



City of Joburg Property Company SOC Ltd.

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Braam Park
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2017

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www.jhbproperty.co.za

POP 01/2017 - APPOINTMENT DIBAKOANE DIAMONDS (PTY) LTD

29 November 2017

Dibakoane Diamonds (Pty) Ltd
22 Booyensens Road
Office 19 Booyensens Place
Booyensens
2091

Tel/Cell No: 076 560 3817\076 252 0459
Per E-mail: mike.dibaks@gmail.com

Dear Sir/Madam

RFP NUMBER: POP 01/2017 PANEL OF PROFESSIONALS FOR THE SUPPLY, DELIVERY AND INSTALLATION OF OFFICE FURNITURE FOR JPC FOR A PERIOD OF THREE (03) YEARS

City of Joburg Property Company SOC Limited ("JPC") has pleasure in confirming the inclusion of Dibakoane Diamonds (Pty) Ltd (the "Service Provider") in the panel for the supply, delivery and installation of office furniture for JPC for a period of three (3) years.

1. GENERAL CONDITIONS OF AWARD

This appointment is made in terms of JPC's standard general conditions, your proposal and is subject to the successful conclusion of a Service Level Agreement between the JPC and yourselves.

All previous correspondence, if any, between the two parties in connection with this project, shall be deemed to be of no force and effect and will be replaced by this letter of award.

2. SCOPE OF WORK

The scope of work is for the supply, delivery and installation of office furniture for JPC for a period of three (3) years as and when required by the JPC.

3. TIME FRAMES

The award is effective for a period of three (03) years commencing from 1 December 2017 ending 30 November 2020. The contract is not subject to renewal for a further period.

You are to advise timeously of any difficulties that you may be experiencing in carrying out any of the deliverables. Any changes to the specified timeframes may only be implemented if authorised in writing by JPC.



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Modi Hlobo, Prof Aly Karam, Owen Kemp,
Oscar Maseko, Maggie Mojapelo
Executive Directors: Helen Botes (Chief Executive Officer)
Imraan Bhamjee (Chief Financial Officer)
Company Secretary: Craig Matthews
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4. GENERAL CONDITIONS OF APPOINTMENT

- 4.1 **Appointment in Force and Authorized Signatories:** This appointment will come into force immediately after all the necessary signatures have been appended.
- 4.2 **Independent Contractor:** The Service Provider is appointed as an independent contractor and no contract of agency and/or employment is created. Save as may be expressly authorized by JPC from time to time in writing, the Service Provider shall not hold itself out to be the agent of JPC and/or commit JPC to any contract or obligation of whatever nature.
- 4.3 **Alterations:** Should circumstances arise which call for modifications of the appointment, these may be made by mutual consent given in writing. Proposals in this respect from one party shall be given due consideration by the other party.
- 4.4 **Cession and Assignment:** The Service Provider shall not without the prior written consent of JPC, cede or assign any of the benefits and obligations under this appointment, which consent may be granted or denied in the sole discretion of the JPC.
- 4.5 **Sub-Contracts:** Any sub-contracts or modifications or termination thereof relating to the performance of the services by the Service Provider shall be made only with the prior written consent of JPC.
- 4.6 **Compliance with Laws, By-laws and Ordinance:** The Service Provider shall comply strictly with every applicable law, by-law and ordinance including every regulation, code of conduct or other directive to which the Service Provider may be subject in its professional capacity. In this regard, the Service Provider's particular attention is drawn to the requirements of the Occupational Health and Safety Act (OHSA) and its regulations as well as to the Financial Intelligence Centre Act (FICA).
- 4.7 **Insurance:** The Service Provider shall at its own cost and expense maintain professional indemnity insurance and public liability insurance with an insurer approved of by JPC in an amount and for duration as specified in the letter of appointment to which these general conditions of appointment relate.
- 4.8 **Postponement and Termination:** JPC may give written notice to the Service Provider at any time of its intention to abandon the services, in whole or in part, or to terminate this appointment. The effective termination date of this appointment shall not be less than thirty (30) days after receipt of such notice, or such other shorter or longer periods as may be agreed between the parties. Upon receipt of such notice, the Service Provider shall take immediate steps to bring the services to a close and to reduce expenditure to a minimum. Upon termination of the appointment the Service Provider shall deliver to JPC the originals of all documents in the possession of the Service Provider relating to and/or in connection with the appointment in both hard copy and (insofar applicable) electronic format.



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- 4.9 **Force Majeure:** The Service Provider shall promptly notify JPC, in writing, of any situation or event arising from circumstances beyond its control and which he could not reasonably foresee, which makes it impossible for the Service Provider to carry out in whole or in part, his obligations under this appointment. Upon the occurrence of such a situation or event, the services shall be deemed to be postponed for a period of time equal to the delay caused by the Force Majeure and a reasonable period not exceeding two weeks.
- 4.10 **Claims for Default:** Any claims for damages arising out of default and termination, shall be agreed between JPC and the Service Provider, or failing agreement, shall be referred to arbitration in accordance with clause 4.20.
- 4.11 **Rights and Liabilities of Parties:** Termination of this appointment for whatever reason shall not prejudice or affect the accrued rights or claims and liabilities of either party to this appointment. In the event of the termination of this Agreement for whatsoever reason before the expiry date, JPC shall be responsible for all fees payable to Hlayisa Business Enterprise actually rendered and duly certified by the JPC project manager.
- 4.12 **Confidentiality:** The Service Provider shall maintain all information relating to the appointment in the strictest confidence.
- 4.13 **Indemnity:** The Service Provider indemnifies JPC and holds JPC harmless against any loss or damage that may be suffered by JPC (including and without limiting the generality of the foregoing any claim that may be brought or threatened against JPC by any third party) arising from or by reason of the failure by the Service Provider to comply with its obligation in terms hereof.
- 4.14 **Skill, Care and Diligence:** The Service Provider shall exercise all reasonable skill, care and diligence in the performance of the services under the appointment and shall carry out all his responsibilities in accordance with recognised professional standards. If any documentation prepared or submitted by the Service Provider to JPC is approved by JPC such approval shall not limit the professional liability of the Service Provider in respect thereof. The Service Provider shall remain professionally liable in respect of such documentation notwithstanding the approval thereof by JPC.
- 4.15 **Faithful Advisor:** The Service Provider shall, in all professional matters, act as a faithful advisor to JPC and, in so far as his duties are discretionary, act fairly as between JPC and third parties.
- 4.16 **Indirect Payments:** The remuneration of the Service Provider charged to JPC, shall constitute his only remuneration in connection with the appointment and neither he nor his personnel shall accept any trade commission, discount, allowance or indirect payment or other consideration with or in relation to the appointment or to the discharge of his obligations thereunder.



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- 4.17 **Royalties:** The Service Provider shall not have the benefit, whether directly or indirectly, of any royalty on or of any gratuity or commission in respect of any patented article or process used on or for the purposes of the appointment, unless it is agreed to by JPC in writing that he may.
- 4.18 **Ownership of Equipment, Materials, Supplies and Facilities:** Equipment, materials, supplies and facilities furnished to the Service Provider by JPC or purchased by the Service Provider with funds wholly supplied or reimbursed by JPC shall be the property of JPC and shall be so marked. Upon completion or termination of the services under this appointment, the Service Provider shall furnish to JPC, inventories of the equipment and materials referred to above as it then remains and dispose of same as directed by JPC
- 4.19 **Copyright:** All copyright in and to all documents, plans, designs and other material of whatever nature prepared or produced by the Service Provider in the course and scope of its appointment shall be and remain vested in JPC for which purpose the Service Provider cedes to JPC all such copyright.
- 4.20 **Settlement of Disputes:**
- a. Any dispute or difference arising out of this appointment, including those considered as such by only one of the parties, shall be finally settled by Arbitration.
 - b. Such arbitration shall be conducted in accordance with the provisions of the Arbitration Act (Act No. 42 of 1965, as amended from time to time), provided that:
 - i. The arbitration proceedings shall take place at Johannesburg.
 - ii. It shall not be compulsory to strictly apply the requirements of the law of procedure or procedure of the usual rules of evidence.
 - iii. The arbitrator shall be a practicing senior advocate as appointed by the chairman of the Johannesburg Bar Council.
 - iv. The arbitrator shall be entitled to call for the evidence of specialists as required by the nature of the dispute.
 - v. The decision of the arbitrator shall be final and binding on both parties and may be made an order of a competent court
 - c. Unless otherwise requested by JPC, the implementation of the project shall, despite the submissions of a dispute to arbitration, in no manner be suspended or in any way delayed by the Service Provider.
- 4.21 **Events of default and consequences:**
- a. An event of default on the part of the Service Provider shall occur if:
 - i. The Service Provider defaults in the performance of any of its obligations of in terms of or arising from this agreement, and fails to remedy such default within 07 (Seven) days of receipt of a written notice from JPC calling upon it to remedy such default;



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- ii. The Service Provider continuously fails to perform or under performs any obligation/s in terms of or arising from this agreement, including but not limited to the rendering of services at appropriate service levels, which non- performance or under performance shall be consistent with the inference that the Service Provider is unable or unwilling to perform such obligation/s in terms of the provisions of this agreement; and
 - iii. The Service Provider commits an act, which would amount to an act of insolvency as envisaged in the Insolvency Act, 1936, as amended.
 - iv. Upon the occurrence of an event of default as contemplated in 4.21.a above, JPC shall be entitled to cancel this agreement forthwith, without prejudice to its rights to claim damages, or any other rights, which JPC may have in law or in terms of this agreement.
- b. An event of default on the part of JPC shall occur if JPC defaults in the performance of any material obligations in terms of or arising from this agreement, and fails to remedy such default within 7 (Seven) days of receipt of a written notice of demand from the Service Provider calling upon it to remedy such default.
- i. Upon the occurrence of an event of default as contemplated in 4.21.b above, the Service Provider shall be entitled to cancel this agreement forthwith, without prejudice to its rights to claim damages, or any other rights, which the Service Provider may have in law or in terms of this agreement.

Please advise in writing by 07 December 2017 if you accept the appointment on the above mentioned terms and, if so, furnish the following information within 14 (fourteen) days:

- (i) The name and address to be used for all correspondence and payment purposes. Payment is made directly, electronically into your bank, so please provide us with your banking details;
- (ii) The name of the Partner/Director/Member who will be handling the assignment; and
- (iii) The names of the key personnel together with their designations and functions who will be engaged in the project.

Please note that the material developed/generated as a consequence of this appointment remains the sole property of the City of Joburg Property Company SOC Ltd and the City of Johannesburg, and that copyright for such material vests solely with JPC. Permission is therefore to be sought from JPC should any party wish to make use of the information generated as part of the project.



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You will be required to sign a Service Level Agreement with the JPC for rendering the services stated above. Terms and conditions will be communicated to you in due course. Please contact Bernine Strydom on 010 219 9165 or BStrydom@jhbproperty.co.za to make an appointment at your earliest convenience.

Signed for and on behalf of City Of Joburg Property Company SOC Ltd

Name: Fitzgerald Ramaboea

Title: Senior Manager: Supply Chain:

Signature:

Date: 30/11/17

Name: Imraan Bhamjee

Title: CFO

Signature:

Date: 30/11/17

Signed for and on behalf of Dibakoane Diamonds (Pty) Ltd

Name: MICHAEL DIBAKOANE

Title: Managing Director

Signature:

Date: 04/12/2017



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