

# Sub-Consultancy Agreement

## Sub-Consultant Details

|                              |                                                                                   |       |                |
|------------------------------|-----------------------------------------------------------------------------------|-------|----------------|
| Sub-Consultant               | Scientific Terrestrial Services (Pty) Ltd                                         |       |                |
| Company/Business Number      | 2022/495146/07                                                                    |       |                |
| Business Address             | 29 Arterial Road West, Oriel, 2007                                                |       |                |
| Signature                    |  | Date  | 12 / 08 / 2024 |
| Name of Authorised Signatory | Stephen Van Staden                                                                | Title | Director       |

## Zutari Details

|                              |                                                                                                                                                                                                   |       |                               |
|------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|-------------------------------|
| Zutari                       | Zutari (Pty) Ltd                                                                                                                                                                                  |       |                               |
| Company/Business Number      | 1977/003711/07                                                                                                                                                                                    |       |                               |
| Business Address             | 1 Century City Drive, Waterford Precinct, Century City, Cape Town, 7441                                                                                                                           |       |                               |
| Signature                    | <br><small>Signed by: Neeren Govender,<br/>neeren.govender@zutari.com<br/>20/08/2024 13:05:24(UTC+02:00)</small> | Date  | 12 / 08 / 2024                |
| Name of Authorised Signatory | Neeren Govender                                                                                                                                                                                   | Title | Client Director: Water Africa |

## IT IS AGREED

- The Sub-Consultant will perform the Sub-Consultancy services described in the Agreement Details, Client RFP documents and relevant Annexure(s) ("Sub-Consultancy Services"); and
- Zutari will perform its obligations, including payment of the Sub-Consultant's fees specified in the Agreement Details and relevant Annexure(s) ("Fee"), in accordance with this Agreement, which is constituted by the Agreement Details, General Conditions of Engagement, Special Conditions (if any), Client Agreement, the Annexure(s) and any documents referred to in this Agreement ("Agreement")

## Agreement Details

|                                                           |                                                                                                                                                                                                                       |
|-----------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Project                                                   | Macassar WWTW: Upgrade & Extension Project (R0001001780-00)                                                                                                                                                           |
| Project Location                                          | Western Cape, South Africa                                                                                                                                                                                            |
| Sub-Consultancy Services                                  | Biodiversity Offset Specialist Services (as may be further detailed in the Annexure(s))                                                                                                                               |
| Place Where the Sub-Consultancy Services will be executed | 29 Arterial Road West<br>Oriel<br>2007                                                                                                                                                                                |
| Duration of Sub-Consultancy Services                      | Commencement date: <b>01 August 2024</b><br>Completion date: <b>31 July 2025</b>                                                                                                                                      |
| Fee (excl. VAT)                                           | Lumpsum Fee: <b>ZAR 322,680.00 (Three Hundred Twenty-Two Thousand Six Hundred and Eighty Rand Only)</b> including all disbursements and excluding VAT.                                                                |
| Fee Currency                                              | South Africa Rand (ZAR)                                                                                                                                                                                               |
| Liability Limitation                                      | <b>ZAR 641,360.00 (Six Hundred Forty-One Thousand Three Hundred and Sixty Rand Only)</b>                                                                                                                              |
| Insurance                                                 | <b>Public Liability: Not less than ZAR 2 million (Two Million Rand Only)</b><br><b>Professional Indemnity: Not less than ZAR 2 million (Two Million Rand Only)</b><br><b>Workers Compensation: As required by law</b> |
| Sub-Consultant's Representative and Contact Details       | <b>Stephen Van Staden</b><br><b>+27 11 616 7893</b><br><b>stephen@sasenvgroup.co.za</b>                                                                                                                               |
| Zutari's Representative and Contract Details              | <b>Corlie Steyn</b><br><b>+27 44 805 5421</b><br><b>Corlie.Steyn@zutari.com</b>                                                                                                                                       |

|                                    |                                                                                                                                                                                                                                         |
|------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Zutari's Client</b>             | <b><i>City of Cape Town: Water &amp; Sanitation</i></b>                                                                                                                                                                                 |
| <b>Client Agreement</b>            | <b><i>N/A</i></b> ("Client Agreement" as further defined in Clause 18)                                                                                                                                                                  |
| <b>Governing Law</b>               | Republic of South Africa ( <i>If blank, laws applicable in the Project location</i> )                                                                                                                                                   |
| <b>Annexures to this Agreement</b> | Annexure 1: Sub-Consultancy Services (Scope, Programme, Facilities & Equipment, Personnel)<br>Annexure 2: Payment<br>Annexure 3: Proposal<br>Annexure 4: Close-Out Notice<br>Annexure 5: Health and Safety - S37(2) Mandatory Agreement |

The Parties agree to change and/or supplement the General Conditions (GC) as follows:

| <b>Special Conditions</b> |                   |                              |
|---------------------------|-------------------|------------------------------|
| <b>GC Clause</b>          | <b>GC Heading</b> | <b>New / Amended Wording</b> |
| <b><i>N/A</i></b>         | <b><i>N/A</i></b> | <b><i>N/A</i></b>            |
| <b><i>N/A</i></b>         | <b><i>N/A</i></b> | <b><i>N/A</i></b>            |
| <b><i>N/A</i></b>         | <b><i>N/A</i></b> | <b><i>N/A</i></b>            |

## GENERAL CONDITIONS OF ENGAGEMENT

### 1. GENERAL

- 1.1 This Agreement, which consists of the Agreement Details, General Conditions of Engagement, Special Conditions (if any), the Client Agreement and Annexure(s), will govern the relationship between Zutari and the Subconsultant to the exclusion of any other terms and conditions. If there are any ambiguities or inconsistencies between the documents forming part of the Agreement, the most stringent requirement will prevail.
- 1.2 The invalidity of one condition of this Agreement shall not affect the validity of the other conditions. Any discrepancy resulting because of the above shall be filled by a condition consistent with the purpose of this Agreement.
- 1.3 No indulgence, extension of time, relaxation or latitude which any Party may show, grant or allow to the other Party shall constitute a waiver of any of its rights.
- 1.4 Clause headings shall not be used to interpret, modify or amplify, the terms of this Agreement.
- 1.5 Wherever in this Agreement provision is made for the giving of notice, consent, approval, certificate or determination by any person then unless otherwise stated such notice, consent, approval, certificate or determination shall be in writing and the words "notify", "consent," "approve", "certify" and "determine" shall be construed accordingly.
- 1.6 All dates and periods of time referred to in this Agreement shall be ascertained in accordance with the Gregorian calendar and any reference to a day shall mean calendar day. If the Subconsultant consists of more than one legal person, the persons comprising the same shall be jointly and severally liable for each and every liability and obligation under this Agreement.
- 1.7 This Agreement shall be the entire agreement between the Subconsultant and Zutari in respect of the Sub-Consultancy Services and shall supersede all previous communications, negotiations, arrangements, agreements, representations and understandings expressed or implied and may only be modified in writing signed by the duly authorised representatives of each Party hereto.
- 1.8 Subject to any provision to the contrary contained herein, this Agreement is effective from the date of signature by the Parties of this Agreement.

### 2. SUBCONSULTANT'S RESPONSIBILITIES AND OBLIGATIONS

- 2.1 The Subconsultant must:
  - (a) perform the Sub-Consultancy Services with due care, skill and diligence;
  - (b) carry out the Sub-Consultancy Services so that no act or omission of the Subconsultant in relations thereto shall constitute, cause or contribute to any breach by Zutari of any of its responsibilities, obligations or liabilities under the incorporated provisions of the Client Agreement.
  - (c) inform itself of the requirements of Zutari regarding the Sub-Consultancy Services by making all necessary enquiries including regularly consulting Zutari;
  - (d) promptly inform Zutari in writing if it considers any information or any document provided to the Subconsultant by Zutari contains any errors or inaccuracies or is inadequate to enable the Subconsultant to properly provide the Sub-Consultancy Services;
  - (e) not rely on accuracy, sufficiency or consistency of any information or documents provided by Zutari, Zutari's Client or on Zutari's behalf and shall be required to verify the accuracy, sufficiency or consistency of any such information or documents;

- (f) comply and perform the Sub-Consultancy Services to comply with all legal requirements, including the requirements of legislation, statutory instruments, codes, traditional customs, statutory authorities, persons acting with statutory authority and all relevant international (as applicable) standards, in the performance of the Sub-Consultancy Services;
- (g) maintain and provide Zutari with access to documents or records in connection with the Sub-Consultancy Services as are reasonably requested by Zutari;
- (h) if and when required by Zutari or this Agreement, produce, to the satisfaction of Zutari, and comply with a program for the performance and completion of the Sub-Consultancy Services, or, if there is no program, perform the Sub-Consultancy Services in a timely manner;
- (i) where the Sub-Consultancy Service consist of more than one stage or milestone, not proceed with the next stage or milestone of the Sub-Consultancy Services without Zutari's written instruction;
- (j) use the key personnel referred to in the Annexure 1 to provide the Sub-Consultancy Services;
- (k) comply with all reasonable directions Zutari gives to the Subconsultant;
- (l) cooperate with any third parties appointed by Zutari in respect of the Project;
- (m) notify Zutari immediately if it becomes aware of a circumstance that may delay performance of the Service or lead to a potential variation;
- (n) notify Zutari immediately it becomes aware of the existence or likelihood of a conflict of interest;
- (o) only take direction from Zutari and no other third party including the Client) The Subconsultant must notify Zutari immediately if it receives any such directions;
- (p) perform its obligations under this Agreement reasonably and in good faith.
- (q) perform its obligations under this Agreement having due regard to the possible impact that its operations may have on the environment, and it shall take appropriate measures to prevent and/or mitigate any possible adverse effects that its operations may have on the environment.

- 2.2 The Subconsultant is not relieved of responsibility for the Sub-Consultancy Services by reason only of any review or acceptance of those Sub-Consultancy Services by Zutari.

- 2.3 The Subconsultant acknowledges and warrants that:

- (a) Prior to the commencement of the Sub-Consultancy Services, the Subconsultant shall have obtained all necessary approvals, licences and consents to practice in the Republic of South Africa. The Subconsultant shall obtain all such further approvals and consents and renew all such licences as shall be necessary to continue to practice in the Republic of South Africa during the continuance of this Agreement.
- (b) it is familiar and shall comply with all other applicable laws, rules, laws, regulations and orders of any applicable jurisdiction (collectively referred to as "the Acts");
- (c) It is familiar and shall comply with the Zutari Code of Conduct and Ethics, a copy of which is available on request.
- (d) it will not and neither will any director, officer, employee or agent of the

Subconsultant engage in conduct which breaches the Acts or any such similar local law;

- (e) it will not receive or offer, pay or promise to pay either directly or indirectly, anything of value to a public official, relating to any business opportunities which are the subject of this Agreement;
- (f) it will immediately advise Zutari if it is approached by or becomes aware of any public official who seeks a benefit, either directly or indirectly, from Zutari which is not otherwise legitimately due; and
- (g) it will indemnify Zutari, its directors, officers, employees, associates or subsidiaries in respect of any and all financial liability which they may incur as a consequence of the Subconsultant's violation of the Acts or any such similar local law.
- (h) For purposes of this clause a public official is any official or employee of any government agency or government owned or controlled enterprise; any person performing a public function; any official or employee of a public international organisation; any candidate for political office; or any political party or an official of a political party.

2.4 The Subconsultant shall:

- (a) Not engage in, support, promote or deliberately become involved any fraudulent activity and report to Zutari any fraud or suspected fraud in connection with the Sub-Consultancy Services immediately upon becoming aware of such activities.
- (b) Respect and where appropriate follow all relevant laws and legal customs at any location in which any part of the Sub-Consultancy Services is being performed;
- (c) Comply with laws, regulations and policies both in the Republic of South Africa and in the location in which any part of the Sub-Consultancy Services is being performed relating to organisations and individuals associated with terrorism, including terrorist organisations and immediately report to Zutari if the Subconsultant discovers any link whatsoever with any organisation or individual associated with terrorism.

### 3. ZUTARI'S RESPONSIBILITIES AND OBLIGATIONS

3.1 Zutari shall:

- (a) pay the Subconsultant for the Sub-Consultancy Services rendered by the Subconsultant in accordance with this Agreement;
- (b) promptly answer reasonable queries made by the Subconsultant in writing in relation to the Sub-Consultancy Services;
- (c) take all reasonable steps to avoid doing anything that will delay the Subconsultant in providing the Sub-Consultancy Services; and
- (d) perform its obligations under this Agreement reasonably and in good faith having regard to its obligations, liabilities and entitlements under or in connection with the Client Agreement.

### 4. STATUS

- 4.1 The Parties acknowledge that, unless otherwise agreed in writing, no partnership, joint venture, employment or relationship other than that of independent entities, shall come into existence between them because of the conclusion of the Agreement.
- 4.2 The Subconsultant is not an agent or employee of Zutari and the Subconsultant acknowledges that its staff accrue no entitlement to annual, sick or paid public holiday leave from Zutari and will not claim any such

entitlements. The Subconsultant acknowledges that Zutari is relying upon the Subconsultant's representation that it is an independent contractor.

- 4.3 The Subconsultant must not incur any obligation or liability or make any representation on behalf of Zutari and shall indemnify Zutari from the same.

4.4 The Subconsultant indemnifies Zutari against any liability:

- (a) to pay the Subconsultant's employees or agents for their services;
- (b) to pay, deduct or make provision for every tax, duty, charge or levy relating to the Subconsultant's employees or agents; or
- (c) to pay or make necessary provision for accident compensation, disability benefits or similar entitlements in relation to the Subconsultant's employees or agents.

### 5. PAYMENT

- 5.1 The Subconsultant shall submit a valid invoice for payment of its fees in the manner specified in Annexure 2, but no more frequently. The invoice for payment must be in writing and must be accompanied by such information and documentation as Zutari reasonably requests for the purposes of verifying the amount of the invoice. As a minimum, the invoices must contain the project number, the name of the Zutari representative and the name of the relevant Zutari entity. Invoices must be forwarded in electronic (PDF) format to [creditors@zutari.com](mailto:creditors@zutari.com) for processing, copied to the Zutari representative. Statements and account queries should also be emailed to [creditors@zutari.com](mailto:creditors@zutari.com).

- 5.2 Zutari shall pay an undisputed invoice submitted in accordance with Clause 5.1, within 14 (fourteen) days of receiving a corresponding payment from Zutari's Client. If Zutari disputes the invoice or any part thereof, it shall inform the Subconsultant. No payment shall be made to the Subconsultant until corresponding payment has been received from Zutari's Client.

5.3 The Subconsultant's right to claim payment does not arise until:

- (a) Zutari receives a copy of this Agreement signed by the Subconsultant;
- (b) the Subconsultant satisfies Zutari that it has complied with its insurance obligations under this Agreement;
- (c) there are no outstanding obligations of the Subconsultant which may entitle Zutari's Client to withhold the corresponding payment from Zutari under the Client Agreement; and the Subconsultant has performed the Sub-Consultancy Services to which the claim for payment relates to the satisfaction of Zutari;
- (d) Payment of any fees or expenses required to be paid under this Agreement (where applicable) is conditional upon the Subconsultant providing to Zutari written and conclusive evidence and proof to the reasonable satisfaction of Zutari that it has incurred such expenses or that it is entitled to the payment; Approval to incur any reimbursable fees or expenses must be obtained from Zutari prior to them being incurred (including the associated amounts); and
- (e) Where applicable and at the request of and for the period requested by Zutari, the Subconsultant must submit timesheets for time it has expended in performing the Sub-Consultancy Services in a form acceptable to Zutari.

- 5.4 Without limiting any other rights that Zutari may have, Zutari may deduct the value of any claims it has against the Subconsultant under any clause in this Agreement or at law from any payment claims of the Subconsultant under Clause 5 or from any other claims of the Subconsultant under this Agreement or at law.

- 5.5 Payment by Zutari is not an admission by Zutari that the Sub-Consultancy Services have been performed in accordance with this Agreement.

- 5.6 The Subconsultant is responsible for all or any taxation liability arising from payments to the Subconsultant under this Agreement, with the exclusion of VAT.
- 5.7 If the Subconsultant requests for the payments to be made in a currency other than the currency agreed under this Agreement, and if Zutari agrees to do so, the Subconsultant shall bear all the currency conversion costs and losses and any losses or risks of any exchange rate changes from when the request was made to when the payment is made.
- 5.8 The Subconsultant must submit a close out notice in a form similar to Annexure 3 with its final invoice confirming that the Services has been completed in accordance with the Agreement. Zutari shall not be obliged to pay the final invoice, unless and until the final project close out notice is received.
- 5.9 The payments made by Zutari shall constitute the only payment to the Subconsultant in relation to this Agreement and shall, unless otherwise stated in the Annexure 2, be inclusive of all expenses, profits, overhead costs the Subconsultant may incur under this Agreement and inclusive of all taxes.

## 6. VARIATIONS

- 6.1 Zutari may require variations, additions, or omissions to the Sub-Consultancy Services in writing or may request the Subconsultant to submit proposals, including the time and cost implications, for variations or additions to the Sub-Consultancy Services.
- 6.2 Zutari may direct the Subconsultant by written notice to make a change to the Sub-Consultancy Services and the Subconsultant shall comply as directed. If, in the Subconsultant's opinion, the said direction from Zutari to vary or add to the Sub-Consultancy Services will result in a requirement for significant adjustments to be made to the remuneration to be paid by Zutari to the Subconsultant for the performance of the Sub-Consultancy Services and / or to the applicable times or periods for the completion of the Subconsultant Services hereunder, the Subconsultant shall notify Zutari in writing within 3 (three) calendar days (or a shorter period as per the Client Agreement) of the receipt by the Subconsultant of the said direction including details of the Subconsultant's opinion as to the adjustments to be so made.
- 6.3 The Subconsultant's fees shall be adjusted as agreed by the parties or otherwise as reasonably determined by Zutari if any adjustment to the Subconsultant's fees is required as a consequence of the change to the Sub-Consultancy Services. If the variation is in connection with a variation under the Client Agreement, any increase will be contingent upon whether Zutari is entitled to a corresponding increase to its fees under the Client Agreement and if so the Subconsultant shall not be entitled to any greater amount than the amount Zutari is granted by its Client under the Client Agreement.
- 6.4 Any variation to this Agreement shall only be of force and effect if agreed upon between the Parties and recorded in writing. Should the Subconsultant perform any additional services without a prior written agreement from Zutari, the performance of the additional services shall be without remuneration and at the Subconsultant's own risk and expense.
- 6.5 Zutari shall be entitled to completely or partially descope any part of the Sub-Consultancy Services from the Subconsultant for any reason and award same or similar services to any third party without the need for Subconsultant's consent and without any liability to the Subconsultant.

## 7. DOCUMENTS AND INTELLECTUAL PROPERTY

- 7.1 Copyright and other intellectual property rights in documents, information or anything else, whether stored on paper or by electronic or other means, produced by the Subconsultant as part of or in connection with the Sub-

Consultancy Services ("Documents") vest in Zutari and the Client on creation. Zutari grants the Subconsultant a license to use that intellectual property for the purpose of carrying out the Sub-Consultancy Services.

- 7.2 However and as allowed by the Client Agreement, to the extent that the Documents contain material the subject of pre-existing intellectual property rights of the Subconsultant or third parties acquired or developed by the Subconsultant outside this Agreement, the Subconsultant hereby grants and will ensure that relevant third parties grant to Zutari and the Client a royalty free irrevocable licence to use that material for or in connection with any purpose for which the Sub-Consultancy Services are provided and for the Project. The Subconsultant must execute and arrange for the execution of such documents as Zutari reasonably requires giving effect to this clause.
- 7.3 The Subconsultant accepts the risk of:
- (a) using drawings, specifications, reports or any other documents issued by Zutari ("Zutari Documents") in electronic form without requesting and checking them for accuracy;
  - (b) the Zutari Documents (in electronic or any other form) being used by the Subconsultant for any purpose other than for the Project and for the purpose for which it was issued; and
  - (c) the Zutari Documents being used or relied upon by any third party who obtained a copy of the Zutari Documents from the Subconsultant without Zutari's written consent.

- 7.4 The Subconsultant, to the extent permissible by law, waives in favour of Zutari and Zutari's Client any moral rights it may have under any applicable laws and/or consents to Zutari performing all or any acts or omissions (whether occurring before or after consent is given) in relation to all literary, artistic and other works referred made or to be made by the Subconsultant in the course of performing the Sub-Consultancy Services.
- 7.5 The Subconsultant warrants that the use of the Documents by Zutari and Zutari's Client will not infringe the intellectual property rights and moral rights of any third party, but if it does the Subconsultant will indemnify Zutari and the Client against any such infringement.
- 7.6 Notwithstanding anything else contained in this Agreement, the provisions of the Client Agreement shall expressly apply and supersede any other provision to the contrary in this Agreement. With respect to the application of the Client, reference to Zutari shall have the same meaning as the Subconsultant.

## 8. CONFIDENTIALITY, ADVERTISING AND MEDIA, PERSONAL INFORMATION

- 8.1 The Subconsultant must not advertise or issue anything relating to the Sub-Consultancy Services or the Project for publication in any media without the prior written approval of Zutari. The Subconsultant will refer to Zutari any enquiries from the media relating to the Sub-Consultancy Services or the Project.
- 8.2 The Subconsultant must not disclose (save in the proper course of its duties) and must ensure that its personnel, subconsultants, subcontractors, representatives and agents do not at any time disclose to any person or otherwise make use of any information which it has obtained or may in the course of this Agreement obtain relating to Zutari, Zutari's Client, the Project or otherwise. The Subconsultant must cause its employees or any other parties it is responsible for to sign such and any other confidentiality undertakings to Zutari or to Zutari's Client as Zutari reasonably requests.
- 8.3 The obligations of the Subconsultant under this Clause shall continue indefinitely notwithstanding the expiration or termination of this Agreement unless a shorter timeframe is specified under the Client Agreement.
- 8.4 Zutari places a high premium on the privacy of personal information of our employees, customers, affiliates, service providers and any third party with



whom we engage or contract with. The processing of personal information is subject to the Zutari Privacy Notice and the Protection of Personal Information Act 4 of 2013 (POPIA).

- 8.5 Each Party hereby authorises the other Party to process personal Information shared by a Party (and/or its affiliates where applicable), for purposes of this Agreement, the business purpose and/or any legitimate purpose allowed for in law.
- 8.6 Where a Party is not the owner of the personal information, the Party sharing such information warrants that it has obtained the required consent of the owner or the relevant competent person, alternatively have established lawful justification for the processing such information in connection with this Agreement. The Subconsultant shall indemnify and hold Zutari harmless against any damage, harm or loss suffered in consequence of a failure of this warranty.

## 9. ENVIRONMENTAL, HEALTH AND SAFETY

- 9.1 The Subconsultant must perform the Sub-Consultancy Services in a safe manner and comply and must ensure that any person, consultant or contractor employed or engaged by the Subconsultant complies with:
- all reasonable requests made by Zutari in relation to environment, health and safety; and
  - all environment, health and safety laws, rules, policies, procedures and requirements required by law applicable to this Agreement and in the location where the Sub-Consultancy Services are performed (and the Project located) or as required by the Client Agreement or Zutari's Client, relevant to the Sub-Consultancy Services.
- 9.2 The Subconsultant must ensure it does not breach or put Zutari in breach of any applicable law, policies, procedures, or code of conduct.
- 9.3 The Subconsultant accepts sole liability for compliance with the provisions of the Occupational Health and Safety Act, 1993 and agrees to enter into a Mandatory Agreement with Zutari in terms of Section 37(2) of the Act, as provided for in Annexure 5.

## 10. ZUTARI'S AND SUBCONSULTANT'S REPRESENTATIVES AND SUBCONSULTANT'S STAFF

- 10.1 The persons named in the Agreement Details as Zutari's Representative and the Subconsultant's Representative, or such other person as a party may nominate as a substitute by notice in writing to the other party, has authority to act on behalf of the corresponding party for the purposes of this Agreement.
- 10.2 The Subconsultant's staff providing Sub-Consultancy Services shall be suitably qualified, experienced and competent to carry out the roles assigned to them.
- 10.3 If it becomes necessary to replace any person on the Subconsultant's staff, the Subconsultant shall immediately notify Zutari and arrange for replacement by a person of comparable competence.
- 10.4 The Subconsultant shall, or shall at Zutari's request, promptly remove and replace any person failing to maintain discipline and good order with another suitably qualified, experienced and competent person. The removal and replacement of any such person shall be at the cost of the Subconsultant.
- 10.5 Where the Sub-Consultancy Services include site supervision services by the Subconsultant, the Subconsultant's staff will be entitled to take leave only with Zutari's prior approval, and after due consideration of Project / Zutari's requirements.
- 10.6 The Subconsultant's staff shall comply with the applicable laws concerning working hours and overtime, and any other timekeeping

procedures as specified in Annexure 2 and the Client Agreement (if any). Any overtime hours required must be approved by Zutari in advance as a condition for payment.

## 11. INDEMNITY BY SUBCONSULTANT AND LIABILITY

- 11.1 Notwithstanding anything else contained in this Agreement, the Subconsultant shall indemnify and hold Zutari (including without limitation its personnel, subcontractors, subconsultants representatives and agents) harmless from and against all loss or damage Zutari may have suffered and all liability (including any and all claims, losses, expenses, costs, actions, demands or damage) whatsoever Zutari may have to Zutari's Client or to any third party (whether such liability arises under the law of contract, tort, including negligence, statute or otherwise) in breach of its obligations under this Agreement or in connection with the performance or non-performance of the Sub-Consultancy Services by the Subconsultant or its personnel, subcontractors, representatives and/or agents.
- 11.2 The Subconsultant acknowledges that:
- its obligations under this Agreement form part of Zutari's obligations to Zutari's Client;
  - should it breach this Agreement, Zutari may incur costs and suffer losses in connection with Zutari's obligations to Zutari's Client, including but not limited to damages for late completion, delay and disruption costs, rectification costs and loss of revenue; and
  - Zutari has provided the Subconsultant with a copy of the Client Agreement between Zutari and Zutari's Client or made it available for the Subconsultant to inspect and copy.
- 11.3 Notwithstanding anything to the contrary in this Agreement, the Subconsultant shall not be considered liable for any loss or damage resulting from any occurrence unless a claim is formally made against the Subconsultant before the expiry of 3 years from completion of the Sub-Consultancy Services or termination of the Agreement (whichever is earlier).
- 11.4 The maximum amount of liability the Subconsultant has to Zutari in respect of any and all liability, including liability arising from negligence, under or in connection with this Agreement shall be specified in the Agreement Details and will not exceed the amount of liability Zutari has under its agreement with the Client.
- 11.5 Neither Party shall be liable in contract, tort, under any law or otherwise, for any loss of revenue, loss of profit, loss of production, loss of contracts, loss of use, loss of business third party punitive damages or loss of business opportunity or for any indirect, special or consequential loss or damage.
- 11.6 The abovementioned liability limitations shall not apply to claims arising out of deliberate manifest and reckless misconduct, gross negligence, fraud or fraudulent misrepresentation, breach of Intellectual Property and Confidentiality obligations by the Subconsultant.
- ## 12. INSURANCE
- 12.1 The Subconsultant must continuously maintain the following insurance with an insurer approved by Zutari (which approval will not be unreasonably withheld: a) professional indemnity insurance in the amount specified in the Agreement Details, b) public liability insurance in the amount specified in the Agreement Details, c) workers compensation insurance as required by applicable law, medical and travel insurance.
- 12.2 Insurance must be maintained until at least 3 years from the date when the last services were performed by the Subconsultant under this Agreement or the termination of the Agreement (whichever is the earlier)

unless a longer period is specified by the Client Agreement.

- 12.3 Without any prejudice, affect or reduction to the Subconsultant's liabilities and the limit of liability under or in connection with this Agreement, the Subconsultant shall ensure that the minimum amount of cover under the policies is not less than the amounts specified in the Agreement Details.
- 12.4 If the Client Agreement so requires, the Subconsultant's policies must give due regard and contain such other terms as required of Zutari's subconsultants by the Client Agreement.
- 12.5 The Subconsultant must provide Zutari on request from time to time with such evidence as Zutari requires in relation to the insurance policies that the Subconsultant must maintain under this Agreement.
- 12.6 The Subconsultant shall notify Zutari immediately should any of the insurance required be cancelled by the insurers or underwriters.
- 12.7 In the event that the Subconsultant's insurance requirements is waived, the Subconsultant acknowledges and understands that the Subconsultant will not be covered under Zutari's professional indemnity insurance policy. Zutari informs the Subconsultant that: (a) Not having insurance does not detract from any potential liability the Subconsultant may incur as a result of the Subconsultant's breach of its obligations due to professional negligence, third party claims or damages; (b) Not being covered in terms of Zutari's insurance, does not detract from the Zutari's insurer's right to exercise its right of subrogation against the Subconsultant (referring to the right of the insurer to recover from the Subconsultant, the amount of a claim paid by the insurer to the insured (Zutari) for the loss caused by the Subconsultant). Informed of the associated risks, the Subconsultant voluntarily accepts the insurance waiver and agrees to make its own insurance arrangements.

### 13. FORCE MAJEURE

- 13.1 Either Party shall be entitled to a reasonable extension of time and for the performance of their portion of the Sub-Consultancy Services due to delays caused by force majeure events, namely an act, omission or event beyond the reasonable control of either Party. Neither Party shall be entitled to any additional costs as a result of Force Majeure.
- 13.2 Force majeure events includes without limitation, fire, floods, acts of God, acts or regulations of any governmental or supranational authority, war, riot, terrorist activities, strikes, lockouts and industrial disputes.
- 13.3 Either Party affected by a force majeure event shall promptly dispatch a written notice to the other Party requesting a meeting to decide on the appropriate action.

### 14. DURATION

- 14.1 Subject to an earlier termination in accordance with the terms of this Agreement, this Agreement shall be effective from the date of appointment by Zutari or from the time when the Subconsultant began to perform any of the Sub-Consultancy Services provided for in this Agreement, whichever is the earlier, and shall continue until all the Sub-Consultancy Services have been fully performed to the satisfaction of Zutari and the Client and each Party has fulfilled all its obligations under this Agreement.
- 14.2 The Sub-Consultancy Services shall commence on the commencement date stated in the Agreement Details and shall be completed on the completion date stated in Annexure 2 or Client Agreement, subject to agreed time extensions.

### 15. TERMINATION AND SUSPENSION OF SERVICES

- 15.1 Where the Subconsultant commits a substantial breach of this Agreement, Zutari may give the Subconsultant written notice specifying the breach and the period for its rectification which will not be less than 7 (seven) days

from the date of service of the notice (unless a shorter time is required under the Client Agreement). If the Subconsultant fails to rectify the breach within the period specified in the notice or if the breach is not capable of remedy, Zutari may, without further notice, terminate this Agreement.

- 15.2 If, in the reasonable opinion of Zutari, the Subconsultant suffers or may potentially suffer an adverse or potentially adverse alteration in its financial capacity to function as a solvent business or entity, or if the Subconsultant becomes bankrupt or insolvent, or goes into liquidation, has a receiving or administration order made against it, compounds with its creditors, or carries on business under a receiver, trustee or manager for the benefit of its creditors, or if any act is done or event occurs which under the applicable law, has a similar effect to any of these acts or events, Zutari may, by notice in writing to the Subconsultant, suspend or terminate this Agreement with immediate effect.
- 15.3 Zutari may terminate or suspend this Agreement at any time at its convenience for any reason and without any reason being given by giving 7 (seven) days' notice.
- 15.4 When the Sub-Consultancy Services have been suspended by Zutari, the Subconsultant shall resume the Sub-Consultancy Services or part thereof, within 7 (seven) days of receipt of notice from Zutari instructing the Subconsultant to resume the Sub-Consultancy Services or part thereof.
- 15.5 During the period of suspension, the Subconsultant shall not perform the Sub-Consultancy Services or part thereof, but shall ensure, as far as reasonably practicable, the security, maintenance and custody of the Sub-Consultancy Services to prevent loss or damage.
- 15.6 The Subconsultant shall take reasonable measures to mitigate the effects of suspension of the Sub-Consultancy Services or part thereof.
- 15.7 The Subconsultant may suspend the Sub-Consultancy Services in the following circumstances:
- Where a Force Majeure event arises; or
  - If the health, safety and/or security of the Subconsultant staff working at the Project location is compromised by an exceptional event arising, provided notice is given to Zutari as soon as reasonably practicable and provided the Subconsultant takes reasonable endeavours to avoid such suspension.
- 15.8 When the Sub-Consultancy Services have been suspended by the Subconsultant in accordance with Clause 15.7, the Subconsultant shall resume the Service immediately after the occurrence giving right to suspension ceases to exist.
- 15.9 If the Sub-Consultancy Services have been suspended for more than 180 (one hundred and eighty) days, either Party may terminate the Agreement upon giving 14 (fourteen) days' notice to the other Party.
- 15.10 If Zutari terminates this Agreement for any reason, other than pursuant to Clause 15.1 and Clause 15.2 above or the substantial default of the Subconsultant, Zutari must pay to the Subconsultant fees for the Sub-Consultancy Services provided satisfactorily up to and including the date of termination provided always that it has received the corresponding funds from the Client.
- 15.11 If Zutari terminates this Agreement pursuant to Clause 15.2 above or as a result of a substantial default by the Subconsultant, Zutari must pay to the Subconsultant fees for the Sub-Consultancy Services provided satisfactorily up to and including the date of termination less any adjustments and deductions for any amount for which the Subconsultant is liable to Zutari for costs, loss and damage caused by the Subconsultant.
- 15.12 The amount paid by Zutari to the Subconsultant is in full satisfaction of any claim that the Subconsultant might otherwise have against Zutari under or arising out of the suspension or termination of this Agreement.
- 15.13 Upon completion of the Services, suspension or termination of this Agreement by Zutari, the Subconsultant must deliver to Zutari all documents produced by the Subconsultant up to the date of completion of the Services, suspension or termination regardless of their stage of completion (including all native files) and all Zutari documents, materials

and equipment (if any).

- 15.14 Upon suspension by Zutari, the Subconsultant may submit an invoice pursuant to the payment provisions of this Agreement for all fees for Sub-Consultancy Services performed satisfactorily up to and including the date of suspension, for which an invoice has not been issued, and Zutari shall pay in accordance with this Agreement provided always that Zutari has received corresponding funds from the Client.
- 15.15 The Parties agree that by signing this Agreement they consent to the other Party's entitlement to terminate this Agreement in accordance with its terms without the need to obtain a court order.
- 15.16 No termination or suspension under any of the clauses shall entitle the Subconsultant to any claim for or payment in respect of loss of profit, overhead, consequential loss or.
- 15.17 Suspension nor termination shall prejudice the accrued rights or claims and liabilities of the Parties prior to such suspension or termination.

## 16. DISPUTE RESOLUTION

- 16.1 If a dispute between the Subconsultant and Zutari arises in connection with this Agreement, then either party will serve to the other party a notice of dispute in writing adequately identifying and providing details of the dispute as a condition precedent to any entitlement to a claim, relief or remedy in respect of the dispute.
- 16.2 Any dispute as mentioned in Clause 16.1 above which cannot be amicably settled between the Parties within 28 (twenty-eight) days after such dispute arising may be referred by either Party to arbitration in accordance with the provisions set forth under the rules of the Arbitration Foundation of Southern Africa (AFSA). The place of arbitration shall be the Pretoria, South Africa and the language of the arbitration shall be English. The tribunal may rule on the apportionment between the Parties of the legal costs and disbursements incurred by each of them in connection with the arbitration and may, but shall not be obliged to, order that the prevailing Party's legal costs and disbursements be paid in whole or in part by the other Party.
- 16.3 If any dispute arises between the Client and Zutari which touches or concerns the Sub-Consultancy Services, then Zutari may by notice to the Subconsultant require that any dispute under this Agreement in that connection be dealt with jointly with the dispute between the Client and Zutari in accordance with the dispute resolutions clauses of the Client Agreement which will be incorporated by reference in this Sub-Consultancy Agreement in such instance. In connection with such joint dispute the Subconsultant shall be bound in the same manner as Zutari by any award by an arbitrator. The Subconsultant shall if and when necessary, at the request of Zutari render all assistance that may be required by Zutari for prosecuting, defending and/or settling any legal proceedings or arbitration before any court of law, tribunal, authority or other such forums in relation to any dispute which may arise out of or in connection with the Project. The said assistance may include without limitation giving evidence as a witness in the said proceedings or arbitration. This Clause 16.4 shall remain in full force and effect indefinitely notwithstanding the expiration or termination of this Agreement. Such assistance will be subject to the pre-agreement of reasonable fees and costs prior to any such costs being incurred.
- 16.4 Notwithstanding the existence of a dispute and subject to any rights under this Agreement, Zutari and the Subconsultant will continue to perform their obligations under this Agreement and continue to observe and perform each and every term, condition and provision of this Agreement on its part to be so observed or performed, including without limitation in the case of the Subconsultant its obligation to perform the Sub-Consultancy Services and to do so in accordance with the decisions, instructions and orders of Zutari even if the dispute concerns any of such decisions, instructions or

orders.

## 17. NOTICES

- 17.1 Notices under the Agreement shall be in writing and shall be delivered by hand, sent by email or by courier.
- 17.2 Hard copy notices issued in terms of this Agreement shall be sent and delivered (against receipt) to the address specified on the Party's letterhead unless another address is specified in the Agreement Details.
- 17.3 Soft copy notices issued in terms of this Agreement shall be sent and delivered (against proof of transmission) to the addresses of the nominated representative of each Party as per the Agreement Details.
- 17.4 Either Party shall be entitled to change their nominated address and/or representative, by giving the other Party 10 (ten) days prior written notice.
- 17.5 A written notice actually received by a Party shall be deemed to be adequate notice to that Party, even if the notice was sent to a different address than the address specified in the Agreement Details.

## 18. CLIENT AGREEMENT APPLICATION

- 18.1 Any reference to "Client Agreement" in this Agreement means the consultancy agreement which Zutari has entered or is negotiating or contemplating entering into with its Client or its Client's nominee in relation to the Project, subject to the following:
- (a) if a copy of the Client Agreement or a draft Client Agreement has been attached or exhibited (at the time of execution of this Sub-Consultancy Agreement) for identification, "Client Agreement" will mean that document;
  - (b) if Zutari has not entered into the Client Agreement with its Client, the Subconsultant will nevertheless hold itself obliged to Zutari as if Zutari had entered into the Client Agreement and for all purposes treat the Client Agreement as in existence; and
  - (c) if a consultancy agreement in relation to the Project is entered into between Zutari and its Client after Zutari and the Subconsultant have entered into this Sub-Consultancy Agreement and the Subconsultant is notified, all references to "Client Agreement" in this Sub-Consultancy Agreement shall from when the Subconsultant is notified mean that consultancy agreement between Zutari and its Client which shall replace any prior, proposed or draft consultancy agreements whether or not they were attached hereto or previously provided or exhibited to the Subconsultant.
- 18.2 The Subconsultant acknowledges and agrees that:
- (a) it is familiar or will do all things necessary to become familiar with the terms of the Client Agreement and with Zutari's liabilities and obligations thereunder;
  - (b) the Subconsultant will do all things necessary to enable Zutari to meet or discharge its obligations under the Client Agreement in relation to the Sub-Consultancy Services;
  - (c) if there is any inconsistency between the Client Agreement and this Agreement which may cause Zutari to breach its obligations under the Client Agreement, the Client Agreement shall prevail to the extent of such inconsistency; and
  - (d) if there is any requirement in the Client Agreement for the Subconsultant to execute any form and/or warranty and/or agreement or specifically comply with any provisions of the Client Agreement, the Subconsultant shall be so required to oblige.
- 18.3 Where the subject matter of a dispute between Zutari and the Subconsultant is or becomes wholly or partially a dispute under the Client





Agreement, the parties agree to be bound by any determination or other resolution of the dispute made under any dispute resolution clause of the Client Agreement. Such a dispute shall be dealt with in accordance with Clause 16.

## 19. MISCELLANEOUS

- 19.1 Notwithstanding any other clause in this Agreement, if there is any inconsistency between the Special Conditions and any other clause in this Agreement, the Special Conditions prevail.
- 19.2 This Agreement will be interpreted in accordance with and governed by the law specified in the Agreement Details.
- 19.3 If the Subconsultant performed any of the Sub-Consultancy Services prior to the execution of this Agreement, the terms of this Agreement will apply retrospectively from the date of commencement of those Sub-Consultancy Services.
- 19.4 No change, amendment or modification of this Agreement will be valid or binding on the parties unless such change, amendment or modification is evidenced in writing and signed by both parties.
- 19.5 Neither party will assign or novate, without the prior written approval of the other given on reasonable terms, the benefit of its rights under this Agreement or its liabilities or obligations under this Agreement.
- 19.6 The Subconsultant shall not subcontract the performance of the Sub-Consultancy Services without the written consent of Zutari (which shall not be unreasonably withheld or delayed).
- 19.7 Zutari's consent to subcontract shall not relieve the Subconsultant of any of its obligations under this Agreement.
- 19.8 This Agreement has been prepared and agreed in the English language and all documents delivered thereunder or in connection therewith (including without limitation all correspondence, drawings, specifications, notices and other documents submitted to Zutari or to the Subconsultant), shall also be in the English language. In the event of any translation of this Agreement or any part thereof or of any such documents as aforesaid into any other language, the same shall continue to be construed and interpreted according to the English language version which shall (to the extent allowed by law) therefore prevail in the event of any conflict. If, notwithstanding the foregoing, any competent court should hold that any such other translation shall prevail over the relevant English language version, that English language version shall be referred to in order to assist in the interpretation of the other translation.
- 19.9 All the Subconsultant's personnel engaged in the performance of the Services shall be fluent in the English language (both written and oral).
- 19.10 If the whole or any part of a clause or obligation of this Agreement is held to be unenforceable for any reason, it will be severed from this Agreement and the remainder of the clause or obligation will continue to operate and be in full force and effect as if the severed part had never been included in this Agreement.
- 19.11 During the period of this Agreement and for a period of 12 (twelve) months from the date when the last services were performed by the Subconsultant under this Agreement, the Subconsultant will not take advantage of or use knowledge or professional contacts gained through performing services for Zutari to:
  - (a) solicit or offer to provide professional services, of the kind offered by Zutari, to any client of Zutari; and
  - (b) unless the person first approached the Subconsultant seeking employment, directly or indirectly employ or otherwise engage or procure the employment (or other engagement) of any of Zutari's employed or contracted staff without the prior written consent of Zutari.



Developed for the Zutari Group  
by Zutari Legal (October 2023)

## ANNEXURE 1 - THE SUB-CONSULTANCY SERVICES

### 1. SCOPE OF SERVICES

#### ***Biodiversity Offset Specialist Assessment Services***

The Sub-Consultant's Scope of Services is to provide all the Biodiversity Offset Specialist Assessment Services required in the Client Agreement, and any other ancillary services required to ensure that Zutari is able to fulfil all obligations of the Client Agreement scope, including, but not limited to:

Scope of Services exclusions are as set out in the Sub-Consultant's proposal contained in Annexure 4 (if any).

### 2. PROGRAMME OF SERVICES AND MILESTONE DELIVERABLES

In accordance with the requirements of the Client Agreement.

***Programme as per the most recent provided by Consultant.***

### 3. KEY PERSONNEL

Not Applicable

### 4. FACILITIES

Not Applicable



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## ANNEXURE 2 - PAYMENT OF THE SUB-CONSULTANT

- a. In consideration for rendering the Sub-Consultancy Services, Zutari shall, subject to payment provisions of the Agreement, pay the Sub-Consultant the following lump sum amount: **ZAR 322,680.00 (that is Three Hundred Twenty-Two Thousand Six Hundred and Eighty Rand Only)**, including all disbursements, and including VAT.
- b. The Sub-Consultant's Fee summary provided to Zutari is as below:

| Description                                                                                                                                                                                    | Fee (ZAR)           |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| <b><u>Phase 1</u></b>                                                                                                                                                                          |                     |
| • Project Inception Meeting and Data Review                                                                                                                                                    | R 6,250.00          |
| • Visit Targeted Project Areas                                                                                                                                                                 | R 15,000.00         |
| • Evaluate the Various Viable Offsets, and Provide a Matrix of Options for Implementation                                                                                                      | R 10,000.00         |
| • Define Objectives and Targets for the Biodiversity Offset Strategy together with selected I&APs, and Relevant                                                                                | R 15,000.00         |
| • Determine the Required Size of Offset and, Where Applicable, its Optimum Location/s                                                                                                          | R 15,000.00         |
| • Determination of Additional Conservation Actions                                                                                                                                             | R 7,500.00          |
| • Land Use Mapping of Offset Area                                                                                                                                                              | R 3,750.00          |
| • Undertake a High-Level Risk Assessment of the Likelihood of Success Considering the Identified Approach                                                                                      | R 5,000.00          |
| • Develop a Strategy to Address and Reduce the Risks Identified                                                                                                                                | R 7,500.00          |
| • Calculate Biodiversity Offset Conservation Balance                                                                                                                                           | R 5,000.00          |
| • Compilation of Phase 1 Report Containing Options Analyses Quantum and Way Forward                                                                                                            | R 30,000.00         |
| • Presentation of Phase 1 Report to Authorities and Client                                                                                                                                     | R 16,250.00         |
| • Travel and Disbursement Fees                                                                                                                                                                 | R 11,340.00         |
| <b><u>Phase 2</u></b>                                                                                                                                                                          |                     |
| • Visit and Assess Target Offset Sites to Determine Approtenss and Best Fit                                                                                                                    | R 15,000.00         |
| • Prioritise Offset Projects                                                                                                                                                                   | R 2,500.00          |
| • Target Area Quantum Calculations for Wetland and Biodiversity Offsets                                                                                                                        | R 3,750.00          |
| • Develop Concept Site-Level Plans Including Objectives and a Description of Actions / Interventions Planned, Including Roles and Responsibilities for the Execution/Implementation of Project | R 37,500.00         |
| • Define the Measurable Outcomes and a Monitoring Programme                                                                                                                                    | R 7,500.00          |
| • Offset Workshop with Client                                                                                                                                                                  | R 15,000.00         |
| • Develop Schedules and Timeframes for Completion of Offset Activities in Consultation with Relevant I&APs and Relevant Authorities                                                            | R 7,500.00          |
| • Generate Budget Estimates of the Proposed Projects/Interventions, and Monitoring Programme                                                                                                   | R 6,250.00          |
| • Establish Performance Auditing and Reporting Requirements                                                                                                                                    | R 3,750.00          |
| • Preparation of Draft Memoranda of Understanding Between Relevant Stakeholders in the Offset                                                                                                  | R 30,000.00         |
| • Prepare Final Offset Report for Inclusion in EIA                                                                                                                                             | R 20,000.00         |
| • Project Presentation to Authorities                                                                                                                                                          | R 15,000.00         |
| • Travel and Disbursement Fees                                                                                                                                                                 | R 11,340.00         |
| <b>Total (excl. VAT)</b>                                                                                                                                                                       | <b>R 322,680.00</b> |
| <b>VAT @ 15%</b>                                                                                                                                                                               | <b>R 48,402.00</b>  |
| <b>Total (incl. VAT)</b>                                                                                                                                                                       | <b>R 371,082.00</b> |

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- c. As a minimum, the invoices must contain the project number (**R0001001780-00**), the name of the Zutari representative (**Corlie Steyn**) and the name of the relevant Zutari entity (**Zutari (Pty) Ltd (VAT No. 4320106703)**). Invoices must be forwarded in electronic (PDF) format to **Corlie.Steyn@zutari.com** for processing. The amounts to be paid in terms of this Agreement shall be paid into the following bank account of the Sub-Consultant:

| Description          | Details                                          |
|----------------------|--------------------------------------------------|
| Beneficiary:         | <b>Scientific Terrestrial Services (Pty) Ltd</b> |
| Bank:                | <b>Nedbank</b>                                   |
| Account Number:      | <b>1122 510993</b>                               |
| Branch / Swift Code: | <b>198 765</b>                                   |



## ANNEXURE 3 - CLOSE OUT NOTICE

Not Applicable

## ANNEXURE 4 – SUB-CONSULTANT'S PROPOSAL

The Sub-Consultant's proposal has been included for reference purposes only. Terms and conditions contained in the proposal shall not be deemed accepted by Zutari and shall in absolutely no way amend any the terms of the Sub-Consultancy Agreement.



# Scientific Terrestrial Services

Applying science to the real world

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Tel 011 616 7893

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[admin@sasenvgroup.co.za](mailto:admin@sasenvgroup.co.za)

**Name:** Stephen Van Staden

**Date:** Sunday, 09 June 2024

**Ref:** STS/ZUT 20240609

**Zutari**

Email: [Marianna.Taljaard@zutari.com](mailto:Marianna.Taljaard@zutari.com)

Attention: Ms. Marianna Taljaard

## **RE: BUDGET PROPOSAL FOR THE DEVELOPMENT OF A BIODIVERSITY OFFSET AND COMPENSATION INITIATIVE FOR THE MACASSAR WWTW EXPANSION PROJECT.**

I would like to thank you for the opportunity to provide you with a proposal for the above-mentioned biodiversity offset scope of work of work. The sections below give an indication of the scope of work as envisioned by Scientific Terrestrial Services as well as a cost breakdown for the project.

### **1. Background**

The Macassar WWTW must be expanded to cater for the increased demand for treatment of sewage effluent. A basic assessment is currently being undertaken to obtain environmental authorization for the project. In addition, a water use license will also be required.

According to best practice, the offset principles indicate that a biodiversity offset would most likely be required, and an offset investigation would therefore be mandatory. The nature and size (e.g. appropriate ratios if any) of the offset would be determined during the preliminary offset investigation.

### **2. Site locality**

The site locality is presented in the figure 1 below.



**Figure 1. Site Locality**

### 3. Scope of Work

The objective of the project is to prepare a biodiversity offset report consistent with the National Biodiversity Offset Guideline published in the Government Gazette No. 46088 on 25 March 2023 (NBOG) (2023).

The development of the biodiversity offset initiative will be undertaken in two phases. Phase 1 will be a set approach that will include a consultative meeting with the relevant authorities. This will inform the the feasibility of the offset/compensation initiative. Input and recommendations from the authorities will then be used to target offset sites to be considered for use in the final offset/compensation initiative that will be investigated as part of Phase 2.

Phase 2 will be initiated by undertaking more detailed investigations of the target offset site(s). a biodiversity offset implementation plan will be developed along with appropriate management, rehabilitation and restoration requirements as well as monitoring and auditing requirements. This phase will be and concluded with a presentation of the proposed offset to the relevant authorities in support of the final formal offset report for approval as part of the EAR. The process will also include preparation of draft Memoranda of Understanding (MOU's) between the relevant Stakeholders including landowners of offset sites, the mining company and the relevant government stakeholders.

Due to the uncertainties associated with Phase 2, the method of assessment as well as budget may vary according to the recommendations made by the relevant authorities as well as the findings of Phase 1 of the offset initiative development. However, the envisaged method presented in this proposal has been found to work historically and on project of this scale. Any amendment of the budget, project timeframes and scope required will be developed in consultation with the lead consultant and client in a timeous manner.

## 2 PROPOSED METHOD OF ASSESSMENT

### 2.1 Phase 1 - Proposed Method of Assessment

The Scope of Work as part of Phase 1 of the study will include:

- All background information and existing studies will be reviewed along with relevant national and/or provincial and/or local databases;
- Arrangement and attendance of an inception meeting with relevant stakeholders to identify potential offset alternatives and to define high level targets, goals and objectives;
- A site investigation will take place to get firsthand knowledge of the site and to understand the adjacent landscape which will need to host the offset;
- Define the residual negative impacts on freshwater resources and terrestrial ecosystems as well as goods and services, ecological linkages, such as climate corridors and species of conservation concern;
- The Offset investigation will consider international Biodiversity Best Offset Practice (BBOP) International Guidelines;
- Based on the findings both on-site and off-site options for biodiversity offsets will be assessed in the surrounding area with preference given to the nearest options that meet like for like requirements;
- Consideration will be given to different types of offsets including:
  - Rehabilitation offsets;
  - Proclamation and protection-based offsets;
  - Aversion of loss offsets;
  - Rehabilitation and restoration aspects; and
  - Combinations of the above.
- Since it is deemed likely that the project cannot be successfully offset attention will also be given to Additional Conservation Actions (ACAs);
- A high-level risk assessment of the likelihood of success considering the identified approach and opportunities will be undertaken;
- A strategy to address and reduce the risks identified will be developed;
- The offset balance and residual loss/gain will be defined;
- Results will be compiled into a report which will include a discussion on the findings as well as management recommendations;
- The report will also provide recommendations on the biodiversity offset strategies to be implemented in Phase 2;
- An internal project meeting with the lead consultant and the proponent will be held to discuss the options for the offset to map the way forward on the project.
- At this stage the relevant authorities will again be engaged to determine of the planning to date is deemed acceptable.

The above approach will then inform Phase 2 where more detailed investigations and offset design will take place and where engagement of the relevant target site landowners must be initiated.

### 2.2 Phase 2 - Proposed Method of Assessment

Key tasks envisioned for Phase 2 of the study include:

- Define objectives and targets for the biodiversity offset strategy together with the relevant stakeholders;
- Site visits to selected target offset areas will be undertaken and each target site to determine management rehabilitation and restoration needs (if applicable);
- Offset interventions will be prioritized along with ACAs;
- Site-level plans including specific site-level objectives and a description of actions / interventions will be developed;
- Measurable outcomes and a monitoring program will be defined;
- Schedules and timeframes for completion of offset activities in consultation with the relevant stakeholders will be broadly defined;
- Budget estimates of the proposed projects/interventions, and monitoring program will be generated;
- Establish performance auditing and reporting requirements; and

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- Develop Draft Memoranda of Understanding between Stakeholders in Offset Initiative.

The above information will be compiled into a final report in which will be submitted as part of the EAR for approval by the relevant authorities.

### 2.3 Offset Rehabilitation and Management Plan

Since it is of no use to simply offset areas in a like for like fashion to obtain net gains there is a need to intervene and improve freshwater and aquatic resource functionality and to improve habitat provision, target species support and to improve goods and Services provision. It is for this reason that an offset or target site rehabilitation and management plan is required.

The following key tasks are highlighted:

- Measures and expected timeframes to rehabilitate and mitigate the potential impacts to levels suitable to ensure the ongoing functioning of the offset resources will be provided;
- Following this, a site-specific rehabilitation plan will be developed which will focus on the following:
  - Re-instatement of hydrological characteristics of the watercourse/ freshwater resource offsets;
  - Re-instatement of freshwater ecological services;
  - Re-instatement of topographical sequences;
  - Re-instatement of indigenous vegetation;
  - Habitat creation and maintenance for target species;
  - Alien and invasive floral management;
  - Erosion and siltation management;
  - Aftercare and maintenance; and
  - Monitoring of rehabilitation works.
- Site specific management measures will be developed focusing on management strategies in terms of:
  - Geology, geomorphology and soils;
  - Hydrology;
  - Vegetation and flora;
  - Fauna;
  - Ecological linkages;
  - Fire; and
  - Social/ community aspects and wetland service provision.

All results will be compiled into a concise yet comprehensive offset rehabilitation, restoration and implementation plan to support the offset initiative.

## 3 WHY SCIENTIFIC TERRESTRIAL SERVICES?

1. Scientific Terrestrial Services has **experience in developing biodiversity offset initiatives for a variety of operations across South Africa** with clients including:
  - a. R300 road way upgrade offset;
  - b. Phillipii Sand Mine Biodiversity Action Plan and Offset;
  - c. Zandheuwel Phosphate Mine Saldanha bay;
  - d. Asla N1 Development in Klapmuts Western Cape;
  - e. Anglo American Platinum FAR Eastern Limb Operations (Der Brochen/Mototolo, Modikwa, Twickenham and Polokwane Smelter);
  - f. Anglo American Platinum Amandelbult Platinum Mine
  - g. Umkhomazi Phase 1 Smithfield Dam: biodiversity offset Initiative (R24 Billion Capex Project)
  - h. Richards Bay Harbour South Dunes Precinct Biodiversity Offset Initiative;
  - i. Evander Gold: Project Elikhulu Biodiversity offset initiative;
  - j. Cape Town International Airport Swartklip Biodiversity Offset Initiative;
  - k. Canyon Coal Phlandwa Colliery Biodiversity Offset Initiative, Delmas;
  - l. Glencore Rustenburg works Biodiversity Offset Initiative;
  - m. Everest Platinum Mine Biodiversity Offset Initiative, Steelpoort; and

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- n. Assore, Managanese: Black Rock Mine Biodiversity Offset Initiative, Hotazel.
2. All work is undertaken or overseen by a **registered Professional Natural Scientist** and by consultants with extensive practical experience.
3. Scientific Terrestrial Services have a **team of 28 ecologists from which to draw, all with their specific strong points across vegetation and flora, faunal species, including avifauna, macro-invertebrates.**
4. Scientific Terrestrial Services has the critical mass to execute a project of this magnitude;
5. Scientific Terrestrial Services will aim to execute the project on a **quick but appropriate turnaround time** to ensure that the information can be used in a pro-active manner.
6. Scientific Terrestrial services will strive to maintain **open communication channels** to allow for constructive input from stakeholders into the documentation.
7. Scientific Terrestrial Services will strive to ensure **the highest quality of documentation** and to utilize **best practice procedures** to ensure that products are concise, yet informative and that they are written in such a way that will allow for easy interpretation by readers and that the needs of stakeholders requiring the information are met.
8. Scientific Terrestrial Services has **extensive academic knowledge and practical experience** allowing **cost effective project management** and **informed decision support.**
9. Scientific Terrestrial Services have extensive **experience in biodiversity assessments** throughout South, Southern, Central and West Africa

#### 4 BEE STATUS

Scientific Terrestrial Services is a level 4 BBEE contributor and is planning a strategy to attain a Level 2 status. Certification can be provided upon request.

#### 5 PROJECT TEAM

The following consultants are considered the core of the project team. Further input from permanently employed consultants at the SAS Environmental Group of Companies may be utilised for specific tasks where their knowledge is deemed most appropriate.

##### **Stephen van Staden**

SACNASP REG.NO: 400134/05

Stephen van Staden is an environmental practitioner with over 20 years of experience in the water compliance, water monitoring and environmental management fields. He completed an undergraduate degree in Zoology, Geography and Environmental Management. He then undertook an honours course in Aquatic health. In 2002 he began a master's degree in environmental management, including his dissertation in aquatic resource management. Stephen built a career at a firm specialising in town planning development, after which he moved to a larger firm in late 2002 where he managed the monitoring division and acted as a specialist freshwater resource consultant and other environmental processes and applications. He started and has grown a multi-disciplinary environmental consultancy firm since 2003 and has become a forerunner in the environmental consultancy industry. Stephen is accomplished in various freshwater disciplines including both aquatic and wetland fields of science. Stephen has become recognised as a national expert combining science, engineering principles and an in-depth understanding of the legislative framework to provide turnkey advisory services. Stephen launched soil and land capability assessment and visual impact assessment services with other specifically qualified specialists. Stephen is registered by the SA RHP as an accredited biomonitoring specialist and is SACNASP registered in ecology. Stephen is a member of the Gauteng Wetland Forum, SASSO, LARSA and IAIA. Stephen has also attended the DWS training courses on the various Ecostatus models, as well as the implementation of Regulation 509 of 2016 and has attended the course Tools for Wetland Delineation and Assessment by Rhodes University and presented by Prof. F. Ellery, who was instrumental in the development of the various wetland Ecostatus tools.

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### Nelanie Cloete

SACNASP REG.NO: 400503/14

Nelanie holds two master's degrees in Botany and Biotechnology and in Environmental Management. Nelanie began building a career by working at an environmental consultancy, specialising in Ecological studies, Basic Assessments and Environmental Impact Assessments. Since 2008 she acted as a specialist consultant on floral assessments and other environmental processes and applications. Nelanie also gained extensive experience in protected tree and floral removal permit applications in numerous provinces, development of Biodiversity Action and Management Plans, and Alien and Invasive Control Plans. Nelanie is registered as a Professional Natural Scientist with the South African Council for Natural Scientific Professions (SACNASP). Nelanie is also a professional member of the Grassland Society of South Africa (GSSA), the Botanical Society of South Africa (BotSoc), South African Association of Botanists (SAAB), a member of the International Affiliation for Impact Assessments (IAIAsa) group and a member of the Gauteng Wetland Form (GWF).

### Christopher Hooton

Btech Nature Conservation

Chris obtained his National Diploma in Nature Conservation (2006-2008) and then proceeded to complete his BTech Nature Conservation degree (2011-2013), both at Tshwane University of Technology. Chris's BTech research thesis looked at successfully calculating Spotted Hyaena population size using infrared camera traps and the capture-recapture model for population calculation. Chris's working career spans various departments, organizations and fields. A year was spent working for the Special Investigations Unit of the then Gauteng Department of Agriculture, Conservation and Environment (GDACE), focusing on the enforcement of the Nature Conservation Ordinance of Gauteng, CITES and TOPS in the Gauteng and North West province. Here he focussed primarily on the control of illegal trade in endangered species, with special focus on Red Data List and CITES species and products thereof. Whilst working for GDACE Chris actively involved himself in the provincial game reserves, assisting with floral and faunal assessments. As part of his BTech studies, Chris went to work for the Lowveld Wild Dog Project, based in Savé Valley Conservancy, Zimbabwe. Here he gained invaluable field experience in large carnivore work. Whilst in Zimbabwe, Chris assisted with the collaring, tracking and population management of the Wild Dogs, and helped with a lion and leopard collaring project with his supervisor and the reserve ecologist. After leaving Zimbabwe, Chris moved to Phinda Private Game Reserve to start his research for his thesis project. This research involved using total species counts and call-up methods to gain benchmark population numbers to confirm population numbers calculated from the camera trap method, to show that hyaena populations can be successfully calculated using camera traps and a capture recapture methodology. Following his work on Spotted Hyaenas, Chris joined Scientific Aquatic Services in November 2013 as an ecologist, specialising in faunal studies.

## 6 BUDGET

The table below serve as a detailed budget summary for the scope as outlined in the sections above. The costs for the Phase 1 assessment can be considered fixed while those of Phase 2 are subject to change based on the findings of Phase 1 and the requirements of the relevant authorities.

**Table 1. Detailed budget as defined in the scope of work above for Phase 1 and Phase 2 of the biodiversity offset initiative.**

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| <b>PHASE 1 BUDGET</b>                                                                                                                                                                         | <b>BUDGET</b>       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| Project inception meeting and data review                                                                                                                                                     | R 6,250.00          |
| Visit targeted project areas                                                                                                                                                                  | R 15,000.00         |
| Evaluate the various viable offsets, and provide a matrix of options for implementation                                                                                                       | R 10,000.00         |
| Define objectives and targets for the biodiversity offset strategy together with selected I&AP's, and relevant                                                                                | R 15,000.00         |
| Determine the required size of offset and, where applicable, its optimum location/s                                                                                                           | R 15,000.00         |
| Determination of Additional Conservation Actions                                                                                                                                              | R 7,500.00          |
| Land use mapping of offset area                                                                                                                                                               | R 3,750.00          |
| Undertake a high level risk assessment of the likelihood of success considering the identified approach                                                                                       | R 5,000.00          |
| Develop a strategy to address and reduce the risks identified                                                                                                                                 | R 7,500.00          |
| Calculate biodiversity offset conservation balance                                                                                                                                            | R 5,000.00          |
| Compilation of phase 1 report containing options analyses quantum and way forward                                                                                                             | R 30,000.00         |
| Presentation of phase 1 Report to authorities and client                                                                                                                                      | R 16,250.00         |
| Travel and disbursement fees                                                                                                                                                                  | R 11,340.00         |
| <b>Total Phase 1</b>                                                                                                                                                                          | <b>R 147,590.00</b> |
| <b>PHASE 2 BUDGET</b>                                                                                                                                                                         |                     |
| Visit and Assess target offset sites to determine appropriateness and best fit                                                                                                                | R 15,000.00         |
| Prioritise offset projects.                                                                                                                                                                   | R 2,500.00          |
| Target area quantum calculations for wetland and biodiversity offsets                                                                                                                         | R 3,750.00          |
| Develop Concept site-level plans including objectives and a description of actions / interventions planned including roles and responsibilities for the execution/implementation of projects. | R 37,500.00         |
| Define the measurable outcomes and a monitoring programme.                                                                                                                                    | R 7,500.00          |
| Offset workshop with client                                                                                                                                                                   | R 15,000.00         |
| Develop schedules and time-frames for completion of offset activities in consultation with relevant I&AP's and relevant authorities.                                                          | R 7,500.00          |
| Generate budget estimates of the proposed projects/interventions, and monitoring programme.                                                                                                   | R 6,250.00          |
| Establish performance auditing and reporting requirements.                                                                                                                                    | R 3,750.00          |
| Preparation of Draft Memoranda of understanding between relevant stakeholders in the offset                                                                                                   | R 30,000.00         |
| Prepare final offset report for inclusion in EIA                                                                                                                                              | R 20,000.00         |
| Project presentation to authorities                                                                                                                                                           | R 15,000.00         |
| Travel and disbursement fees                                                                                                                                                                  | R 11,340.00         |
| <b>Total Phase 2</b>                                                                                                                                                                          | <b>R 175,090.00</b> |
| <b>PROJECT TOTAL</b>                                                                                                                                                                          | <b>R 322,680.00</b> |
| <b>VAT</b>                                                                                                                                                                                    | <b>R 48,402.00</b>  |
| <b>TOTAL VAT INCL</b>                                                                                                                                                                         | <b>R 371,082.00</b> |

## 7 Timeframes

The following bullets summarise the key timeframes of the project. Where necessary best-case timeframes are indicated along with likely and worst-case indicative timeframes:

1. Phase 1 of the study could be completed within 2 months of appointment should all relevant information be available. Should negotiations with the relevant regulatory authorities be difficult this could extend indefinitely but is not envisaged to extend beyond 3 months;
2. Phase 2 of the project can be completed within 3 months if identification and negotiation with host landowners is readily successful. This is however deemed highly ambitious and unlikely. More realistically this process will take approximately 5 months. Should negotiations with the relevant regulatory authorities and/or offset hosts be difficult this could extend indefinitely but is not envisaged to extend beyond 6 months.

## 8 PROJECT ASSUMPTIONS AND CONDITIONS

Allowance has been made for a single site visit to each of the following in Phase 1:

- The project site;
- The general surrounding area to determine offset options;

If any further site visits or consultation with any stakeholders is required for any reason it will be additionally budgeted for in consultation with the client.

Allowance has been made for the following online meetings:

- A Project inception meeting with project team (online);
- A Project inception meeting with regulatory authorities (online)
- A phase 1 project workshop with the client (online);

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- A phase 1 project workshop with the regulatory authorities (physical);
- A phase 2 project workshop;
- A phase 2 project finalization presentation with the regulatory authorities (physical).

If any further project meetings are necessary for any reason, these will be additionally budgeted for in consultation with the client.

Scientific Terrestrial Services requests that any relevant historical information on the site will be made available to aid in data interpretation and to ensure that the client's needs are met. Specific mention is made of:

1. Floral and Biodiversity report which must include information on ecological corridors and linkages and must address all aspects of the DFFE guidelines for specialist studies;
2. Faunal Report which must include information on ecological corridors and linkages and must address all aspects of the DFFE guidelines for specialist studies;
3. Freshwater studies which must address all aspects of the DFFE guidelines for specialist studies; and
4. PPP information to date.

It is envisaged that the following key support from the proponent will be required:

1. Support from the land management and/or social management arm of COCT; and
2. The financial management team since offsets invariably become costly.

It is envisaged that the following key support from the lead consultant and EAR team will be required:

1. The EAP;
2. Specialist consultants on an ad hoc basis (5 Hours maximum per specialist)

No allowance has been made for specialized vehicles with roll over protection and other requirements for vehicles on some mines. Allowance has been made for factory standard pickup truck 4X4's. Should it be necessary to hire specialized vehicles, the hire thereof will be charged for on a disbursement basis in consultation with the Lead Consultant.

No allowance for inductions ceremonies or other on-site administration has been allowed for except for a brief (Less than 1 hour) visitors induction. Should additional time be required to complete site inductions, compilation of contractor's packs or lengthy induction ceremonies or medicals the costs thereof will be budgeted for on a time and disbursement basis in consultation with the Lead Consultant.

Allowance has been made for the generation of a Draft Memoranda of understanding which may require further refinement and legal input. No allowance has been made for retaining an attorney to address contractual and legal documentation. Should this be required STS can include an advocate specializing in environmental law into the project team.

GIS work excludes any changes made to layouts received after mapping has taken place, if map amendments are required it will be charged for on a time and disbursement basis.

STS reserves the right to charge for report amendments, due to any changes to the project plan or any other requirements of the EAP or proponent which are beyond the control of the consultant. Changes will be charged for on a time and disbursement basis in consultation with the Lead Consultant.

A purchase order is required from the proponent or their agents prior to commencement of the project. In addition to the purchase order, the appointment form at the end of this proposal is to be filled in full by the proponent. Through acceptance of this proposal the party responsible for the account as confirmed through the proposal acceptance form appended to this document irrevocably guarantees payment of fees for the work undertaken.

This project will be run as a fixed budget contract, however the budget for phase 2 of the project may need to be revised as the project evolves and STS reserves the right to amend this budget. Invoices will be issued upon completion of key milestones of the project. Invoices will be payable strictly within 30 days.

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Please refer to the Scientific Terrestrial Services general terms and conditions of business in appendix A at the end of this document. We trust we have interpreted your requirements correctly. Please do not hesitate to contact us if there are aspects of our proposal that you would like to discuss further.

Yours Faithfully,

**Digital Documentation Not Signed for Security Purposes**

Stephen van Staden

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**Scientific Terrestrial Services****Applying science to the real world**

29 Arterial Road West, Oriel, Bedfordview, 2007

Tel 011 616 7893

Fax 011 615 4106

[www.sasenvironmental.co.za](http://www.sasenvironmental.co.za)[admin@sasenvgroup.co.za](mailto:admin@sasenvgroup.co.za)**PROPOSAL ACCEPTANCE INFORMATION FORM****Please complete and return this form to [admin@sasenvgroup.co.za](mailto:admin@sasenvgroup.co.za) or +27 11 615 4106**

|                                                  |                                                          |
|--------------------------------------------------|----------------------------------------------------------|
| Proposal Reference Number:                       | STS / ZUT 20240609                                       |
| Project Name:                                    | Macassar WWTW                                            |
| Project description                              | Biodiversity Offset Plan                                 |
| Order Number from Client: (attach copy of order) |                                                          |
| Budget: (including VAT)                          | <b>R371,082.00</b>                                       |
| Proposal accepted (Please mark with X)           | Yes <input type="checkbox"/> No <input type="checkbox"/> |

**CLIENT DETAILS**

|                                  |                          |
|----------------------------------|--------------------------|
| Corporate Company Name:          | COCT                     |
| Lead Consultant (EAP):           | Zutari                   |
| Company Responsible for Account: | Zutari                   |
| Company Registration Number:     |                          |
| VAT Registration Number:         |                          |
| Client Market Sector:            | Mining                   |
| Client Postal Address:           | Client Physical Address: |
|                                  |                          |
|                                  |                          |
|                                  |                          |
|                                  |                          |
| Postal Code:                     | Postal Code:             |
| Tel Number:                      |                          |
| Fax Number:                      |                          |

**PROJECT LOCATION/INFORMATION**

|               |               |
|---------------|---------------|
| Site Name:    | Macassar WWTW |
| Nearest Town: | Cape Town     |
| Province:     | Western Cape  |
| Country:      | South Africa  |

**CONTACTS**

|                                |  |
|--------------------------------|--|
| Contact Person on Client Site: |  |
| Project Manager:               |  |
| Tel Number:                    |  |
| Fax Number:                    |  |
| E-mail address:                |  |
| Accounts Contact Name:         |  |
| Tel Number:                    |  |
| Fax Number:                    |  |
| E-mail address:                |  |

**CONTRACTUAL INFORMATION**

|                                                                                                        |                |
|--------------------------------------------------------------------------------------------------------|----------------|
| Signature (must be authorised to sign) _____ Date _____                                                |                |
| By signing this appointment sheet the client accepts all terms and conditions of the relevant proposal |                |
| Invoicing format & timing:                                                                             | Key Milestones |
| Contractual payment terms:                                                                             | 30 days        |
| Method of payment:                                                                                     | Cheque:        |
| (Mark with X)                                                                                          | Electronic:    |

**Bank details: Scientific Terrestrial Services, Nedbank, Lambton, Current Acc No: 1122 510993 Branch Code 198765**

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## APPENDIX A

### TERMS AND CONDITIONS OF BUSINESS

The following Terms and Conditions are applicable to any services provided by Scientific Terrestrial Services (Pty) Ltd (hereinafter referred to as the Consultant) or correspondence exchanged between the Consultant and the Client in connection with this proposal.

#### 1. DEFINITIONS

- 1.1 **Proposal:** the covering letter (letter of offer) including any attached documents such as the cost estimate, programme, schedule of rates, drawings, terms and conditions, etc., in which the Consultant makes an offer or proposal to provide a service to the Client.
- 1.2 **Project:** the project named in the Proposal for which the Services are to be provided.
- 1.3 **Services:** the service or services to be provided by the Consultant as set out in the Proposal or otherwise agreed in writing.

#### 2. SCOPE ASSUMPTIONS AND LIMITATIONS

- 2.1 If the scope of work changes significantly from that envisioned at the time that the proposal was drawn up Scientific Terrestrial Services reserves the right to revise the proposal. Any such deviations will first be discussed with the client after which the proposal will be amended.
- 2.2 Allowance has been made for amendment of one round of comments from the EAP and one round of changes to the report (within 60 days of submission of the specialist reports to the EAP). Should additional amendments be required, STS reserves the right to re budget for additional work on a time and disbursement basis.
- 2.3 Provision has been made for one round of impact assessment according to the agreed impact assessment methodology. If any additional impact assessment is necessary, it will be additionally budgeted for upon consultation with the client.
- 2.4 No allowance has been made for meetings other than those specifically specified in the budget proposal provided; should additional meetings be required for any reason; they will be additionally budgeted for upon consultation with the client.
- 2.5 GIS work excludes any changes made to layouts received after mapping has taken place. Should additional mapping or remapping be required for any reason beyond the control of the consultant, they will be additionally budgeted for upon consultation with the client.

#### 3. SITE ACCESS CONSTRAINTS

No allowance has been made for specialised vehicles with roll over protection and other requirements for vehicles on some mines. Allowance has been made for factory standard pickup truck 4X4's. Should it be necessary to hire specialised vehicles, the hire thereof will be charged for on a disbursement basis in consultation with the EAP.

No allowance has been made for site inductions, beyond a short visitor's induction, and no allowance has been made for compilation of contractor's packs or medicals. Should such actions be required, they will be invoiced for on a time and disbursement basis.

#### 4. CONTRACTUAL ASSUMPTIONS

- 4.1 A purchase order is required from the proponent or their agents prior to the initiation of the study. The letter of appointment for at the end of this proposal needs to be filled in in full.
- 4.2 Any changes in the scope of work reflected in the Proposal shall be effected by written agreement between the Consultant and the Client.
- 4.3 The Consultant is appointed as an independent consultant. The appointment therefore does not place the Consultant under any obligation to recommend the approval of a proposed project, design, or layout.
- 4.4 The applicable law shall be the law of the Republic of South Africa.

#### 5. TERMS OF PAYMENT

- 5.1 The Services provided by the Consultant are charged on one or a combination of the following terms:
  - 5.1.1 **Lump Sum:** shall mean a fixed lump sum equal to the amount stated in the Proposal and/or Estimate that is payable for the agreed Services. The following payment schedules may be implemented:
    - 5.1.1.1 Payment upon completion of the work and delivery of deliverables;
    - 5.1.1.2 Payment on the completion of Key Milestones on the project;
    - 5.1.1.3 Payment of a deposit and upon completion of the project; and
    - 5.1.1.4 Payment of a deposit and upon completion of Key Milestones on the project.
  - 5.1.2 **Cost:** shall mean the actual cost incurred by the Consultant, or the amount paid by the Consultant for sub-contracted services (value of supplier's invoice).
  - 5.1.3 **Rates:** shall mean professional time or disbursements charged on the basis of the standard rates provided in or with the Proposal and the actual units (e.g. hours, mileage etc.) expended in carrying out the Services.

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- 5.1.4 **Percentage Fee:** shall mean the fee for services provided by the Consultant, charged as a fixed percentage of the cost of the works for which the services were rendered. The percentage values and a definition of the works shall be included in the Proposal.
- 5.2 Services charged at Cost or on Rates in the cost Estimate reflect estimated amounts, not ceiling figures, and are subject to variation and re-measurement.
- 5.3 Hourly rates are reviewed from time to time and are subject to amendment in proportion to changes in salaries.
- 5.4 Should the Client fail to meet its payment obligations and not remedy this default within 21 days of notification by the Consultant, the Consultant has the right to terminate the Contract and institute legal proceedings against the Client for the recovery of the debt.
- 5.5 If an item in an invoice is disputed, payment on the remainder of the invoice and subsequent invoices may not be delayed.

## **6. CONTRACTUAL CONSTRAINTS**

- 6.1 A professional indemnity insurance policy is maintained by Scientific Terrestrial Services (Pty) Ltd. Professional indemnity insurance covering up to a maximum value of twice the fee value is included in the cost of this proposal. Note that where a client uses an alternative form of contract to that proposed above, they should confirm that the alternative form of contract does not negate the professional indemnity insurance cover in any way.
- 6.2 Notwithstanding the terms of the Prescription Act No 68 of 1969 (as amended) or any other applicable statute of limitation, Scientific Terrestrial Services (Pty) Ltd shall not be held liable for any loss or damage resulting from any work carried out in accordance with this proposal unless a claim is made within a period of two years from the date of termination or completion of this agreement or completion by Scientific Terrestrial Services (Pty) Ltd of their services, whichever is earlier.
- 6.3 The validity of the Proposal is 3 (three) months from the date thereof unless specified otherwise.
- 6.4 If changes or additional services are required, the parties must agree on the cost and programme implications thereof prior to rendition of the services.
- 6.5 The Contract shall commence on the date on which written acceptance of the Proposal is delivered to the Consultant and shall, unless terminated as provided herein, endure until the Services has been delivered and the Consultant has received payment for the Services in full.
- 6.6 The Contract may be terminated (a) by agreement or (b) in the event of breach by either party, which the defaulting party fails to remedy within 21 days after receiving notice from the other party specifying the breach and requiring its remedy or (c) by either party with immediate effect in the event of bankruptcy, insolvency or similar proceedings being instituted against the other party.
- 6.7 Termination shall not prejudice the accrued rights or claims and liabilities of the parties.
- 6.8 All terms of the Proposal that are intended by their nature to survive termination of the Contract shall survive termination and remain in full force, including but not limited to the terms concerning fees and payment, disclaimers, limitations and indemnities.
- 6.9 The Client undertakes to exhaust all its contractual remedies against any Contractor appointed by the Client before exercising any contractual rights of recourse it may have against the Consultant in the event of the Client suffering damages as a result of breach by the Contractor of his obligations in terms of his contract with the Client.
- 6.10 The Client shall indemnify the Consultant against all claims by third parties which arise out of or in connection with the rendition of the services save to the extent that such claims do not in the aggregate exceed the limit of compensation in clause 5.1.

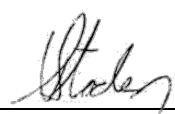
## **7. COPYRIGHT AND OWNERSHIP OF DOCUMENTS**

- 7.1 Each party shall retain copyright in the work it produced prior to signature of the Contract.
- 7.2 The Consultant maintains copyright of all documents prepared by the Consultant including the Consultant's Proposal. The Client is entitled to use these documents and to copy them only for the Project in respect of which they were prepared and for the purpose for which they were intended. In particular, the Client may not use the Consultant's Proposal as a whole or in part for soliciting opposing bids.
- 7.3 The Client obtains ownership of data and factual information collected by the Consultant upon payment of all of the fees and disbursements payable by the Client to the Consultant.
- 7.4 In the event that the Consultant agrees that copyright in the documents shall be ceded to the Client then the Consultant shall not be liable in any way for the use of any information or documents other than as originally intended and the Client indemnifies the Consultant against any claim which may be made against the Consultant by any party arising from the use of such information or documents for other purposes.

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## ANNEXURE 5 - HEALTH & SAFETY

### Specific to South Africa – S37(2) Mandatory Agreement

| Mandatory Agreement                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                  |       |                               |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|-------------------------------|
| <b>Employer Details</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                  |       |                               |
| Employer / Zutari                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Zutari (Pty) Ltd                                                                                                                                                                                 |       |                               |
| Company/Business Number                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 1977/003711/07                                                                                                                                                                                   |       |                               |
| Business Address                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | 1 Century City Drive, Waterford Precinct, Century City, Cape Town, 7441                                                                                                                          |       |                               |
| Signature                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <br><small>Signed by Neeren Govender,<br/>neeren.govender@zutari.com<br/>20/08/2024 13:05:38(UTC+02:00)</small> | Date  | 12 / 08 / 2024                |
| Name of Authorised Signatory                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Neeren Govender                                                                                                                                                                                  | Title | Client Director: Water Africa |
| <b>Mandatory Details</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                  |       |                               |
| Mandatory / Sub-Consultant                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Scientific Terrestrial Services (Pty) Ltd                                                                                                                                                        |       |                               |
| Company/Business Number                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 2022/495146/07                                                                                                                                                                                   |       |                               |
| Business Address                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | 29 Arterial Road West, Oriel, 2007                                                                                                                                                               |       |                               |
| Signature                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                               | Date  | 12 / 08 / 2024                |
| Name of Authorised Signatory                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Stephen Van Staden                                                                                                                                                                               | Title | Director                      |
| <b>IT IS AGREED</b> <ul style="list-style-type: none"> <li>The Sub-Consultant will perform the Sub-Consultancy services described in terms of a Sub-Consultancy Agreement dated <b>12 August 2024</b>; and</li> <li>The Sub-Consultant accepts liability for compliance with the provisions of the Occupational Health and Safety Act, 1993; in accordance with this Mandatory Agreement, which is constituted by the Agreement Details, Terms and Conditions and any documents referred to herein ("Mandatory Agreement")</li> </ul> |                                                                                                                                                                                                  |       |                               |
| <b>Agreement Details</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                  |       |                               |
| Mandatory's Compensation Fund Number                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 990001075081                                                                                                                                                                                     |       |                               |
| Project                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Macassar WWTW: Upgrade & Extension Project (R0001001780-00)                                                                                                                                      |       |                               |
| Project Location                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Western Cape, South Africa                                                                                                                                                                       |       |                               |
| Sub-Consultancy Services                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Biodiversity Offset Specialist Services (as may be further detailed in the Annexure(s))                                                                                                          |       |                               |
| Sub-Consultant's Representative and Contact Details                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <b>Stephen Van Staden</b><br><b>+27 11 616 7893</b><br><b>stephen@sasenvgroup.co.za</b>                                                                                                          |       |                               |
| Zutari's Representative and Contract Details                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <b>Corlie Steyn</b><br><b>+27 44 805 5421</b><br><b>Corlie.Steyn@zutari.com</b>                                                                                                                  |       |                               |
| Zutari's Client                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | City of Cape Town: Water & Sanitation                                                                                                                                                            |       |                               |
| Governing Law                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Republic of South Africa                                                                                                                                                                         |       |                               |



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## TERMS AND CONDITIONS

1. **Reporting:** The Mandatory and/or his /her designated person appointed in terms of Section 16(2) of the Occupational Health and Safety Act 85 of 1993 ("the OHS Act") shall report to the Manager and/or a representative designated by the Employer prior to commencing the work at the premises.
2. **Warranty of Compliance:** In terms of this agreement the Mandatory warrants that he / she understands and agrees to the arrangements and procedures as prescribed by the Employer; as provided for in terms of Section 37(2) of the OHS Act for the purposes of compliance with the Act. The Mandatory acknowledges that this agreement constitutes an agreement in terms of Section 37(2) of the OHS Act, whereby all responsibility for health and safety matters relating to the work that the Mandatory and his employers are to perform on the premises shall be the obligation of the Mandatory. The Mandatory further warrants that he / she and/or his employees undertake to fully comply with the OHS Act. Without derogating from the generality of the above, or from the provisions of the said agreement, the Mandatory shall ensure that the provisions of this agreement and the OHS Act are at all times adhered to by himself / herself and his employees. The Mandatory shall ensure that the health and safety of any person on the premises is not endangered by the conduct and/or activities of any of his / her employees on the premises.
3. **Mandatory and Employer:** The Mandatory shall be deemed to be an employer in his / her own right while on the Employer's premises. In terms of Section 16(1) of the OHS Act, the Mandatory shall accordingly ensure that the requirements of the OHS Act are complied with by himself / herself and/or his nominated Chief Executive Officer.
4. **Appointments and Training:** The Mandatory shall appoint competent persons for the work to be performed. Any such appointed person shall be trained on any occupational health and safety matters and the OHS Act provisions pertinent to the work that is to be performed under his / her responsibility. Copies of any appointment made by the Mandatory shall upon request be provided to the Employer. The Mandatory shall further ensure that all his / her employees are trained on the health and safety aspects relating to the work and that they understand the hazards associated with such work being carried out on the premises. Without derogating from the foregoing, the Mandatory shall, in particular, ensure that all his /her users or operators of any materials, machinery or equipment are properly trained in the use of such materials, machinery or equipment. Notwithstanding the provisions of the above, the Mandatory shall ensure that he / she, their appointed competent persons and his / her employees are at all times familiar with the provisions of the OHS Act, and that they comply with the provisions.
5. **Supervision, Discipline and Reporting:** The Mandatory shall ensure that all work performed on the Employer's premises are done under strict supervision and that no unsafe or unhealthy work practices are permitted. Discipline regarding health and safety matters shall be strictly enforced against any of his / her employees regarding non-compliance by such employee with any health and safety matters. The Mandatory shall further ensure that his /her employees report to him all unsafe or unhealthy work situations after they become aware of the same and that he /she in turn immediately reports these to the Employer and/or his / her representative.
6. **Access to OHS Act:** The Mandatory shall ensure that he / she has an updated copy of the OHS Act at all times and that this is accessible to his appointed competent persons and employees, save that the parties may make arrangements for the Mandatory and his / her appointed competent persons and employees to have access to the Employer's updated copy/copies of the Act.
7. **Co-Operation:** The Mandatory and/or his / her competent persons and employees shall provide full co-operation and information if and when the Employer or his representative inquiries into occupational health and safety issues concerning the Mandatory. The Employer and his / her representative shall at all reasonable times be entitled to make such inquiry. Without derogating from the generality of the above, the Mandatory and his /her competent persons shall make available to the Employer and his / her representative, on request, all and any checklists and inspection registers required to be kept by him / her in respect of any of his materials, machinery or equipment.
8. **Work Procedures:** The Mandatory shall perform risk assessments of work to be performed and ensure that safe work procedures are in place. The Mandatory shall ensure that his / her competent persons and employees are familiar with and adhere to these safe working procedures. The Mandatory shall ensure that work for which the Employer requires a permit is not performed by his employees prior to the obtaining of such a permit.
9. **Compensation Registration:** The Mandatory shall ensure that he / she has a valid registration with the Compensation Commissioner, as required in terms of the Compensation for Occupational Injuries and Diseases Act, 130 of 1993, and that all payments owing to the Commissioner are discharged. The Mandatory shall further ensure that the cover shall remain in force while any such employee is present on the premises. The Mandatory shall furnish the Company with proof of registration and good standing, within seven (7) days of receipt of a request by the Company.
10. **Incident Reporting and Investigation:** All incidents referred to in Section 24 of the OHS Act shall be reported by the Mandatory to the Department of Labour and to the Employer. The Employer shall further be provided with copies of written documentation relating to any incident.
11. **Sub-Consultants:** The Mandatory shall notify the Employer of any subcontractor he / she may wish to appoint. It is hereby recorded that all the terms and provisions contained in this clause shall be equally binding upon the sub-contractor prior to the sub-contractor commencing with the work. The Mandatory shall ensure that training is provided prior to the sub-contractor commencing work on

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the Employer's premises. The Mandatory shall ensure that work performed by the subcontractor is done under strict supervision and discipline, as discussed under paragraph 5.

12. **Security and Access:** The Mandatory and his / her employees shall enter and leave the premises only through the main gate(s) and/or checkpoint(s) designated by the Employer. The Mandatory shall ensure that employees observe the security rules of the Employer at all times and shall not permit any person who is not directly associated with the work from entering the premises.
13. **No Usage of Employer's Equipment:** The Mandatory hereby acknowledges that his / her employees shall not be permitted to use any materials, machinery or equipment of the Employer.
14. **Transport:** The Mandatory shall ensure that all road vehicles used on the premises are in a roadworthy condition and are licensed and insured for the purpose of the work. All drivers shall have relevant and valid driving licenses and no vehicle shall carry passengers unless it is specifically designed to do so. All drivers shall adhere to the speed limits and road signs on the premises at all times. In the event that any hazardous substances are to be transported on the premises, the Mandatory shall ensure that the requirements of the Hazardous Chemical Substances Act 15 of 1973 are complied with at all times.
15. **Duration of Agreement:** This agreement shall remain in force for the duration of the work to be performed by the Mandatory and/or while any of the Mandatory's workers are present on the Employer's premises.
16. **Intoxication:** No intoxicating substance of any form shall be allowed on the premises. When a person is taking medicine, such person shall only be allowed to work if the side effects of such medicine do not constitute a threat to the health of the person concerned or other persons at such workplace.
17. **Plant, Machinery and Equipment:** The Mandatory shall ensure that all the plant, machinery, equipment and/or vehicles he / she may wish to utilize on the Employer's premises is/are at all times of sound order and fit for the purpose for which it/they is/are intended. In accordance with the provisions of Section 10 of the OHS Act, the Mandatory shall ensure that any article, which is erected or installed for use at work, is safe and creates no risk to health when safely used.
18. **Indemnity:** The Mandatory indemnifies and holds the Employer harmless against any loss in respect of claims, proceedings (of civil and criminal nature), damages, costs and expenses, arising from:
  - A non-compliance by the Mandatory with any provision of common law, Act of Parliament, regulation and bylaw of any local authority arising out of or due to the execution of the services or occupation of the site by the Mandatory.
  - Claims from other parties, whether against the Mandatory or the Employer, consequent upon death, bodily injury or illness of any person or damage to any property arising out of or due to the execution of the services or occupation of the site by the Mandatory.

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