DPME FILE REF:	CFP/14/04
SCM REF:	

THE PRESIDENCY
REPUBLIC OF SOUTH AFRICA

DEPARTMENT OF PLANNING, MONITORING AND EVALUATION

Agreement on
The Design Evaluation of the Policy on Community Colleges (PCC)

entered into between

The Department of Planning, Monitoring and Evaluation
of the Government of the Republic of South Africa
(Hereinafter referred to as "DPME")

and
The South African Institute for Distance Education SAIDE

(Hereinafter referred to as "the Service Provider")

"SCHEDULE"

This Schedule contains information relating to the agreement between the parties and forms an integral part thereof.

THE PARTIES TO THIS AGREEMENT ARE

<table>
<tr>
<td colspan="2">

THE GOVERNMENT OF SOUTH AFRICA through its Department of Planning, Monitoring and Evaluation ("DPME")
Herein represented by the Accounting Officer (Director General) or the delegated officials indicated below.

<u>With registered address</u> (hereinafter the *domicilium citandi et executandi* of the DPME):
East Wing, Union Buildings, Government Avenue, Pretoria, 0001
</td>
<td>

The South African Institute for Distance Education (SAIDE)
("The Service Provider")
Registration/ID number: Trust Reg No: 1355/92
NPO Reg No: 041-137
Herein represented by: Ms Jenny Glennie
<u>With registered address</u> (hereinafter the *domicilium citandi et executandi* of the Service Provider):
SAIDE, PO Box 31822, Braamfontein, Johannesburg, 2017
</td>
</tr>
<tr>
<td colspan="2">

<u>Coordinator for DPME</u>:
Name: Mr Antonio Hercules
Tel: 012 312 0164
Fax: 086 686 4455
e-mail: antonio@po-dpme.gov.za
</td>
<td>

<u>Coordinator for the Service Provider</u>:
Name: Ms Jenny Glennie
Tel: 011 403 2813
Fax: 011 403 2814
e-mail: jennyg@saide.org.za
</td>
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<tr>
<td>Commencement Date:</td>
<td>July 02, 2014</td>
<td rowspan="2">

<u>Total Consideration Payable inclusive of VAT</u>: (Subject to deliverables and timeframes described herein)

Fixed component: R400 000.00
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</tr>
<tr>
<td>Duration/Termination Date:</td>
<td>March 20, 2015</td>
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ANNEXURES TO THIS AGREEMENT
A: Summary Deliverable and Payment Schedule and Resource Commitments
B: Terms and Conditions of Agreement
C: Detailed Service Level Requirements and Time Frames
D: Proposal submitted by Service Provider
</td>
<td>Any variable component must be linked to the deliverables indicated in Annexure "C" and will be priced in accordance with the rates indicated in Annexure "A".</td>
</tr>
</table>

For and on behalf of THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA who warrants that he/she is or they are duly authorised thereto:

1

Name: ANTONIO HERCULES Date: 18/09/2014

Position: DIRECTOR Place: PRETORIA

2

Name: IAN GOLDMAN Name: Pretoria

Position: DDG Position: 29/9/2014

3

Name: ~~Mr Pieter Pretorius~~ Date: 5/9/14

Position: CFO Place: Pretoria

For and on behalf of the Service Provider who warrants that he/she/they is/are duly authorised thereto:

4

Name: MARK EVERETT Date: 29/9/2014

Position: D.D Place: PRETORIA

5

Name: Jennifer Glennie Date: 2/10/2014

Position: Executive Director Saide Place: Johannesburg

6

Name: Date:

Position: Place:

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ANNEXURE "A" - SUMMARY DELIVERABLE AND PAYMENT SCHEDULE AND RESOURCE COMMITMENTS

Table 1: Fixed component: must indicate all inclusive pricing for any specific goods or services to be delivered in terms of this agreement.
Table 2: Variable component: must include rates or units costs to be used in the costing of additional deliverables or any costs not included under the fixed component.
VAT must be included in all cases where the service provider is registered for VAT.

Table 1: Fixed cost component	Indicative delivery date	% of total	Amount due
1. Approval of inception report	July 17, 2014	10%	R40 000.00
2. Submission of PCC Theory of Change and Logframe	October 09, 2014	20%	R80 000.00
3. Approval of report structure, data collection instrument, data collection and data analysis plan	October 16, 2014	20%	R80 000.00
4. Approval of draft evaluation report, PowerPoint presentation at validation workshop	October 30, 2014	30%	R120 000.00
5. Approval of final evaluation report, and PowerPoint Presentation	November 14, 2014	20%	R80 000.00
Total Amount (must match total consideration indicated on "Schedule")		**100%**	R400 000.00

Table 2: Variable cost component (Cost and martial)	Rate / cost

Conditions of payment (Also see Annexure B Clause 6):

1. An official purchase order will be issued by DPME after conclusion of this agreement. No invoice may pre-date the official purchase order.
2. The Service provider will invoice DPME in accordance with the above schedule after confirmation by the coordinator for DPME that a particular milestone has been reached or a deliverable has been satisfactorily completed.
3. Original invoices must be addressed to the CFO: DPME and delivered by hand or sent by mail to Private Bag X944, Pretoria, 0001.
4. Invoices must contain:
   a. A detailed description for each amount invoiced, including but not limited to the relevant deliverable or milestone;
   b. The Service Provider's full details, including VAT number;
   c. The purchase order number issued by DPME and DPME VAT number;
   d. Contact details in case of any accounting related enquiries.
5. Payment can only be made to the Service Provider's bank account, details of which must be provided on the official DPME suppliers registration forms (completed separately). The verification of banking details can take up to 14 days.
6. All payments will be made within 30 calendar days of receipt of an original and valid invoice. Any delays due to changes in or incorrect banking details are excluded from this period.

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Tables 3 and 4: Resources committed by the Service Provider

Table 3: Project Team/Resources committed by Service Provider including Table 4: Allocation of Team Members to Activities									
Consultant No.	**Name**	**Phase I: project start-up**	**Phase II: Research Design**	**Phase II: Research Imple-mentation**	**Phase III: Data analysis and write-up**	**Phase IV: Project close-out**	**Total (days)**	**Level of Effort (%)**	**Level of Effort (% per team)**
	Project management and advisory expertise								
1	Jennifer Glennie	1.0	0.5	0.5	2.5	1.0	5.5	9%	**17%**
2	Dr Ephraim Mhlanga	2.5	0.5		1.0	0.5	4.5	8%	
	M+E expertise and qualitative research team								
3	Prof. John Aitchison	1.5	2.0	8.5	11.5	3.0	26.5	45%	**83%**
4	Maryla Bialobrzeska	2.5	1.0	3.5	5.5	2.5	15.0	25%	
5	Dr Ephraim Mhlanga			5.0	2.5		7.5	13%	
	Quantitative research team								
									0%
									0%
	Sub-totals	**30.5**	**78**	**198.8**	**89.8**	**0.5**	59.0	**100%**	100%

Conditions related to resource commitments: See Annexure "B" clause 5

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ANNEXURE "B" - TERMS AND CONDITIONS OF AGREEMENT

1. INTERPRETATION AND GENERAL CONDITIONS

1.1. In this agreement, unless otherwise specified or the context clearly indicates the contrary, the following words and expressions shall have the meanings assigned to them below:

1.1.1. "Business Day" – any day excluding a Saturday, Sunday or public holiday in the Republic of South Africa;

1.1.2. "Commencement Date" – the date designated as such in the Schedule, notwithstanding the date on which this agreement is signed by the party signing it last in time;

1.1.3. "Confidential Information" – the following information, belonging to either party: Any know-how, information, method of trading, technology, techniques, data, records, reports, business ideas, business forms and stationery, drawings, models, programmes and any information of whatsoever nature and form directly or indirectly related to the business of the parties, or the business of any of the parties' members, suppliers, service providers, agents, business associates or partners which was or may be supplied to one party by the other party or any of the aforesaid entities. Without limiting the generality of this clause in any manner whatsoever, confidential information shall include:

a. technical, financial, economic and general information, information provided orally, in computer readable media, in writing or through any other means of communication; and
b. information which the parties, when providing same to the each other expressly indicates to be confidential, irrespective of whether it falls within the ambit of clause 1.1.3.

1.1.4. "Co-ordinator" – the person, the particulars of whom are set out in the Schedule, nominated and replaced by each of the parties from time to time, who will be responsible for effective liaison between the parties and to whom all communication relating to the execution and implementation of this agreement must be addressed;

1.1.5. "Insolvency Event" – if the Service Provider:

a. is wound-up, liquidated, subject to an offer of compromise in terms of the Companies Act (if applicable) deregistered or placed under business rescue, in any event whether provisionally or finally and whether voluntarily or compulsorily, or passes a resolution providing for any such event; or
b. becomes insolvent or commits any act which is or, if it were a natural person, would be an act of insolvency as defined in the Insolvency Act, (Act no. 24 of 1936 as amended); or
c. is deemed unable to pay its debts in terms of the Companies Act; or
d. compromises or attempts to compromise with, or defer or attempt to defer payment of debts owing by it to, its creditors generally or any significant class of creditors; or
e. takes any procedural steps (including application, proposal or convening a meeting) with a view to compromise an arrangement with any creditors generally or any significant class of creditors;

1.1.6. "Intellectual Property" – the following immaterial and intellectual property of which a party is the proprietor or that was developed by the Parties irrespective of whether registered/patented:

a. all registered patents and patent applications, designs and design applications in the name of the party;
b. all copyright owned by the party in respect of works which are susceptible to copyright and which are used by the party in respect of its business;
c. all registered trademarks and trademark applications, unregistered trademarks as well as rights to trade and business names;
d. any confidential or proprietary information relating to the intellectual property and its exploitation, including technical information, manufacturing techniques and designs, specifications, formulae, systems, processes, information concerning materials and marketing and business information generally;

1.1.7. "Payment Schedule" – the schedule of deliverables / milestones and related payments agreed to between Parties and attached as annexure "A" hereto.

1.1.8. "the Proposal" – the proposal submitted by the Service Provider in response to the request for proposals / tender of which a copy is attached hereto as annexure "D";

1.1.9. "Schedule" – the document entitled "Schedule" to which this document constitutes annexure "B" and which contains certain variable information applicable to this agreement;

1.1.10. "Service" or "Service Levels" – the quantitative and qualitative performance metrics for the Goods and Services, which Service Levels are detailed in annexure "C";

1.1.11. "Valid invoice" – an invoice that complies with the requirements set out in this agreement and that refers only to deliverables confirmed as delivered by DPME and to costs and expenses as agreed to in Annexure "A" of this agreement.

1.2. Any reference to -

1.2.1. the singular shall include the plural and vice versa;
1.2.2. any gender shall include the other genders;
1.2.3. natural persons shall include legal persons and vice versa.

Initials - 1: 2: 3: 4: 5: 6:

1.3. The headings of clauses in this agreement are for reference purposes only and shall not be taken into account in construing the contents hereof.

1.4. If any word or phrase is defined in any clause hereunder, that word or phrase shall bear the same meaning throughout the remainder of this agreement.

1.5. Where any term is defined within the context of a particular clause in this agreement, it shall bear the meaning ascribed to it for all purposes in terms of this agreement, notwithstanding that that term has not been defined in this interpretation clause.

1.6. If any provision in a definition is a substantive provision, conferring rights or imposing obligations on any party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of the agreement.

1.7. When any number of days is prescribed in this agreement, same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day falls on a day other than a Business Day, in which case the last day shall be the immediately following Business Day.

1.8. Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.

1.9. The expiration or termination of this agreement shall not affect such of the provisions contained herein and are expressly provided that they will operate after such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide therefor.

1.10. The rule of construction that this agreement shall be interpreted against the party responsible for the drafting or preparation of this agreement, shall not apply.

1.11. The terms and conditions of the General Conditions of Contract (July 2010 or as subsequently revised) from National Treasury ("GCC") are incorporated into this agreement and forms an integral part hereof. The Proposal, attached hereto as annexure "D" also forms an integral part of this agreement. In the event of any conflict or inconsistency between the provisions contained in this agreement on the one hand and those contained in the GCC or the Proposal, on the other hand, this agreement shall take precedence.

1.12. In the event of any conflict or inconsistency between the provisions contained in this agreement on the one hand and any South African legislation, on the other hand, the legislation shall take precedence.

2. APPOINTMENT

2.1. DPME hereby appoints the Service Provider, who accepts such appointment, subject to the terms and conditions set out herein.

2.2. This agreement is also binding on the successors in title, assigns and administrators of the respective parties.

2.3. DPME and the Service Provider shall at all times be independent contracting parties and neither shall party shall be the partner, agent, representative or employee of the other party or hold itself out as such. Accordingly, neither party shall have the authority to bind the other party by any representations, statements or agreements in any manner whatsoever.

2.4. Where there is an inception phase where the proposal can be revised, should there be no agreement between the parties as to the revisions to the proposal, the contract will be terminated after the inception phase, in which case the maximum consideration due to the service provider would be the amount indicated in annexure "A" as payable at inception or 10% of the total project value, whichever is the lower.

3. COMMENCEMENT AND DURATION

3.1. This agreement shall commence on the Commencement Date and shall remain in force for the Duration or until the Termination Date indicated in the "Schedule".

3.2. DPME can extend the duration of this agreement in its sole discretion provided that both parties agree in writing to the terms and conditions of extension. Any extension to the delivery dates indicated in Annexure "A" granted by DPME shall automatically extend the duration of this agreement.

3.3. The Service Provider may not proceed with the production of a subsequent deliverable unless DPME has accepted and approved a preceding deliverable as provided for under clause 6.

3.4. Either party may cancel the agreement in terms of clause 12 (Termination) below;

4. GENERAL OBLIGATIONS OF PARTIES

4.1. DPME shall furnish the Service Provider with all relevant information and documentation timeously to enable the Service Provider to render the Services. The information will be accurate and complete in all material respects.

4.2. DPME shall provide the Service Provider with feedback on the quality and acceptance of Services rendered within 7 (Seven) working days from submission of deliverables, with a clear indication of areas of required improvement, if applicable.

4.3. DPME will, as far as possible, assist the Service Provider to obtain access to stakeholders to facilitate the completion of deliverables.

Initials - 1: 2: 3: 4: 5: 6:

4.4. The Service Provider (including sub-contractors and subsidiaries of the Service Provider) may not to recruit, employ or remunerate in any way, any employee of DPME for a period of 12 months from the date of termination of this agreement. Remuneration, for the purposes of this clause, shall include any consideration whether in cash or in kind.

5. RESOURCES COMMITTED BY THE SERVICE PROVIDER

5.1. The Service Provider acknowledges the commitment of DPME to the transfer of skills and capacity building of South Africans, in particular individuals from historically disadvantaged groups (Historically Disadvantaged Individuals or "HDIs") as well as government staff.

5.2. The Service Provider further acknowledges that where the award of this contract was subject to evaluation criteria that included commitments to the inclusion of HDIs, such individuals will form an active and constructive part of the Service Provider's team assigned to the execution of this project.

5.3. The resources committed to the execution of this contract, as stipulated in the Service Provider's proposal and summarised in Annexure "A" are binding and the Service Provider confirms the availability and roles of these individuals. Any changes to the proposed Project Team must receive the prior written approval of DPME. Such approval shall not be unreasonably withheld, provided that:

5.3.1. New Team Members must have similar skills, experience and qualifications as those team members they replace

5.3.2. Changes in Team Members may not result in an increase in the total consideration due to the Service Provider.

5.3.3. Changes to the team may not jeopardise the quality of deliverables as well as delivery time frames as stipulated in Annexures "A" and "C".

6. CONSIDERATION AND PAYMENT

6.1. In consideration for the Service Provider rendering the Services or providing the Goods agreed upon, and subject to 2.4, DPME shall pay to the Service Provider the fees on the relevant due dates for payment thereof as stipulated in annexure A attached hereto, subject to the successful completion of the deliverables indicated in annexures "A" and "C".

6.2. An official purchase order will be issued by DPME after conclusion of this agreement. No invoice may pre-date the official purchase order.

6.3. The fees indicated in annexure "A" represent the full amount payable to the Service Provider and are fully inclusive of all expenses to be incurred by the Service Provider in completing the deliverables within the agree times frames. It is hereby specifically recorded that, unless otherwise indicated on annexure "A", the fees payable include:

a. Any expense incurred by the Service Provider to participate in meetings, workshops, seminars or similar events related to the completing of the deliverables;

b. All national and international travel expenses related to the completion of the deliverables;

c. All communication related expenses incurred by the Service Provider.

6.4. The incurring of any expense for which the DPME can be held liable that is not included under the Fixed Component in annexure "A" (regardless of whether such expense was mentioned in the proposal(s) submitted by the Service Provider), must receive prior written approval for such a variation from the Chief Financial Officer or the Director General of DPME. Such variation will only be valid if confirmed by the DPME through the issuing of an official purchase order.

6.5. DPME shall be entitled to stipulate, on reasonable notice to the Service Provider the invoicing standards applicable to any charges levied by the Service Provider in terms of this agreement.

6.6. The Service Provider shall inform DPME of the completion of a particular milestone or deliverable in writing. The DPME must within 10 (ten) working days in writing either;

a. Confirm its agreement with the completion of the particular milestone or deliverable; or

b. Provide the Service Provider with detailed information on any outstanding matters related to a particular deliverable or milestone.

6.7. Unless otherwise agreed to in writing, original invoices shall be rendered by the Service Provider after acceptance by DPME's coordinator of a particular deliverable.

6.8. Payment of the Service Provider invoices shall be made by DPME within 30 (thirty) calendar days of receipt thereof.

6.9. The Service Provider shall maintain complete and accurate records of all amounts billed to and payments made by DPME under the agreement in accordance with generally accepted accounting principles applied on a consistent basis. The Service Provider agrees to provide DPME with any information with respect to each invoice as may be requested by DPME to verify accuracy and compliance with the provisions of the agreement.

6.10. DPME may withhold any amounts that it disputes in good faith, provided that such dispute shall automatically be referred to dispute resolution in terms of clause 11.

6.11. Any undisputed amount payable by DPME to the Service Provider can bear interest at a rate equal to that of the prime lending rate of First National Bank, from the 31st day after receipt by DPME of the original valid invoice until the date of payment (both days inclusive).

Initials - 1: 2: 3: 4: 5: 6:

7. WARRANTIES

7.1. Each party warrants and represents that, as at the date of this agreement:

7.1.1. it has full capacity and authority to enter into and perform its obligations under this agreement;

7.1.2. this agreement is executed by a duly authorised representative of that party;

7.1.3. there are no actions, suits or proceedings or regulatory investigations pending or, to that party's knowledge, threatened against or affecting that party before any court or administrative body or arbitration tribunal that might affect the ability of that party to meet and carry out its obligations under this agreement.

7.2. The Service Provider warrants, represents and undertakes on an on-going basis that:

7.2.1. its obligations under this agreement will be performed by a sufficient number of appropriately experienced, qualified, competent, trained and efficient personnel;

7.2.2. it will be solely responsible for the payment of remunerations and associated benefits, if any, of the personnel, and for withholding and remitting income tax (or the relevant local equivalent) for its personnel in conformance with any applicable laws and regulations;

7.2.3. all personnel will be vetted in accordance with good industry practice (where applicable);

7.2.4. The Service Provider will perform its obligations under this agreement in compliance with all applicable laws, enactments, orders, regulations, guidance and all regulatory changes;

7.2.5. all documents, data, software or other materials relevant to the supply of the Services are kept under secure conditions with appropriate back-up arrangements in place;

7.2.6. it has satisfied itself that the facilities it requires for the provision of the Services are available and equipped to the required standard at any DPME's premises;

8. INTELLECTUAL PROPERTY

8.1. The Service Provider hereby acknowledges and confirms that all Intellectual Property rights related to the services provided, research conducted or systems developed in terms of this agreement vest exclusively in DPME, except in so far as such intellectual property rights belonged to the Service Provider or to a third party prior to the commencement of this agreement.

8.2. No Intellectual Property rights are in any manner or for any purpose transferred to the Service Provider in terms of this agreement, nor does the Service Provider obtain any Intellectual Property rights at any stage or in any manner or for any purpose.

8.3. The Service Provider may not publish or sell, in whole or in part, any research emanating from this agreement or any software developed as part of deliverables to this agreement without the explicit written consent of DPME.

9. CONFIDENTIALITY

9.1. Either party hereby acknowledges that -

9.1.1. in the course of the rendering of the Services, it ("the Receiving Party") will become acquainted with Confidential Information belonging to the other party ("the Disclosing Party") and Confidential Information which will be disclosed to it. Unless otherwise indicated in writing, all information provided by DPME must be regarded as confidential information.

9.1.2. in the event of the unauthorised disclosure of the Confidential Information, the party to whom the Confidential Information belong, may suffer irreparable financial and other harm;

9.1.3. obligations contained in this clause 9 shall not apply to Confidential Information which -

a. at the time of its disclosure is part of the public domain or which subsequently becomes, through no fault of failure of the Receiving Party, part of the public domain;

b. at the time of disclosure can be shown by the Receiving Party to the Disclosing Party to have been in its possession prior to disclosure thereof by the Disclosing Party or to have come into the possession of the Receiving Party thereafter by disclosure of a third party.

9.2. The burden of providing any exemption provided for in this clause 9 shall rest on the Receiving Party.

9.3. The Receiving Part undertakes not to disclose, in whole or in part any Confidential Information to any third party without the prior written approval of the Disclosing Party or unless compelled to do so by a court of law.

9.4. The Receiving Party shall only disclose so much of the Confidential Information and at such time as may be strictly necessary to enable any of its employees, agents, associates or professional advisors to fulfil their function as such. This may, however, only be done after such employee, agent, associate or professional advisor concerned is first advised of the Receiving Party's confidentiality obligations hereunder and the Receiving Party has ensured prior to the disclosure of any Confidential Information that such employee, agent, associate or professional advisor has validly signed an undertaking of confidentiality wherein it is restricted in its use of the Confidential Information. The Receiving Party warrants that such employee, agent, associate or professional advisor will comply with the aforesaid confidentiality undertakings.

Initials - 1: 2: 3: 4: 5: 6:

9.5. The Receiving Party's confidentiality obligations hereunder shall remain in force for an indeterminate period after the date of signature hereof, or for any such period determined by Law.

9.6. The Disclosing Party agrees that the sole purpose of the Confidential Information being disclosed or made accessible to it, is in connection with the rendering of the Services contemplated under this agreement.

9.7. The Receiving Party undertakes not to use the Confidential Information for any other purpose or in any manner that is adverse or detrimental to the interests of the Disclosing Party.

9.8. In the event that this agreement is terminated or in any manner brought to an end the Receiving Party shall within 10 (Ten) Business Days of the termination return to the Disclosing Party all documents, data and other writings supplied by the Disclosing Party to the Receiving Party and which constitute Confidential Information. The Receiving Party shall not retain any copies, extracts or other reproductions in whole or in part of such documents, data or other writings containing Confidential Information in any physical or electronic medium of format. The Receiving Party shall forthwith furnish a certificate to the Disclosing Party certifying that all the aforesaid documents and other writings have either been destroyed or returned to it.

9.9. The Disclosing Party shall be entitled, forthwith, without any prior written notice to the Receiving Party and without prejudice to any rights which it may be entitled to -

9.9.1. obtain an interdict in any competent court to prohibit the Receiving Party to continue with the contravention of its undertakings in terms hereof;

9.9.2. obtain a court order in any competent court for the delivery of any document, writings, copies, extracts or reproductions referred to in clause 8.7 above.

9.10. The provisions contained in this clause 8 shall survive the termination or cancellation of this agreement.

10. FORCE MAJEURE

10.1. No party shall be liable to the other for any losses which are a result of any default or delay in the performance of its obligations under this agreement if and to the extent such default or delay is caused, directly or indirectly, by: fire, flood, earthquake, elements of nature or acts of God, riots, civil disorders, rebellions or revolutions in any country or any other cause beyond the reasonable control of such party; provided that: (i) the non-performing party is without fault in causing such default or delay; and (ii) such default or delay could not have been prevented by reasonable precautions; and (iii) such default or delay cannot reasonably be circumvented by the non-performing party through the use of alternate sources, work around plans or other means.

10.2. If any event under clause 9.1 substantially prevents, hinders, or delays for more than 7 (seven) consecutive days performance of the Services necessary for the performance of DPME's functions, reasonably identified by DPME as critical, then at DPME's option:

a. Where the nature of the Services permit, DPME may with the written consent by the Service Provider, which consent will not be unreasonably withheld, procure such Services from an alternate source on behalf of the Service Provider, and the Service Provider shall pay the alternate source for such Services for so long as the delay in performance shall continue; or

b. DPME may terminate the agreement or any portion thereof affected by the force majeure, without liability and, to the extent applicable, the charges payable under the agreement shall be equitably adjusted to reflect those terminated Services.

10.3. The Service Provider shall not have the right to any additional payments from DPME for costs or expenses incurred by the Service Provider as a result of any force majeure occurrence, except for those deliverables completed / goods delivered.

11. DISPUTE RESOLUTION

Any dispute arising from this agreement shall be subject to the following dispute resolution procedures:

11.1. Informal dispute resolution: Prior to the initiation of formal dispute resolution procedures, the parties shall first attempt to resolve their dispute informally as follows:

11.1.1. Upon the written request of a party, any dispute, which arises between the parties relating to or arising out of this agreement, including the validity, implementation, execution, interpretation, rectification, termination or cancellation of this agreement, shall be referred to the chief executive officer of the Service Provider ("the CEO") and to the Director-General of DPME ("the DG"). The DG and the CEO reserves the right to delegate some or all of their responsibilities in this regard to the Chief Financial Officer (the CFO) or another suitable senior manager. The CEO and DG shall meet as often as the parties reasonably deem necessary in order to gather and furnish to the other all information with respect to the matter in issue which the parties believe to be appropriate and germane in connection with its resolution. The CEO and DG shall discuss the problem and attempt to resolve the dispute, without the necessity of any formal proceeding, within 14 (Fourteen) days of the dispute having been referred. During the course of discussion, all reasonable requests made by one party to another for non-

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privileged information, reasonably related to this agreement, shall be honoured in order that each of the parties may be fully advised of the other's position. The specific format for the discussions shall be left to the discretion of the CEO and the DG.

11.1.2. Formal proceedings for the resolution of a dispute may not be commenced until the earlier of: (i) the CEO and the DG concluding in good faith that amicable resolution through continued negotiation of the matter does not appear likely; or (ii) the expiry of a period of 14 (Fourteen) days after the initial written request referred to in clause 10.1.1 (this period shall be deemed to run notwithstanding any claim that the process described in clause 10.1.1 was not followed or completed).

11.1.3. Proceedings in terms of this clause 11.1 shall not be construed to prevent a party from instituting, formal proceedings earlier to avoid the expiration of any applicable limitations period, or to preserve a superior position with respect to other creditors.

11.1.4. Any period of time stipulated under point 11.1 may be extended by Parties upon mutual written agreement of such extension.

11.2. Arbitration: If the parties are unable to resolve any dispute in the manner contemplated by clause 11.1, then subject to clause 11.2, such dispute shall on written demand by either party to the dispute be submitted to arbitration at the Arbitration Foundation of Southern Africa, in Pretoria and in accordance with the rules thereof by an arbitrator or arbitrators agreed on by the parties or should the parties fail to agree on an arbitrator within 10 (Ten) days after arbitration has been demanded, the arbitrator shall be nominated at the request of any party to the dispute by the Arbitration Foundation of Southern Africa. The arbitration shall be held in the English language.

11.2.1. Commencement of arbitration

The following shall apply to the arbitration: (i) the parties shall request that the arbitrator/s commence the arbitration within 21 (Twenty One) days and proceed as if time is of the essence in the arbitration proceeding. The parties shall request that the arbitrator to render his or her decision within 14 (Fourteen) days following the conclusion of the hearing. Recognising the express desire of the parties for an expeditious means of dispute resolution, the arbitrator shall limit or allow the parties to expand the scope of discovery as may be reasonable under the circumstances; (ii) the parties undertake not to withhold their consent to join another party to the Arbitration; and (iii) the parties irrevocably agree that the submission to arbitration is subject to the parties' rights of appeal. Any party may appeal the decision of the arbitrator within a period of 20 (Twenty) days after the arbitrator's ruling has been handed down by giving written notice to that effect to the other party to the arbitration. The appeal shall be dealt with in accordance with the rules of the Arbitration Foundation of Southern Africa by a panel of 3 (Three) arbitrators appointed by the Arbitration Foundation of Southern Africa.

11.2.2. Status of arbitration ruling

The decision of the arbitrator shall be binding on the parties to the arbitration after the expiry of the period of 20 (Twenty) days from the date of the arbitrator's ruling if no appeal has been lodged by any party or upon the issue of determination by the appeal panel, as the case may be. A decision, which becomes final and binding in terms of this clause 11.4 may be made an order of court at the instance of any party to the arbitration.

11.3. Continued performance: Each party agrees to continue performing its obligations under this agreement while any dispute is being resolved except to the extent the issue in dispute precludes performance (dispute over payment shall not be deemed to preclude performance).

11.4. Rapid resolution of disputes: The parties shall use commercially reasonable efforts to resolve disputes arising under this agreement as rapidly as possible.

11.5. Escrow deposits for disputed payments: To the extent that any dispute referred to determination in terms of this clause 10 involves the withholding of payment of any amount otherwise due in terms of this agreement to the DPME, the Service Provider shall deposit the amount of the withheld payment into escrow and, if any part of the withheld amount is found properly due to the DPME, any capital award plus interest accruing in escrow in the same ratio as the capital award, shall be paid to DPME.

11.6. Excluded relief: This clause 11 shall not preclude either party from seeking urgent relief from the High Court of South Africa or any other competent organs of state created for the specific purpose of regulating the business or industry activities in which the parties are engaged.

11.7. Confidentiality of proceedings: Any dispute resolution or arbitration process under this clause 11 shall be conducted *in* camera and the parties shall treat as confidential and not disclose to any third party the existence of the dispute, details of the dispute, the conduct of the informal or formal dispute resolution proceedings or the outcome of the dispute resolution proceedings, without the written consent of the other party provided that the parties shall be entitled to disclose such information to such persons as are necessary to enable them to conduct their case.

11.8. Costs of dispute resolution: Each Party shall bear its own costs related to the resolution of disputes. No party shall be held liable for any costs incurred by another party during the informal dispute resolution process or during Arbitration.

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ANNEXURE "B" - TERMS AND CONDITIONS OF AGREEMENT

12. TERMINATION AND LIABILITY

12.1. DPME can –

12.1.1. terminate the agreement in whole or in part for convenience and without cause at any time by giving the Service Provider at least 60 (Sixty) days prior written notice thereof;

12.1.2. terminate the agreement in the event of the State Security Agency, which has to vet all service providers who will have access to sensitive information of the State, determines that the Service Provider or any of its members, directors or employees pose a relevant threat to the State.

12.2. In the event of the Service Provider:

12.2.1. failing to comply with any provision of this agreement and persisting in such failure for a period of 7 (Seven) Business Days after receipt of a written notice demanding compliance; or

12.2.2. suffering an Insolvency Event,

DPME shall be entitled, without prejudice to any other right it may have in terms of this agreement or in law, to:

12.2.3. cancel this agreement; and

12.2.4. claim specific performance of any or all of the terms and conditions of this agreement.

12.3. Should DPME breach any term of this agreement, the Service Provider shall be obliged to notify DPME in writing to remedy such breach, and should DPME fail to do so within 7 (Seven) Business Days of receipt of such notification, the Service Provider shall without prejudice and in addition to any other remedies it may have, be entitled to:

12.3.1. cancel this agreement; and

12.3.2. claim specific performance of any or all of the terms and conditions of this agreement.

12.4. The maximum liability of any party to this agreement shall not exceed the fixed component as indicated in annexure "A" to this agreement as well as any additional amount agree to in writing in terms of clauses 6.3 and 6.4 of this agreement. The maximum liability of DPME shall not exceed the cost indicated in annexure "A" of those deliverables which DPME has received and accepted in terms of clause 6.6 of this agreement.

13. ASSIGNMENT, SUB-CONTRACTING AND CHANGE IN CONTROL

13.1. No party may cede, delegate or assign or in any way transfer to anyone or encumber any of its rights or obligations in terms of this agreement, without the prior written consent of the other party, who undertakes not to delay or withhold its consent unreasonably.

13.2. The Service Provider may appoint a competent sub-contractor of its choice to assist it in the rendering of the Services subject to prior written approval by DPME. Approval for the appointment of a subcontractor included in the proposal by the Service Provider (annexure "D") is deemed to have been given unless specifically indicated to the contrary by DPME in writing.

13.3. The appointment by the Service Provider of sub-contractor(s) does not constitute cession, delegation or assignment of the Service Provider rights, duties and obligations in terms of this agreement.

13.4. The Service Provider warrants the quality of, and remains entirely responsible to DPME, for any work or services undertaken by a sub-contractor(s) appointed by the Service Provider in respect of the rendering of the Services.

13.5. The Service Provider shall not permit the controlling interest which vests in it on the date of signing of this agreement to be transferred to any other person(s) or entity(ies) without the prior written consent of DPME, which consent DPME may not withhold or delay unreasonably.

14. DOMICILIUM AND NOTICES

14.1. The parties hereby select for all purposes of this agreement as their respective *domicilia citandi et executandi* the addresses mentioned next to their names in the Schedule or any such other address as the parties may notify each other of in writing from time to time, for the delivery of all notices and/or processes thereto.

14.2. Any notice addressed by any party to the other party shall -

14.2.1. if delivered by hand at the address of its *domicilium* in terms of this clause, be deemed to have been duly received by the addressee on the date of delivery; or

14.2.2. if posted by prepaid registered post to the addressee's *domicilium* in terms of this clause, be deemed to have been received by the addressee on the fifth day following the date of such posting; or

14.2.3. if sent by telefax to his telefax number in terms of this clause be deemed to have been duly received by the addressee on date of successful transmission thereof, or on the next Business Day if sent after 16:30.

14.2.4. if sent by email, be deemed to have been duly received by the addressee on the date of sending, or on the next Business Day if sent after 16:30, only if the email notice requests an electronic mail response acknowledging receipt and the responding email message –

a. clearly refers to the specific email message to which it is responding; and

b. includes a copy of the text of such message.

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14.3. Notwithstanding anything to the contrary contained or implied in this agreement, a written notice or communication actually received by one of the parties from another including by way of facsimile transmission shall be adequate written notice or communication to such party.

15. GENERAL

15.1. Entire Agreement: The parties hereby acknowledge that the agreement concluded between them constitutes the entire agreement between them and that no other conditions, stipulations, warranties nor representations whatsoever, have been made by any party or that party's agent, other than as specifically included herein.

15.2. No Indulgence: No latitude, extension of time or other indulgence which may be given or allowed by either party to the other in respect of any payment provided for in this agreement or the performance of any other obligation shall under any circumstances be construed to be an implied consent by such party or operate as a waiver or a novation of or otherwise affect any of that party's rights in terms of or arising from this agreement, or prevent such party from importing, at any time and without notice, strict and punctual compliance with each and every provision or term hereof.

15.3. No Variation: The parties agree that no variation of, addition to, consensual cancellation or novation of this agreement in its entirety or of any term or condition thereof shall be of any force or effect, unless such amendment or cancellation is reduced to writing and signed by all the parties or their authorised representatives hereto.

15.4. Limitation of liability: The liability of any party to this agreement for the aggregate of all claims due to neglect, omission or error is limited to the value of the contract and no party can be held liable for any consequential damages of any nature unless determined so by a court of law. This limitation shall not apply to the cost of repairing or replacing defective equipment supplied by the Service Provider.

15.5. Continued Enforceability: Any provision in this agreement which is or may become illegal, invalid or unenforceable in any jurisdiction affected by this agreement shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be treated *pro non scripto* and severed from the balance of this agreement, without invalidating the remaining provisions of this agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

15.6. Governing Law: This Agreement is governed by and construed exclusively in accordance with the laws of South Africa. The principles governing Conflict of Laws are expressly excluded. The courts of South Africa have exclusive jurisdiction for all purposes of this agreement irrespective of the moment or place of actual contract formation.

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ANNEXURE "B" - TERMS AND CONDITIONS OF AGREEMENT

Terms of Reference

1. Background and Rationale

1.1. Background to the evaluation being evaluated

Owing to high levels of dropout from the schooling system as well as high failure rates in Grade 12, large numbers of youth and adults have not completed secondary education. The findings of the 2011 South African Census reveal that 15,918,454 South Africans aged 25 years and above, have not completed Grade 12. This figure represents 60% of the population in the said cohort. The imperative for government to provide second chance opportunities for adults to complete Grade 12 is therefore undisputed, particularly since having a matric improves one's chances for getting a job and access to further education.

In addition, the legacy of apartheid, among others, has resulted in significant numbers of adults not having attained Grade 9, which represents the highest grade for compulsory education in South Africa. The 2011 South African Census indicates that there are 3,776,986 people in this country aged 15 and above, who have not completed Grade 9.

Since 1994, numerous attempts have been made to address the problem of adult basic education as well as Adult Education and Training (AET) in general. The Green Paper on Higher Education and Training (DHET, 2011) acknowledges that despite these efforts, educational opportunities for adults and post-school youth have been insufficient, and their quality has generally been poor.

It states further, that the existing AET system fails to attract adults and youth interested in gaining labour-market and sustainable-livelihood skills, a second chance opportunity to complete matric as well as those interested in learning for general self-improvement or cultural and community development.

Government, in partnership with stakeholders, is therefore compelled to respond positively to the challenge of providing for the education and training needs of out-of-school youth and adults. To this end, the Department of Higher Education and Training (DHET) has already amended existing legislation in the form of the Further Education and Training Colleges Amendment Act, No. 1 of 2013 – to provide for the creation of the new Community Colleges.

The Green Paper on Post-School Education and Training also advocates for a new institutional model for adult and youth education and training. The Green Paper advises that Community Colleges will build on the current offerings of existing AET Centres to expand formal programmes, vocational and skills-development programmes and non-formal programmes. Formal programmes will include those currently offered at AET Centres as well as the proposed new National Senior Certificate for Adults (NASCA). The CETs are also envisaged to provide SETA-funded skills or occupational programmes, and may in certain cases be allowed to offer the NC (V) programmes currently offered only in TVET colleges. Non-formal programmes will include those geared to the needs and desires of local communities and their organisations, including community-based cooperatives and businesses. This means that Community Colleges would have to build close working relationships with organisations in their communities.

Community Colleges will be expected to partner with organisations involved in public programmes to provide appropriate skills and knowledge. These programmes include the Expanded Public Works Programme (EPWP), the state's infrastructure development programme, and economic and social development initiatives such as the Community Development Workers (CDW) and Community Health Workers (CHW) programmes. Such programmes are expected to provide work-integrated learning opportunities, while the Community Colleges are envisaged to provide classroom and workshop-based learning. SETAs are expected to play an important role in facilitating such partnerships.

In addition, in the medium term, the Community Colleges are expected to promote articulation by providing for university access via Higher Certificates and Diplomas. They are also expected to offer university bridging courses. This therefore means that the Community Colleges would be playing an overlapping role between the colleges sub-sector and the Higher Education institutions.

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ANNEXURE "B" - TERMS AND CONDITIONS OF AGREEMENT

The Community Colleges are initially envisaged to be largely contact institutions, providing face-to-face education. However, they will make use of information and communications technology (ICT) for teaching purposes, including open learning resources. In the longer term, the DHET will consider establishing dedicated distance education capacity at one or more of the Community Colleges, with the requisite resources and capacity to provide education and training opportunities to eligible youth and adults who are unable to attend face-to-face institutions. (See Section 8 below for a more extended discussion on Open and Distance Learning.)

The Community Colleges will seek to facilitate a cycle of lifelong learning in communities, by enabling the development of skills (including literacy, numeracy and vocational skills) to enhance personal, social, family and employment experiences. They will also seek to assist community organisations and institutions, local government, individuals and local businesses to work together to develop their communities by building on existing knowledge and skills. The focus on "community" implies that these colleges are located within communities, and that they will contribute to local needs and local development, building social agency and social cohesion. Links to communities will take several forms, including building relationships with NGOs, community-based organisations (CBOs), local government, and the local economy and labour markets.

From the existing public adult learning centres, nine are planned to be declared as Community Colleges by the 2013/14 Financial Year.

It is proposed that a fully-fledged Community College should be stable, well-governed and have an appropriate capacity so as to well respond to community needs. The following is the proposed structure:

- Minimum size: 700 – 1000 Learners
- Central Campus: Administration
- Governance: College Council
- Central Campus: Headed by a Principal (Director Level)
- Satellite Campuses: Headed by a Deputy Principal (Deputy Director Level)
- A core of full-time staff
- Part-time lecturing staff
- Physical Infrastructure and Resources: Well Resourced Campus

1.2. Purpose of the evaluation

Evaluation is a specialist discipline utilizing well-established concepts and methodologies in a body of knowledge developed over the last three decades. Service providers must ensure that evaluation-specific terms and concepts are interpreted appropriately in the professional execution of the evaluation assignment.

The purpose of this evaluation is to undertake a design evaluation of the Policy on Community Colleges (PCC). The evaluation will focus on relevance and appropriateness of the PCC, its policy design, its internal and external coherence as well as it readiness for implementation.

This evaluation will feed directly into the process of PCC approval spearheaded by the DHET.

2. The focus of the evaluation

2.1. Evaluation Questions

The implementation evaluation is focused on implementation relative to programme objectives, assessment of the current design of the PCC and validation of the underlying Theory of Change, with a view to improving design and implementation in the new Financial Year.

The **key evaluation questions** to be answered in this evaluation are:

1. Is the PCC internally coherent, and is it aligned with other relevant pieces of legislation?
2. Is the PCC's theory of change (logic) appropriate, and is it sufficiently robust to address the problems of youth and adults that have been identified in the policy?

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3. To what extent is the PCC measurable, and therefore capable of being evaluated in the future?
4. To what extent is the PCC ready to be implemented? That is, is there sufficient evidence that the resources and capabilities required to implement the policy, are in place and are adequate to address the scale of the policy challenge? How can the PCC be improved?

ANNEXURE "C" - SERVICE LEVEL REQUIREMENTS AND TIME FRAMES

In order to address and answer each of the key evaluation questions detailed above, the following **guide questions** are to be used. These questions are to be confirmed during the inception phase of the evaluation between the FLBP Evaluation Steering Committee and the Service Provider, and are to be used as a guide for the evaluation.

The key evaluative questions are:

1. Is the PCC internally coherent, and is it aligned with other relevant pieces of legislation?
    - Does the policy read well? Is it clear? Is it accessible (written in plain English?) Is it logical?
    - On what is its conceptualisation (logic) founded: what needs identification process was followed re: the stated challenge of youth and adults? How was/were the policy gap(s) identified? What sub-policies are envisaged to complement the PCC?
    - Is there well-researched evidence that points towards the necessity for a policy?
    - To what extent were there effective and inclusive policy consultations with sector stakeholders? To what extent is there alignment of the PCC with the Constitution (1996), the White Paper on Education and Training (1995), and other legislation, and existing policy in the education/skills development sectors? Is there overlap, or the danger of duplication? Is the PCC presently reflected in the strategy of the DHET? Has a sectoral institutional review been undertaken in relation to programmes targeting youth and adults? In terms of a direct policy comparison, how does the PCC differ from the ABET (2000) and FET Colleges (2006)/FET Colleges Amendment (2012) Acts?
    - Is there cross-sectoral alignment of the PCC with UN commitments and other international agreements?

2. Is the PCC's theory of change (logic) appropriate, and is it sufficiently robust to address the problems that have been identified in the policy?
    - What is the PCC's underlying theory of change? (If it doesn't exist, the service provider will prepare one). Test the theory of change for conceptual clarity. What are the critical assumptions underlying the PCC?
    - To what extent does the policy as articulated address its stated needs? Is there a policy logframe? (If this does not exist, the service provider must draft one). To what extent does the logframe comply with the design requirements in terms of soundness, technical correctness and readiness as the basis for programme planning? Are the results (outcomes and impact as defined) of the PCC appropriate? Describe and detail any disjuncture between existing policy, and the new shift implied in the introduction of the PCC.
    - Are there any cross-cutting issues not adequately reflected in the PCC? (for example, gender, human rights, and inclusivity.)

3. To what extent is the PCC measurable, and therefore capable of being evaluated in the future?
    - To what extent is policy delivery of the PCC in the future measurable, as presently defined?
    - Which complimentary actors (stakeholders) would contribute to the results of the policy besides the DHET? What would their contributions be, and to what extent does that have implications for policy coordination and programmes delivery? Specify these.

4. To what extent is the PCC ready to be implemented? That is, is there sufficient evidence that the resources and capabilities required to implement the policy, are in place and are adequate to address the scale of the policy challenge? How can the PCC be improved?
    - To what extent is the PCC able to be operationalised – with specific reference to institutional support, funding, human resourcing, etc.? Provide evidence that the resources and capabilities required to implement the policy, are in place and are adequate to address the scale of the policy challenge?
    - Is the PCC legally ready to be implemented? In what form will the DHET migrate the existing policy into the emerging community education sector? To what extent does the PCC balance standardization versus flexibility?
    - What is the implementation strategy for the PCC? (Identify key options, highlight the proposed option, and outline and account for its recommendation.)
    - Is there strong ownership of the PCC by the DHET and PEDs (provinces)? Is there sufficient institutional and management capacity to implement the PCC?
    - What is the envisaged method of implementation? (The PCC will be funded as part of the DHET budget appropriation).

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- Is the PCC economically and financially viable? What scale of budget is required for the PCC?
- What are the key risks identified for the PCC in the course of implementation involving a number of inter-governmental and multi-sectoral stakeholders?

The service provider will be expected to produce a coherent policy implementability assessment, and a related policy identification fiche, including Governance (function), Implementation model and strategy, Funding Arrangements (budget), Establishment (HR at national, provincial and provincial levels), and Implementation Schedule (including transitional arrangements).

2.2. Intended users and stakeholders of the evaluation (DHET PCC)

Stakeholder	Likely Use of the Results of the Evaluation
Department of Higher Education (DHET), especially the Directorates responsible for : • Adult Education and Training (AET) • Monitoring and Evaluation	Improved Oversight, Better Information and baselines to inform policy and strategic decisions, better management of the programme, better information for up-scaling of programme
Provincial Education Departments (PEDs), especially units responsible for public adult education centres	Promote accountability and transparency, Improved management of- and participation in- programme implementation, Improved aspects of the design of the programme
UMALUSI	Re-examination of the NASCA qualification. New quality assurance functions
South African Qualifications Authority (SAQA),	The registration of new qualifications

The key potential users of the evaluation results and how they may use it are shown in Table 1 below.

Stakeholder	Likely Use of the Results of the Evaluation
Higher Education Institutions and FET Colleges	Improved engagement between HEIs and the DBE, improved quality of teacher training, improved recruitment and allocation of funds
Private sector industry bodies	Provision of learning spaces for learnerships, apprenticeships, internships. Identification of skills needs and input into curricula and programmes offered.
National Treasury	Improved funding arrangements for the PCC, including transfer of funds.
Other government departments such as the Department of Public Works, the Quality Council for Trades and Occupations (QCTO)	Improved inputs to programme and qualification offerings, quality assurance of qualifications
Educators and Learners	Possible improved opportunities to participate in policy engagement, and monitoring; and Improved policy accountability

Table 1. Likely use of the evaluation results by different stakeholders

3. Scope of the Evaluation

Duration: The evaluation will be undertaken between March 2014 and June 2014, including non-billable time. The service provider professional input is expected to be **six (6) weeks** on an intensive basis, with the level of effort being a maximum of 60 person days for the entire project.

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ANNEXURE "C" - SERVICE LEVEL REQUIREMENTS AND TIME FRAMES

Selected focus areas: The evaluation will focus on the following key components:

- The robustness of the policy document, in terms of its logic, internal coherence and *evaluability*1
- Coherence between the policy document and other relevant policies and legislation
- *Implementability*2 of the policy
- Proposed areas of improvement.

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1 OECD DAC *Evaluability* definition: "the extent to which an activity or a program can be evaluated in a reliable and credible fashion"
2 Implementation refers to policy implementation. The design evaluation is intended to provide information about the PCC's implementability to (1) the DHET, which may decide to modify the policy to improve its implementability; (2) any other stakeholders to provide comment and feedback on the PCC before its approval, in order to anticipate potential problems in implementation.

Evaluability assessments are an established means for evaluators to review the coherence and logic of a project or programme, as well to clarify data availability and adequacy of this data in reflecting progress towards results. The assessments make a judgment on whether interventions are designed such that, once they are complete, they will be able to demonstrate their effectiveness in achieving established outcomes. Typically, an evaluability instrument assesses individual projects, programmes and/or policies based on the following six criteria: Objectives, Indicators, Baselines, Milestones, Risks and assumptions, Monitoring and Evaluation.3
Implementability is an abstract construct, relating to a number of factors, some of which are intrinsic to the policy assessment itself:

- Decidability (precisely under what circumstances to do something)
- Executability (exactly what to do under the circumstances defined)
- Effect on the policy process
- Measurable outcomes (the degree to which the implementability assessment identifies markers or endpoints (indicators) to track the effects of policy implementation
- Internal validity (the degree to which the policy reflects the intent of the department and the strength of evidence)
- Novelty/innovation (the degree to which the policy addresses the policy target in a unique or special way)
- Flexibility (the degree to which a policy permits interpretation and allows for alternatives in its execution)
- Computability (the ease with which a policy can be operationalized in an electronic information system).

Beneficiary groups targeted for evaluation: The evaluation will target the following beneficiary groups/ institutions:

- Key policy players
- Provincial officials
- Institutions.

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3 For more information on evaluability assessments, please go to: http://www.ilo.org/wcmsp5/groups/public/---ed_mas/---eval/documents/publication/wcms_165984.pdf

4. Evaluation Design

Evaluation design details the service provider's systematic plan to undertake the evaluation. The design of an evaluation is not to be confused with the type of evaluation (in this case, a design evaluation). Evaluation design defines the methodological approach and specific methodology to be employed: type of evaluation (design, implementation, diagnostic, impact) and, data collection methods and a statistical analysis plan. In this proposal submission, the service provider is expected to specifically outline and discuss its approach to design evaluation measurement of the Policy on Community Colleges. The core focus of the evaluation is, therefore, on issues of relevance and appropriateness.
The service provider will employ a methodology that includes almost exclusively qualitative data. While the final methodology will be a result of discussion between the Evaluation Steering Committee and the successful applicant, the use of other standard methods employed in evaluations, such as interviews, focus groups and questionnaires, etc.

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may be useful in a limited application. The dominant methods to be employed, however, will be document review and focus group/workshop reflection and/or engagement:

Documentation/Literature Review:

- ***Review relevant policy and legislation***, as well as key reports (including the White Paper on post school education and training, the report of the Ministerial Task Team on Community Colleges and the organisational structure of the Department);
- ***Evaluate the actual policy document***: Review the theory of change and logframe; Provide an analysis of internal and external coherence; Provide an analysis of feasibility (of policy being implemented), based on budget and other resource information. The literature review should also provide a comparative analysis of similar policies conducted internationally, detailing the key lessons drawn from design and implementation. A systematic review of the design and the assumptions made by the theory of change must also be conducted.

Interviews:

- Conduct key informant interviews, and group interviews with a maximum of 8-10 participants per group, who are knowledgeable about education.
- Prepare a report based on the interviews, which provides an analysis and interpretation of inputs received.

Stakeholder Validation workshop:

- The DHET will organise a workshop with key stakeholders to engage with the service provider's presentation of the evaluation report. The service provider will prepare a workshop report, and utilise the workshop feedback to finalise the report and its main recommendations.

5. Evaluation plan

5.1. Products/deliverables expected from the evaluation

The following deliverables are expected from this project:

1. **Inception report** by the service provider as a follow-up to the proposal with a revised evaluation plan, overall evaluation design and detailed methodology and content structure for the final report. This forms the basis for judging performance; and contains the revised proposal which is attached to the legal agreement (SLA) with the appointed service provider
2. **Document/Literature Review** (includes all relevant documentation and sectoral literature) relevant to the PCC
3. The underlying PCC **Theory of Change**, and **PCC Logframe** (standard format)
4. **Data Collection and Analysis Plan; Data Collection Instruments**
5. Monthly **Progress Reports**, on all aspects of the evaluation, including a report of interviews held with key informants (including questionnaire guides used)
6. **Draft Evaluation Report** for review: **Full** (up to 150 pages maximum) and in **1/3/25 format** (a one page policy summary of implications for policy, a three-five page executive summary of the whole report, and a 25 page executive report)
7. **Microsoft Powerpoint Presentation** of the essence of the report to a Stakeholder Validation Workshop: involving programme stakeholder representatives, the Technical Working Group and the Evaluation Steering Committee to discuss the draft report
8. The **Final Evaluation Report, Full** (up to 150 pages maximum) and in **1/3/25 format4**, in hard copy and electronic formats
9. A **PowerPoint and/or Audiovisual Presentation** of the results.

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4 The 1/3/25 page evaluation report should be readily understood by the intended audience(s) and the form of the report appropriate given the purpose(s) of the evaluation. It contains a 1 page policy summary, a 4-5 page executive summary and a 25 page main report. The executive summary provides an overview of the report, covering all the

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sections and highlighting the main findings, conclusions, recommendations and any overall lessons. Key evidence is included in the 1/3/25 report so it is authoritative. Full references (reference list) should be provided as an annex to these reports.

5.2. Activities

As indicated above the main activities involved in the evaluation include:

1. Inception phase including inception meeting, revisions to methodology and proposal, outline report contents, finalisation of SLA, and the inception report and revised proposal to be approved by the Steering Committee.
2. Analysis of current data available and any implications for the design of the survey moving forward.
3. Produce the literature review and detail its implications for the Policy on Community Colleges.
4. Design of the methodology and instruments, as well as analysis plan.
5. Finalisation of instruments for interviews/focus groups.
6. Data-Collection: undertaking of the interviews/focus groups by the service provider.
7. Analysis of the data.
8. Writing of the draft report.
9. Presentation to- and discussion of the draft report with- stakeholders.
10. Finalisation of the draft report.

5.3. Timeframe for the project

The indicative timeframe for the evaluation is two months in total, including non-billable time. There are a number of public holidays during the evaluation time frame. The table below shows draft milestones and expected start and finish of the evaluation assignment, assuming procurement is completed by 14 May 2014; the indicative start date is 16 May 2014.

Deliverable	Indicative Milestones	Payment (% of overall budget)
1. **Start date** and initial briefing	02 July 2014	
2. **Inception Meeting**	02 July 2014	
3. **Approval of inception report,** SLA and revised proposal	17 July 2014	10%
4. Submission of Literature review	26 September 2014	
5. Submission of Theory of Change, and PCC Logframe	09 October 2014	20%
6. **Approval of report structure, final data collection and analysis plan; final data collection instruments**	16 October 2014	20%
7. Two Monthly Progress Reports	Sep. and Oct. 2014	
8. **Approval of draft evaluation report**, full and in 1/3/25 format (see Action Points)	30 October 2014	30%
9. Microsoft Powerpoint Presentation to Stakeholder Validation Workshop	30 October 2014	
10. Approval of the **final evaluation report**	14 November 2014	20%
11. **Approval of all Documentation and References** (including interviews)	14 November 2014	
12. **Approval of Powerpoint or audiovisual presentation of the results**	14 November 2014	

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13. Project closure meeting	01 December 2014	-

Table 2. Outline project plan and payment schedule

5.4. Evaluation team

The service provider should specify the key expert expected to undertake the assignment, her/his areas of expertise, her/his quantified time contributions and respective responsibilities. The service provider is also expected to provide opportunities for participating departments to be involved in the evaluation activities where this will not prejudice the information received from respondents.
The expert must have at least 10 years 'experience including working within the development/government sector at a high level, and of leading politically sensitive and complex evaluations. He/she must be an expert in education and training policy, specifically post-school education and training.
The experts must have experience of dealing with Government in the specified sector at a high level, and be familiar with the processes of evaluation in these sectors.
The expert must demonstrate a strong understanding of the outcomes system and its implementation in Government.

5.5. Competencies and skills-set required

The competencies for evaluation are summarised from the Evaluation Competencies available on the DPME website. The service provider will be assessed against these competencies (see 8.4.2):

Domain/descriptor	Demonstrated ability to
1 Overarching considerations	
1.1 Contextual knowledge and understanding	An excellent understanding of the importance of the education and training sector, in particular the adult education and training sector
	Perform appropriately in cross-cultural roles with cultural sensitivity and attends appropriately to issues of diversity
1.2 Ethical conduct	Understand ethical issues relating to evaluation, including potential or actual conflict of interest, protecting confidentiality/anonymity, and obtaining informed consent from evaluation participants
1.3 Interpersonal skills	Lead an evaluation and its processes using facilitation and learning approaches, to promote commitment and ownership of stakeholders
2 Evaluation leadership	Lead and manage an evaluation team effectively
3 Evaluation craft	
3.1 Evaluative discipline and practice	Use knowledge base of evaluation (theories, models including logic and theory based models, types, methods and tools), critical thinking, analytical and synthesis skills relevant to the evaluation and apply this in high-level, complex and politically sensitive evaluations, in quality, time and budget
3.2 Research practice	Design specific research methods and tools that address the evaluation's research needs. This may include qualitative, quantitative or mixed methods.
	Systematically gather, analyse, and synthesise relevant evidence, data and information from a range of sources, identifying relevant material, assessing its quality, spotting gaps.
4 Implementation of evaluation	

Initials - 1: 2: 3: 4: 5: 6:

4.1 Evaluation planning	
Theory of change	Develop clear theory of change with quality programme logframes (standard format) with good programme logic and indicators
Design	Design and cost an appropriate and feasible evaluation with appropriate questions and methods, based on the evaluation's purpose and objectives.
4.2 Managing evaluation	Manage evaluation resources to deliver high quality evaluations and related objectives in politically sensitive areas on time and to appropriate standards
4.3 Report writing and communication	Write clear, concise and focused reports that are credible, constructive, useful and actionable, address the key evaluation questions, and show the evidence, analysis, synthesis, recommendations and evaluative interpretation and how these build from each other

Table 3. Service Provider Competencies to be Assessed.

Furthermore, it is important that the appointed service provider exhibits the following skills and attributes:

- Team players and analytical and lateral thinkers;
- Have excellent communication skills with the ability to listen and learn;
- Have good facilitation skills for strategic thinking, problem solving, and stakeholder management in complex situations;
- Have the ability to work under consistent and continuous pressure from varied sources, yet be able to maintain a supportive approach; and
- Have excellent computing skills including detailed knowledge and use of: Word, Excel, Power Point, Microsoft Project or similar compatible software.

6. Budget and payment schedule

The payment schedule is indicated as part of Table 2 above.

7. Management Arrangements

7.1. Role of Steering Committee

A project management committee will be established to oversee the evaluation including approving the main deliverables. The PMC will comprise officials from the DHET and DPME. It will undertake day-to-day functions to ensure that the evaluation runs smoothly. The service provider is expected to attend meetings of the project committee only if there is a need to do so.

The steering committee will consist of the members of the project management committee team as well as identified stakeholders. The steering committee will advise on key deliverables of the project. The service provider is expected to attend at least three meetings of the steering committee.

7.2. Reporting Arrangements

The evaluation project manager from DHET will be Dr. Hersheela Narsee. The project will be commissioned by the DPME and the evaluation manager will be Mr. Antonio Hercules, to whom the service provider will report.

7.3. Peer review

Independent expert peer reviewers will be contracted by the DPME to support the assignment and verify that the work undertaken complies with and satisfies the objectives of the evaluation. Specifically, the peer reviewers shall evaluate the draft report in terms of compliance to the evaluation ToR and completeness, soundness and rigour in terms of the appointed service provider's work. The service provider is expected to use the recommendations of the peer review to finalise the evaluation report.

7.4. Quality assessment

Once the final evaluation report has been approved, the evaluation will be quality assessed by independent assessors, using a methodology based on the national evaluation standards. These standards and an example of the quality assessment can be found on the DPME website.

8. Proposal to be Submitted

8.1. Structure of the Proposal

The evaluation proposal should cover the following components with respect to the bidder. Failure to comply will lead to disqualification.

1. Understanding of the evaluation and the Terms of Reference.
2. Approach, design and methodology for the evaluation. This should include some description of the literature intended for review. A plan should be presented of the data and methodologies envisaged for analysis. Finally, suggestions for elaboration or changes to scope and methodology as outlined in the Terms of Reference can be proposed.
3. Activity-based plan (including effort for different researchers per activity and time frame linked to activities).
4. Activity-based budget (in South African Rand, including VAT).
5. Competence (include list of related projects undertaken of main contractor and subcontractors, making clear who did what, and contact people for references).
6. Team (team members, roles and level of effort).
7. Capacity development elements (building capacity of officials in the Department).
8. Quality assurance plan (to ensure that the process and products are of good quality).
9. The following must be attached:
10. Example of a related evaluation report undertaken;
11. CV's of key personnel; and
12. Completed supply chain forms, tax clearance, etc.

8.2. Evaluation Team

The evaluation team (single expert in this case) must meet the requirements detailed in section 4.4 above, and cover the competencies outlined in section 8.4 below. There must be sufficient capacity in the consulting team to undertake the work in the specified period. Service providers are required to sub-contract in specialized skills where these are specified for execution of the evaluation. The service provider will also need to specify how it will ensure skills transfer where specified, and the PDI component in its team. The service provider will specify the number of team members, their identities, their areas of expertise and their respective responsibilities and billable time allocations within the team project plan.

9. Information for Service Providers

The service provider will provide a proposal submission following the structure above. In addition short-listed candidates will be required to present their proposal to the DHET/PCC Bid Evaluation Committee as part of the selection process, following the DPME's standard procurement procedures. Tenders must be submitted by **12h00 on 07 March 2014**, in the form of an electronic version on CD, and six (6) hard copies.

9.1. Key background documents

The following documents will be beneficial for the service provider:

- Monthly Reports From Lead Agents
- Report of the Ministerial Committee on Adult Education (DoE, 2008)
- Report of the Ministerial Committee After school, What? Opening wider and more flexible learning pathways for youth (DHET, 2009)
- Ministerial Task Team report On Community Education and Training Centres (DHET, 2013)
- Adult Education and Training Act 52 of 2000

- Further Education Training Act 16 of 2006
- Further Education and Training Colleges Amendment Act,2012
- New Institutional Landscape National Plan for FET Colleges in South Africa of 2008
- Higher Education Act 101 of 1997
- Skills Development Act 97 of 1998, its amendment Act 37 of2008
- Skills Development Levy Act of 1999
- National Skills Development Strategy (NSDS) I, II and III
- National Youth Development Agency Act 54 of 2008
- Non-Profit Act 71 of 1997

9.2. Evaluation criteria for proposals (DPME)

This refers to the criteria for assessing the received proposals and the scores attached to each criterion. There are standard government procurement processes. There are two main criteria for evaluating proposals: functionality/capability and price. Functionality/capability factors must cover the competencies and skills-set outlined in section 16.4 below as demonstrated through:

- Quality of proposal;
- Service provider's relevant previous experience including of any subcontractors;
- Team leaders' levels of knowledge and expertise;
- Qualifications and expertise of the evaluation team;

9.3. Pricing requirements

All prices must be inclusive of 14% Value Added Tax (VAT). All prices should be valid for at least three months from the proposal closing date. Price escalations and the conditions of escalation should be clearly indicated. No variation of contract price or scope creep will be permitted. Proposals should be fully inclusive to deliver the outputs indicated in this ToR.

The amount tendered in the proposals to undertake the evaluation shall be broken down into a Professional Fee portion and an Expenses Portion. However, the overall amount tendered (the Professional Fee portion plus the Expenses portion) shall be used in the overall proposal evaluation process.
The cost of preparing proposals, attending compulsory briefing sessions in Pretoria and making audiovisual presentations of the proposals in Pretoria (all prior to the successful service provider being appointed) is for the service provider's own account.

9.4. Evaluation of proposals

There are three stages in selection – ensuring bids comply with administrative requirements, checking that functionally the proposal is adequate to do the job, and lastly the price is acceptable.

9.4.1. Evaluation of proposals: Administrative compliance

Only proposals that comply with all the administrative requirements will be considered acceptable for further evaluation in the subsequent functional evaluation phase. Incomplete and late proposals will not be considered.

The following documentation must be submitted in support of each proposal:

- Documents specified in the request for proposals documents (distributed separately from this ToR); and
- Any other requirement specified in the ToR.

9.4.2. Evaluation of proposals: Functional evaluation (DPME)

Only proposals that comply with all administrative requirements (acceptable proposals) will be considered during the functional evaluation phase. All proposals will be scored as follows against the function criteria indicated below:
1 – Does not comply with the requirements 2 – Partial compliance with requirements
3 – Full compliance with requirements 4 – Exceeds requirements

Initials - 1: 2: 3: 4: 5: 6:

ANNEXURE "C" - SERVICE LEVEL REQUIREMENTS AND TIME FRAMES

The table below outlines the functional evaluation criteria as applied to the competences outlined in Section 9 above which will be used in assessing the proposals. Proposals should clearly address the project description and the functional evaluation criteria. Short-listed service providers should also structure their proposal and audio-visual presentations accordingly (where appropriate) to aid the proposal evaluation process.

Domain Descriptor	Functional Evaluation Criteria	Weight	Score	Weight x score	Min. weighted score
Section A: Quality of the Proposal	1. Understanding of the workings of government in general and the Outcomes approach in particular. • Understanding of the adult education and training sub-sector	3			6
2. Approach, design and methodology for the evaluation.					
3. Quality of activity-based plan aligned with activities and deliverables.					
	4. Quality of team composition and their roles and quantified level of effort, including the inclusion of a methodology expert (statistical) and expert knowledge of regional (African) and international public works.	2			6
	5. Demonstrated high-quality experience in at least 5 related projects undertaken in last 5 years by the service provider and any of its subcontractors.	1			2
	6. Expert knowledge and exposure to international good practice, particularly in middle-income and African Countries.	1			2
7. Capacity development elements (building capacity of partner government departments and Black, disabled, youth and female evaluators).					
Section B: Competencies					
Overarching Considerations					
Contextual knowledge and understanding	8. Have excellent knowledge of relevant sectors and government systems in relation to the post-school education and training sector, and can contextualize the evaluation within current political, policy and governance environments.	2			6

Initials - 1: 2: 3: 4: 5: 6:

ANNEXURE "C" - SERVICE LEVEL REQUIREMENTS AND TIME FRAMES

Domain Descriptor	Functional Evaluation Criteria	Weight	Score	Weight x score	Min. weighted score
	9. Perform appropriately in cross-cultural roles with cultural sensitivity and attends appropriately to issues of diversity.	2			*6*
Ethical conduct and interpersonal skills	10. Understand ethical issues relating evaluation, including potential or actual conflict of interest, protecting confidentiality/anonymity, and obtaining informed consent from evaluation participants.	2			*4*
11. Demonstrated experience in leading an evaluation using facilitation and learning approaches to promote ownership and build capacity amongst stakeholders of evaluations and evaluations results.					
12. Perform appropriately in cross-cultural roles with cultural sensitivity and attends appropriately to issues of diversity.					
Evaluation Leadership	13. Lead and manage an evaluation team effectively to project completion, using facilitation to promote commitment and ownership of evaluation.	2			*6*
	14. Strong project management skills, including field coordination and implementation where needed.	1			*2*
Evaluation Craft					
Evaluative discipline and practice	15. A good knowledge of evaluation methodologies such as quantitative and qualitative research methodologies, tools and techniques and experience in designing and applying them.	1			*2*
Research practice	16. The ability to systematically gather, analyse and synthesise relevant evidence, data and information from a range of sources, identifying relevant material, assessing its quality and spotting gaps.	2			*6*
Implementation of Evaluation					
Evaluation planning	17. Ability to develop clear theory of change with quality programme logframes with good programme logic and indicators	2			*4*

Initials - 1: 2: 3: 4: 5: 6:

ANNEXURE "C" - SERVICE LEVEL REQUIREMENTS AND TIME FRAMES

Domain Descriptor	Functional Evaluation Criteria	Weight	Score	Weight x score	Min. weighted score
	18. Ability to design and cost an appropriate and feasible evaluation with appropriate questions and methods, based on the evaluation's purpose and objectives.	2			6
Managing evaluation	19. Ability to manage evaluation resources to deliver high quality evaluations and related objectives on time and to appropriate standards	1			2
20. Demonstrated experience of building ownership of evaluations and evaluations results, working in ways in which builds capacity and commitment among stakeholders.					
Report writing and communication	21. Ability to write clear, concise and focused reports (using the 1/3/25 rule) that are credible, useful and actionable, address the key evaluation questions, and show the evidence, analysis, synthesis, recommendations and evaluative interpretation and how these build from each other.	1			2

Table 4. Functional evaluation criteria to be applied in assessing the proposals

Minimum requirements: Service providers that submit acceptable proposals and scored at least the minimum weighed score for each element as well as the minimum total weighted score of 75% based on the average of total weighted scores awarded by the evaluation panel members.
Proposals should clearly address the project description and the functional evaluation criteria mentioned above.

9.4.3. Price evaluation: The PPPFA

Only proposals that meet the minimum requirements under the functional evaluation section above will be evaluated in terms of the Preferential Procurement Framework Act and related regulations. The 90/10 evaluation method will be used for proposals above R1,000,000 and the 80/20 evaluation method will be used for proposals below R1,000,000. Points will be awarded to service providers for attaining the Broad-Based Black Economic Empowerment (B- BBEE) status level of contribution in accordance with the table contained in SBD 6.1 (see attached bid documents).
In the application of the 80/20 preference point system, if all proposals received exceed R1,000,000 then the request for proposals will be cancelled. If one or more of the acceptable proposals received are below the R1,000,000 threshold then all proposals received will be evaluated on the 80/20 preference point system.
In the application of the 90/10 preference point system, if all proposals received are equal to or below R1 000 000 then the request for proposals will be cancelled. If one or more of the acceptable proposals received are above the R1 000 000 threshold then all proposals received will be evaluated on the 90/10 preference point system.

In relation to this evaluation the **80/20 preference point system will apply.**

10.Intellectual property rights
The intellectual property of all deliverables lies with the DHET and DPME. All documents and other products should be treated as confidential, and should not be passed on to a third party.

Initials - 1: 2: 3: 4: 5: 6:

ANNEXURE "C" - SERVICE LEVEL REQUIREMENTS AND TIME FRAMES

The material compiled by the service provider for the DHET and DPME may not be used in any form or for any purpose other than the purpose stipulated in the agreement.
If the service provider wishes to use such material in any other form or for any other purpose, including, but not limited to, workshops, media releases and the like, it must submit to the DHET and DPME a written motivation for such use. The departments will request approval from the designated officer in whom copyright vests. Only once the designated officer has granted written approval will the departments convey such written approval to the service provider and will the service provider have permission for such usage.

Evaluation material is highly sensitive. The ownership of the material generated during the evaluation shall remain with DHET (PCC) and DPME. However, evaluations that are part of the national evaluation plan will be made publically available, unless there are major concerns about making them public.

11. General and specific conditions of contract
Awarding of the final contract will be subject to the signing of a service level agreement between the Department of Performance Monitoring and Evaluation in the Presidency and the successful service provider.

12. Enquiries

Evaluation process and commissioning:	**Content:**
Mr Antonio Hercules **The Presidency, Department of Performance Monitoring & Evaluation (DPME)** Office: 012 312 0164 Cell: 071 491 7488 Email: antonio@po-dpme.gov.za	Dr H Narsee **Department of Higher Education & Training (DHET)** Office: 012 312 5093 Cell: 084 2455 777 E-mail: narsee.h@dhet.gov.za

ANNEXURE "D" - PROPOSAL SUBMITTED BY SERVICE PROVIDER

[NOTE: TO BE ATTACHED]