

IN THE INDEPENDENT REVIEW COMMITTEE

HELD AT MBABANE

In the matter between:-

VIP PROPERTY PLANNING CONSULTANTS
(PTY) LIMITED

APPLICANT

And

MALKERNS TOWN BOARD

RESPONDENT

Ruling

The matter came before the IRC for an Order in terms of the Notice of Motion, brought in terms of Section 49 of the Procurement Act of 2011, seeking a review of the decision of the Respondent. The matter was allocated dates for the filing of pleadings and for the production of the original tender documents to be inspected by the Applicant. The Applicant was directed to file all documents in support of its case on the 29th July 2021, and the Respondent to file opposing papers on or before the 03rd August 2021 and the matter was scheduled to be heard on the 09th August 2021, the parties advised the Industrial Court that, they would like to postpone the matter to a further day, in light of the fact that they were in discussions and they were confident that they will settle the matter.

The postponement was granted and the parties agreed that they will suspend the running of the days as provided in the Act, and that they will return to the IRC o the following week to confirm it the matter had been settled. The matter returned the next week and the parties had settled the matter but the agreement had not been forward to the members of the IRC.

The Respondent complied with the dates and produced the documents and they were open for inspection at the Registry.

The said deed has since been forwarded to the members and the matter has been settled per the deed of settlement signed on the 17th August 2021 between the parties and the IRC accordingly endorses the said settlement attached Deed, between the parties as a Ruling of the IRC.

Dated on this the 30th day of August, 2021.

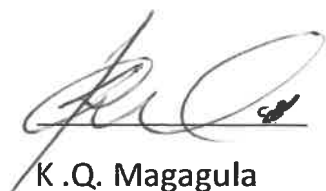
Members:



L Howe (Chairman)



M Masuku



K.Q. Magagula

**IN THE MATTER HELD BEFORE THE INDEPENDENT REVIEW
COMMITTEE
HELD AT MBABANE**

In the matter between: -

VIP PROPERTY PLANNING CONSULTANTS

(PTY) LTD

Applicant

and

MALKERNS TOWN BOARD

Respondent

DEED OF SETTLEMENT

1. DEED OF SETTLEMENT

This Agreement is made and entered into between **VIP PROPERTY PLANNING CONSULTANTS (PTY) LTD** ("the Applicant"); and **MALKERNS TOWN BOARD** ("the Respondent").

RECORDAL

- A. The Applicant has filed an application for review before the Independent Review Committee seeking to set aside Tender NO. 35 of

2020 / 2021 and ordering the Respondent to comply with the consultancy agreement dated the 11th May 2020

B. The parties have agreed to settle this matter on the terms set out below.

2. OBLIGATIONS ON THE PARTIES

2.1 The Respondent will within 7 days from date of signature of this agreement cancel Tender No. 35 of 2020 / 2021 and communicate the decision to the alleged successful tenderer and copy in the Applicant;

2.2 The Respondent will comply fully with the Consultancy Agreement it has with the Applicant signed on the 11th May 2020 until its expiry.

3. FULL AND FINAL SETTLEMENT

The above terms will be in full and final settlement of the Applicant's claims against the Respondent.

4. CONFIDENTIALITY CLAUSE

The terms and conditions of this agreement shall remain confidential between the Parties and shall not be disclosed by either party to any person, body or association without the prior written authority of the other, save where such disclosure is required in law and/or in order to enforce the provisions of this agreement, or to obtain advice.

5. **BREACH**

If a party ("the defaulting party") should breach any material provisions of this Agreement and remain in breach for a period of two (2) days after receipt of a written notice from the other party ("the non-defaulting party") calling upon it to remedy the breach, the non-defaulting party shall be entitled to cancel this Agreement without prejudice to any other rights which it may have in terms of this Agreement or at law and/or seek to enforce it.

6. **RELAXATION**

No latitude, extension of time or other indulgence which may be given or allowed by any Party in respect of the performance of any obligation hereunder, and no delay or forbearance in the enforcement of any right or any party arising from this Agreement, shall in any circumstances be construed to be an implied consent or election by such party or operate as a waiver or a novation of or otherwise affect any of the Party's rights in terms of this Agreement.

7. **SIGNATORIES**

The signatories to this Agreement warrant that they are authorized to enter into this Agreement and sign on behalf of the Parties.

8. **WHOLE AGREEMENT**

This Agreement constitutes the whole Agreement between the Parties as to the subject matter hereof and no agreements, representatives or

warrants between the Parties regarding the subject matter hereof than those set out herein, are binding on the Parties.

9. **ORDER OF THE COMMITTEE**

The parties hereby agree that the agreement shall be made an order of the Independent Review Committee on notice to either party.

Signed at MBABANE on this the day of AUGUST 2021

MALKERNS TOWN BOARD
17 AUG 2021
TOWN CLERK
P.O. BOX 100, MALKERNS
TEL: +268 2528 3298

DULY AUTHORISED SIGNATORY FOR THE RESPONDENT

Witnesses:

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Signed at MBABANE on this the ..17... day of AUGUST 2021

VIP ESTATE AGENTS & CONSULTANTS
THE APPLICANT
MBABANE - SWAZILAND
CELL: 7659 3336 / 7617 1645

DULY AUTHORISED SIGNATORY FOR THE APPLICANT

Witnesses:

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