

IMPALA PLATINUM LIMITED



REQUEST FOR SUPPLIER INFORMATION (RFI)

RFI Number

RFCA3872

Date

12 December 2023

Submit electronically to
Subash.Chetty@implats.co.za;
And:
Impala.tenders@implats.co.za

Commodity:

RFI – RFCA3872 – AUTOMOTIVE SPARES – SUPPLY AND DELIVER (AS & WHEN)
Always use the **RFI number and Commodity in the Subject line** on email when
sending documents/responses or queries.

TABLE OF DEFINITIONS

<u>Abbreviation</u>	<u>Definition</u>
B-BBEE	Broad-Based Black Economic Empowerment
ED	Enterprise Development
EME	Exempt Micro Enterprises
ESD	Enterprise & Supplier Development
ESG	Environmental, Social, & Governance
Impala	Impala Platinum Limited – Rustenburg Operations
QSE	Qualifying Small Enterprises
RFI	Request for Information
RFP	Request for Proposal
SANAS	South African National Accreditation System
SD	Supplier Development
SLA	Service Level Agreement
SME	Small Medium Enterprises
SMME	Small Medium & Micro Enterprises
TOM	Target Operating Model

1. INTRODUCTION

- Inclusive procurement (IP), Enterprise and Supplier Development (ESD) are strategies aimed at promoting economic growth and social equity by actively engaging diverse suppliers and supporting the growth of small and historically disadvantaged suppliers.
- Impala Platinum Limited – Rustenburg Operations has embarked on a journey to integrate its approach to Inclusive Procurement (IP) and Enterprise and Supplier Development (ESD) and sustainably enhance its efforts for greater mine community value and impact.
- To this end, Impala Rustenburg has embarked on a four-phased project to identify, validate, and establish a list of potential set-aside opportunities through methodically assessing

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Mine community capability and competency linked to identified procurement opportunities whereafter execution by the commercial team will commence for matched opportunities during the financial years 2024 and 2025.

- The first segment of Phase 1: Identification and Phase 2: Validation has been completed and through this Request For Information (RFI) are commencing with Phase 3: Market Assessment through RFI. This phase focuses on the execution of the market assessment on the initial identified opportunities and intends to achieve outcomes that will produce a potential list of opportunities that can be set-aside for the Mine community (Tier 1) suppliers moreover enable the development of targeted and fit for purpose ESD initiatives linked to the opportunity sets/commodity areas which would be further enriched by the conduct of supplier diagnostics.
- Through this phase, Impala Rustenburg operations, strives to engage more meaningfully through IP/ESD and share procurement opportunities well in advance to enable Mine community suppliers to be better positioned when the opportunity arise.

Please Note:

- 1.1 No pricing or proposal will be required at this stage. Only information reflected in this document is required.
- 1.2 Impala reserves the right to determine which companies will proceed to the next phase of this process without furnishing reasons for its decision.
- 1.3 This RFI does not constitute a commitment, implied or otherwise, that Impala will continue with any further procurement action.
- 1.4 Impala will not be responsible for or pay for any expenses or losses which the Supplier may incur in the preparation of a response to this RFI.
- 1.5 Impala reserves the right to award the work jointly to more than one successful respondent in part or in full.
- 1.6 THIS IS A REQUEST FOR INFORMATION (RFI) ONLY AND IS NOT A BID SOLICITATION. This RFI is issued solely for information and planning purposes – it does not constitute a Request for Proposal (RFP).
- 1.7 To fully comprehend the information contained within a response to this RFI, Impala may seek further clarification on that response. This clarification may be requested by means of e-mail issued from Impala.
- 1.8 **This RFI is directed to and for Impala Mining Communities and is seeking a response from the communities emanating from the 29 Bafokeng Villages and Seraleng, Meriting and Freedom Park.**

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2. SUBMISSION DETAILS

2.1 Respondents with relevant experience and capability are invited to submit their documents for the RFI.

2.2 Supplier Packages must be submitted electronically as further detailed below:

RFI Reference No.	RFCA3872
Description of RFI	AUTOMOTIVE SPARES – SUPPLY AND DELIVER (AS & WHEN)
Email addresses	Subash.Chetty@implats.co.za Implats.Tenders@implats.co.za
Closing date	05 January 2024 @ 13h00 (1pm)

2.3 Always use **the RFI number and Commodity in the Subject line** on email when sending documents/responses or queries.

2.4 To qualify for the next phase of the process, Impala will take the following into consideration:

2.4.1 Meeting the minimum submission requirements of and answer all of Annexure B, C, D, E, F & G.

2.4.2 B-BBEE and Mine Communities – apart from being a BEE compliant supplier (>25% HDP and B-BBEE Recognition level 4 or better) further preference will be given to suppliers who are:

- ≥51% HDP Owned and Controlled
- ≥51% Black Women Owned and Controlled
- ≥51% Black Youth Owned and Controlled
- ≥51% Shareholding by Mine Community Members
- Suppliers that have a physical business address within the local areas

2.4.3 Contactable references.

2.5 Omissions or late delivery of the above Annexures and required compulsory documentation may lead to disqualification of your participation from the process.

2.6 Respondents accept that in submitting the accompanying RFI documents, disclosures and any other documentation, do hereby understand that the accompanying submission will be disqualified should the disclosures, answers, documentation and RFI documentation be found not to be true and not complete in every respect.

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3. SCOPE OF WORK

3.1 The scope of work is detailed in Annexure A.

4. COMPULSORY DOCUMENTATION

4.1 In confirming your interest in potentially participating in the above process, you are required to complete on form and submit the following documentation **electronically to the Email address, as stated in paragraph 2.2.**

- 4.1.1 Completed Annexure B - Supplier's Details (Complete on form) & All Supporting Documentation;
- 4.1.2 Completed Annexure C - Technical Information (Complete on form) & All Supporting Documentation;
- 4.1.3 Completed Annexure D – Business Operations Questionnaire (Complete on form);
- 4.1.4 Completed Annexure E – Business Growth Questionnaire (Complete on form);
- 4.1.5 Completed Annexure F – Detailed list of Automotive Spares (Complete on form) & All Supporting Documentation; and
- 4.1.6 Completed Annexure G – Signed Non-Disclosure Agreement.

5. QUERIES / CLARIFICATIONS

5.1 All queries relating to this RFI must be submitted to **the e-mail address as indicated in paragraph 2.2**

5.2 Queries will not be responded to if delivered elsewhere.

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ANNEXURE A: SCOPE OF WORK

The detailed scope is for the supply of goods and / services (Automotive Spares) specified in the Annexure F to the main stores in Impala Rustenberg on an as and when basis. Please note that the references listed in Annexure C, point 6, must relate to the detailed scope of of the supply and delivery of Automotive Spares as per Annexure F.

The supplier must adhere to the following SHEQ & Service Delivery requirements as detailed below:

A: SAFETY, QUALITY, ENVIRONMENTAL, AND REPORTING REQUIREMENTS

1. IMPALA is subject to Waste Management Procedure which is aligned with ISO 14001 and the National Waste Management Strategy. The CONTRACTOR shall strictly adhere to this procedure.
2. IMPALA is committed to the protection of the environment and is especially sensitive towards the upkeep and care of its immediate surroundings. It is required of the CONTRACTOR to display the same commitment in terms of the environmental philosophy, specifically regarding its policies towards disposal of hazardous waste and chemicals.

B: SERVICE DELIVERY

1. IMPALA requires the CONTRACTOR to deliver the required automotive spares within an average period of 2 Days.

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Capabilities		
Please identify your capabilities in respect of the following headings whether these areas of work are carried out within the core business of your Company or whether they are outsourced. Please indicate if the capability is possessed.	Capability % in this field	Please indicate if the capability is possessed): <ul style="list-style-type: none">• Not available (e.g. do not operate in this field)• In House (principally via directly employed personnel)• Outsourced (via an agreement between your company and another partner)
Automotive spares as per Annexure F – supply and delivered to site		

NOTE CLAUSE 2.6 ABOVE

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ANNEXURE B: SUPPLIER'S DETAILS

Please complete the questionnaire as accurately as possible, restricting your answers to the space allowed after each question unless stated otherwise. Should you wish to provide additional information to support the completed questionnaire then please do so. The information supplied will be treated in the strictest confidence and distribution shall be limited to the Impala Platinum Limited only.

The following must be completed, and the compulsory documents attached where required, and submitted as your SUPPLIER PACKAGE. NOTE CLAUSE 2.6 ABOVE

1. Supplier's Details				
1.1	Supplier name			
1.2	Contact person			
1.3	Address			
1.4	Telephone number			
1.5	Cell number			
1.6	Email address			
1.7	Name of Community/Local Area (for example: Bobuampya or Chaneng or Freedom Park etc.)			
2.	Company Documents	Detail if attached		Comments
		Yes	No	
<i>Compulsory Documentation</i>				
2.1	Company Registration Documents (CIPC)			COMPULSORY
2.2	Valid Tax Clearance Certificate and PIN			COMPULSORY
2.3	Valid SANAS BEE Certificate or Sworn Affidavit (Commissioned before a Commissioner of Oaths)			COMPULSORY
2.4	Proof of address of office or workplace i.e., Utilities Bill, Levy Bill, Lease etc. as well as Kgosana letter (Bafokeng Villages) or Ward Cllr letter (Seraleng, Meriting and Freedom Park)			COMPULSORY

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2.5	Proof of valid banking details (Not older than three-months of this submission)			COMPULSORY
2.6	Company profile			COMPULSORY
2.7	Annual Financial Statements or Management Accounts			COMPULSORY
2.8	Workmen's Compensation Certificate (COIDA certificate) (Letter of good standing from Compensation Commissioner): Department of Labour			COMPULSORY
2.9	Company Insurance Policy			COMPULSORY
2.10	Safety & Environmental Policy			COMPULSORY
2.11	Quality Assurance Certification or Policy			COMPULSORY
2.12	Reference Letters			COMPULSORY
2.13	Technical Compliance documents for all goods			COMPULSORY
2.14	Agreement with OEM/Supplier/Manufacturer			COMPULSORY
2.15	Shareholder's Certificates & Director's ID documents			COMPULSORY
2.16	Proof of business address/Lease or Plan to hold stock for Impala			COMPULSORY
2.17	Kgosana letter (Bafokeng Villages) or Ward Cllr letter (Seralleng, Meriting and Freedom Park)			COMPULSORY
Additional information:				
2.18	Please indicate if:			
2.18.1	<ul style="list-style-type: none"> your company is >51% black-owned and controlled? 			
2.18.2	<ul style="list-style-type: none"> your company is >51% youth-owned and controlled? 			
2.18.3	<ul style="list-style-type: none"> your company is >51% women-owned and controlled? 			
2.18.4	<ul style="list-style-type: none"> Are any of your shareholders/directors a member of the Royal Bafokeng Nation? 			If yes, please attach the Kgosana letter – COMPULSORY
2.18.5	<ul style="list-style-type: none"> Are any of your shareholders/directors from the community of Freedompark, Seralleng or Meriteng? 			If yes, please attach your Proof of Residence - COMPULSORY

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ANNEXURE C: TECHNICAL INFORMATION

NOTE CLAUSE 2.6 ABOVE

TECHNICAL INFORMATION:

1. Company Contacts			
Please advise the names of the following:	<u>Telephone</u>	<u>Mobile</u>	<u>Email</u>
Company Chairman / President			
Managing Director			
Other points of contact: <i>(add more rows if required)</i>			
<u>Name</u>	<u>Position</u>		
	Contracts Director		
	Financial Director		
	Technical Director		

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2. Other Office Locations	
Office Name: Address: Town: Province: Post Code: Tel: Fax: E-Mail Web Address <u>Add more rows if required</u>	Office Name: Address: Town: Province: Post Code: Tel: Fax: E-Mail Web Address

Minimum Proof: Company Registration Documents

3. Financials			
Financial Year	2020/2021	2021/2022	2022/2023
Year End Date			
Annual Turnover – (Rands)			
Profit after tax – (Rands)			

Minimum Proof: Latest Audited Annual Financial Statements or Management Accounts

4. Years of Operation		
How long has your organization been in operation		Attach company profile
• Less than 1 year		
• Between 1 and 2 years		
• Between 2 and 4 years		
• More than 4 years		

Minimum Proof: Company Profile

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5. Technical Requirements			
	Yes / No	Proof	
Are you able to supply and deliver Automotive Spares (Page 5 & Annexure F)		= Technical Compliance documents for all products = Agreement/s with OEM/Supplier/Manufacturer	= Attach details of compliance documentation for Automotive Spares = Attach Agreement/s with OEM/Supplier/Manufacturer

Minimum Proof: Technical Compliance Documentation AND Agreement/s with OEM/Supplier/Manufacturer

6. Safety & Quality Requirements			
	Yes / No	Proof	Attach:
Are you able to adhere to the Safety Requirements as per Section A above (Page 5)		= Safety & Environmental Policy = Quality Assurance Certification or Policy	=Safety & Environmental Policy =Quality Assurance Certification or Policy

Minimum Proof: Safety & Environmental Policy AND Quality Assurance Certification or Policy

7. Service Delivery Requirements			
	Yes / No	Proof	Attach:
Are you able to adhere to the Service Delivery - Section B above (Page 5)		= Address & Lease of warehouse/Business Premises or alternative plan to meet service delivery requirements	=Address & Lease of warehouse/Business Premises Or = Plan to meet service delivery requirements

Minimum Proof: Address & Lease of warehouse/Business Premises OR Alternative plan to meet service delivery requirements

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8. Insurances			
Do you have the following insurance?	Yes / No	Amount of Cover	Attach details of each policy
Public Liability			
Workman's Compensation - COIDA		Attach COIDA Certificate	
Professional Indemnity Insurance			

Minimum Proof: Details of each Policy

9. References
Please list a suitable number of references over the previous three years that you consider best represents your companies' capability of delivering quality projects/services/products on time. Please confirm that you have no objection to Impala Platinum Limited contacting people or companies that you list. Use the attached sheets as required.

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1			Method of Procurement:	
Project:				
Contract Value – Rands				
Client Contact Details:				
Commencement & Completion:				
Project particulars and nature of work undertaken:				
Supply and delivery of Automotive Spares Order % delivered on time and in full:				

2			Method of Procurement:	
Project:				
Contract Value – Rands				
Client Contact Details:				
Commencement & Completion:				
Project particulars and nature of work undertaken:				
Supply and delivery of Automotive Spares Order % delivered on time and in full:				

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3 Project:		Method of Procurement:	
Contract Value – Rands			
Client Contact Details:			
Commencement & Completion:			
Project particulars and nature of work undertaken:			
Supply and delivery of Automotive Spares Order % delivered on time and in full:			

Minimum Proof: Reference letters, if possible

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ANNEXURE D: BUSINESS OPERATIONS

Please complete the questionnaire as accurately as possible, restricting your answers to the space allowed after each question unless stated otherwise. Should you wish to provide additional information to support the completed questionnaire then please do so. The information supplied will be treated in the strictest confidence and distribution shall be limited to the Impala Platinum Limited only.

The following must be completed, and the compulsory documents attached where required, and submitted as your SUPPLIER PACKAGE.

NOTE CLAUSE 2.6 ABOVE

QUESTION		TICK YOUR ANSWER			
1.	Number of staff and highest qualification for each?	More than 3 staff and all have Degrees/ Diplomas	More than 3 staff and all have a Matric certificate	More than 3 staff and no qualification	Less than 3 staff
2.	What are your core products or services?	Fully aligned to required product/ service	Partially aligned to required product/ service	Not aligned to required product/service	
3.	How many corporate or government contracts do you have (if any)?	More than 3	Between 1 & 3	None	
4.	What is the annual value of your biggest Contract?	More than R1m	Between R 500,000 and R 1 million	Below R 500,000	
5.	What is your current annual turnover?	More than R 2 million	Between R 1 million and R 2 million	Below R1 million	
6.	Does your company have a formal marketing and sales process?	Yes	No		
7.	Do you have a training plan for your Employees?	Yes	No		
8.	In terms of service or product quality, has your corporate client raised any quality issues and is this aligned to your quality system?	Yes	No		
9.	Have you ever missed a deadline when delivering work for a corporate client?	Yes	No		
10.	Do you request regular feedback from the corporate client regarding your business's performance?	Yes	No		

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11.	Do you have a defined pricing strategy for your business?	Yes	No		
12.	Do you have current capacity for your business to service Impala Needs?	Yes	No		
13.	What core assets are owned by your business enabling you to deliver on the scope of work? (tick whichever is relevant to you)	Vehicle/s	Correct/ Required Machinery	Premises	
14.	What additional core assets would you need to acquire to deliver on the scope of work? (tick whichever is relevant to you)	Vehicle/s	Correct/ Required Machinery	Premises	
15.	Do you own or rent the premises you are operating from?	Own	Rent		
16.	If you own or rent the property, what is the size of the buildings?	0 -100m2	100m2 - 300m2	300m2 - 500m2	>500ms
17.	Have you participated in previous ESD programs or initiatives, and did you use what you had learnt?	Yes	No		
18.	Does your business have any written operational manuals?	Yes	No		

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ANNEXURE E: BUSINESS GROWTH

Please complete the questionnaire as accurately as possible, restricting your answers to the space allowed after each question unless stated otherwise. Should you wish to provide additional information to support the completed questionnaire then please do so. The information supplied will be treated in the strictest confidence and distribution shall be limited to the Impala Platinum Limited only.

The following must be completed, and the compulsory documents attached where required, and submitted as your SUPPLIER PACKAGE.

NOTE CLAUSE 2.6 ABOVE

	QUESTION	TICK YOUR ANSWER			
		Yes	No		
1.	Does your business have a risk management plan	Yes	No		
2.	Should you need to expand your operations, do you understand the resources you will need? (people, systems, equipment etc.)	Yes	No		
3.	Does your organisation have an overview of activities for the next 30, 60 and 90 days?	Yes	No		
4.	What do you think will happen to your business should you be unable to perform your duties	Succeed and continue	Fail and close		
5.	Is the business under business rescue or any similar interventions?	No	Yes		
6.	Is the business under investigation for any misconduct?	No	Yes		
7.	Do you or any of the directors have a criminal record or currently under investigation?	No	Yes		
8.	Does the business have any legal matters pending /outstanding?	No	Yes		
9.	Do you have a positive credit score that will enable you to access funding?	Yes	No		
10.	Would you need additional financing to fund assets or working capital in order to deliver on the scope of work?	Yes	No		
11.	How many months of operating cash do you have left at the beginning of each month?	More than 24 months	Between 10 – 24 months	Between 5 & 10 months	Less than 5 months

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ANNEXURE F: DETAILED LIST OF ALL AUTOMOTIVE SPARES

Please complete the ANNEXURE as accurately as possible, restricting your answers to the space allowed after each question unless stated otherwise. Should you wish to provide additional information to support the completed ANNEXURE then please do so. The information supplied will be treated in the strictest confidence and distribution shall be limited to the Impala Platinum Limited only.

The following must be completed, and the compulsory documents attached where required, and submitted as your SUPPLIER PACKAGE.

NOTE CLAUSE 2.6 ABOVE

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ANNEXURE G: NON-DISCLOSURE AGREEMENT

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**NON-DISCLOSURE AGREEMENT REFERENCE: RFCA3872 – RFI:
AUTOMOTIVE SPARES**

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

Between

IMPALA PLATINUM LIMITED
(Hereinafter “**Impala**”)

and

(Hereinafter the “**Counterparty**”)

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THE PARTIES AGREE AS FOLLOWS:

1. INTERPRETATION

1.1 In this Agreement, unless the context indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings:

1.1.1 **"Agreement"** means this confidentiality and non-disclosure agreement;

1.1.2 **"Affiliates"** means, with respect to any Party, any Person which is directly or indirectly controlled by, or controls or is under common control with, another Person, provided that **"control"** shall mean ownership of more than 50% (fifty percent) of another Person or the power to direct the decisions of another Person, including, without limitation, the power to direct the management and policies of another Person, whether by reason of ownership or contract;

1.1.3 **"Confidential Information"** means any and all information, whether communicated in written form, verbally, visually, electronically or pursuant to any other media or that is gathered from an inspection by the Receiving Party or any of its Affiliates or Representatives, relating to the Disclosing Party or its Affiliates which by its nature or content is identifiable as, or could reasonably be expected to be, confidential or proprietary to the Disclosing Party or its Affiliates (even if not marked as being confidential, restricted, secret, proprietary or with any similar designation) which shall include, without limitation, in relation to the Proposed

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Transaction, any information disclosed during the Receiving Party's due diligence of the Disclosing Party and its Affiliates, including all information disclosed during any management or other presentations, any meetings or site visits as well as all analyses, compilations or other documents prepared by the Receiving Party or its Representatives based upon any such information as well as all inventions, processes, data, know-how arising in the context of the Proposed Transaction provided that Confidential Information shall not include information which the Receiving Party can establish:

- (a) is or becomes, before or after receipt thereof, published or generally available to the public, other than as a result of a breach of this Agreement, or any unlawful act or negligent act or omission by the Receiving Party or the Permitted Disclosees;
- (b) is already lawfully in the possession of the Receiving Party at the time of disclosure of such Confidential Information to the Receiving Party provided that such possession is documented by written evidence and provided further that the onus shall at all times rest on the Receiving Party to establish that the information in its possession falls within the ambit of this clause 1.1.3(b);
- (c) is or was lawfully acquired from a third party who did not, to the Receiving Party's best knowledge and after due enquiry, obtain it unlawfully or in contravention of a

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confidentiality agreement with the Disclosing Party or its Affiliates or other contractual, legal or fiduciary duty of confidentiality;

- (d) is independently developed by the Receiving Party without use of or reference to any Confidential Information;
- (e) must be disclosed pursuant to any law (excluding contractual obligations), regulation, governmental regulation, court order or the rules of any stock exchange by which the Receiving Party may be bound; or
- (f) the Disclosing Party has confirmed is disclosed on a non-confidential basis or which the Disclosing Party has authorised, in writing, the Receiving Party or its Representatives or Permitted Disclosees to disclose;

Information will not be deemed to be within the above exclusions merely because such information is embraced by more general information in the public domain or in the Receiving Party's possession and any combination of features will not be deemed to be within the above exclusions merely because individual features are in the public domain or in the Receiving Party's possession, but only if the combination itself and its principle of operation are in the public domain or in the Receiving Party's possession;

1.1.3.1 **“Description of Services”**

Automotive Spares (Supply & Delivery)

1.1.4 **“Counterparty”**

means [_____], having

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registration number
[_____], a
private/public/company/close corporation/trust etc
duly registered in accordance with the laws of [the
Republic of South Africa] and with its registered
address situated at [_____].]

1.1.5 **"Disclosing Party"** means any Party disclosing Confidential Information to the Receiving Party pursuant to the Permitted Purpose, it being acknowledged that any Party can be a Disclosing Party or Receiving Party as the context so requires;

1.1.6 **"Impala"** means Impala Platinum Limited, having registration number 1952/071942/06, a public company duly registered in accordance with the company laws of the Republic of South Africa and with its registered address situate at 2 Fricker Road, Illovo, Gauteng, South Africa;

1.1.7 **"Parties"** means Impala and the Counterparty, being parties to this Agreement and **"Party"** means either one of them as the context indicates;

1.1.8 **"Permitted Disclosees"** means the Representatives of the Receiving Party who are involved in the Permitted Purpose and have a need to know the Confidential Information for the Permitted Purpose and any other Person to whom the Receiving Party discloses Confidential Information with the prior written consent of the Disclosing Party;

1.1.9 **"Permitted Purpose"** means:

(a) evaluating the possibility of entering into the Proposed Transaction;

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- (b) conducting negotiations in connection with the Proposed Transaction; and
 - (c) implementing the Proposed Transaction;
- 1.1.10 **"Person"** means any individual or other entity possessing legal personality including, without limitation, a company, close corporation cooperative, partnership, trust, unincorporated association or governmental authority;
- 1.1.11 **"Receiving Party"** means any Party receiving the Confidential Information from the Disclosing Party for the Permitted Purpose, it being acknowledged that any Party can be a Disclosing Party or Receiving Party as the context so requires;
- 1.1.12 **"Representatives"** means, in relation to any Person, its directors, shareholders, officers, agents, employees, bankers and professional advisers; and
- 1.1.13 **"Signature Date"** means the date of signature of this Agreement by the Party last signing.
- 1.2 any substantive provision, conferring rights or imposing obligations on a Party and appearing in any of the definitions or elsewhere in this Agreement, shall be given effect to as if it were a substantive provision in the body of the Agreement.
- 1.3 Reference to "business days" shall be construed as any day other than a Saturday, Sunday or public holiday as gazetted by the government of the Republic of South Africa from time to time. Any reference to "business hours" shall be construed as being the hours between 08h00 and 17h00 on any business day. Any reference to time shall be based upon South African Standard Time.
- 1.4 Unless specifically otherwise provided, any number of days prescribed shall be

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determined by excluding the first and including the last day or, where the last day falls on a day that is not a business day, the next succeeding business day.

2. DISCLOSURE AND USE OF CONFIDENTIAL INFORMATION

2.1 The Disclosing Party and the Receiving Party intend entering into discussions with regards to the Proposed Transaction and during future interactions between the Parties relating to the Permitted Purpose, the Disclosing Party will disclose certain Confidential Information to the Receiving Party and the Receiving Party will gain knowledge of the Confidential Information of the Disclosing Party.

2.2 Subject to the provisions of clause 1.1.3(e), the Receiving Party shall not without the prior written consent of the Disclosing Party disclose to any Person:

2.2.1 any information with regards to the Proposed Transaction, or the terms and other facts related thereto, including without limitation, the fact that discussions regarding the Proposed Transaction are taking place or the status thereof; or

2.2.2 give any press release or make any other public announcement with regards to the Proposed Transaction.

2.3 Notwithstanding anything to the contrary contained in this Agreement, the Receiving Party hereby provides the Disclosing Party with an undertaking to maintain the secrecy of the Confidential Information disclosed to it by the Disclosing Party or its Affiliates, on the terms and conditions set out in this Agreement.

2.4 The Disclosing Party shall disclose to the Receiving Party such relevant Confidential Information as may be in the possession of the Disclosing Party and as will, in the sole and absolute discretion of the Disclosing Party, be required by the Receiving Party for the Permitted Purpose.

2.5 The Parties acknowledge that:

2.5.1 the Confidential Information is a valuable, special and unique asset of the Disclosing Party and/or its Affiliates; and

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- 2.5.2 the Disclosing Party and/or its Affiliates may suffer irreparable harm or substantial economic and other loss in the event of such Confidential Information being disclosed or used otherwise than in accordance with this Agreement.
- 2.6 All Confidential Information disclosed by the Disclosing Party to the Receiving Party or which otherwise comes to the knowledge of the Receiving Party, is acknowledged by the Receiving Party:
- 2.6.1 to be proprietary to the Disclosing Party and/or one or more of its Affiliates; and
- 2.6.2 not to confer any rights of whatsoever nature in such Confidential Information on the Receiving Party.
- 2.7 The Receiving Party irrevocably and unconditionally agrees and undertakes:
- 2.7.1 to treat and safeguard the Confidential Information as strictly private, secret and confidential;
- 2.7.2 to protect the Confidential Information by using the same degree of care, but no less than a high degree of care, to prevent the dissemination to third parties or publication of the Confidential Information as Receiving Party uses to protect its own confidential information of a like nature;
- 2.7.3 not to use or permit the use of the Confidential Information for any purpose other than for the Permitted Purpose and, in particular, not to use or permit the use of the Confidential Information, whether directly or indirectly, to obtain a commercial, trading, investment, financial or other advantage over the Disclosing Party and/or its Affiliates or otherwise use it to the detriment of the Disclosing Party and/or its Affiliates;
- 2.7.4 except as permitted by this Agreement, not to disclose or divulge, directly or indirectly, the Confidential Information in any manner to any third party for any reason or purpose whatsoever without the prior written consent of the Disclosing Party, which consent may be granted or withheld in the sole and absolute discretion of the Disclosing Party;

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- 2.7.5 not to copy or reproduce or store in a retrieval system or database the Confidential Information by any means without the prior written consent of the Disclosing Party, it being recorded that any copies shall be and remain the property of the Disclosing Party;
- 2.7.6 to keep all Confidential Information safe and secure and to take all such steps as may be reasonably necessary to protect it against theft, damage, loss, unauthorised access (including access by electronic means) and to prevent Confidential Information from falling into the hands of unauthorised third parties.

3. PERMITTED DISCLOSEES

- 3.1 The Receiving Party shall be entitled to disclose the Confidential Information only to Permitted Disclosees.
- 3.2 The Receiving Party shall inform such a Permitted Disclosee of, and take all practical steps to impress upon him or it, the secret and confidential nature of the Confidential Information and the Receiving Party's obligations under this Agreement.
- 3.3 The Receiving Party shall be responsible for procuring that the Permitted Disclosees abide by the provisions of this Agreement and agree to be bound by the confidentiality undertakings given to the Disclosing Party by the Receiving Party in this Agreement. The Receiving Party shall be responsible for any breach of the terms of this Agreement by any Permitted Disclosee as if such Permitted Disclosee had been a Receiving Party under this Agreement and to the same extent such Receiving Party would have been responsible under this Agreement for its own breach of the same obligations.
- 3.4 The Receiving Party shall (if requested to do so by the Disclosing Party) procure that the Permitted Disclosees give a written undertaking in favour of the Disclosing Party in regard to the Confidential Information on substantially the same terms and conditions contained in this Agreement.
- 3.5 The Receiving Party's failure to obtain receipt of the written undertaking shall in no way detract from the Receiving Party's obligations in terms of this Agreement and particularly in terms of the remaining provisions of this Agreement.

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- 3.6 The Receiving Party shall keep a written record showing the names and addresses of all Permitted Disclosees to whom Confidential Information has been disclosed and shall furnish such written record to the Disclosing Party, upon request.

4. RETURN OF CONFIDENTIAL INFORMATION

- 4.1 The Receiving Party shall, at its own expense, within 10 (ten) business days of the date of written demand from the Disclosing Party:

4.1.1 return or destroy (as stipulated by the Disclosing Party), and procure the return or destruction of all Confidential Information disclosed by the Disclosing Party and/or its Affiliates and all copies of it (whether in paper, electronic or other format) held by the Receiving Party or by a Permitted Disclosee without keeping any copies or partial copies thereof;

4.1.2 destroy, and procure the destruction of all analyses, compilations, notes, studies, memoranda or other documents prepared by the Receiving Party or by any Permitted Disclosee which contain or otherwise reflect or are generated from the Confidential Information disclosed by the Disclosing Party and/or its Affiliates;

4.1.3 delete or procure the deletion of all Confidential Information disclosed by the Disclosing Party and/or its Affiliates from any computer, word processor or other device in the possession or control of the Receiving Party or any Permitted Disclosee; and

4.1.4 furnish the Disclosing Party with a certificate by an officer of the Receiving Party that the Receiving Party and (to the best of the Receiving Party's knowledge, information and belief having made all reasonable enquires) all Permitted Disclosees have complied with the provisions of this clause 4.1.

- 4.2 The Receiving Party shall not be required to return, destroy or delete Confidential Information disclosed by the Disclosing Party and / or its Affiliates to the extent that it is required to retain such Confidential Information by law or to satisfy the rules and regulations of a regulatory body to which the Receiving Party or any Permitted Disclosee is subject or for the purposes of its own *bona fide* corporate governance purposes. For

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the avoidance of doubt, the obligations of confidentiality contained in this Agreement will continue to apply to such retained Confidential Information.

5. FORCED DISCLOSURE

5.1 In the event that the Receiving Party is required to disclose Confidential Information pursuant to a requirement or request by operation of law, regulation or court order, it will:

5.1.1 advise the Disclosing Party thereof in writing prior to disclosure, to the extent legally possible;

5.1.2 take such steps to limit the disclosure to the minimum extent required to satisfy such requirement and to the extent that it lawfully and reasonably can;

5.1.3 afford the Disclosing Party a reasonable opportunity, to the extent legally possible, to intervene in the proceedings;

5.1.4 comply with the Disclosing Party's reasonable requests, if allowable, as to the manner and terms of any such disclosure; and

5.1.5 notify the Disclosing Party of the Receiving Party of, and the form and extent of, any such disclosure or announcement immediately after it is made, to the extent legally possible.

6. DURATION

The obligations of the Receiving Party with respect to each item of Confidential Information shall commence on the date on which such information is disclosed or otherwise received (whether before or after the Signature Date) and shall endure for a period of 5 (five) years from Signature Date.

7. BREACH

7.1 The Receiving Party agrees that its obligations in terms of this Agreement are necessary and reasonable in order to protect the Disclosing Party's and its Affiliates' business.

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- 7.2 Without prejudice to the other rights of the Disclosing Party, in the event of any unauthorised disclosure or use of the Confidential Information which is or is reasonably likely to constitute a breach of any provision of this Agreement, the Receiving Party shall, at the sole cost of the Receiving Party:
- 7.2.1 immediately notify the Disclosing Party in writing and take such steps as the Disclosing Party may reasonably require in order to remedy or mitigate the effects of such actual or threatened breach; and
 - 7.2.2 use all reasonable commercial endeavours to assist the Disclosing Party in recovering and preventing the use, dissemination, sale or other disposal of such Confidential Information.
- 7.3 The Parties acknowledge and agree that:
- 7.3.1 cancellation is not an appropriate remedy for breach of this Agreement and this Agreement may not be cancelled or terminated save by written agreement between the Parties; and
 - 7.3.2 damages alone may not be an adequate remedy for any breach of the obligations set out in this Agreement and that the remedies of interdict, specific performance and any other equitable relief (including, without limitation, injunctive relief) is appropriate for any threatened or actual breach of this Agreement. The Disclosing Party will be entitled to apply for such remedy, in addition to any other remedy to which it may be entitled in law (other than the remedy of cancellation).
- 7.4 The Receiving Party accepts full liability for the maintenance of the confidentiality of the Confidential Information and hereby unconditionally and irrevocably indemnifies and holds the Disclosing Party and each Affiliate harmless against any and all direct loss, action, expense, claim, harm or damages of whatsoever nature suffered or sustained by the Disclosing Party or any of its Affiliates pursuant to:
- 7.4.1 a breach or threatened breach by the Receiving Party of the provisions of this Agreement; and

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- 7.4.2 any Permitted Disclosee failing to keep the Confidential Information confidential.
- 7.5 Should any unauthorised disclosure of Confidential Information take place in breach of the provisions of this Agreement, the Disclosing Party shall, in addition to the foregoing, be entitled by written notice to the Receiving Party to terminate all obligations to provide information to the Receiving Party with immediate effect and no further information will be disclosed to the Receiving Party in terms of this Agreement.
- 7.6 Should any unauthorised disclosure of Confidential Information take place in breach of the provisions of this Agreement, the Disclosing Party shall, in addition to the foregoing, be entitled to claim indirect and consequential damages.

8. NO WARRANTY AND/OR OFFER AND/OR RIGHTS

- 8.1 Unless otherwise specifically stated in writing, the Disclosing Party:
- 8.1.1 does not give or make any warranty, representation or undertaking, express or implied, as to the accuracy or completeness of any of the Confidential Information or other information received by the Receiving Party or its Permitted Disclosees or as to the reasonableness of any assumptions on which any of the same is based;
- 8.1.2 does not accept any responsibility or liability (direct or indirect) for the use of the Confidential Information by the Receiving Party or its Permitted Disclosees.
- 8.2 No Confidential Information or other information, communication or document made available to or supplied to the Receiving Party by the Disclosing Party or any of its Affiliates shall constitute an offer or invitation to the Receiving Party. Nothing in this Agreement shall be construed as committing either Party to enter into a further contractual relationship.

9. BENEFIT

- 9.1 Except as provided for in this clause 9, the undertakings given by the Receiving Party in this Agreement shall be for the benefit of and may be enforced by the Disclosing Party and any successors-in-title. The undertakings shall be deemed to have been imposed

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as a *stipulatio alteri* for the benefit of any successor-in-title and such benefit may be accepted by such person at any time. The fact that any undertaking may not be enforceable by one of them will not affect its enforceability by any other party.

9.2 This Agreement is made for the benefit of the Disclosing Party and its Affiliates from time to time, and any entity which is an Affiliate of the Disclosing Party may enforce this Agreement as if they were the Disclosing Party and a party to this Agreement.

10. CONFLICT OF INTEREST

10.1 The Implats Code of Ethics is binding on every employee, officer, director, contractor and supplier who have an obligation to recognise all conflicts of interest when they arise and deal with them in the manner required in the Implats Code of Ethics. It is also required that one must refrain from engaging in practices or pursuing private interests which could conflict with those of Implats. A copy of the Code of Ethics is available on the following link: <https://www.implats.co.za/supplier-development.php>.

10.2 Save for anything to the contrary contained in this Agreement, the Receiving party is required to complete the Conflict of Interest portion below stipulating the type of Conflict for the consideration of the Disclosing Party:

NAME	CONFLICT

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10.3 Such conflict of interest shall include each individual who has any conflict of interest with any other party in terms of the proceedings envisaged for the purposes of the Non-Disclosure Agreement.

10.4 Albeit not a closed list of conflict, a potential conflict exists when a party has competing interests or loyalties because of their duties to more than one person or organization or where their position relative to Impala may benefit themselves or their organisation unduly.

10.5 In respect of a contract of employment, the Receiving Party is required to specifically confirm the following:

10.5.1 Are you or any members of your company or joint venture agreement (if applicable) an employee of any Implats South African Operations?

Yes

No

10.5.2 Do you or any members of your company or joint venture partners (if applicable) have family employed by any Implats South African Operations?

Yes

No

10.5.3 Are you or any members of your company or joint venture partners (if applicable) married to an employee of any Implats South Africa Operations?

South

Yes

No

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10.5.4 Any undeclared conflict of interest may, at the Disclosing Party's sole and absolute discretion, result in a claim for damages; possibility of disciplinary action resulting in the termination of employment (if applicable) and/or interdictory relief and/or any other sanction as against the Receiving Party that is mandated by Law.

11. NOTICES AND *DOMICILIA*

11.1 The Parties select as their respective *domicilia citandi et executandi* the following physical addresses, and for the purposes of giving or sending any notice provided for or required under this Agreement, the said physical addresses:

<u>Name</u>	<u>Physical Address</u>
Impala Platinum Limited:	2 Fricker Road Illovo 2196 Gauteng Republic of South Africa

Marked for attention of: **VIRESH SONI**

<u>Name</u>	<u>Physical Address</u>
Tenderer/Contractor:	

Marked for attention of:

11.2 A Party may change its *domicilium* or its address for the purposes of notices to any other physical address or telefax number by written notice to the other Party to that effect. Such change of address will be effective 5 (five) business days after receipt of the notice of the change.

11.3 All notices to be given in terms of this Agreement will be given in writing, in English, and will:

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- 11.3.1 if delivered by hand during business hours, be presumed to have been received on the date of delivery. Any notice delivered after business hours or on a day which is not a business day will be presumed to have been received on the following business day;
- 11.3.2 if delivered by recorded delivery or by commercial courier, on the date and time that the delivery receipt is signed.
- 11.4 Notwithstanding the above, any notice given in writing in English, and actually received by the Party to whom the notice is addressed, will be deemed to have been properly given and received, notwithstanding that such notice has not been given in accordance with this clause.
- 11.5 The Parties record that whilst they may correspond via email during the currency of this Agreement for operational reasons, no formal notice required in terms of this Agreement, nor any amendment of or variation to this Agreement may be given or concluded via email.

12. APPLICABLE LAW AND JURISDICTION

- 12.1 This Agreement will in all respects be governed by and construed under the laws of the Republic of South Africa.
- 12.2 The Parties hereby consent and submit to the non-exclusive jurisdiction of the South Gauteng High Court, Johannesburg in any dispute arising from or in connection with this Agreement. The Parties agree that any costs awarded will be subject to any specific determination by the Court.

13. GENERAL

- 13.1 This Agreement constitutes the whole of the agreement between the Parties relating to the matters of confidentiality and non-disclosure dealt with herein and, save to the extent otherwise provided herein, no undertaking, representation, term or condition relating to the subject matter of this Agreement not incorporated in this Agreement shall be binding on either of the Parties.

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- 13.2 No addition to or variation, deletion, or agreed cancellation of all or any clauses or provisions of this Agreement will be of any force or effect unless in writing and signed by the Parties.
- 13.3 No waiver of any of the terms and conditions of this Agreement will be binding or effectual for any purpose unless in writing and signed by the Party giving the same.
- 13.4 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the Parties, constitute any Party the agent of another Party, nor authorise any Party to make or enter into any commitments for or on behalf of another Party.
- 13.5 Save as otherwise provided herein, neither this Agreement nor any part, share or interest herein nor any rights or obligations hereunder may be ceded, delegated or assigned by any Party without the prior written consent of the other Party, provided that the Disclosing Party may cede, delegate or assign its rights under this Agreement to any one or more of its Affiliates on prior written notice to the Receiving Party
- 13.6 This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same Agreement as at the Signature Date of one of the counterparts.

14. COSTS

Each Party will bear and pay its own legal costs and expenses of and incidental to the negotiation, drafting, preparation and implementation of this Agreement.

15. SIGNATURE

Signed on behalf of the Parties, each signatory hereto warranting that he/she has due authority to do so.

signed at _____ on _____ 20__

For and on behalf of

IMPALA PLATINUM LIMITED



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IMPALA PLATINUM LIMITED

_____ who warrants that he/she is duly authorised hereto

on _____ 20__

signed at _____

For and on behalf of **TENDERER/CONTRACTOR**

_____ who warrants that he/she is duly authorised hereto