



**T52/11/24**

**REQUEST FOR A PROPOSAL FOR THE  
APPOINTMENT OF AN AUDITING FIRM  
TO VERIFY PAYMENTS UNDER THE  
KFW HYDROGEN GRANT  
AGREEMENTS**

**BID CLOSING DATE:  
09 DECEMBER 2024 AT 11:00 AM**

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**SECTION 1: GENERAL CONDITIONS OF BID**

## SECTION 1: GENERAL CONDITION OF BID

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### 1. PROPRIETARY INFORMATION

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Industrial Development Corporation of SA Ltd (IDC) considers this Request for Proposal (RFP) and all related information, either written or verbal, which is provided to the respondent, to be proprietary to IDC. It shall be kept confidential by the respondent and its officers, employees, agents and representatives. The respondent shall not disclose, publish, or advertise this RFP or related information to any third party without the prior written consent of IDC.

### 2. KFW-FINANCED PROCUREMENT REQUIREMENTS

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The RFP will follow South Africa's National Treasury's legislations and IDC's Procurement Policy, led by IDC's Procurement Unit. However, as the funding for the, appointment of an auditing firm to verify payments under the KfW hydrogen Grant agreements, the RFP must also be in compliance with KfW's "Guidelines for the Procurement of Consulting Services, Works, Plant, Goods and Non-Consulting Services in Financial Cooperation with Partner Countries (January 2021)", (the Procurement Guidelines), available at <https://www.kfw-entwicklungsbank.de>, in order to receive No Objection through KfW. KfW shall verify that the procurement process is fair, transparent, economical, free of discrimination and according to the provisions in this RFP.

KfW requires compliance with its documentary requirements as defined and set forth in Section 4 (Annexures) of this RFP. In further pursuance of its Procurement Guidelines, Bidders shall also permit and shall cause its agents to provide information and permit KfW or an agent appointed by KfW to inspect on site all accounts, records and other documents relating to the procurement process and contract performance (in the case of bid award), and to have them audited by auditors or agents appointed by KfW.

### 3. ENQUIRIES

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

Name:	<u>Mr Joseph Phiri</u>
Telephone Number: Office:	<u>+27 11 269 3810</u>
Email address:	<u><a href="mailto:josephp@idc.co.za">josephp@idc.co.za</a></u>

- 3.2. Enquiries in relation to this RFP will not be entertained after 16h00 on 22 November 2024.
- 3.3. The enquiries will be consolidated, and IDC will issue one response and such response will be posted, within two days after the last day of enquiries, onto the IDC website ([www.idc.co.za](http://www.idc.co.za)) under tenders i.e., next to the same RFP document.
- 3.4. The IDC may respond to any enquiry in its absolute discretion and the bidder acknowledges that it will have no claim against the IDC on the basis that its bid was disadvantaged by lack of information, or inability to resolve ambiguities.

### 4. BID VALIDITY PERIOD

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- 4.1. Responses to this RFP received from bidders will be valid for a period of **120** days counted from the bid closing date.

## 5. INSTRUCTIONS ON SUBMISSION OF BIDS

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- 5.1. Bid responses must be submitted in the tender box at the Main Reception area of the IDC Building, 19 Fredman Drive, Sandton
- 5.2. All the documentation submitted must be in English. Respondents shall accompany their Information with a soft copy (USB stick).
- 5.3. The closing date for the submission of bids is **09 December 2024 not later than 11:00 AM** (before midday). No late bids will be considered.
- 5.4. Bids must only be submitted in duplicate in a sealed envelopes endorsed T52/11/24 **APPOINTMENT OF AN AUDITING FIRM TO VERIFY PAYMENTS UNDER THE KFW HYDROGEN GRANT AGREEMENTS**. The documents in the sealed envelopes must be in compliance with the requirements set out in annexure 1 (Response Format) and the price proposal contained therein must be provided in a separate sealed envelope.
- 5.5. The sealed envelope must be placed in the tender box at the Main Reception area of the IDC Building, 19 Fredman Drive, Sandton, South Africa by no later than 09 December 2024, 11:00 AM (South African Time). No late response will be considered. The closing date, company / respondent name and the return address must also be endorsed on the envelope.
- 5.6. If a courier service company is being used for delivery of the RFP description must be endorsed on the delivery note/courier packaging to ensure that documents are delivered into the tender box.

## 6. PREPARATION OF BID RESPONSE

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- 6.1. All the documentation submitted in response to this RFP must be in English.
- 6.2. The bidder is responsible for all the costs that it shall incur related to the preparation and submission of the bid document.
- 6.3. Bids submitted by bidders which are companies or are comprised of companies must be signed by a person or persons duly authorised thereto by a resolution of the applicable Board of Directors, a copy of which Resolution, duly certified, must be submitted with the bid.
- 6.4. The bidder should check the numbers of the pages of its bid to satisfy itself that none are missing or duplicated. No liability will be accepted by IDC in regard to anything arising from the fact that pages of a bid are missing or duplicated.
- 6.5. Bidder's tax affairs with SARS must be in order (tax compliant status) and bidders must provide written confirmation to this effect as part of their tender response.
- 6.6. In the event that the bidding structure is a Prime Contractor with Sub-contractor/(s), then the Prime Contractor must hold the highest percentage allocation in terms of the value of the contract.

## 7. SUPPLIER PERFORMANCE MANAGEMENT

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Supplier Performance Management is viewed by the IDC as a critical component in ensuring value for money acquisition and good supplier relations between the IDC and all its suppliers.

The successful bidder shall upon receipt of written notification of an award, be required to conclude a Service Level Agreement (SLA) with the IDC, which will form an integral part of the supply agreement. The SLA will serve as a tool to measure, monitor, and assess the supplier performance and ensure effective delivery of service, quality and value-add to IDC's business.

Successful bidders will be required to comply with the above condition and provide a scorecard on how their product / service offering is being measured to achieve the objectives of this condition.

## 8. ENTERPRISE AND SUPPLIER DEVELOPMENT

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

## 9. IDC'S RIGHTS

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- 9.1. The IDC is entitled to amend any bid condition, bid validity period, RFP specification, or extend the bid closing date, all before the bid closing date. All bidders, to whom the RFP documents have been issued and where the IDC have record of such bidders, may be advised in writing of such amendments in good time and any such changes will also be posted on the IDC's website under the relevant tender information. All prospective bidders should therefore ensure that they visit the website regularly and before they submit their bid response to ensure that they are kept updated on any amendments in this regard.
- 9.2. The IDC reserves the right not to accept the lowest priced bid or any bid in part or in whole. It normally awards the contract to the bidder who proves to be fully capable of handling the contract and whose bid is functionally acceptable and/or financially advantageous to the IDC.
- 9.3. The IDC reserves the right to conduct site visits at bidder's corporate offices and / or at client sites if so required.
- 9.4. The IDC reserves the right to consider the guidelines and prescribed hourly remuneration rates for consultants as provided in the **National Treasury Instruction 02 of 2016/2017: Cost Containment Measures**, where relevant.
- 9.5. The IDC reserves the right to request all relevant information, agreements, and other documents to verify information supplied in the bid response. The bidder hereby gives consent to the IDC to conduct background checks, including FICA verification, on the bidding entity and any of its directors / trustees / shareholders / members.
- 9.6. The IDC reserves the right, at its sole discretion, to appoint any number of vendors to be part of this panel of service providers, if applicable (i.e., where a panel is considered).
- 9.7. The IDC reserves the right of final decision on the interpretation of its tender requirements and responses thereto.
- 9.8. The IDC reserves the right to consider professional conduct and experiences it had with any bidder which rendered similar services to the IDC in the past 5 years over and above the references put forward by the bidder in its response.

## 10. UNDERTAKINGS BY THE BIDDER

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- 10.1. By submitting a bid in response to the RFP, the bidder will be taken to offer to render all or any of the services described in the bid response submitted by it to the IDC on the terms and conditions and in accordance with the specifications stipulated in this RFP document.
- 10.2. The bidder shall prepare for a possible presentation should IDC require such and the bidder will be required to make such presentation within five (5) days from the date the bidder is notified of the presentation. Such presentation may include a practical demonstration of products or services as called for in this RFP.
- 10.3. The bidder agrees that the offer contained in its bid shall remain binding upon him/her and receptive for acceptance by the IDC during the bid validity period indicated in this RFP and its acceptance shall be subject to the terms and conditions contained in this RFP document read with the bid.
- 10.4. The bidder furthermore confirms that he/she has satisfied himself/herself as to the correctness and validity of his/her bid response; that the price(s) and rate(s) quoted cover all the work/item(s) specified in the bid response documents; and that the price(s) and rate(s) cover all his/her obligations under a resulting contract for the services contemplated in this RFP; and that he/she accepts that any mistakes regarding price(s) and calculations will be at his/her risk.

- 10.5. The successful bidder accepts full responsibility for the proper execution and fulfillment of all obligations and conditions devolving on him/her under the supply agreement and SLA to be concluded with IDC, as the principal(s) liable for the due fulfillment of such contract.
- 10.6. The bidder accepts that all costs incurred in the preparation, presentation and demonstration of the solution offered by it shall be for the account of the bidder. All supporting documentation and manuals submitted with its bid will become IDC property unless otherwise stated by the bidder/s at the time of submission.

## **11. REASONS FOR DISQUALIFICATION**

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- 11.1. The IDC reserves the right to disqualify any bidder which does any one or more of the following, and such disqualification may take place without prior notice to the offending bidder, however the bidder will be notified in writing of such disqualification:
  - 11.1.1. bidders whose Tax Status is non-compliant on the Central Supplier Database (CSD), after they have been notified accordingly and still remain non-compliant;
  - 11.1.2. bidders who submit incomplete information and documentation according to the requirements of this RFP document;
  - 11.1.3. bidders who submit information that is fraudulent, factually untrue, or inaccurate information;
  - 11.1.4. bidders who receive information not available to other potential bidders through fraudulent means;
  - 11.1.5. bidders who do not comply with any of the mandatory requirements as stipulated in the RFP document;
  - 11.1.6. bidders who fail to comply with POPIA requirements as listed herein.

## **12. REQUIREMENTS OF KfW**

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- 12.1. KfW requires compliance with its document requirements as defined and set forth in Section 4 (Annexures 9 and 10).
- 12.2. KfW's eligibility criteria to bid and sanctionable practices are described in Section 4 (Annexures 11 and 12). It is the bidder's responsibility to ensure that its Experts, joint venture members, Sub-consultants, agents (declared or not), sub-contractors, service providers, suppliers and/or their employees meet the requirements of eligibility and conflict of interest as established hereunder.

## **13. RETURNABLE SCHEDULES**

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Bidders shall submit their bid responses in accordance with the returnable schedules specified below (each schedule must be clearly marked):

- 13.1. **Cover Page:** (the cover page must clearly indicate the RFP reference number, bid description and the bidder's name)
- 13.2. **Schedule 1:**
  - 13.2.1. Executive Summary (explaining how you understand the requirements of this RFP and the summary of your proposed solution)
  - 13.2.2. Annexure 1 of this RFP document (duly completed and signed)
- 13.3. **Schedule 2**
  - 13.3.1. Copy of Board Resolution, duly certified;
  - 13.3.2. Originally certified copy of ID document for the Company Representative
  - 13.3.3. Annexure 2 of this RFP document (duly completed and signed);
  - 13.3.4. Annexure 3 of this RFP document (duly completed and signed);



- 13.3.5. Annexure 4 of this RFP document (duly completed and signed);
- 13.3.6. Response to Annexure 6: BEE Commitment Plan
- 13.3.7. Bidders must submit a B-BBEE verification certificate. For Exempted Micro Enterprises (EME) with an annual revenue of less than R10 million and Qualifying Small Enterprises (QSE) with an annual revenue of between R10 million and R50 million per annum, a sworn affidavit confirming the annual total revenue and level of black ownership may be submitted. Any misrepresentation in terms of the declaration constitutes a criminal offence as set out in the B-BBEE Act as amended.

**Note: If a bidder is a Consortium, Joint Venture or Prime Contractor with Subcontractor(s), the documents listed above must be submitted for each Consortium/ JV member or Prime Contractor and Subcontractor(s).**

- 13.3.8. Annexure 7 of this RFP document (duly completed and signed)
- 13.3.9. Annexure 8 of this RFP document (duly completed and signed)
- 13.3.10. Annexure 9: KfW Declaration of Undertaking
- 13.3.11. Annexure 10: KfW Form E/QUAL
- 13.3.12. Statement of Financial Position of the Bidder: Latest Audited Financial Statements (where applicable in terms of the Company's Act) and/or independently reviewed financial statements and/or Cashflow Budget for new entities with no financial records.
- 13.3.13. Copy of Joint Venture/ Consortium/ Subcontracting Agreement duly signed by all parties (if applicable)

**Note: If a bidder is a Consortium, Joint Venture, or a Prime Contractor with Subcontractor(s), the following documents must be submitted for each Consortium/JV member, or Prime Contractor and Subcontractor(s):**

- Valid Tax Clearance Certificate(s) (TCC) and / or proof of application, where relevant
- Originals or certified copies of bidder's company registration documents
- Copy of Board Resolution, duly certified;
- Annexure 3 (Bidder's Disclosure)
- Annexure 4 (Shareholders and Directors Information)
- Annexure 7 (Disclosure Statement)
- Annexure 8 (POPIA Requirements)
- Annexure 9 KfW Declaration of Undertaking
- Annexure 10: KfW Form E-QUAL
- Annexure 11: KfW Eligibility Criteria
- Annexure 12: KfW Policy – Sanctionable Practice – Social and Environmental Responsibility.

- 13.4. **Schedule 3:** Response to Section 3 of this document, in line with format indicated in this RFP document
- 13.5. Annexure 7 of this RFP document, duly completed and signed
- 13.6. **Schedule 4:** Price Proposal (response to Section 4 of this RFP document) (Must be submitted as a separate file/document marked Schedule 4: Price Proposal)

**Note: Price Must be submitted in a separate sealed document marked Schedule 4: Price Proposal**

## 14. EVALUATION CRITERIA AND WEIGHTINGS

Bids shall be evaluated in terms of the following process:

14.1. **Phase 1: Initial Screening Process:** During this phase, bid responses will be reviewed for purposes of assessing compliance with RFP requirements including the general bid conditions and the Specific Conditions of Bid, which requirements include the following:

- Verification of Central Supplier Database (CSD) registration, Company Registration status, tax compliance status and any other relevant checks conducted on CSD.
- Submission of ID copy for the Company Representative as referenced in 11.3.2 above.
- Completion of all Standard Bidding Documents and other requirements, as reflected in this RFP, which covers the following:
  - Section 2: Statement of compliance with the Functional Evaluation Criteria for this RFP.
  - Section 3: Cost Proposal and Price Declaration Form.
  - Annexure 1: Bidders Experience & Project Team.
  - Annexure 2: Acceptance of Bid Conditions
  - Annexure 3: Tax Compliance Requirements.
  - Annexure 4: Bidder's Disclosure.
  - Annexure 5: Shareholders' Information/ Group Structure
  - Annexure 6: BEE Commitment Plan.
  - Annexure 7: Disclosure Statement.
  - Annexure 8: Privacy & Protection of Personal Information Act 4 of 2013 Requirements.

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

### 14.2. Phase 2: Technical/ Functionality Evaluation

Bid responses will be evaluated in accordance with the Functional criteria as follows:

#### 14.2.1. Mandatory Functional/ Technical Requirements

All bid responses that do not meet the Mandatory Functional Requirements will be disqualified and will not be considered for further evaluation on the Other Functional Requirements. The Mandatory Functional Requirements are stated in section 2 of this RFP document.

**Note: Failure to comply with the Mandatory Functional Requirements assessed in this phase will lead to disqualification of bids.**

#### 14.2.2. Other Functional/ Technical Requirements

With regards to the other Functional Requirements, the following criteria (set out in more detail in section 2 of this RFP document) and the associated weightings will be applicable:

ELEMENT	WEIGHT
BIDDER'S RELEVANT EXPERIENCE IN AUDITING	45
BIDDERS METHODOLOGY TO EXECUTE AND PROJECT PLAN	25
QUALIFICATIONS, SKILLS AND EXPERIENCE OF THE TEAM	30
<b>TOTAL</b>	<b>100</b>

**Note: The minimum qualifying score for functionality is 70%. All bidders that fail to achieve the minimum qualifying score on functionality shall not be considered for further evaluation on Price and Specific Goals.**

### 14.3. Phase 3: Preference Point System

All bids that achieve the minimum qualifying score for Functionality (acceptable bids) will be evaluated further in terms of the preference point system, as follows:

CRITERIA	POINTS
Price	80
Specific Goals <sup>1</sup>	20
<b>TOTAL</b>	<b>100</b>

<sup>1</sup>Specific Goals for this tender and points that may be claimed are indicated per table below:

SPECIFIC GOALS	POINTS
	(80/20 system)
Black ownership <sup>2</sup>	10
30% Black women ownership	5
Any % of ownership by Black Designated Groups <sup>3</sup>	2
Reconstruction Development Programme Objective: Promotion of SMMEs (Entities that are EME or QSE)	3
<b>TOTAL POINTS</b>	<b>20</b>

<sup>2</sup>Black ownership: 100% black owned entities will score the full 10 points (if 80/20 system) and between 51% - 99.99% black owned entities will score 4 points (if 80/20 system).

<sup>3</sup>Black Designated Groups has the meaning assigned to it in the codes of good practice issued in terms of section 9(1) of the Broad-Based Black Economic Act as amended.

### 14.4. Phase 4: Objective Criteria

To ensure that a contract is awarded fairly and to the best bidder, the IDC will apply the objective criteria. Therefore, the IDC reserves the right to withhold the award of a contract to the highest scoring bidder if the award poses a risk to the IDC.

Objective Criteria are:

- The bidder that poses reputational risk to the IDC. This will be assessed in line with the bidder's disclosure (Refer to Annexure 7: Disclosure statement of this document).
- The bidder's financial capability in relation to the execution of the contract.
- The bidder's past performance in IDC contracts.

## 15. PROMOTION OF EMERGING BLACK OWNED SERVICE PROVIDERS

It is the IDC's objective to promote transformation across all industries and/ or sectors of the South African economy and as such, bidders are encouraged to partner with a black owned entity (being 50%+1 black owned and controlled). Such partnership may include the formation of a Joint Venture and/ or subcontracting agreement etc., where a portion of the work under this tender would be undertaken by black owned entities. To give effect to this requirement, bidders are required to submit a partnership / subcontracting proposal detailing the portion of work to be outsourced, level of involvement of the black owned partner and where relevant, submit either a consolidated B-BBEE scorecard or each bidder of the partnership in their individual capacity to submit a BEE certificate or Sworn Affidavit in case of an EME or QSE which will be considered as part of the Specific Goals scoring listed in 12.3.

**SECTION 2: FUNCTIONAL REQUIREMENTS SPECIFICATION**

## SECTION 2: FUNCTIONAL REQUIREMENTS

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### 1. SPECIAL INSTRUCTIONS TO BIDDERS

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- 1.1. Should a bidder have reason to believe that the Functional Requirements are not open/fair and/or are written for a particular service provider; the bidder must notify IDC Procurement within five (5) days after publication of the RFP.
- 1.2. Bidders shall provide full and accurate answers to the questions posed in this RFP document, and, where required explicitly state “Comply/Not Comply” regarding compliance with the requirements. Bidders must substantiate their response to all questions, including full details on how their proposal/solution will address specific functional/ technical requirements; failure to substantiate may lead to the bidder being disqualified. All documents as indicated must be supplied as part of the bid response.
- 1.3. Failure to comply with Mandatory Requirements may lead to the bidder being disqualified.

### 2. BACKGROUND INFORMATION

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The German Government in its effort to source green hydrogen (GH<sub>2</sub>) but also to support development in South Africa has embarked on an initiative, through KfW, to select GH<sub>2</sub> projects in South Africa and to provide co-funding for such projects through grants, funds for consulting fees, project development funds and concessionary debt to fund project development and implementation of hydrogen projects. IDC (the Recipient) will be managing the grant funds on behalf of KfW.

As part of the grant arrangement between IDC and KfW, a service provider will be required to provide reasonable assurance engagement in accordance with ISAE 3000. The auditor/practitioner shall thoroughly verify which accounts have been opened by the IDC in connection with the programme. It is the responsibility of IDC to prepare the programme financial reports (“Financial Reports”), the Statements of Expenditures (= List of Expenditures / “SOE”) and the related disbursement requests (overall “Subject Matter Information”). The financial information shall be established in accordance with consistently applied accounting standards and in conformity with the disbursement-related information in the underlying agreements, notably the Grant Agreement including the corresponding Separate Agreement as well as other agreements dealing with the payment flows under this Disbursement in Tranches (together the “Relevant Agreements”).

### 3. SCOPE OF WORK/TERMS OF REFERENCE

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This engagement is a reasonable assurance engagement in accordance with the International Standard on Assurance Engagements ISAE 3000 (Revised) as published by the International Auditing and Assurance Standards Board of the International Federation of Accountants. This standard requires that the auditor/ practitioner will plan and perform procedures considered necessary to obtain reasonable assurance about the Subject Matter information (including on-site visits).

The assurance engagement

- will be carried out annually (“**Reporting Period**”)
- shall cover in one single Report (“**Report**”) all Special Accounts

**Objective**

- The objective of the assurance engagement is to permit the auditor/practitioner to express a conclusion on the Subject Matter Information and to obtain reasonable assurance on grants extended to PtX Developer and expenditure of programme funds / incurred programme costs, i.e., whether the Subject Matter Information is free from material misstatement regarding proper use of KfW funds according to the criteria (“**Criteria**”) listed in Annex 13.
- The auditor/practitioner shall express their conclusion with **reasonable assurance** to each criterion listed in **Annex 13**.

## **Reports**

- The **Report(s)** shall
  - (a) be issued by a renowned auditor/ practitioner in English
  - (b) be presented annually (as signed final version only and approved by the Recipient) not later than six months after the end of the Reporting Period
 

The last audit report shall be presented no later than six months after the end of the Reporting Period in which the final payment out of Special Accounts was made
  - (c) include at a minimum the following elements:
    - description of the Subject Matter
    - description of significant limitations
  - (d) state in a separate paragraph any tax amounts or other project related contributions paid and not refunded, if the Relevant Agreements prohibit financing of these costs
  - (e) comprise the auditor’s/practitioner’s statement on the seriousness of observations noted including the consequences of specific deficiencies, if any
  - (f) contain the following annexes:
    - Reports A and B under Annexure 13 (completely filled)
    - Below ToRs.

## **Management Letter / Statement on Internal Control**

- The auditor/ practitioner shall prepare a “**Management Letter**” or “**Statement on Internal Control**” in which he will:
  - (a) give comments, observations and recommendations on
    - the accounting records
    - systems and controls examined (with special focus on grant processing and monitoring by the Recipient, internal audits, etc.)
  - (b) identify deficiencies and areas of weakness in relevant systems and controls that have come to the auditor’s/practitioner’s attention, rank them according to importance and make recommendations for their improvement.

- (c) report on actions taken by the management to make improvements with respect to deficiencies and areas of weakness reported in the past.
- (d) bring to the management's attention any other matters that the auditor/practitioner considers pertinent.
- (e) insert the management's position on each of his observations.

The financial impact of findings must be quantified.

### **Liability**

The amount of the professional liability insurance shall be based on local/regional standards for audit companies. When prompted to do so, the auditor/practitioner will provide the recipient and/or KfW with evidence of his liability insurance.

### **Review**

The auditor/practitioner shall keep documentation supporting his conclusion until at least five (5) years after completion of the assurance engagement and shall have it accessible at all times for review by the Recipient, KfW or any third party commissioned by them.

**Note: We do not accept a limited assurance engagement.**

## **4. PROJECT TIMELINES**

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The appointed Service Provider(s) will be required to start immediately after award and provide the services for a period linked to IDC/KfW grant agreement which is expected to be five (5) years, subject to annual review of the service provider's performance.

## 5. TECHNICAL EVALUATION CRITERIA

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### 5.1. Mandatory Technical Requirements

The service provider must indicate their compliance/ non-compliance to the following requirements and to substantiate as required. The bidder must respond in the format below, where additional information is provided/ attached somewhere else; such information must be clearly referenced.

5.1.1 IRBA REGISTRATION	COMPLY	NOT COMPLY
<p>The bidder and each of the partners/Directors proposed to work on this assignment must be registered and in good standing with the Independent Regulatory Board for Auditors (IRBA).</p> <p><b>The bidder must attach as part of this proposal documentary <u>proof of their regulatory registration</u> and <u>must also provide IRBA certification for each of the partners</u> proposed to work on the KfW audit including the lead audit partner/s.</b></p>		
<p><b>Substantiate / Comments</b></p>		

5.1.2 IMPARTIALITY AND INDEPENDENCE ON THE ASSIGNMENT	COMPLY	NOT COMPLY
<p>The bidder <b>MUST</b> confirm its commitment to ensure impartiality and independence on the assignment and to declare that no conflict of interest in whatever form (i.e. perceived-, actual-, or potential conflict of interest) exist on this assignment.</p> <p>To give effect to the requirements of impartiality and independence on this assignment, the bidder nor any of its proposed consultants should have undertaken any consulting work related to the IDC-KfW Grant Agreement.</p> <p><b>Note: To substantiate, the bidder must attach as part of this proposal a letter, duly signed to confirm impartiality and independence.</b></p>		
<p><b>Substantiate / Comments</b></p>		



## 5.2. Other Technical Requirements

The service provider must indicate their compliance/ non-compliance to the following requirements and to substantiate as required. The bidder must respond in the format below, where additional information is provided/ attached somewhere else; such information must be clearly referenced.

5.2.1 BIDDER'S RELEVANT EXPERIENCE	COMPLY	PARTIALLY COMPLY	NOT COMPLY
<p>The bidder must have relevant experience in providing auditing services to Public Entities/or Gant programs in South Africa.</p> <p>The bidder must provide three (3) references for similar work done in the past five (5) years.</p> <p>Refer to <b>Table (a) Annexure 1</b> of this document for the format in which the required information must be provided.</p>			
<p><b>Substantiate / Comments</b></p>			

5.2.2 BIDDER'S PROPOSED METHODOLOGY	COMPLY	PARTIALLY COMPLY	NOT COMPLY
<p>The bidder must demonstrate thorough understanding of the objectives and deliverables of this project.</p> <p>The bidder must provide a detailed proposal of the methodology/ approach to be used to carry out the scope of work outlined above and clearly demonstrate how the audit deliverables will be achieved.</p>			
<p><b>Substantiate / Comments</b></p>			

5.2.3 QUALIFICATIONS AND SKILLS OF KEY PERSONNEL	Comply	Partially Comply	Not Comply
<p>The bidder's key personnel of the proposed audit team must have relevant qualifications, skills, and experience in Audit including Technical Accounting.</p> <ul style="list-style-type: none"> <li>• The Partner must be a CA with a minimum of five (5) years relevant experience.</li> <li>• The other audit specialists must have relevant experience, skills and qualifications</li> </ul> <p>The bidder must submit, as part of its proposal, the following:</p> <ul style="list-style-type: none"> <li>• The structure and composition of the proposed team, clearly outlining the main disciplines/ specialties of this audit and the key personnel responsible for each specialty. Refer to <b>Table (b) Annexure 1</b> of this document for the format in which the required information must be provided.</li> <li>• CVs of the key personnel must clearly highlight qualifications, areas of experience/ competence relevant to the tasks and objectives of the assignment as outlined above.</li> </ul>			
<p><b>Substantiate / Comments</b></p>			

## **SECTION 3: COST PROPOSAL**

### SECTION 3: COST PROPOSAL

1. **NOTE: All prices must be VAT inclusive (where applicable) and must be quoted in South African Rand (ZAR).**

2. Are the rates quoted firm for the full period of the contract? 

YES	NO
-----	----

**Important:** If not firm for the full period, provide details of the basis on which price adjustments shall be applied e.g., CPI etc.

3. All additional costs associated the bidder's offer must be clearly specified and included in the Total Bid Price.

4. Is the proposed bid price linked to the exchange rate?	Yes	No
<b><i>If yes, the bidder must indicate CLEARLY which portion of the bid price is linked to the exchange rate:</i></b>		

5. Payments will be linked to specified deliverables after such deliverables have been approved by the IDC and KfW. Payments will be made within 30 days from date of invoice.	Comply	Not Comply

6. The IDC reserves the right to consider the guidelines on consultancy rates as set out in the <b>National Treasury Instruction 02 of 2016/2017: Cost Containment Measures</b> which took effect from 01 January 2014, where relevant.  The bidder must indicate if their proposed rates are in line with the provisions of the referenced National Treasury Instruction: Cost Containment Measures.	Comply	Not Comply

Substantiate / Comments

## 7. COSTING MODEL

The pricing to be provided with this tender response should include costing for a period of five (5) years, however the IDC will exercise its right to appoint its auditors on an annual basis linked to the IDC-KfW Grant Agreement, based on performance of the audit firm.

Resource(s)	Hourly Rate per resource	Number of hours	Total Cost (VAT Excl.)
Partner			
<b>Specialists:</b>			
Audit Specialist			
Disbursements			
<b>Sub-Total Annual Audit Fees Year 1 (VAT Excl.)</b>			
<b>Sub-Total Annual Audit Fees Year 2 (VAT Excl.)</b>			
<b>Sub-Total Annual Audit Fees Year 3 (VAT Excl.)</b>			
<b>Sub-Total Annual Audit Fees Year 4 (VAT Excl.)</b>			
<b>Sub-Total Annual Audit Fees Year 5 (VAT Excl.)</b>			
<b>VAT (15%)</b>			
<b>Total for a period of five (5) years (VAT Inclusive.)</b>			

The bidder must provide a detailed breakdown of the Disbursements as follows:

Cost Element	Cost (VAT Excl.)
<b>Sub-Total Disbursements</b>	

**Note on pricing:**

Disbursements (incidental expenses other than professional fees e.g., travel and accommodation, printing costs, etc.) must be clearly defined, outlining all assumptions. It is of utmost importance to submit clear and comprehensive cost proposals to allow the IDC to fairly compare bid price / cost proposals. If there is no additional fee envisaged for Disbursements, then the bidder must clearly indicate "No Charge / Free of Charge". Failure to clearly indicate this, would result in IDC penalising your bid response by taking the cost of the highest bidder and adding 50% thereto and apply this rate for purposes of price comparisons. Bidders are therefore requested to respond clearly and comprehensively on this aspect of their bid response.

**8.1 SUMMARY OF THE PROPOSAL**

<b>DESCRIPTION</b>	<b>BIDDER'S PROPOSAL</b>
<b>Number of resources (personnel)</b>	
<b>Project duration (in hours)</b>	
<b>Project duration (in months)</b>	
<b>Commencement Date</b>	

**PRICE DECLARATION FORM**

Dear Sir,

Having read through and examined the Request for Proposal (RFP) Document, RFP no. **T52/11/24**, the General Conditions, and all other Annexures to the RFP Document, we offer to provide audit services to verify payments under the KfW Hydrogen Grant agreements as specified in this RFP document.

**R..... (Including VAT)**

**In words**

**R..... (Including VAT)**

We confirm that this price covers all activities associated with the service, as called for in the RFP document. We confirm that IDC will incur no additional costs whatsoever over and above this amount in connection with the provision of this service.

We undertake to hold this offer open for acceptance for a period of 120 days from the date of submission of offers. We further undertake that upon final acceptance of our offer, we will commence with the provision of the required service when required to do so by the IDC.

We understand that you are not bound to accept the lowest or any offer, and that we must bear all costs which we have incurred in connection with preparing and submitting this bid.

We hereby undertake for the period during which this bid remains open for acceptance, not to divulge to any persons, other than the persons to whom the bid is submitted, any information relating to the submission of this bid or the details therein except where such is necessary for the submission of this bid.

**SIGNED**

**DATE**

\_\_\_\_\_

(Print name of signatory)

Designation

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

**FOR AND ON BEHALF  
OF:**

COMPANY  
NAME

Tel No

Fax No

Cell No

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

## **SECTION 4: ANNEXURES**



**ANNEXURE 1: RESPONSE FORMAT FOR SECTION 2**

**Bidder's Experience and the proposed Project Team**

Request for Proposal No: \_\_\_\_\_  
 Name of Bidder: \_\_\_\_\_  
 Authorised signatory: \_\_\_\_\_

*[Note to the Bidder: The bidder must complete the information set out below in response to the requirements stated in Section 2 of this bid document. If the bidder requires more space than is provided below it must prepare a document in substantially the same format setting out all the information referred to below and return it with this Returnable Schedule 3.]*

**The bidder must provide the following information:**

**Table (a) Details of the bidder's experience in providing a reasonable assurance assessment in accordance with the International Standard on Assurance Engagements ISAE 3000 (Revised) as published by the International Auditing and Assurance Standards Board of the International Federation of Accountants**

Client' Name	Industry	Project period (Start and End Dates)	Description of service performed and extent of Bidder's responsibilities	Name, contact details of client

**Table (b) Details of the key personnel of the bidders' proposed team: (please refer to par 5.2.3 of Section 2 of this RFP document):**

Name	Role / Duties in this Project	Relevant Project Experience		
		Years of experience	Qualifications	CV is attached Yes/No

**ANNEXURE 2: ACCEPTANCE OF BID CONDITIONS AND BIDDER'S DETAILS**

Request for Proposal No: \_\_\_\_\_  
 Name of Bidder: \_\_\_\_\_  
 Authorised signatory: \_\_\_\_\_  
 Name of Authorised Signatory \_\_\_\_\_  
 Position of Authorised Signatory \_\_\_\_\_

By signing above the bidder hereby accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on him/her under this RFP.

**[Note to the Bidder: The Bidder must complete all relevant information set out below.]**

**CENTRAL SUPPLIER DATABASE (CSD) 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. Bidders are therefore required to submit as part of this proposal both their CSD supplier number and CSD unique registration reference numbers below:**

<b>Supplier Number</b>	
<b>Unique registration reference number</b>	

**BIDDING STRUCTURE**

<b>Indicate the type of Bidding Structure by marking with an 'X':</b>	
<b>Individual Bidder</b>	
<b>Joint Venture/ Consortium</b>	
<b>Prime Contractor with Sub Contractors</b>	
<b>Other</b>	

**REQUIRED INFORMATION**

<b>If Individual Bidder:</b>	
Name of Company	
Registration Number	
Vat registration Number	
Contact Person	
Telephone Number	
Cellphone Number	
Fax Number	
Email address	
Postal Address	
Physical Address	

<b>If Joint Venture or Consortium, indicate the following for each partner:</b>	
<b>Partner 1</b>	
Name of Company	
Registration Number	
Vat registration Number	
Contact Person	
Telephone Number	
Cellphone Number	
Fax Number	
Email address	
Postal Address	
Physical Address	
Scope of work and the value as a % of the total value of the contract	

<b>Partner 2</b>	
Name of Company	
Registration Number	
Vat registration Number	
Contact Person	
Telephone Number	
Cellphone Number	
Fax Number	
Email address	
Postal Address	
Physical Address	
Scope of work and the value as a % of the total value of the contract	

<b>If bidder is a Prime Contractor using Sub-contractors, indicate the following:</b>	
<b>Prime Contractor</b>	
Name of Company	
Registration Number	
Vat registration Number	
Contact Person	
Telephone Number	
Cellphone Number	
Fax Number	
Email address	
Postal Address	
Physical Address	
<b>Sub-contractors</b>	
Name of Company	
Company Registration Number	
Vat registration Number	
Contact Person	
Telephone Number	
Cellphone Number	
Fax Number	
Email address	
Postal Address	
Physical Address	
Subcontracted work as a % of the total value of the contract	

## ANNEXURE 3: TAX COMPLIANCE REQUIREMENTS

1. TAX COMPLIANCE REQUIREMENTS		
1.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.		
1.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.		
1.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.		
1.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS TOGETHER WITH THE BID.		
1.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE PROOF OF TCS / PIN / CSD NUMBER.		
1.6 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.		
2. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS		
2.1 IS THE BIDDER A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?		<input type="checkbox"/>
YES <input type="checkbox"/> NO		
2.2 DOES THE BIDDER HAVE A BRANCH IN THE RSA?		<input type="checkbox"/> YES <input type="checkbox"/>
NO		
2.3 DOES THE BIDDER HAVE A PERMANENT ESTABLISHMENT IN THE RSA?		
<input type="checkbox"/> YES <input type="checkbox"/> NO		
2.4 DOES THE BIDDER HAVE ANY SOURCE OF INCOME IN THE RSA?		
<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 OBTAIN A TAX COMPLIANCE STATUS / TAX COMPLIANCE SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 1.3 ABOVE.</b></p>		
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:	

## ANNEXURE 4: BIDDER'S DISCLOSURE

### 1. PURPOSE OF THE FORM

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

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

### 2. BIDDER'S DECLARATION

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

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

Full Name	Identity Number	Name of State institution

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

2.2.1 If so, furnish particulars:  
.....  
.....

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

2.3.1 If so, furnish particulars:  
.....  
.....

### 3 DECLARATION

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

3.1 I have read, and I understand the contents of this disclosure;

\_\_\_\_\_

<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.

- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement, or arrangement with any competitor. However, communication between partners in a joint venture or consortium<sup>2</sup> will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements, or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.
- 3.6 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

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

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

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of bidder

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<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.

**ANNEXURE 5: SHAREHOLDERS AND DIRECTORS INFORMATION**

[Note to the bidder: the bidder must complete the information set out below. If the bidder requires more space than is provided below it must prepare a document in substantially the same format setting out all the information referred to below and return it with Returnable Schedule 2.]

**1 Shareholders/ Members**

Name of the shareholder	ID Number	Race	Gender	% Shares

**Note: The bidder must also attach the detailed Company/ Group Structure where relevant.**

**2 Trust Information**

With reference to point 8.6 IDC Rights, should a trust form part of the Company / Group structure then the following must be submitted as part of your proposal.

<b>Documents necessary to verify the Identity of a Trust</b>	<input type="checkbox"/> Copy of trust deed or other founding document by which trust is created.  <input type="checkbox"/> Letters of authority (as issued by the Master of the High Court)  <input type="checkbox"/> Personal details of each Trustee, each Beneficiary, the Founder, and the person authorised to act on behalf of the Trust
--	---

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

Name of the shareholder	ID Number	Race	Gender	% Shares
<b>Total Black Shareholding % as per the current and valid B-BBEE Certificate</b>				

**4 Directors**

Name of the shareholder	ID Number	Race	Gender

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

CERTIFY THAT THE INFORMATION FURNISHED ABOVE IS CORRECT.

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of bidder

## **ANNEXURE 6: BEE COMMITMENT PLAN**

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The IDC encourages existing vendors and prospective bidders to support the objectives of B-BBEE and as far as possible strive to improve their B-BBEE contribution status. For bid evaluation purposes, bidders are allocated points in terms of a preference point system based on the Specific Goals which requires the bidder to have a valid B-BBEE certificate or a sworn affidavit in case of a EME or QSE.

Bidders are therefore required to submit a B-BBEE improvement plan in view of the new B-BBEE Codes of Good Practice. Bidders must indicate the extent to which their ownership, management control, employment equity, preferential procurement and enterprise development will be maintained or improved over the contract period in the event that they are successful in this bid process.



## **ANNEXURE 7: DISCLOSURE STATEMENT**

**In terms of the tender condition 8.6, which allows the IDC to conduct background checks on bidders and its shareholders and directors, the IDC hereby requires bidders to provide the following additional information:**

1. The IDC considers the integrity of its appointed service providers to be of critical importance. The IDC reserves the right to apply its objective criteria to award to any bidders whose integrity, based on past conduct (during the 5 years immediately preceding the bid submission date), it considers questionable.
2. To this end, the IDC requires each bidder to include in its bid, a disclosure statement which details the following (sufficient information and supporting documentation for the IDC to make its own assessment as to the materiality or seriousness of allegations regarding the bidder's integrity or conduct): any criminal charges made against the bidder or any of its directors, shareholders, or management officials regarding their professional conduct;
  - 2.1. any civil proceedings initiated against the bidder or any of its directors, shareholders, or management officials regarding their professional conduct; and
  - 2.2. any other enquiry or similar proceedings initiated or threatened against the bidder or any of its directors, shareholders, or management officials regarding their professional conduct.
3. Where the bidder is a consortium, the disclosure statement referred to in paragraph 2.2 above must be made separately in respect of each consortium partner.
4. In the event that the bidder's circumstances change, after submission of its bid, regarding any matter referred to in paragraph 2.2 above or in regard to any matter referred to in its disclosure statement, the bidder must submit a written notification to IDC indicating the nature and extent of such changed circumstances.
5. The IDC reserves the right to seek such additional information from any bidder, in respect of the disclosure statement referred to in paragraph 2.2 above, as it may, in its sole discretion, determine, whether such information has been requested under this RFP or otherwise, and may require the bidder to make oral presentations for clarification purposes or to present supplementary information, in respect of the disclosure statement if so required by the IDC.
6. Based on its own assessment of the contents of the bidder's disclosure statement and any publicly available information which is relevant to the contents of such disclosure statement, the IDC will decide whether the bidder's conduct or any allegations relating thereto pose a risk, reputational or otherwise, to the IDC; and if it reaches an adverse conclusion the IDC will in its sole discretion have the right not to award a contract or order.

**SIGNED**

**DATE**

\_\_\_\_\_

(Print name of signatory)

Designation

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

**FOR AND ON BEHALF OF:**

COMPANY  
NAME

Tel No

Fax No

Cell No

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

## **ANNEXURE 8: PRIVACY & PROTECTION OF PERSONAL INFORMATION ACT 4 OF 2013 REQUIREMENTS**

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<b>Request for Proposal No:</b>	
<b>Name of Bidder:</b>	
<b>Authorised signatory:</b>	

Protecting personal information is important to the Industrial Development Corporation (IDC). To do so, IDC follows general principles in accordance with applicable privacy laws and the Protection of Personal Information Act 4 of 2013 (POPIA).

IDC's role as a responsible party, is amongst others to process personal information for the intended purpose for which it was obtained and in line with legal agreements with its respective/ prospective clients, third parties, suppliers, and operators.

Who is an Operator? A person or body/ entity which processes personal information for the IDC in terms of a contract or mandate.

Who is a Supplier? a natural or juristic person that provides a product or renders a service to the IDC. A supplier could also be considered as an operator, an independent responsible party or (together with IDC) a joint responsible party.

If the supplier or business partner provides IDC with its related persons' personal information, the supplier or business partner warrants that the related persons are aware of and have consented to the sharing and processing of their personal information with/by IDC. IDC will process the personal information of related persons as stated under a contractual agreement or as required by any related legislation.

Examples of the personal information of the supplier or business partner where relevant may include (but are not limited to): financial information, including bank statements provided to the IDC; invoices issued by the supplier or business partner; the contract/ legal agreement between the IDC and the supplier or business partner; other identifying information, which includes company registration numbers, VAT numbers, tax numbers and contact details; marital status and matrimonial property regime (e.g. married in community of property); nationality; age; language; date of birth; education; financial history; identifying numbers (e.g. an account number, identity numbers or passport numbers); email address; physical address (e.g. residential address, work address or physical location); information about the location (e.g. geolocation or GPS location); telephone numbers; online and other unique identifiers; social media profile/s; biometric information (like fingerprints, facial recognition signature; race; gender; sex; criminal history).

Example of Special personal information is personal information about the following: - criminal behaviour, or any proceedings in respect of any offence allegedly committed by a data subject or the disposal of such proceedings; religious and philosophical beliefs; trade union membership; political beliefs; health, including physical or mental health, disability, and medical history; or biometric information (e.g. to verify identity).

### **RESPONSIBILITIES OF SUPPLIERS AND BUSINESS PARTNERS WHO ARE OPERATORS UNDER POPIA**

Where a supplier or business partner, in terms of a contract or mandate, processes personal information for the IDC and is considered an operator of the IDC, the supplier or the business partner will be required to adhere to the obligations set out in the IDC data privacy or POPIA policy. This policy sets out the rules of engagement in relation to how personal information is processed by

suppliers and business partners on behalf of the IDC as well as the minimum legal requirements that IDC requires the suppliers and business partners to adhere to, including compliance with POPIA as summarised in the below table.

ITEM	GUIDING CONDITIONS FOR PROCESSING PERSONAL INFORMATION	YES	NO
1.	<p><b>Accountability</b></p> <p>The respective clients, third parties, suppliers and operators and its members will ensure that the provisions of POPIA, the guiding principles outlined in the policy and all the measures that give effect to such provisions are complied with at the time of the determination of the purpose and means of the processing and during the processing itself. In the event that an employee of the IDC or any person acting on behalf of the corporation who through their intentional or negligent actions and/or omissions fail to comply with the principles and responsibilities outlined, proper corrective measures will be applied.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
2.	<p><b>Processing Limitation</b></p> <p>The respective clients, third parties, suppliers and operators and its members will ensure that information is only processed for the justifiable reason and processing is compatible with the purpose of the collection.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
3.	<p><b>Purpose Specification</b></p> <p>All respective clients, third parties, suppliers and operators and its members will process personal information only for specific, explicitly defined, and legitimate reasons. The respective clients, third parties, suppliers and operators will inform IDC of reasons prior to collecting or recording their PI.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.	<p><b>Further Processing Limitation</b></p> <p>Personal information will not be processed for a secondary purpose unless that processing is compatible with the original purpose. Thus, where the respective clients, third parties, suppliers and operators seek to process personal information it holds for a purpose for which it was originally collected, and where this secondary purpose is not compatible with the original purpose, respective clients, third parties, suppliers and operators will first obtain additional consent from the IDC.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
5.	<p><b>Information Quality</b></p> <p>The respective clients, third parties, suppliers and operators will take reasonable steps to ensure that all personal information collected is complete, accurate and not misleading. Where PI is collected or received from third parties, the respective clients, third parties, suppliers and operators will take reasonable steps to confirm that the information is correct by verifying the accuracy of the information directly with the data subject or by way of independent sources.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
6.	<p><b>Open Communication</b></p> <p>Reasonable steps will be taken by the respective clients, third parties, suppliers and operators to ensure that the IDC is notified of the purpose for which the information is being collected, used, and processed.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
7.	<p><b>Security Safeguards</b></p> <p>It is a requirement of POPIA for responsible parties, business partners and operators to adequately protect personal information. IDC will need to review suppliers or business partner security controls and processes to ensure that personal Information is compliant with the conditions of the lawful processing of personal information as set out in the POPIA. This would be a continuous monitoring and review that will be conducted by the IDC at its discretion.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>

ITEM	GUIDING CONDITIONS FOR PROCESSING PERSONAL INFORMATION	YES	NO
8.	<b>Data Subject Participation</b> A data subject whose PI has been collected, stored, and processed by the respective clients, third parties, suppliers and operators must have communication channels to attend to may request for the correction or deletion of such information.	Yes <input type="checkbox"/>	No <input type="checkbox"/>

I, \_\_\_\_\_ (print name) hereby certify that the information, facts, and representations are correct and that I am duly authorized to sign on behalf of the company.

Name \_\_\_\_\_ of \_\_\_\_\_ Company/ \_\_\_\_\_ Entity:

Company/ \_\_\_\_\_ Entity \_\_\_\_\_ Registration \_\_\_\_\_ Number:

Company/ \_\_\_\_\_ Entity \_\_\_\_\_ VAT \_\_\_\_\_ Registration \_\_\_\_\_ Number:

\_\_\_\_\_  
 Signature (Company/ Entity Representative)

\_\_\_\_\_  
 Date

## Annexure 9: KfW Declaration of Undertaking

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### DECLARATION OF UNDERTAKING

Reference name of the Application/Offer/Contract: ("Contract")<sup>3</sup>

To: ("Project Executing Agency")

1. We recognise and accept that KfW only finances projects of the Project Executing Agency ("PEA")<sup>4</sup> subject to its own conditions which are set out in the Funding Agreement it has entered into with the PEA. As a matter of consequence, no legal relationship exists between KfW and our company, our Joint Venture or our Subcontractors under the Contract. The PEA retains exclusive responsibility for the preparation and implementation of the Tender Process and the performance of the Contract.
2. We hereby certify that neither we nor any of our board members or legal representatives nor any other member of our Joint Venture including Subcontractors under the Contract are in any of the following situations:
  - 2.1) being bankrupt, wound up or ceasing our activities, having our activities administered by courts, having entered into receivership, reorganisation or being in any analogous situation;
  - 2.2) convicted by a final judgement or a final administrative decision or subject to financial sanctions by the United Nations, the European Union or Germany for involvement in a criminal organisation, money laundering, terrorist-related offences, child labour or trafficking in human beings; this criterion of exclusion is also applicable to legal Persons, whose majority of shares are held or factually controlled by natural or legal Persons which themselves are subject to such convictions or sanctions;
  - 2.3) having been convicted by a final court decision or a final administrative decision by a court, the European Union, national authorities in the Partner Country or in Germany for Sanctionable Practice in connection with a Tender Process or the performance of a Contract or for an irregularity affecting the EU's financial interests (*in the event of such a conviction, the Applicant or Bidder shall attach to this Declaration of Undertaking supporting information showing that this conviction is not relevant in the context of this Contract and that adequate compliance measures have been taken in reaction*);
  - 2.4) having been subject, within the past five years to a contract termination fully settled against us for significant or persistent failure to comply with our contractual obligations during such Contract performance, unless this termination was challenged and dispute resolution is still pending or has not confirmed a full settlement against us;
  - 2.5) not having fulfilled applicable fiscal obligations regarding payments of taxes either in the country where we are constituted or the PEA's country;

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<sup>3</sup> Capitalised terms used, but not otherwise defined in this Declaration of Undertaking have the meaning given to such term in KfW's "Guidelines for the Procurement of Consulting Services, Works, Goods, Plant and Non-Consulting Services in Financial Cooperation with Partner Countries".

<sup>4</sup> The PEA means the purchaser, the employer, the client, as the case may be, for the procurement of Consulting Services, Works, Plant, Goods or Non-Consulting Services.

2.6) being subject to an exclusion decision of the World Bank or any other multilateral development bank and being listed on the website <http://www.worldbank.org/debarr> or respectively on the relevant list of any other multilateral development bank (*in the event of such exclusion, the Applicant or Bidder shall attach to this Declaration of Undertaking supporting information showing that this exclusion is not relevant in the context of this Contract and that adequate compliance measures have been taken in reaction*); or

2.7) being guilty of misrepresentation in supplying the information required as condition to participation in this Tender Procedure.

3. We hereby certify that neither we, nor any of the members of our Joint Venture or any of our Subcontractors under the Contract are in any of the following situations of conflict of interest:

3.1) being an affiliate controlled by the PEA or a shareholder controlling the PEA, unless the stemming conflict of interest has been brought to the attention of KfW and resolved to its satisfaction;

3.2) having a business or family relationship with a PEA's staff involved in the Tender Process or the supervision of the resulting Contract, unless the stemming conflict of interest has been brought to the attention of KfW and resolved to its satisfaction;

3.3) being controlled by or controlling another Applicant or Bidder, or being under common control with another Applicant or Bidder, or receiving from or granting subsidies directly or indirectly to another Applicant or Bidder, having the same legal representative as another Applicant or Bidder, maintaining direct or indirect contacts with another Applicant or Bidder which allows us to have or give access to information contained in the respective Applications or Offers, influencing them or influencing decisions of the PEA;

3.4) being engaged in a Consulting Services activity, which, by its nature, may be in conflict with the assignments that we would carry out for the PEA;

3.5) in the case of procurement of Works, Plant or Goods:

i. having prepared or having been associated with a Person who prepared specifications, drawings, calculations and other documentation to be used in the Tender Process of this Contract;

ii. having been recruited (or being proposed to be recruited) ourselves or any of our affiliates, to carry out works supervision or inspection for this Contract;

4. If we are a state-owned entity, and compete in a Tender Process, we certify that we have legal and financial autonomy and that we operate under commercial laws and regulations.

5. We undertake to bring to the attention of the PEA, which will inform KfW, any change in situation with regard to points 2 to 4 here above.

6. In the context of the Tender Process and performance of the corresponding Contract:

6.1) neither we nor any of the members of our Joint Venture nor any of our Subcontractors under the Contract have engaged or will engage in any Sanctionable Practice during the Tender Process and in the case of being awarded a Contract will engage in any Sanctionable Practice during the performance of the Contract;

6.2) neither we nor any of the members of our Joint Venture or any of our Subcontractors under the Contract shall acquire or supply any equipment nor

operate in any sectors under an embargo of the United Nations, the European Union or Germany; and

6.3) we commit ourselves to complying with and ensuring that our Subcontractors and major suppliers under the Contract comply with international environmental and labour standards, consistent with laws and regulations applicable in the country of implementation of the Contract and the fundamental conventions of the International Labour Organisation<sup>5</sup> (ILO) and international environmental treaties. Moreover, we shall implement environmental and social risks mitigation measures when specified in the relevant environmental and social management plans or other similar documents provided by the PEA and, in any case, implement measures to prevent sexual exploitation and abuse and gender based violence.

7. In the case of being awarded a Contract, we, as well as all members of our Joint Venture partners and Subcontractors under the Contract will, (i) upon request, provide information relating to the Tender Process and the performance of the Contract and (ii) permit the PEA and KfW or an auditor appointed by either of them, and in the case of financing by the European Union also to European institutions having competence under European Union law, to inspect the respective accounts, records and documents, to permit on the spot checks and to ensure access to sites and the respective project.
8. In the case of being awarded a Contract, we, as well as all our Joint Venture partners and Subcontractors under the Contract undertake to preserve above mentioned records and documents in accordance with applicable law, but in any case for at least six years from the date of fulfillment or termination of the Contract. Our financial transactions and financial statements shall be subject to auditing procedures in accordance with applicable law. Furthermore, we accept that our data (including personal data) generated in connection with the preparation and implementation of the Tender Process and the performance of the Contract are stored and processed according to the applicable law by the PEA and KfW.

Name: \_\_\_\_\_ In the capacity of: \_\_\_\_\_

Duly empowered to sign in the name and on behalf of<sup>6</sup>: \_\_\_\_\_

Signature:

Dated:

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<sup>5</sup> In case ILO conventions have not been fully ratified or implemented in the Employer's country the Applicant/Bidder/Contractor shall, to the satisfaction of the Employer and KfW, propose and implement appropriate measures in the spirit of the said ILO conventions with respect to a) workers grievances on working conditions and terms of employment, b) child labour, c) forced labour, d) worker's organisations and e) non-discrimination.

<sup>6</sup> In the case of a JV, insert the name of the JV. The person who will sign the application, bid or proposal on behalf of the Applicant/Bidder shall attach a power of attorney from the Applicant/Bidder.

## Annexure 10: KfW Eligibility Criteria

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### Eligibility in KfW-Financed Procurement

1. Consulting Services, Works, Goods, Plant and Non-Consulting Services are eligible for KfW financing regardless of the country of origin of the Contractors (including Subcontractors and suppliers for the execution of the Contract), except where an international embargo or sanction by the United Nations, the European Union or the German Government applies.
2. Applicants/Bidders (including all members of a Joint Venture and proposed or engaged Subcontractors) shall not be awarded a KfW-financed Contract if, on the date of submission of their Application/Offer or on the intended date of Award of a Contract, they:
  - 2.1 are bankrupt or being wound up or ceasing their activities, are having their activities administered by courts, have entered into receivership, or are in any analogous situation;
  - 2.2 have been
    - (a) convicted by a final judgement or a final administrative decision or subject to financial sanctions by the United Nations, the European Union and/or the German Government for involvement in a criminal organisation, money laundering, terrorist-related offences, child labour or trafficking in human beings; this criterion of exclusion is also applicable to legal Persons, whose majority of shares are held or factually controlled by natural or legal Persons which themselves are subject to such convictions or sanctions;
    - (b) convicted by a final court decision or a final administrative decision by a court, the European Union or national authorities in the Partner Country or in Germany for Sanctionable Practice during any Tender Process or the performance of a Contract or for an irregularity affecting the EU's financial interests, unless they provide supporting information together with their Declaration of Undertaking (Form available as Appendix to the Application/Offer which shows that this conviction is not relevant in the context of this Contract and that adequate compliance measures have been taken in reaction;
  - 2.3 have been subject within the past five years to a Contract termination fully settled against them for significant or persistent failure to comply with their contractual obligations during Contract performance, unless this termination was challenged and the dispute resolution is still pending or has not confirmed a full settlement against them;
  - 2.4 have not fulfilled applicable fiscal obligations regarding payments of taxes either in the country where they are constituted or the PEA's country;
  - 2.5 are subject to an exclusion decision of the World Bank or any other multilateral development bank and are listed in the respective table with debarred and cross-debarred firms and individual available on the World Bank's website or any other multilateral development bank unless they provide supporting information together with their Declaration of Undertaking which shows that this exclusion is not relevant in the context of this Contract or
  - 2.6 have given misrepresentation in documentation requested by the PEA as part of the Tender Process of the relevant Contract.



3. State-owned entities may compete only if they can establish that they (i) are legally and financially autonomous, and (ii) operate under commercial law. To be eligible, a state-owned entity shall establish to KfW's satisfaction, through all relevant documents, including its charter and other information KfW may request, that it: (i) is a legal entity separate from their state (ii) does not currently receive substantial subsidies or budget support; (iii) operates like any commercial enterprise, and, inter alia, is not obliged to pass on its surplus to their state, can acquire rights and liabilities, borrow funds and be liable for repayment of its debts, and can be declared bankrupt.

# Annexure 11: KfW Policy – Sanctionable Practice – Social and Environmental Responsibility

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## 1. Sanctionable Practice

The PEA and the Contractors (including all members of a Joint Venture and proposed or engaged Subcontractors) must observe the highest standard of ethics during the Tender Process and performance of the Contract.

By signing the Declaration of Undertaking the Contractors declare that (i) they did not and will not engage in any Sanctionable Practice likely to influence the Tender Process and the corresponding Award of Contract to the PEA's detriment, and that (ii) in case of being awarded a Contract they will not engage in any Sanctionable Practice.

Moreover, KfW requires to include in the Contracts a provision pursuant to which Contractors must permit KfW and in case of financing by the European Union also to European institutions having competence under European law to inspect the respective accounts, records and documents relating to the Tender Process and the performance of the Contract, and to have them audited by auditors appointed by KfW.

KfW reserves the right to take any action it deems appropriate to check that these ethics rules are observed and reserves, in particular, the rights to:

- (a) reject an Offer for Award of Contract if during the Tender Process the Bidder who is recommended for the Award of Contract has engaged in Sanctionable Practice, directly or by means of an agent in view of being awarded the Contract;
- (b) declare misprocurement and exercise its rights on the ground of the Funding Agreement with the PEA relating to suspension of disbursements, early repayment and termination if, at any time, the PEA, Contractors or their legal representatives or Subcontractors have engaged in Sanctionable Practice during the Tender Process or performance of the Contract without the PEA having taken appropriate action in due time satisfactory to KfW to remedy the situation, including by failing to inform KfW at the time they knew of such practices.

KfW defines, for the purposes of this provision, the terms set forth below as follows:

<b>Coercive Practice</b>	The impairing or harming, or threatening to impair or harm, directly or indirectly, any person or the property of the person with a view to influencing improperly the actions of a person.
<b>Collusive Practice</b>	An arrangement between two or more persons designed to achieve an improper purpose, including influencing improperly the actions of another person.
<b>Corrupt Practice</b>	The promising, offering, giving, making, insisting on, receiving, accepting or soliciting, directly or indirectly, of any illegal payment or undue advantage of any nature, to or by any person, with the intention of influencing the actions of any person or causing any person to refrain from any action.

- Fraudulent Practice** Any action or omission, including misrepresentation that knowingly or recklessly misleads, or attempts to mislead, a person to obtain a financial benefit or to avoid an obligation.
- Obstructive Practice** Means (i) deliberately destroying, falsifying, altering or concealing evidence material to the investigation or the making of false statements to investigators, in order to materially impede an official investigation into allegations of a Corrupt Practice, Fraudulent Practice, Coercive Practice or Collusive Practice, or threatening, harassing or intimidating any Person to prevent them from disclosing their knowledge of matters relevant to the investigation or from pursuing the investigation, or (ii) any act intended to materially impede the exercise of KfW's access to contractually required information in connection with an official investigation into allegations of a Corrupt Practice, Fraudulent Practice, Coercive Practice or Collusive Practice.
- Sanctionable Practice** Any Coercive Practice, Collusive Practice, Corrupt Practice, Fraudulent Practice or Obstructive Practice (as such terms are defined herein) which is unlawful under the Financing Agreement.

## **2. Social and Environmental Responsibility**

Projects financed in whole or partly in the framework of Financial Cooperation have to ensure compliance with international Environmental, Social, Health and Safety (ESHS) standards (including issues of sexual exploitation and abuse and gender-based violence) Contractors in KfW-financed projects shall consequently undertake in the respective Contracts to:

- (a) comply with and ensure that all their Subcontractors and major suppliers, i.e. for major supply items comply with international environmental and labour standards, consistent with applicable law and regulations in the country of implementation of the respective Contract and the fundamental conventions of the International Labour Organisation<sup>7</sup> (ILO) and international environmental treaties and;
  - (b) implement any environmental and social risks mitigation measures, as identified in the environmental and social impact assessment (ESIA) and further detailed in the environmental and social management plan (ESMP) as far as these measures are relevant to the Contract and implement measures for the prevention of sexual exploitation and abuse and gender-based violence.
-

## Annexure 12: To be attached to every report

### SUMMARY

**Name of Project:** Promotion of Green Hydrogen in South Africa

**KfW Ref. No.** 2021 685 73

**Subject Matter:** Disbursement in Tranches (all accounts stated in Annex B)

**Reporting Period:** ...

Within the scope of our reasonable assurance engagement under the Programme, performed in accordance with the International Standard on Assurance Engagements ISAE 3000 (Revised), we give **our conclusion** on the following criteria:

Applied Criteria	**Conclusion (YES/ Yes, except for .../ NO)	Summary of work performed (See para. 69 of ISAE 3000)
a) The payments from the Special Accounts to PtX Developers and all related expenditure / costs incurred as stated in Annex B have been made in accordance with the conditions of the Relevant Agreements. Where ineligible expenditures are identified, these should be noted separately in the Report.		
b) The following issues, among others, have been considered: <ul style="list-style-type: none"> <li>▪ Cash flows of Grants from Special Accounts (Annex B) to PtX Developers can be traced without any gaps, were correctly documented, and the agreed forwarding conditions (e.g., according to agreed milestones) were fulfilled.</li> <li>▪ Interest income or other programme related receipts have been credited to Special Accounts.</li> <li>▪ Exchange rates used are plausible and have been applied consistently.</li> </ul>		
c) The checks against sanction / exclusion lists, anti-money laundering measures and KYC as described in the Relevant Agreements, the contracts between the Recipient and the PtX Developers have been adequately implemented.		
d) The SOE related to the Reporting Period and referred to in the Report can be relied upon to support the related disbursement requests. Clear linkage exists between the SOE and disbursement requests presented to KfW and the accounting records of the Recipient.		
e) No other important findings and observations have been disclosed during the engagement.		In addition: Please indicate here whether a management letter has been issued or not.
f) All observations raised in previous audits have been cleared (for details please refer to ...).		

\*\*Note: Please insert

- “YES” in case of an unqualified conclusion
- “YES, except for ...” in case of a non-material finding
- “NO” in case of a qualification of the conclusion.

All findings / qualifications of the conclusion require a reference to a detailed description in the Report or Management Letter.

**Annex B (to be attached to every report as integral part)**

**SUMMARY**

**Name of Programme:** Promotion of Green Hydrogen in South Africa

**KfW Ref. No.** 2021 68 573

**Subject Matter:** Disbursement in Tranches (all Special Accounts mentioned here)

**Reporting Period:** ...

The following Special Accounts have been considered for this reasonable assurance engagement:

	Currency	Account Number	Account Holder
Special Account			
Local Special Account			
Other Programme-related Account - if any -			

The cash flows on these Special Accounts are as follows:

		Special Account	Local Special Account	Other Programme-related Accounts
		Currency	Currency	Currency
A) Opening Balance				
B) Inflow of KfW funds	Plus		X	X
C) <i>If any:</i> programme related receipts	Plus			
D) Incoming transfers - only from accounts indicated in this table	Plus			
E) Outgoing transfers – only from accounts indicated in this table	Less			
F) Grants extended to PtX Developers	Less			
G) Closing Balance				

# Annexure 13: Model Contract for Consulting Services

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Contract No:

## SERVICE LEVEL AGREEMENT

### REQUEST FOR A PROPOSAL FOR THE APPOINTMENT OF AN AUDITING FIRM TO VERIFY PAYMENTS UNDER THE KFW HYDROGEN GRANT AGREEMENTS

Between

*(Insert name of Service Provider and registration particulars)*

("the Service Provider")

And

INDUSTRIAL DEVELOPMENT CORPORATION OF SOUTH AFRICA LIMITED a corporation established under Section 2 of the Industrial Development Corporation Act 1940 (Act No. 22 of 1940) a self- financing development institution ("IDC")

## 1. INTERPRETATION

1.1 In this Agreement:

1.2 clause headings are for convenience and shall not be used in its interpretation;

1.3 unless the context clearly indicates a contrary intention;

1.3.1 an expression which denotes:

1.3.1.1 any gender includes the other genders;

1.3.1.2 a natural person includes any artificial person and vice versa;

1.3.1.3 the singular includes the plural and vice versa;

1.3.2 the following expressions shall bear the meanings as assigned to them below and cognate expressions bear corresponding meanings:

1.3.2.1 "*Agreement*" means this Service Level Agreement which outlines the terms and conditions, the TOR, any annexures hereto and amendments reduced to writing and signed by both parties;

1.3.2.2 "*Contract Fee*" means the fee based on the financial proposal of the Consultant, as set out in more detail in Annexure B;

1.3.2.3 "*Financial Proposal*" means the financial proposal submitted by the Service Provider in response to the RFP;

1.3.2.4 "*KfW*" means KfW Development Bank which provides financing towards the South African Facility for Green Growth (SAFFG/ BMZ No. 2016 68 284);

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- 1.3.2.5                    *"Scope of Work or Service/s"* means the work to be performed by the Service Provider in terms of the technical proposal read with the ToR, as set out in more detail in Annexure "A";
- 1.3.2.6                    *"Parties"* means the Service Provider and IDC; as they are described on the first page of the Agreement and conducting business at the address set out in 19 below;
- 1.3.2.7 1.3.2.7
- 1.3.2.8                    *"Project"* means the project titled "South African Facility for Green Growth" (SAFFG/ BMZ No. 2016 68 284);
- 1.3.2.9                    *"RfP"* means the request for proposal as advertised [*add particulars and where and when advertised*].
- 1.3.2.10                   *"RSA"* means Republic of South Africa;
- 1.3.2.11                   *"Scope of Work or Service/s"* means the work to be performed by the Service Provider as required under the ToR and in accordance with the technical proposal, as set out in more detail in Annexure "A";
- 1.3.2.12                   *"Signature Date"* means the date on which this Agreement is last signed by the Parties.
- 1.3.2.13                   *"Technical Proposal"* means the technical proposal submitted by the Service Provider in response to the RFP; and
- 1.3.2.14                   *"ToR"* means the terms of reference forming part of the RfP;
- 1.3.3                      Words and expressions defined in the body of this Agreement and not in 1.3.2 shall bear the meanings assigned to them in such definition throughout this Agreement.

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1.3.4 When a number of days are prescribed in this Agreement, such number shall be reckoned exclusively of the last day. Unless the last day falls on a Saturday, Sunday or public holiday in the RSA, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday.

**2. INTRODUCTION**

2.1 Following a procurement process conducted by the IDC for the appointment of a service provider under a project funded by KfW, and the submission of a technical proposal and financial proposal by the Service Provider, the Service Provider was preferred to conclude this Agreement with the IDC.

2.2 IDC intends engaging the Service Provider to render the Services and the Service Provider hereby agrees to such appointment, subject to the terms and conditions contained in this Agreement.

**3. DELIVERY OF SERVICE AND LIABILITY**

3.1 The Service Provider shall exercise all reasonable skill, care and diligence in the execution of the Services and shall carry out all its obligations in accordance with international professional standards. The Service Provider shall in all professional matters act as a faithful advisor to the IDC and, in so far as any of its duties are discretionary, act fairly between the IDC and third parties.

3.2 The Service Provider hereby accepts liability for and indemnifies the IDC against all claims, demands, fines, penalties, actions, proceedings, judgments, damages, losses, costs, expenses, or other liabilities, caused by the negligence of the Service Provider and/or its employees of their duties and obligations under this Agreement, in delict for breach of statutory duty or otherwise.

3.3 The IDC shall not be liable for any losses, damages, costs, claims and demands which the Service Provider may incur or sustain whilst carrying out or providing the Services contemplated in this Agreement.

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- 3.4 Neither Party shall be liable to the Other Party in respect of any claim for loss or damage arising from acts of war or terrorism, nuclear or radioactive emissions, any incidence of toxic mould, or from or related to asbestos
- 3.5 The Service Provider hereby indemnifies the IDC from any liability arising or alleged to arise out of any failure of the goods and/or Services to conform to any laws, orders, regulations, requirements or standards. The Service Provider shall bear any cost of inspection of the goods and/or Services if so required by any law and/or regulation.
- 3.6 Unless otherwise provided in any further written Agreement, neither Party shall be liable to the other for any indirect, consequential, special, incidental or punitive damages, including without limitation, loss of use or lost business, revenue, profits, anticipated savings, reputation or goodwill arising in connection with the contracted work.
- 3.7 Nothing in these Terms and Conditions shall restrict either Party's liability for:
- 3.7.1 Fraud; or
  - 3.7.2 Death or personal injury caused by its negligence or intentional or wilful act;
  - 3.7.3 Damage to real or tangible personal property caused by its negligence or intentional or wilful misconduct; or
  - 3.7.4 Any breach of obligations under these Terms and Conditions in respect of confidentiality and intellectual property; or
  - 3.7.5 Any other liability that cannot be excluded by law.
- 3.8 Subject to clause 3.7, the overall cumulative liabilities of each Party in respect of direct losses arising under or in connection with this Agreement shall not exceed two times the Contract Fee.

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- 3.9 The Service Provider undertakes to take up professional indemnity and third party insurance cover, which includes cover for the Services to be undertaken under this Agreement and shall provide proof thereof to the IDC upon request.

#### 4. PAYMENT OF CONTRACT FEE

- 4.1 IDC shall pay the Service Provider the Contract Fee for the provision of the Services, in accordance with the payment methodology and schedule as set out in Annexure "B" hereto.
- 4.2 All tax invoices of the Service Provider shall contain the IDC's VAT number, the Service Provider's VAT number, if applicable, and the address of both Parties.
- 4.3 Payment shall be made within 30 (thirty) days upon receipt of an original tax invoice(s) furnished by the Service Provider, in accordance with the delivery and approval of services rendered in line with the provisions of Annexure "A".
- 4.4 All money due to the Service Provider shall be paid into the Service Provider's bank account, which bank account details shall be confirmed by the relevant bank and submitted to the IDC, on the bank's letterhead or with a bank's stamp.
- 4.5 All reimbursements, insurance payments, guarantee payments or similar payments, if any, shall be made for the account of the IDC to KfW, Frankfurt am Main, BIC: KFWIDEFF, account IBAN: DE53 5002 0400 3800 0000 00, which KfW shall credit to the IDC. The amounts reimbursed for the portion financed by KfW may, with KfW's consent, be used again, principally for further implementation of the Project.

#### 5. INTELLECTUAL PROPERTY

All the intellectual property developed for and associated including any templates, electronic programmes, methodology or other items, created by the Service Provider while

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rendering the Services shall become the property of IDC, unless such property was owned by the Service Provider prior to conclusion of this Agreement.

## 6. CONFIDENTIALITY

6.1 All information, however communicated or recorded and whatever form it takes, provided by the IDC to the Service Provider in connection with this Agreement shall be for the Service Provider's exclusive use and may not be divulged by the Service Provider to any natural or legal person (save as may be required under this Agreement or by the nature of the concept), in which case either party shall ensure that such person undertakes to be bound by the terms similar to this clause. Such action shall not be taken without the prior written consent of IDC, which consent shall not be unreasonably withheld.

6.2 The restrictions referred to in clause 6.1 shall not apply to information which:

6.2.1 is now in or hereafter enters the public domain other than as a result of a breach by one party of its obligations in terms of this clause 6;

6.2.2 is known to one party prior to disclosure by the other to it or independently developed by it; and

6.2.3 is disclosed in good faith to it by a third party legally entitled to disclose same.

## 7. COMMENCEMENT AND TERMINATION

7.1 Notwithstanding the date of signature of this Agreement, it shall be deemed to have commenced on [*insert date*] (the Commencement Date) and shall come to an end on [*insert date*] (the Termination Date).

7.2 This Agreement may be terminated by either party, on giving of 30 (thirty) days written notice, terminating this agreement.

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7.3 The Service Provider shall remain liable for delivery of the Services recorded in Annexure "A", notwithstanding the expiry of the Termination Date, until such services have been delivered to the satisfaction of IDC or the Parties agree otherwise.

7.4 Within 30 (thirty) days of receipt of any notice of cancellation/termination of this Agreement by any of the parties, the Service Provider shall deliver to IDC all reports and other related documentation.

## 8. SEVERABILITY

If any provision of this Agreement is held invalid, illegal or unfavourable for any reason, such provision shall be deemed to be *pro non-scripto* but without affecting, injuring or invalidating any of the remaining provisions of this Agreement which shall continue to be of full force and effect.

## 9. ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement between the parties in regard to the subject hereof. It is expressly agreed that the ToR is included in this Agreement.

## 10. AMENDMENTS

No addition to, variation or consensual cancellation of this Agreement shall be of any force or effect unless in writing and signed by the parties.

## 11. ASSIGNMENT

The rights and obligations under this Agreement are personal to each of the parties and, save as provided in this Agreement, may not, without the prior written consent of the other party be assigned to any other person.

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## 12. GOVERNING LAW

- 12.1 All matters arising from or in connection with this Agreement, its validity, existence or termination shall be determined in accordance with the laws of the Republic of South Africa.
- 12.2 The Service Provider and the IDC agree to act fully in compliance with applicable data protection and other related laws. The IDC agrees that the Service Provider may collect, process, use and store personal information for purposes of :
- (i) providing the services,
  - (ii) maintaining its internal administrative or client relationship management systems, including the use of third-party outsourced service providers,
  - (iii) quality and risk management reviews and
  - (iv) providing the IDC with information about its range of services in line with the purpose for which the personal information was obtained for.
- 12.3 The IDC agrees that a firm within the Service Provider's global network may transfer personal information across country borders in furtherance of the purpose for which the information was obtained and the Service Provider agrees to ensure that such firm within the Service Provider's global network entity/ies/ Country/ies/ Jurisdiction/s have policies which are either equivalent to IDC's data privacy standards or higher only with the written consent of the IDC.
- 12.4 The Service Provider agrees that it will furnish the IDC with a list of all its third-party outsourced service providers, its firm/s within its global network and Country/ies/ Jurisdiction/s where the IDC's data subject's personal information has been transferred for further processing, use or storage and the Service Provider will provide the IDC with certification confirming destruction of the data subject's personal information when the continued processing, use, transfer or storage is no longer in line with the purpose for which it was obtained or where the purpose has been duly fulfilled.

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- 12.5 The Service Provider further agrees that it will adhere to all laws relating to cross border transfer of data.

### 13. ARBITRATION

At the option of either party, any dispute arising out of this Agreement shall be submitted to and determined by arbitration under the rules of Arbitration Foundation of South Africa. The venue for arbitration will be Johannesburg, South Africa.

### 14. FORCE MAJEURE

- 15.1 If any party fails to perform its obligations in terms of this Agreement because of an event beyond its reasonable control, that party will not be liable, subject to the terms of this clause, for any loss or damage resulting from its non-performance. Events beyond a party's reasonable control will include one or more of the following:

14.1.1 events recognized as casus fortuitis acts of God;

14.1.2 epidemic, flood, earthquake or like natural disaster;

14.2 To avoid liability for non-performance, the defaulting party must notify the other party of the nature of the event and the commencement date thereof within 14 (fourteen) days of the event coming to the knowledge of the defaulting party. The defaulting party must also notify the other party within 14 (fourteen) days of the event ending.

- 14.2.1 If the event of the force majeure subsists for more than 90 (ninety) consecutive days, any party will have the right to terminate this Agreement. The remaining parties or party, as the case may be, will be entitled to complete the Scope of Work exclusive of the terminating party or parties with no obligation to such terminating party or parties. If the Scope is preceded with, the terminating party or parties will make all reasonable efforts to assign to the remaining party all its rights, titles and interests in and to the Scope of Work, including any contracts with third parties related to the Scope of Work.

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**15. BREACH**

Should any party breach any provision of this Agreement ("the defaulting party") and fail to remedy such breach within 14 (fourteen) days of receiving written notice from the other party ("the aggrieved party") requiring it to do so, then the aggrieved party shall be entitled, without prejudice to any other rights that it may have, whether under this Agreement or at law, to cancel this Agreement without notice or to claim immediately specific performance, in either event, without prejudice to the aggrieved party's right to claim damages.

**16. OBLIGATIONS OF THE SERVICE PROVIDER**

The Service Provider shall submit a statement of all outstanding payments credit notes issued and payments made. Such statements shall also contain the order number, the details and the date of the transaction, the invoice number remittance number and credit note details.

**17. NON EXCLUSIVITY**

It is recorded, for the avoidance of doubt that this Agreement does not purport to create an exclusive relationship between the parties. In the circumstances both parties shall be free to embark on potential terms of reference with other parties.

**18. DOMICILIUM**

18.1 For the purpose of this Agreement, the parties choose domicilium citandi et executandi as follows: -

18.1.1 The Service Provider shall provide its address and, telephone number and fax number in Annexure "D"; and

18.1.2 IDC at 19 Fredman Drive, Sandown, 2196, South Africa.

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18.2 All notices to be given in terms of this Agreement shall be presumed to be received, until proved to the contrary.

18.3 Each party may, by notice in writing to the other party, alter its addresses set out in this Agreement.

**19. CONFLICT OF INTEREST AND CORRUPTION**

19.1 The Service Provider warrants that, to the best of its knowledge, it does not and is not likely to have any conflict of interest in the performance of this Agreement. If a conflict or risk of conflict of interest arises (without limitation, because of work undertaken for any person other than IDC), the Service Provider shall immediately give written notice of the conflict of interest, or the risk of it, to IDC.

19.2 The Service Provider shall take all reasonable measures to ensure that its employees do not engage in any activity or obtain any interest that is in conflict with providing Services to IDC fairly and independently. The Service Provider shall immediately give written notice of any conflict of interest relating to the activities of interest of any of its employees, agents or subcontractors to IDC.

19.3 If the IDC is given notice of a conflict of interest as required above or the Service Provider breaches any provision of this clause 19, the IDC may, at its own discretion, terminate this Agreement by giving the Service Providers 30 (thirty) days or less, written notice to that effect.

19.4 No Party to this Agreement shall, directly or indirectly, undertake nor cause nor permit to be undertaken any activity that is illegal under any applicable laws or regulations.

19.5 No Party shall give, offer, promise, or authorize, directly or indirectly, anything of value to:

19.5.1 an official, officer, employee or any other person acting in an official capacity for or on behalf of the IDC, state-owned enterprise or any

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subdivisions/subsidiary thereof, agents or advisors thereto, whether paid or unpaid (any such person referred to collectively as “Official”);

- 19.5.2 any person(s) or party(s) while knowing or having reason to know that such thing of value is to be given, offered or promised to an Official in order to:
- 19.5.3 influence any official act or decision, or;
- 19.5.4 induce an Official to do or omit to do any act in violation of his or her lawful duty, or;
- 19.5.5 induce an Official to use his or her influence to affect or influence a decision or act of the IDC, or;
- 19.5.6 assist the Parties hereto or any other person in obtaining or retaining business for or with, or in directing business to the Parties or any other person, or;
- 19.5.7 to obtain or secure an unfair or improper advantage for the Parties in any respect.
- 19.6 In connection with this Agreement, no Party shall make a contribution or give, offer, promise or authorize, directly or indirectly, anything of value to any political party, official of a political party or candidate for office on behalf of or associated with the Parties or in connection with the purpose of this Agreement.
- 19.7 In connection with this Agreement, no Party shall engage in any acts of bribery, kickback or other improper inducement, including bribery of a person in the private sector. Without limiting the generality of the foregoing, no Party shall give, offer, promise or authorize, either directly or indirectly, a financial or other advantage to any person to induce a person to perform improperly a relevant function or activity or to reward such improper performance or where the Party knows or believes that the acceptance of the advantage in itself constitutes the improper performance of a relevant function or activity.

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19.8 Without detracting from its obligations set out in clauses 19.1 to 19.7, the Service Provider agrees to uphold and comply to the provisions of the Declaration of Undertaking attached hereto as Annexure "C".

## 20. BEE STATUS

20.1 In instances where the Service Provider's B-BBEE levels are higher than a Level 4 with Empowering Supplier Status it shall endeavour to maintain its current B-BBEE level. In instances where a decrease in the B-BBEE levels is envisaged, such a decrease should not be lower than a B-BBEE Level 4 with Empowering Supplier Status.

20.2 The IDC shall also further reserve the right to, at any time, review the minimum levels and the Service Provider shall agree to a B-BBEE commitment plan to ensure that the requisite B-BBEE levels are met and/or maintained during the tenure of this Agreement.

20.3 In instances where a lapse below a B-BBEE Level 4 occurs, the Service Provider will identify the gaps and provide a commitment plan linked to specified timelines to achieve the minimum levels or to improve thereon.

## 21. REPRESENTATION

21.1 The IDC has assigned a Representative to co-ordinate and provide overall guidance in terms of strategy, policy standards and priorities as deemed appropriate for the provision of the Services by the Service Provider and as a single point of contact.

21.2 The Service Provider shall appoint a Representative, from the Commencement Date and provide contact details of such Representative within 7 days therefrom, who shall have overall responsibility for managing and coordinating the performance of the Service Provider's obligations under this Agreement and who will have the authority to act for and on behalf of the Service Provider in respect of all matters relating to this Agreement.

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## 22. PUBLIC STATEMENTS

The Service Provider is prohibited from making any presentations, representations, public comment, publication or advertisement that mentions the IDC's relationship to the Service provider, without the prior written approval of IDC and shall not use any of IDC's logos or trade marks on its own publications or anywhere without the IDC's prior written approval.

## 23. SUBCONTRACTING

The Service Provider shall not subcontract all or any portion of the Service set out in Annexure "A", without IDC's prior written consent, which shall not be unreasonably withheld.

## 24. COMPLIANCE WITH APPLICABLE LAWS

The Service Provider shall comply with all relevant laws, which may change from time to time, and the requirements of any statutory authority in performing Services set out in Annexure "A". The Service Provider undertakes to provide IDC with a valid South African Revenue Services tax clearance certificate throughout the duration of this Agreement.

## 25. RIGHT TO AUDIT

25.1 The Service Provider shall establish and maintain a reasonable accounting system that enables the IDC to readily identify the Service Provider's assets, expenses, costs of goods, and use of funds in relation to the Service.

25.2 The IDC and its authorized representatives shall have the right to audit, to examine, and to make copies of or extracts from all financial and related records (in whatever form they may be kept, whether written, electronic, or other) relating to or pertaining to this Agreement kept by or under the control of the Service Provider, including, but not limited to those kept by the Service Provider, its employees, agents, assigns, successors, and subcontractors. Such records shall include, but not be limited to, accounting records, written policies and procedures; subcontract files (including

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proposals of successful and unsuccessful bidders, bid recaps, etc.); all paid vouchers including those for out-of-pocket expenses; other reimbursement supported by invoices; ledgers; cancelled cheques; deposit slips; bank statements; journals; original estimates; estimating work sheets; contract amendments and change order files; back charge logs and supporting documentation; insurance certificates (and, if permitted by the Services Provider’s insurers at the time, suitable documents) ; payroll documents; timesheets; memoranda; and correspondence.

25.3 The Service Provider shall, at all times during the term of this Agreement and for a period of 5 (five) years after the completion of this Agreement, maintain such records, together with such supporting or underlying documents and materials.

25.4 The Service Provider shall at any time requested by the IDC, whether during or after completion of this Agreement, and at the Service Provider’s own expense make such records available for inspection and audit (including copies and extracts of records as required) by the IDC. Such records shall be made available to the IDC during normal business hours at the Service Provider’s office or place of business and subject to a three-day written notice. In the event that no such location is available, then the financial records, together with the supporting or underlying documents and records, shall be made available for audit at a time and location that is convenient for the IDC.

25.5 The Service Provider shall ensure that the IDC has these rights with the Service Provider’s employees, agents, assigns, successors, and subcontractors, and the obligations of these rights shall be explicitly included in any subcontracts or agreements formed between the Service Provider and any subcontractors to the extent that those subcontracts or Agreements relate to fulfilment of the Service Provider’s obligations to the IDC.

25.6 Costs of any audits conducted under the authority of this right to audit and not addressed elsewhere will be borne by the IDC unless certain exemption criteria are met. If the audit identifies overpricing or overcharges (of any nature) by the Service Provider to the IDC in excess of one-half of one percent (.5%) of the total contract billings, the Service Provider shall reimburse the IDC for the total costs of the audit.

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If the audit discovers substantive findings related to fraud, misrepresentation, or non-performance, the IDC may recoup the costs of the audit work from the Service Provider. Any adjustments and/or payments that must be made as a result of any such auditor inspection of the Service Provider's invoices and/or records shall be made within a reasonable amount of time (not to exceed 90 days) from presentation of the IDC's findings to the Service Provider.

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SIGNED at \_\_\_\_\_ on \_\_\_\_\_ 2024

For: *[Insert Name of Service Provider]*

\_\_\_\_\_  
DIRECTOR

who warrants that he/she is duly authorised thereto as evidenced by Annexure E

SIGNED at \_\_\_\_\_ on \_\_\_\_\_ 2024

For: INDUSTRIAL DEVELOPMENT CORPORATION  
OF SOUTH AFRICA LIMITED

\_\_\_\_\_  
\_\_\_\_\_  
who warrant that they are duly authorised thereto

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ANNEXURE "A"

**SCOPE OF WORK**

*[Insert Scope of Work as based on ToR read with the Technical Proposal]*

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**ANNEXURE "B"**

**Contract Fee**

*[Insert contract fee as based on the Financial Proposal and agreed with the Service Provider]*

For the Services to be rendered by the Service Provider under this Agreement the Employer shall pay the sum of

**[•] in [ZAR]**

("Contract Fee").

The Contract Fee is composed of:

[Lump sum payments:]	<b>[•] in [ZAR]</b>
[Input based payments]	<b>[•] in [ZAR]</b>
[Ancillary expenses lump sum <sup>1</sup> ]	<b>[•] in [ZAR]</b>
[Ancillary expenses upon proof]	<b>[•] in [ZAR]</b>

**1. Terms of payment**

The Service Provider's remuneration shall be paid against presentation of an invoice presented to IDC, indicating the BMZ-No. **XXXXXXXX** as follows:

<b>XX ZAR</b>	(xx) interim payments in quarterly instalments
<b>XX ZAR</b>	as the final payment due after approval of the final project report by the IDC and KfW

**2. Method of payment**

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The method of disbursement shall be the direct disbursement procedure. The Service Provider shall address and send its invoices to the IDC. The Employer will validate the correctness of any invoice and forward these to KfW for direct disbursement to the account of the Service Provider indicated below:

Service Provider 's bank account details :

Account Name: XXX

Name of Bank: XXX

IBAN / Account Number: XX

BIC/SWIFT Code: XXX

### **3.Statement of Costs**

*[Include based on financial proposal]*

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**ANNEXURE "C"**

*[Insert KfW Declaration of Undertaking]*

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**ANNEXURE “D”**

**DETAILS OF SERVICE PROVIDER**

Physical Address:		
Postal Address:		
Telephone Number:		
Email:		
Contact Person:		
Bank Details:	Bank:	
	Account Holder:	
	Account Number:	
	Branch:	
	Branch Code:	
Commencement Date:		
Termination Date:		
Estimated Contract Fee		
BBB-EE Status		

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**ANNEXURE "E"**

**[*Company Resolution Authorising a Company Signatory*]** -