANParks as a result of the Service Provider's failure to comply with such Laws;
- 21.3.6 not perform its responsibilities hereunder with actual knowledge that the manner in which such responsibilities are performed would cause SANParks to be in violation of any applicable Laws;
- 21.3.7 be solely responsible for providing all superintendence, labour, materials, tools, equipment and all other things, whether of a temporary or permanent nature necessary for the provision of the Services;
- 21.3.8 assume responsibility for the actions of its Personnel in performing the Services and be solely responsible for their supervision, direction and control, payment of salary, workers' compensation, disability benefits and the like;
- 21.3.9 when dealing with SANParks' property, take all reasonable care and precautions to safe guard such property against any loss and/or possible damage whatsoever;
- 21.3.10 not do anything that may bring the good name of SANParks in disrepute. Any such act or omission occasioned by the Service Provider or its Personnel, acting in the course and scope of their employment with the Service Provider, will be deemed a breach of the Agreement;
- 21.3.11 comply with SANParks' health, safety, security, environmental and other standards (whichever is applicable);
- 21.3.12 co-operate and consult with other service providers of SANParks, should it be necessary for purposes of ensuring the rendering of the Services in a seamless manner;
- 21.3.13 maintain complete and accurate records of all Personnel rendering Services, copies of their identity documents, and details of their appointment for the Services to be performed, and shall provide such records to SANParks upon request; and
- 21.3.14 procure that all Personnel comply the provisions of the OHS Act while rendering the Services at the Premises, and will ensure the following health and safety requirements are adhered to while rendering Services at the Premises:
- 21.3.14.1 to the extent applicable, all Personnel will wear appropriate personal protective equipment at all times while rendering the Services at the Premises;
- 21.3.14.2 no Personnel may be permitted to render Services at the Premises if such person is medically unfit to safely perform the work allocated to them;
- 21.3.14.3 no Personnel will be permitted to access the Premises or render Services if that person is under the influence of any intoxicating substance; and
- 21.3.14.4 Personnel granted access to the Premises may not cook food or sleep at the Premises, unless expressly authorised by SANParks in writing.

## 21.4 Bilateral Warranties

- 21.4.1 Each Party represents and warrants in favour of the other Party that:
- 21.4.1.1 it has the legal capacity and, where applicable, it has taken all necessary corporate action required to empower and authorise such Party to enter into and implement this Agreement on the terms and conditions contained herein; and
- 21.4.1.2 this Agreement constitutes an agreement valid and binding on such Party and enforceable against it in accordance with its terms.

- 21.5 A breach of any of the undertakings and/or warranties contained

in this clause will be deemed to be a material breach of the Agreement entitling SANParks to terminate the Agreement forthwith, provided that the Service Provider has failed to remedy such breach when called upon to do so in accordance with the provisions of clause 34.2 below, unless such breach is incapable of being remedied. A termination under this clause will be without prejudice to any of SANParks rights.

- 21.6 The warranties contained in this Agreement are in addition to any other express, implied and/or statutory warranties applicable to the Services.

## 22 SERVICE PROVIDER PERSONNEL

- 22.1 The Personnel to be utilised by the Service Provider in rendering the Services shall comprise of the personnel in name and/or credentials as set out in the Bid Response.

- 22.2 The Service Provider may not re-allocate or replace Key Personnel without SANParks' prior written consent, which consent will not be unreasonably withheld. When reallocating or replacing any Key Personnel, the Service Provider must ensure that any replacement must meet any and all criteria set out in the RFP and have substantially similar qualifications to the original appointment, and that the provision or continuity of the Services is not prejudiced in any way. On request and after consultation with the Service Provider, the Service Provider will immediately replace, at its own cost, any of the Personnel who are not performing the Services to SANParks' satisfaction.

- 22.3 The Service Provider shall perform a thorough background check on all Personnel involved in rendering the Services and shall not assign any Personnel to perform the Services if any information disclosed in such background check reveals a criminal conviction or otherwise indicates that such person, in any way, might not perform the Services in accordance with the standards applicable under this Agreement. Any other mandatory requirements with regard to Personnel who will render the Services, are as indicated in the Contract Schedule.

- 22.4 The Service Provider shall procure that its Personnel cooperate with the relevant law enforcement authorities that have authority and jurisdiction to act. Such cooperation shall include filing reports of incidents and calling in law enforcement officers for incidents or events requiring assistance from or intervention by a law enforcement officer.

- 22.5 The Service Provider shall be responsible for, and hereby indemnifies and hold SANParks harmless against, all such taxes or contributions, including penalties and interest, as well as for minimum wage, overtime or other requirements relative to the Personnel. The Personnel are the Service Provider's employees and the Service Provider shall be fully responsible for them and hereby indemnifies and holds SANParks harmless against any claims made by or on behalf of any such employee.

- 22.6 In hiring, retaining, compensating or disciplining Personnel the Service Provider shall conform with all applicable Laws and without limiting the generality of the foregoing, the Service Provider shall comply with the relevant labour laws of RSA.

- 22.7 The Service Provider shall be solely responsible for issuing instructions to, training and supervising its Personnel and to control the method or means by which they perform the Services.

## 23 STANDARD OPERATING PROCEDURE

- 23.1 The Service Provider will, no later than 15 (fifteen) days from the Commencement Date, provide SANParks with a draft standard operating procedure document detailing the procedure for the Services, drafted in line with the SANParks standard operating procedure document regarding security, if applicable.

- 23.2 SANParks will within 7 (seven) days of receipt thereof submit to the Service Provider a second draft. The Parties shall agree a final document within a period of 7 (seven) days thereafter.

## 24 EQUIPMENT

- 24.1 It is recorded that should the Service Provider and/or its Personnel, be required and/or need to use SANParks' Equipment in the rendering of the Services, such usage will be subject to the provisions of this clause.

- 24.2 Unless otherwise provided in this Agreement the Service Provider and/or its Personnel, as the case may be, will be entitled to use the SANParks' Equipment provided that:

- 24.2.1 SANParks consents in writing to the use of such SANParks' Equipment prior to the use thereof; and

- 24.2.2 the Service Provider ensures that all SANParks' Equipment is in a good and serviceable state of repair upon receipt thereof.

- 24.3 In the event that the Service Provider will not have notified SANParks that any SANParks' Equipment is not in a good and serviceable state of repair within 7 (seven) days of receiving same, the SANParks' Equipment will be deemed to have been provided to the Service Provider in a good and serviceable state of repair.

- 24.4 In the event that the Service Provider notifies SANParks that the SANParks' Equipment, or any element thereof is in any manner faulty, SANParks will be required to replace or repair such SANParks' Equipment at its own cost.

- 24.5 The Service Provider will be responsible for timeously arranging for, and for the costs associated with, the repair of any damage to the SANParks' Equipment caused due to its negligence and/or wilful default or the negligence and/or wilful default of any of its Personnel.

- 24.6 Unless expressly provided otherwise, SANParks will be responsible for the service and maintenance of SANParks Equipment during the Contract Period.

- 24.7 The Service Provider will as of the Commencement Date: -

- 24.7.1 ensure that the Equipment is, for the Contract Period, in good working order and available for purposes of rendering the Services; and

- 24.7.2 bear the risk of any damage to, loss or theft of the Equipment and SANParks' Equipment used at the Premises unless such damage or loss is solely caused as a result of SANParks' conduct. Ownership in and to the SANParks' Equipment shall at all times during the Contract Period vest with SANParks and the Service Provider shall have no claims in that regard.

## 25 DATA PROTECTION AND PROCESSING OF PERSONAL INFORMATION

- 25.1 The Service Provider acknowledges that in the provision of the Services it may be exposed to Data of SANParks, its employees and/or third parties.

- 25.2 The Parties specifically record that all Data provided by SANParks to the Service Provider or to which the Service Provider may be exposed shall constitute Confidential Information and, where applicable, intellectual property belonging to SANParks.

- 25.3 The Service Provider hereby warrants in favour of SANParks that it shall at all times strictly comply with all applicable legislation which may be in force from time to time and that it shall not, at any time, copy, compile, collect, collate, process, mine, store, transfer, alter, delete, interfere with or in any other manner use Data for any purpose other than with the express prior written consent of the other Party.

- 25.4 The Service Provider warrants that it shall immediately inform SANParks should any Data it has access to be compromised in any manner or form. The Service Provider further undertakes to also immediately inform SANParks as to how it will manage such compromise and what steps will be taken to rectify the situation to the satisfaction of SANParks.

- 25.5 The Service Provider hereby indemnifies and holds SANParks harmless against any Losses that SANParks may suffer due or relating to or arising from the Service Provider's and/or its Personnel's non-compliance with applicable information law and regulations

- 25.6 The Service Provider's obligations under this clause will survive the termination of this Agreement for any reason.

## 26 REPORTING

- 26.1 The Service Provider shall be required to submit regular written reports, in the manner and in the frequency detailed in the RFP and Contract Schedule.

## 27 BROAD-BASED BLACK ECONOMIC EMPOWERMENT

- 27.1 The Service Provider must remain B-BBEE compliant and maintain or improve the B-BBEE status level it had when the RFP was awarded.

- 27.2 The Service Provider undertakes to provide SANParks, for the duration of the Agreement, with a copy of its valid B-BBEE certificate and/or B-BBEE affidavit (if applicable to the Service Provider in terms of applicable regulations), within 3 (three) days

following written request by duly authorised personnel at SANParks, or such other date as SANParks may stipulate from time to time.

- 27.3 Save in respect of any amendment to the B-BBEE Act or any other B-BBEE legislation, regulations, practice notes and Codes of Good Practice that may come into force after the date of the Bid Response which alters the requisite B-BBEE Credentials and/or B-BBEE Score, the Service Provider represents and warrants that its B-BBEE Credentials and/or B-BBEE Score:
- 27.3.1 are as set out in the Bid Response;
  - 27.3.2 were measured using the B-BBEE legislation and, the B-BBEE Codes in force as at the date of the Bid Response; and
  - 27.3.3 were certified by means of a Verification Certificate (as defined in the B-BBEE Codes) issued by a Verification Agency (as defined in the B-BBEE Codes) or in the case of a QSE or EME, by means of a sworn affidavit as permitted in Law, if applicable.
- 27.4 Should, following the date of the Bid Response, the B-BBEE Credentials and/or the B-BBEE Score of the Service Provider drop below the B-BBEE Credentials and/or the B-BBEE Score as set out in the Bid Response, then –
- 27.4.1 the Service Provider will in writing notify SANParks of such decrease in its B-BBEE Credentials and/or B-BBEE Score within 7 (seven) days of the Service Provider becoming aware of such decrease; and
  - 27.4.2 SANParks may, upon written notice to the Service Provider, request that the Service Provider remedy such decrease in its B-BBEE Credentials and/or B-BBEE Score within a period of 90 (ninety) calendar days from the date of such notice, failing which SANParks may terminate this Agreement on written notice of termination delivered to the Service Provider or at any time thereafter if the Service Provider has not remedied the breach by the time of such termination.

## 28 INTELLECTUAL PROPERTY

- 28.1 Each party will own its Existing Material. All right, title, and ownership to or of any Deliverables, save for any Intellectual Property of the Service Provider or its third party vendors embedded in any Deliverables, are the sole property of or will vest in SANParks and SANParks reserves all moral rights therein and to the extent that the Service Provider has any rights in the Deliverables, it hereby cedes same and waives all moral rights therein, in favour of SANParks.
- 28.2 Subject to clause 28.1 above, the Service Provider irrevocably:
- 28.2.1 cedes, assigns, or transfers to SANParks all the Service Provider's rights, title and interest in any copyright in all works that are or may become eligible for copyright arising directly or indirectly from or incidental to the Services;
  - 28.2.2 cedes, assigns and transfers to SANParks all right, title and interest in and to all inventions (including methodologies and products) made within the course and scope of the Services under this Agreement;
  - 28.2.3 grants to SANParks the exclusive right to alter and adapt the Deliverables;
  - 28.2.4 assigns to SANParks the rights conferred upon the Service Provider as author by section 20(1) of the Copyright Act, 98 of 1978;
  - 28.2.5 undertakes, to provide reasonable assistance, when requested by SANParks, to execute all instruments and to do all things as may be necessary to vest copyright and ownership of Deliverables in SANParks and if the Service Provider fails to comply with any request by SANParks within (7) seven days or such period as agreed to in writing between the Parties, the Service Provider irrevocably nominates, constitutes and appoints SANParks to be the Service Provider's agent, with power to sign all documents and do all other acts, matters and things as may be necessary to give due and proper effect to the terms of this clause. Any costs to be incurred in this regard will be for SANParks' account.
- 28.3 SANParks grants to the Service Provider a revocable, non-transferable and non-exclusive licence in respect of any Intellectual Property that may be needed to supply the services to SANParks.
- 28.4 The Service Provider may only duplicate (or reproduce in any

manner or form) a Deliverable or make any adaptations or translations of a Deliverable with SANParks' prior written consent, which may be withheld.

- 28.5 Neither party will obtain any rights in the Existing Material or Intellectual Property of the other Party that was not created in performing the Agreement or existed before the commencement of the Agreement, unless a licence is granted.
- 28.6 The Parties' respective logo and sub-logos, marks, and trade names are the Parties' respective trademarks, and no Person may use them without written permission. Any other trademark or trade name that may appear on the Parties' marketing material is the property of its respective owner.
- 28.7 All violations of proprietary rights may be prosecuted to the fullest extent permissible under applicable Law.
- ## 29 INTELLECTUAL PROPERTY INFRINGEMENT
- 29.1 The Service Provider warrants that no aspect of the Services will infringe any patent, design, copyright, trade secret or other proprietary right of any third party. The Service Provider indemnifies and must defend SANParks against any claims made by any third party that the Services infringe its patent, design, copyright, or trade mark and must pay the amount of any resulting adverse final judgment (or settlement, which settlement the Parties will negotiate with the third party). The Service Provider must reimburse SANParks for all costs incurred by SANParks in connection with assisting the Service Provider with the defence of the action immediately on demand (including attorney's fees on an attorney and client basis). SANParks will notify the Service Provider of the claim in writing and the Parties will have sole control over the defence and/or settlement.
- 29.2 If any third party succeeds in its claim for the infringement of any Intellectual Property rights, the Service Provider must within 30 (thirty) calendar days of the infringing item having been found to so infringe:-
- 29.2.1 obtain for SANParks the right to continue using the infringing item or the parts that constitute the infringement; or
  - 29.2.2 replace the infringing item or the parts that constitute the infringement with another product that does not infringe and that in all respects operates substantially in accordance with its specifications; or
  - 29.2.3 alter the infringing item in a way as to render it non infringing while still in all respects operating substantially in accordance with its specifications; or
  - 29.2.4 withdraw the infringing item and refund SANParks all fees paid by SANParks to the Service Provider for that portion of the relevant Services specifically with regard to the infringing item in the preceding 12 calendar month period.
- 29.3 This clause will survive termination of the Agreement.
- ## 30 LIMITATION OF LIABILITY
- 30.1 To the extent permitted by applicable law, regardless of the form (whether in contract, delict or any other legal theory) in which any legal action may be brought, the Service Provider shall be liable for all Losses incurred by SANParks as a result of the Service Provider's failure to comply with the terms and conditions set out in this Agreement.
- 30.2 Any limitation contained in this clause will not apply to (i) any breach by a Party of the other Party's proprietary or confidential information or intellectual property; (ii) a Party's indemnification obligations in terms of the Agreement; (iii) or damages arising from a party's gross negligence.
- 30.3 SANParks will not be liable for any loss or damage suffered by the Service Provider arising out of or in connection with any breach of the Agreement by the Service Provider or any act, misrepresentation, error or omission made by or on behalf of the Service Provider or the Personnel.
- 30.4 The Service Provider hereby indemnifies and holds SANParks (and SANParks' personnel) harmless against any and all:
- 30.4.1 loss of or damage to any property or injury to or death of any person;
  - 30.4.2 Losses that SANParks may suffer or incur arising directly or indirectly from:
    - 30.4.2.1 wilful misconduct or fraud by the Service Provider or the Personnel;
    - 30.4.2.2 a breach by the Service Provider of SANParks' proprietary or Confidential Information, or Intellectual Property;

- 30.4.2.3 an infringement by the Service Provider of any patent, design, copyright, trade secret or other proprietary right of any third party; or
- 30.4.2.4 collusion between the Service Provider (or any of its Personnel) and any of SANParks' employees or agents.
- 30.5 This clause is separate and divisible from the rest of this Agreement and remains effective even if this Agreement ends or is invalid.
- 31 OCCUPATIONAL LAWS**
- 31.1 The Service Provider will at all times comply fully with all applicable labour legislation and occupational laws, which includes the Service Provider obtaining cover for all of their Personnel suffering bodily injury (including death) by accident or disease, which arises out of or in connection with the performance of the Agreement by the Service Provider. If the Service Provider is unsure:
- 31.1.1 which occupational laws (or any parts) apply; or
- 31.1.2 how to comply fully with all applicable occupational laws;
- 31.1.3 the Service Provider must notify SANParks immediately in writing.
- 31.2 Where context allows, the Agreement between SANParks (or employer as defined in the OHS Act) and the Service Provider (or mandatory as defined in the OHS Act) in this clause constitutes the agreement in writing referred to in section 37(2) of the OHS Act.
- 31.3 The Service Provider indemnifies SANParks and SANParks' employees and agents against all Losses due to or arising from or related to the Service Provider's (i) failure to effect and maintain a program of compliance with occupational laws and regulations; or (ii) breach of the OHS Act or any regulations thereto, where SANParks:
- 31.3.1 incurs any liability or fines as a result thereof; or
- 31.3.2 is required by Law to provide benefits to, or pay assessments in respect of, the Service Provider or the Personnel (or their heirs or legal representatives) as a result thereof.
- 31.4 Neither SANParks nor its employees or agents shall be responsible for any loss, damage, injury or death, howsoever caused, to the Service Provider or to its Personnel and the Service Provider hereby indemnifies SANParks and its employees and agents harmless against all Losses which the Service Provider and its Personnel may, at any time, sustain or incur arising out of its access to and the Services performed at the Premises.
- 32 INDEMNITY AND INSURANCE**
- 32.1 With effect from the Commencement Date and subject to clause 30 the Service Provider irrevocably indemnifies, holds and undertakes to hold SANParks harmless against all Losses suffered by SANParks out of or, in the widest sense in connection with the entering into by SANParks of this Agreement.
- 32.2 Subject to the provisions of this Agreement, the Service Provider hereby indemnifies and holds SANParks, its servants and agents harmless against all losses suffered as a result of:
- 32.2.1 a breach of any of the Service Provider's warranties; and
- 32.2.2 any breach of the provisions of this Agreement by the Service Provider or by the Personnel, whether such breach occurs before or after the Loss suffered by SANParks.
- 32.3 The Service Provider hereby warrants that it possesses, as at the Commencement Date and shall maintain throughout the term of this Agreement, valid and sufficient insurance against any liability that it may incur in terms of this Agreement or as may be specified in the RFP.
- 32.4 The Service Provider shall, upon demand by SANParks, be obliged to furnish proof of such insurance to SANParks, and, if reasonably directed to do so, shall increase such insurance in accordance with SANParks' instructions.
- 33 DISPUTE RESOLUTION**
- 33.1 Save in respect of those provisions of this Agreement which provide for their own remedies which would be incompatible with arbitration, or in the event of either Party instituting urgent action against the other in any court of competent jurisdiction any dispute arising from or in connection with this Agreement, its validity, the Parties' rights and/or obligations hereunder or its termination shall in the first instance be referred to the respective senior representatives of the Parties, who are responsible for them, who shall use their reasonable endeavours to settle the dispute as expeditiously as is practically possible.
- 33.2 If the dispute cannot be settled as provided for in clause 33.1 within fourteen (14) Business Days or within such period as agreed upon by the Parties in writing the dispute will finally be resolved by arbitration in accordance with the Rules of the Arbitration Foundation of Southern Africa (the "Foundation") or its successor, by an arbitrator or arbitrators appointed by the Foundation and anyone of the Parties may refer the matter for such.
- 33.3 Except as otherwise expressly permitted in terms of this Agreement, neither Party shall be entitled to withhold performance of any of its obligations in terms of this Agreement pending the settlement of, or decision in, any dispute arising between the Parties. Each Party shall, in such circumstances, continue to comply with its obligations in terms of this Agreement.
- 33.4 The provisions of this clause -
- 33.4.1 constitute an irrevocable consent by the Parties to any proceedings in terms hereof and no Party shall be entitled to withdraw such consent or claim at any such proceedings that it is not bound by such provisions; and
- 33.4.2 constitute a separate agreement, severable from the rest of this Agreement and shall remain in effect despite determination of or invalidity for any reason of this Agreement.
- 34 BREACH AND TERMINATION**
- 34.1 This clause exists in addition to s23 and s26 of the GCC and does not replace it.
- 34.2 if a Party ("Defaulting Party"):
- 34.2.1 does not fix any breach of this Agreement (or an order) within the time stipulated in this Agreement (or the relevant order) as agreed by the Parties, or where no such time is stipulated, within 5 (five) Business Days of receiving written notice from the other Party to do so;
- 34.2.2 breaches this Agreement materially twice or more in any 6-month period;
- 34.2.3 is insolvent (bankrupt) as set out in the Insolvency Act 24 of 1936;
- 34.2.4 has some legal disability, including but not limited to being placed in liquidation whether provisionally or finally or is placed under judicial management;
- 34.2.5 takes steps to deregister itself (close down) or is deregistered;
- 34.2.6 makes any settlement or arrangement with its creditors; or
- 34.2.7 fails to pay a court order against it (does not satisfy a writ of execution) for more than one million rand, within 21 days;
- 34.3 then the other Party ("Aggrieved Party") may, without prejudice to any of its rights:
- 34.3.1 claim specific performance of this Agreement; or
- 34.3.2 immediately cancel this Agreement in writing; and
- 34.3.3 claim Losses from the Defaulting Party, including any claim for any fees already due, where applicable.
- 34.4 Despite any other breach provisions and notice periods contained in this Agreement, SANParks may, at its absolute and sole discretion, terminate the Agreement, upon at least 60 (sixty) days' prior written notice to the Service Provider. In the event of such termination, SANParks shall make payment to the Service Provider for all Services performed up to the date of such termination.
- 34.5 The Parties may terminate this agreement by mutual agreement between the Parties.
- 34.6 SANParks may terminate this Agreement summarily at any time after the period to remedy the breach has expired, if the Service Provider has failed to remedy the defect in the opinion of SANParks, acting reasonably, by giving written notice to the Service Provider.
- 34.7 This clause is separate and divisible from the rest of this Agreement and remains effective even if this Agreement ends or is invalid.
- 35 EFFECTS OF TERMINATION**
- 35.1 On termination, cancellation, or expiry of this Agreement:
- 35.1.1 the Service Provider shall hand-over the Sites back to SANParks in substantially the same condition as they were

- received;  
35.1.2 the Service Provider must within 5 (five) Business Days following such termination, cancellation or expiry, return all SANParks' Equipment to SANParks in substantially the same condition as they were received, reasonable wear and tear excluded;  
35.1.3 the Service Provider must stop providing the Services; and  
35.1.4 each Party must deliver to the other Party, or at the other Party's option destroy (and procure the delivery or destruction by third party contractors of) all originals and copies of Confidential Information and proprietary materials in its or their possession or under its or their control.
- 35.2 The Service Provider acknowledges and confirms that no expectation has been created by anyone, by the Agreement or any other agreement, entitling the Service Provider or the Personnel to expect:-  
35.2.1 continued service for any period whether definite or indefinite;  
35.2.2 the renewal or extension of the term of any agreement; or  
35.2.3 the conclusion of any further agreements with SANParks.
- 35.3 If any expiry or termination of the Agreement, for any reason, is regarded as a "dismissal" in Law the Service Provider and Personnel will not be entitled to the payment of any remuneration or compensation of any nature, including redundancy or other compensatory payments.
- 35.4 The termination, cancellation, or expiry of this Agreement will not affect the enforceability of the terms that are intended to operate after expiry or termination.
- 36 SALE, ACQUISITION, MERGER OR CHANGE OF CONTROL**
- 36.1 The Service Provider must notify SANParks in writing within 5 (five) Business Days of becoming aware of a Change Event.  
36.2 SANParks may within 1 (one) month of such notification, or within 1 (one) month of otherwise becoming aware of the Change Event, as the case may be, opt to terminate this Agreement by giving the Service Provider written notice designating a date upon which such termination will become effective.  
36.3 No Change Event will be effective against and legally binding on SANParks, where the prior written consent of SANParks was not obtained. If a Change Event occurs and the Service Provider fails to inform or procure written consent from SANParks, then the Service Provider will be deemed to have breached a material term of this Agreement and SANParks will be entitled to cancel the Agreement without any prior notice to the Service Provider, despite anything to the contrary in this Agreement.  
36.4 This clause will not be applicable in the event of any change of control of the Service Provider or any of its divisions or subsidiaries whether through the sale of assets, shares, business or otherwise, as a result of any internal corporate restructuring of the Service Provider.
- 37 CORRUPT GIFTS AND FRAUD**
- 37.1 The Service Provider warrants that in entering into this Agreement and for the duration of this Agreement it has not committed any and will not commit any Corrupt Act. Any breach of this warranty shall entitle SANParks to terminate this Agreement immediately on written notice to the Service Provider.
- 37.2 "Corrupt Act" means: -  
37.2.1 offering, giving or agreeing to give to SANParks or any other organ of state or to any person employed by or on behalf of SANParks or any other organ of state any gift or consideration of any kind as an inducement or reward:  
37.2.1.1 for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Agreement or any other contract with SANParks or any other organ of state; or  
37.2.1.2 for showing or not showing favour or disfavour to any Person in relation to this Agreement or any other contract with SANParks or any other organ of state.  
37.2.2 entering into this Agreement or any other contract with SANParks or any other organ of state in connection with which commission has been paid or has been agreed to be paid by the Service Provider or on its behalf, or to its knowledge, unless before the relevant contract is entered into particulars of any such commission and of the terms and conditions of any such contract for the payment of such commission have been disclosed in writing to SANParks;
- 37.2.3 committing any offence:  
37.2.3.1 under any Law from time to time dealing with bribery, corruption or extortion;  
37.2.3.2 under any Law creating offences in respect of fraudulent acts; or  
37.2.3.3 at common law, in respect of fraudulent acts in relation to this Agreement or any other contract with SANParks or any other public or private entity; or  
37.2.3.4 defrauding or attempting to defraud or conspiring to defraud SANParks or any other public or private entity.
- 37.3 If the results of any audit of the Services conducted by or on behalf of SANParks indicate the possibility of Corrupt Act, SANParks will, after allowing the Service Provider reasonable opportunity to investigate that possibility, have the right either by itself, or by its agents, or by requesting the police, to investigate all the relevant circumstances, to question any relevant Personnel or a third party and the Service Provider will use all reasonable efforts to facilitate any such investigation or enquiry.
- 37.4 The Service Provider shall reimburse SANParks with all costs incurred by SANParks in exercising any of its rights in terms of this clause 37 (including, without limitation, any relevant increased administrative expenses and attorney and own client costs, where applicable).
- 37.5 The rights of SANParks (to terminate or otherwise) under this clause are in addition (and without prejudice) to any other right which SANParks may have in Law to claim the amount of loss or damages suffered by SANParks on account of the acts or omissions of the Service Provider (or to take any action other than termination of this Agreement).
- 38 CESSION, ASSIGNMENT AND SUB-CONTRACTING**
- 38.1 The Service Provider will not cede any of its rights or delegate or sub-contract any part of its obligations in terms of this Agreement without SANParks' prior written consent, which may be withheld at SANParks' sole discretion.  
38.2 Approval given in terms of clause 38.1 will not relieve the Service Provider of any responsibility, duty or obligation imposed upon it in terms of this Agreement, or by SANParks. The Service Provider will be and remain solely liable and responsible for the rendering of the Services, all acts, omissions, negligence or breaches of the Agreement on the part of the subcontractor or any of its Personnel, and for all acts, omissions or negligence of any subcontractor or any of its Personnel.  
38.3 SANParks may at its sole and absolute discretion pay any subcontractor who executed any portion of the Service Provider's obligations directly and the amount paid to any such subcontractor by SANParks will be deducted from any amount due by SANParks to the Service Provider in terms of this Agreement.
- 39 DISENGAGEMENT ASSISTANCE**
- 39.1 The Service Provider agrees that, notwithstanding the termination of this Agreement for any reason whatsoever the Service Provider will, if so, required by SANParks, assist SANParks with the seamless transition of the rendering of the Services to an incoming service provider at no cost to SANParks.  
39.2 To this extent and without any derogation to any claims sounding in money, which either Party may have or allege against the other Party, the Service Provider shall not be entitled to withhold any information, files, records or reports, or any assistance as required that will be crucial to effect the immediate and seamless transition of the Services. The Service Provider will for a period of 30 (thirty) days from the date of termination specifically:  
39.2.1 make the Personnel available to provide assistance, advice and guidance to the new service provider or SANParks (or SANParks' customer) as the case may be; or  
39.2.2 ensure that all files and records are complete, up to date and adhere to professional quality standards, failing which SANParks reserves the right to demand that the Service Provider brings the files, records and/or reports up to standard.
- 40 FORCE MAJEURE**
- 40.1 No party will be responsible for any breach of this Agreement / failure to perform its obligations caused by circumstances beyond its control insofar as it is able to prove that:  
40.1.1 such failure was due to an impediment beyond its reasonable control;

- 40.1.2 it could not reasonably have been expected to have taken such impediment and its effects upon such Party's ability to perform into account at the time of conclusion of this Agreement; and
- 40.1.3 it could not reasonably have avoided or overcome the impediment or at least its effects.
- 40.2 If there is an event of Force *Majeure*, the Party affected will tell the other immediately of:
- 40.2.1 the cause, nature and extent of the circumstances;
- 40.2.2 the expected duration of the circumstances; and
- 40.2.3 the extent to which its performance will be affected; and they will meet within 7 days to negotiate other ways to carry out any affected responsibilities under this Agreement. The Parties will continue to comply with the responsibilities that are not affected by the circumstances.
- 40.3 If a Party cannot fulfil a material (significant) part of its responsibilities under this Agreement for more than 30 days because of Force *Majeure*, the other Party may cancel this Agreement without liability to the affected Party, on 7 days' written notice.
- 41 ADDRESSES AND NOTICES**
- 41.1 Notices
- 41.1.1 Any notice, consent, approval or other communication in connection with this Agreement ("Notice") will be in writing in English.
- 41.1.2 Each Party chooses the physical address, fax number and/or email address corresponding to its name as set out in the Contract Schedule as the address to which any Notice must be sent.
- 41.1.3 Any Party may by Notice to the other Party change its address and/or the person, if any, for whose attention any Notice must be marked in the Contract Schedule.
- 41.2 Any Notice takes effect when received by the recipient (or on any later date specified in the Notice) and, unless the contrary is proved, is deemed to be received: -
- 41.2.1 on the day of delivery, if delivered by hand to a responsible person at the recipient's physical address in 41.1.2 the Contract Schedule. If delivery is not on a Business Day, or is after ordinary business hours on a Business Day, the Notice is deemed to be received on the Business Day after the date of delivery;
- 41.2.2 on the first Business Day after the date of transmission, if sent by email to the recipient's email address in 41.1.2 the Contract Schedule
- 41.3 Despite anything to the contrary in this Agreement, a Notice actually received by a Party is effective even though it was not sent, or delivered, or sent and delivered to its address in 41.1.2 the Contract Schedule.
- 41.4 Service of legal process
- 41.4.1 Each Party chooses its physical address referred to in the Contract Schedule as its address at which legal process and other documents in legal proceedings in connection with this Agreement may be served (*domicilium citandi et executandi*) addressed for the attention of the person referred to therein.
- 41.4.2 Any Party may by Notice to other Party change its address at which legal process and other documents in legal proceedings in connection with this Agreement may be served to another physical address in South Africa.
- 41.5 E-mailed notices of intended legal proceedings as contemplated in the Institution of Legal Proceedings Against Certain Organs of State Act 40 of 2002 will remain subject to section 4(2) of this Act.
- 42 SANPARKS' SUBCONTRACTORS**
- 42.1 Where the Service Provider is required to liaise with third parties for purposes of this Agreement, the following provisions will apply:
- 42.1.1 when deemed necessary, SANParks shall notify the Service Provider of the applicable terms and conditions of the Third-Party Agreement insofar as they relate to or have an impact on the Service Provider's obligations.
- 42.1.2 where the Service Provider is reliant on such third party for the delivering of any aspect of the Services, and after reasonable Service Provider steps the third party does not provide the assistance as is reasonably required by the

Service Provider, this will be escalated by Service Provider to SANParks for an intervention. For the duration and limited to the impact, such third-party failure shall entitle the Service Provider to excused performance; and

- 42.1.3 the Service Provider shall have no authority to relieve others appointed by SANParks to undertake services of any of their duties, obligations, or responsibilities under their respective agreements or contracts, unless expressly authorised by SANParks in response to an application by the Service Provider in writing to do so.

- 42.2 SANParks shall be responsible for obtaining and maintaining all necessary licenses, consents or authorities under the Third-Party Agreements (including, without limitation, any consents or licenses required to enable the Service Provider to fulfil its obligations in terms of the Agreement) and shall be liable for all fees and other charges payable to any third party pursuant to the Third Party Agreement.

#### 43 PARTIES' REPRESENTATIVES

- 43.1 In order to ensure that: -

- 43.1.1 a successful working relationship is maintained between the Parties;
- 43.1.2 any relevant queries, complaints, instructions and/or directions in relation to the rendering of the Services can be effectively and timeously dealt with; and
- 43.1.3 the Parties have an effective channel for the communication of day-to-day operational matters. The Service Provider designates the Key Account Manager and SANParks designates the relationship manager referred to in the Contract Schedule.

- 43.2 SANParks may, on 14 (fourteen) days written notice to the Service Provider, change its designated representative.

#### 44 NON-SOLICITATION

- 44.1 Either Party shall not during the term of this Agreement and of any extension of it and for a period of twelve (12) months after expiry or termination of this Agreement for any reason whatsoever, either for itself or on behalf of anyone else, except with the prior written approval of the other Party, directly or indirectly persuade, induce, solicit, encourage or procure any employee of the other Party when this Agreement terminates to:

- 44.1.1 become employed by or interested in any manner whatsoever in anyone other than its current employer, nor shall either Party employ any such person in that period on either a full-time or part-time basis in any capacity whatsoever or engage the services of any such person as an independent contractor on either a full-time or part-time basis in that period; or
- 44.1.2 terminate his or her employment with its current employer.

- 44.2 If any Party breaches this clause, it shall pay to the aggrieved Party an amount equal to one (1) year's salary for any solicited employee of the aggrieved Party, as liquidated damages and not as a penalty. The amount of the annual salary shall be the total annual 'cost to company' in effect at the date the employee was solicited.

#### 45 GENERAL

- 45.1 **Whole Agreement:** This Agreement constitutes the sole record of the Agreement between the Parties in relation to the subject matter hereof. Neither Party will be bound by any representation, warranty, promise nor the like not recorded herein. This Agreement supersedes and replaces all prior commitments, undertakings or representations, whether oral or written, between the Parties in respect of the subject matter hereof.

- 45.2 **Waiver:** No indulgence granted by a Party will constitute a waiver of any of that Party's rights under the Agreement; accordingly, that Party will not be precluded, as a consequence of having granted such indulgence, from exercising any rights against the other which may have arisen in the past or which may arise in the future.

- 45.3 **Legal Costs:** The Service Provider will pay all legal costs, as between attorney and own client, incurred by SANParks as a result of any breach of the Agreement by the Service Provider. Each Party will pay its own costs in connection with the negotiation and finalisation of the Agreement.

- 45.4 **Governing Law:** The Agreement will be governed by the laws of the RSA and the Parties submit to the jurisdiction of the RSA

courts.

- 45.5 **Non-Variation:** Unless otherwise provided for in this Agreement, no addition to, variation, novation or agreed cancellation of any provision of the Agreement will be binding upon the Parties unless reduced to writing and signed by or on behalf of the Parties.
- 45.6 **Severability:** Each provision of the Agreement is, notwithstanding the grammatical relationship between that provision and the other provisions of this Agreement, severable from the other provisions of this Agreement. Any provision of this Agreement which is, or becomes invalid, unenforceable or unlawful in any jurisdiction will, in such jurisdiction only, be treated as *pro non scripto* to the extent that it is so invalid, unenforceable or unlawful, without invalidating or affecting the other provisions of the Agreement, which will remain of full force and effect.
- 45.7 **Consent:** Where agreement, approval, acceptance, consent, or similar action by either Party is required under this Agreement such action will not be unreasonably delayed or withheld, except where expressly provided as being in the sole discretion of a Party. An approval, acceptance, consent or similar action by a Party under this Agreement will not relieve the other Party from the responsibility of complying with the requirements of this Agreement, nor will it be construed as a waiver of any rights under this Agreement, except as and to the extent otherwise expressly provided in such approval, acceptance or consent.
- 45.8 **Counterpart:** This Agreement may be executed in one or more counterparts, each of which will be deemed an original, and all of which together will constitute one and the same Agreement as at the date of the Party last signing one of the counterparts. The Parties undertake to take whatever steps may be necessary to ensure that each counterpart is duly signed by each of them without delay.

## ANNEXURE C

### POPIA COMPLIANCE REQUIREMENT

#### 1. DEFINITIONS

- 1.1 Unless the context indicates a contrary meaning:
- 1.1.1 **"Data Subject (s)"** means the person to whom Personal Information relates, including the Service Provider, SANParks, and SANParks' employees who are the recipients of the Services;
- 1.1.2 **"Laws"** means those laws which apply to the Services;
- 1.1.3 **"Operator"** means any party who processes Personal Information for a Responsible Party;
- 1.1.4 **"Personal Information"** means:
- (a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
  - (b) information relating to the education or the medical, financial, criminal or employment history of the person;
  - (c) any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
  - (d) the biometric information of the person;
  - (e) the personal opinions, views or preferences of the person;
  - (f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
  - (g) the views or opinions of another individual about the person; and
  - (h) the name of the person if it appears with other Personal Information relating to the person or if the disclosure of the name itself would reveal information about the person, including Special Personal Information;
- 1.1.5 **"process or processing"** means any operation or activity or any set of operations, whether or not by automatic means, performed by the Responsible Party or Operators including where applicable the Service Provider, SANParks and any other Operator under the control of SANParks or the Service Provider and concerning a Data Subject's Personal Information, including—
- (a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
  - (b) dissemination by means of transmission, distribution or making available in any other form; or
  - (c) merging, linking, as well as restriction, degradation, erasure or destruction of information;
- 1.1.6 **"POPIA"** means the Protection of Personal Information Act, 4 of 2013;
- 1.1.7 **"record"** means any recorded information
- (a) regardless of form or medium, including any of the following:
    - (i) writing on any material;
    - (ii) information produced, recorded or stored by means of any tape-recorder, computer equipment, whether hardware or software or both, or other device, and any material subsequently derived from information so produced, recorded or stored;
    - (iii) label, marking or other writing that identifies or describes anything of which it forms part, or to which it is attached by any means;
    - (iv) book, map, plan, graph or drawing;
    - (v) photograph, film, negative, tape or other device in which one or more visual images are embodied so as to be capable, with or without the aid of some other equipment, of being reproduced;
  - (b) in the possession or under the control of a Responsible Party;
  - (c) whether or not it was created by a Responsible Party; and
  - (d) regardless of when it came into existence;
- 1.1.8 **"Responsible Party"** means a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing Personal Information, including where applicable the Service Provider or SANParks;
- 1.1.9 **"Services"** means the Services provided by the Service Provider to SANParks and SANParks' employees under and in terms of the Agreement;
- 1.1.10 **"Special Personal Information"** means
- (a) the religious or philosophical beliefs, race or ethnic origin, trade union membership, political persuasion, health or sex life or biometric information of a Data Subject; or
  - (b) the criminal behaviour of a Data Subject to the extent that such information relates to—
    - (i) the alleged commission by a Data Subject of any offence; or
    - (ii) any proceedings in respect of any offence allegedly committed by a Data Subject or the disposal of such proceedings.

#### 2. INTRODUCTION

- 2.1 POPIA is a data protection privacy law applicable in South Africa, which seeks to manage and protect a person's Personal Information against abuse and misuse by another.
- 2.2 SANParks has concluded the primary agreement ("**Agreement**") in South Africa with the Service Provider, in terms of which the Service Provider will provide to SANParks' employees the Services.
- 2.3 In order to provide the Services, the Service Provider, SANParks, and certain Operators will have to process Personal Information belonging to each other and to the Data Subjects who are the recipients of the Service, namely SANParks employees
- 2.4 In accordance with the Laws, read together with the provisions of POPIA, the Service Provider, SANParks and where applicable any Operators have a legal duty to handle the Data Subject's Personal Information in a specific manner, which duties will be determined by the service types making up the Services and the type of processing which is carried out by SANParks, the Service Provider and the Operators.
- 2.5 Following the above, the Parties are desirous of setting out their respective rights and duties in relation to the Personal Information which is to be processed under and in terms of the Agreement, which rights and duties are set out below.

### 3. RESPONSIBLE PARTY

- 3.1 In order to provide the Services, the Service Provider may or will have to, as and when required, process Personal Information pertaining to the Data Subjects, in its capacity as a Responsible Party, which processing will be done as per the provisions set out under POPIA.
- 3.2 In accordance with the various Laws, read together with the provisions of POPIA, the Service Provider is under a duty to keep the Personal Information which it receives from the Data Subjects private and confidential, and not to disclose same to any other party save under the following circumstances:-
  - 3.2.1 where the Service Provider has obtained the consent from Data Subject to disclose his or her Personal Information to SANParks or any other party;
  - 3.2.2 where by virtue of the various Laws, the Service Provider has a legal duty to pass the Personal Information onwards to another party;
  - 3.2.3 where the passing on of such Personal Information is done in order to protect a legitimate interest of the Data Subject;
  - 3.2.4 where the Service Provider is under a contractual duty to provide reports to SANParks, such information will be passed on to SANParks in a de-identified manner unless SANParks requires identifiable information, as the context requires.

### 4. OPERATOR

- 4.1 In order to provide the Services, the Service Provider may have to, as and when required, process Personal Information pertaining to Data Subjects on behalf of the SANParks, which Services will be provided by the Service Provider in its capacity as an Operator and not as a Responsible Party and in such capacity warrants and undertakes:
  - 4.1.1 that it will in such capacity comply with the specific obligations in relation to any Personal Information which it may process on behalf of the SANParks as set out under POPIA as well as any reasonable directions and instructions which SANParks may direct from time to time;
  - 4.1.2 that it will only use and / or process the Personal Information for the purpose of the Services and for no other purpose;
  - 4.1.3 that it will keep all the Personal Information strictly confidential and not disclose the Personal Information to any other person unless required by law and only once it has provided SANParks and the Data Subject with adequate warning of this requirement to disclose and the related details thereof, including the identity of the person who is to receive the Personal Information, the reason for the disclosure and confirmation that the person to whom the Personal Information is to be disclosed has undertaken to process such Personal Information in accordance with the provisions of POPIA;
  - 4.1.4 that it will have in place appropriate reasonable technical and organisational measures to protect and safeguard the Personal Information against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, and which in addition, provides a level of security appropriate to the risk represented by the processing and the nature of the Personal Information to be protected and which safeguards comply with the requirements set out under POPIA;
  - 4.1.5 that it will notify the SANParks immediately where it has reasonable grounds to believe that the Personal Information, which has been processed by it, has been lost, destroyed, or accessed or acquired by any unauthorised person. In such event, the Service Provider will (i) comply with all instructions and directions given by SANParks, (ii) take steps to minimise the impact of the security compromise on SANParks and affected Data Subjects, (iii) provide all information requested by SANParks, and (iv) cooperate fully with SANParks in relation to any notifications and investigations which SANParks may request assistance with;
  - 4.1.6 that it will process the Personal Information strictly in accordance with the Agreement and this Annexure C, POPIA and the POPIA processing conditions;
  - 4.1.7 that it will not sell, alienate or otherwise part with the Personal Information or any of the records housing the Personal Information;
  - 4.1.8 that it shall not transfer to a third party, the Personal Information or allow the processing of the Personal Information by a third-party, including a third-party Operator, without the written consent of SANParks;
  - 4.1.9 that it shall not transfer or process the Personal Information outside of South Africa without the prior written consent of SANParks; and
  - 4.1.10 that it will ensure that any person acting under its authority, including any employee or third party Operator, shall be obligated to process the Personal Information only on instructions from it or SANParks and strictly in accordance with this Annexure C, POPIA and the POPIA processing conditions.
- 4.2 The obligations in this Annexure also apply to and extend to any Personal Information disclosed to or received by the Service Provider prior to the signature date of this Annexure.
- 4.3 The Service Provider warrants that it has the legal authority to give the above-mentioned warranties and fulfil the undertakings set out hereunder.
- 4.4 SANParks, in order to ascertain compliance with the warranties and undertakings housed hereunder, will have the right, on reasonable notice and during regular business hours to view and or audit, either by itself or through an independent agent, the Service Provider's facilities, files, and any other data processing documentation needed for the required review, audit and/or independent or impartial inspection.
- 4.5 The Service Provider indemnifies and holds SANParks harmless against any loss, damage, action or claim which may be brought by whomsoever against SANParks or any of its directors or employees in consequence of the Service Provider or its employees, Operators or any agents breaching any of the warranties and undertakings housed under this clause 4.5 and which breach pertains to the Personal Information, which the Service Provider or its Operators have received or have been mandated to process in its capacity as Operator terms of this Annexure C.
- 4.6 In the event of the Service Provider, its employees, its Operators or agents breaching any of the warranties and undertakings housed under this clause or breaching any of the provisions of POPIA and / or the POPIA Personal Information conditions, and which breach pertains to the Personal Information which it has received from SANParks or the Data Subjects and which it has been mandated to process in terms of this Annexure, in its capacity as Operator, then in such an event, the Service Provider shall be liable for all and any damages which it may have caused in consequence of said breach, including patrimonial, non-patrimonial and punitive damages actually suffered by SANParks and / or SANParks employee or family member in consequence of said breach.
- 4.7 At the request of SANParks, the Service Provider will provide SANParks with evidence of financial resources sufficient to fulfil its responsibilities set out under this clause, which may include insurance coverage.

## 5. DATA PROTECTION AND THE DUTIES OF THE CONTRACTING PARTIES

- 5.1 The Service Provider and SANParks will collect and process each other's Personal Information for the purposes of the Agreement
- 5.2 Each Party agrees and accepts that they shall process the other Party's Personal Information in their respective capacities as a Responsible Party, which processing shall be done in order to pursue and fulfil the objectives and purposes of the Agreement
- 5.3 Each Party in their respective roles as Responsible Party will process the other's Personal Information in accordance with the provisions of POPIA.
- 5.4 Each Party, in so far as each other's Personal Information is concerned agrees:
  - 5.4.1 to take appropriate, reasonable technical and organisational security measures to protect each other's Personal Information from (i) unauthorised or accidental destruction; (ii) theft, forgery, loss, or unlawful use; (iii) technical faults; (iv) unauthorised alteration, copying access; or (v) any other unauthorised Processing;
  - 5.4.2 to immediately notify the other of any data security breach upon its discovery and promptly make available to the other details of the data security breach;
  - 5.4.3 to reasonably cooperate with each other in order to remediate such data security breach and prevent any recurrence.
- 5.5 On termination of the Agreement, each Party in so far as each other's Personal Information is concerned agrees, subject to the relevant legislation, to destroy or purge any documents, materials, or media that may contain Personal Information pertaining to the other and shall on request provide the other Party with a written and signed certification confirming the destruction.

## 6. TERMINATION

- 6.1 In the event of the Agreement being terminated whenever and for whatsoever reason, then in such an event:
  - 6.1.1 the Service Provider undertakes, where it processes the Data Subject's Personal Information as Operator:
    - (a) to restore and / or transfer back to SANParks all and any Personal Information pertaining to SANParks employees within a period of 30 (thirty) days from date of termination of the Agreement;
    - (b) to confirm in writing simultaneously when a transfer takes place, that all such Personal Information, notwithstanding the return of same to the Service Provider, will be kept confidential and that it will not under any circumstances use the aforementioned information for whatsoever reason.
- 6.2 The Parties respective obligations to maintain confidentiality, privacy and security over Personal Information received pursuant to the Agreement shall survive the termination or expiration of the Agreement.
- 6.3 Without limitation of any provision contained in the Agreement, the Parties shall not use or disclose any Personal Information that such Party creates, receives, maintains, or transmits as a result of entering into or performing the Agreement, other than as expressly permitted or required by the Agreement or under POPIA.
- 6.4 Any breach by the Service Provider of its obligations set out in this Annexure C shall be deemed to be a material breach of this Annexure and every other agreement concluded between the Service Provider and SANParks and shall entitle, but not oblige, SANParks to immediately terminate the Agreement and any other agreement concluded between the parties on written notice to the Service Provider.